ACTS

OF THE

Second Annual Session

OF THE

One Hundred and Ninety-ninth Legislature

OF THE

STATE OF NEW JERSEY

AND

Twenty-eighth Under the New Constitution

CHAPTERS 289-571

New Jersey State Library

1981

CHAPTER 289

AN ACT authorizing the Department of Health to establish a program of medical treatment for persons 21 years of age or older who have cystic fibrosis and making an appropriation.

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

C. 26:2-118 Program of medical care for persons with cystic fibrosis.

1. The Department of Health shall establish a program of medical care and treatment for persons suffering from cystic fibrosis who are 21 or more years of age.

The program shall include those services which are available to children with cystic fibrosis through the State Crippled Children's Commission established pursuant to R. S. 9:13–1 et seq. and shall be extended under the same conditions, requirements, and criteria.

2. There is appropriated to the Department of Health $50,000.00 to effectuate the purposes of this act.

3. This act shall take effect on the ninetieth day following enactment.

Approved September 23, 1981.

CHAPTER 290

AN ACT concerning the "New Jersey Code of Criminal Justice," (P. L. 1978, c. 95), revising parts of the statutory law, supplementing Title 2C of the New Jersey Statutes and repealing P. L. 1966, c. 114.

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

1. N. J. S. 2C:1–4 is amended to read as follows:

Classes of offenses.

2C:1–4. Classes of Offenses. a. An offense defined by this code or by any other statute of this State, for which a sentence of imprisonment in excess of 6 months is authorized, constitutes a crime

within the meaning of the Constitution of this State. Crimes are designated in this code as being of the first, second, third or fourth degree.

b. An offense is a disorderly persons offense if it is so designated in this code or in a statute other than this code. An offense is a petty disorderly persons offense if it is so designated in this code or in a statute other than this code. Disorderly persons offenses and petty disorderly persons offenses are petty offenses and are not crimes within the meaning of the Constitution of this State. There shall be no right to indictment by a grand jury nor any right to trial by jury on such offenses. Conviction of such offenses shall not give rise to any disability or legal disadvantage based on conviction of a crime.

c. An offense defined by any statute of this State other than this code shall be classified as provided in this section or in section 2C:43–1 and, except as provided in section 2C:1–5b and chapter 43, the sentence that may be imposed upon conviction thereof shall hereafter be governed by this code. Insofar as any provision outside the code declares an offense to be a misdemeanor when such offense specifically provides a maximum penalty of 6 months' imprisonment or less, whether or not in combination with a fine, such provision shall constitute a disorderly persons offense.

d. Subject to the provisions of section 2C:43–1, reference in any statute, rule, or regulation outside the code to the term "high misdemeanor" shall mean crimes of the first, second, or third degree and reference to the term "misdemeanor" shall mean all crimes.

2. N. J. S. 2C:1–8 is amended to read as follows:

Method of prosecution when conduct constitutes more than one offense.

2C:1–8. Method of Prosecution When Conduct Constitutes More Than One Offense.

a. Prosecution for multiple offenses; limitation on convictions. When the same conduct of a defendant may establish the commission of more than one offense, the defendant may be prosecuted for each such offense. He may not, however, be convicted of more than one offense if:

(1) One offense is included in the other, as defined in subsection d. of this section;

(2) One offense consists only of a conspiracy or other form of preparation to commit the other;

(3) Inconsistent findings of fact are required to establish the commission of the offenses; or

(4) The offenses differ only in that one is defined to prohibit a designated kind of conduct generally and the other to prohibit a specific instance of such conduct.

A determination barring multiple convictions shall be made by the court after verdict or finding of guilt.

b. Limitation on separate trials for multiple offenses. Except as provided in subsection c. of this section, a defendant shall not be subject to separate trials for multiple criminal offenses based on the same conduct or arising from the same episode, if such offenses are known to the appropriate prosecuting officer at the time of the commencement of the first trial and are within the jurisdiction and venue of a single court.

c. Authority of court to order separate trials. When a defendant is charged with two or more criminal offenses based on the same conduct or arising from the same episode, the court may order any such charge to be tried separately in accordance with the Rules of Court.

d. Conviction of included offense permitted. A defendant may be convicted of an offense included in an offense charged whether or not the included offense is an indictable offense. An offense is so included when:

(1) It is established by proof of the same or less than all the facts required to establish the commission of the offense charged; or

(2) It consists of an attempt or conspiracy to commit the offense charged or to commit an offense otherwise included therein; or

(3) It differs from the offense charged only in the respect that a less serious injury or risk of injury to the same person, property or public interest or a lesser kind of culpability suffices to establish its commission.

e. Submission of included offense to jury. The court shall not charge the jury with respect to an included offense unless there is a rational basis for a verdict convicting the defendant of the included offense.

3. N. J. S. 2C:1–10 is amended to read as follows:

When prosecution barred by former prosecution for different offense.

2C:1–10. When Prosecution Barred by Former Prosecution for Different Offense. A prosecution of a defendant for a violation of a different provision of the statutes or based on different facts than a former prosecution is barred by such former prosecution under the following circumstances:

a. The former prosecution resulted in an acquittal or in a conviction as defined in section 2C:1–9 and the subsequent prosecution is for:

(1) Any offense of which the defendant could have been convicted on the first prosecution; or

(2) Any offense for which the defendant should have been tried on the first prosecution under section 2C:1–8 unless the court ordered a separate trial of the charge of such offense; or

(3) The same conduct, unless (a) the offense of which the defendant was formerly convicted or acquitted and the offense for which he is subsequently prosecuted each requires proof of a fact not required by the other and the law defining each of such offenses is intended to prevent a substantially different harm or evil, or (b) the second offense was not consummated when the former trial began.

b. The former prosecution was terminated, after the complaint was filed or the indictment found, by an acquittal or by a final order or judgment for the defendant which has not been set aside, reversed or vacated and which acquittal, final order or judgment necessarily required a determination inconsistent with a fact which must be established for conviction of the second offense.

c. The former prosecution was improperly terminated, as improper termination is defined in section 2C:1–9, and the subsequent prosecution is for an offense of which the defendant could have been convicted had the former prosecution not been improperly terminated.

d. Nothing in this section shall bar the disposition of a non-indictable complaint after disposition of an indictable offense except as required by the Federal and State constitutions.

4. N. J. S. 2C:2–2 is amended to read as follows:

General requirements of culpability.

2C:2–2. General Requirements of Culpability. a. Minimum Requirements of Culpability. Except as provided in subsection c. (3) of this section, a person is not guilty of an offense unless he acted purposely, knowingly, recklessly or negligently, as the law may require, with respect to each material element of the offense.

b. Kinds of culpability defined.

(1) Purposely. A person acts purposely with respect to the nature of his conduct or a result thereof if it is his conscious object to engage in conduct of that nature or to cause such a result. A

person acts purposely with respect to attendant circumstances if he is aware of the existence of such circumstances or he believes or hopes that they exist. "With purpose," "designed," "with design" or equivalent terms have the same meaning.

(2) Knowingly. A person acts knowingly with respect to the nature of his conduct or the attendant circumstances if he is aware that his conduct is of that nature, or that such circumstances exist, or he is aware of a high probability of their existence. A person acts knowingly with respect to a result of his conduct if he is aware that it is practically certain that his conduct will cause such a result. "Knowing," "with knowledge" or equivalent terms have the same meaning.

(3) Recklessly. A person acts recklessly with respect to a material element of an offense when he consciously disregards a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that, considering the nature and purpose of the actor's conduct and the circumstances known to him, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation. "Recklessness," "with recklessness" or equivalent terms have the same meaning.

(4) Negligently. A person acts negligently with respect to a material element of an offense when he should be aware of a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that the actor's failure to perceive it, considering the nature and purpose of his conduct and the circumstances known to him, involves a gross deviation from the standard of care that a reasonable person would observe in the actor's situation. "Negligently" or "negligence" when used in this code, shall refer to the standard set forth in this section and not to the standards applied in civil cases.

c. Construction of statutes with respect to culpability requirements.

(1) Prescribed culpability requirement applies to all material elements. When the law defining an offense prescribes the kind of culpability that is sufficient for the commission of an offense, without distinguishing among the material elements thereof, such provision shall apply to all the material elements of the offense, unless a contrary purpose plainly appears.

(2) Substitutes for kinds of culpability. When the law provides that a particular kind of culpability suffices to establish an

element of an offense such element is also established if a person acts with higher kind of culpability.

(3) Construction of statutes not stating culpability requirement. Although no culpable mental state is expressly designated in a statute defining an offense, a culpable mental state may nevertheless be required for the commission of such offense, or with respect to some or all of the material elements thereof, if the proscribed conduct necessarily involves such culpable mental state. A statute defining a crime, unless clearly indicating a legislative intent to impose strict liability, should be construed as defining a crime with the culpability defined in paragraph b.(2) of this section. This provision applies to offenses defined both within and outside of this code.

d. Culpability as to illegality of conduct. Neither knowledge nor recklessness nor negligence as to whether conduct constitutes an offense or as to the existence, meaning or application of the law determining the elements of an offense is an element of such offense, unless the definition of the offense or the code so provides.

e. Culpability as determinant of grade of offense. When the grade or degree of an offense depends on whether the offense is committed purposely, knowingly, recklessly or criminally negligently, its grade or degree shall be the lowest for which the determinative kind of culpability is established with respect to any material element of the offense.

5. N. J. S. 2C:3-7 is amended to read as follows:

Use of force in law enforcement.

2C:3-7. Use of Force in Law Enforcement. a. Use of force justifiable to effect an arrest. Subject to the provisions of this section and of section 2C:3-9, the use of force upon or toward the person of another is justifiable when the actor is making or assisting in making an arrest and the actor reasonably believes that such force is immediately necessary to effect a lawful arrest.

b. Limitations on the use of force.

(1) The use of force is not justifiable under this section unless:

(a) The actor makes known the purpose of the arrest or reasonably believes that it is otherwise known by or cannot reasonably be made known to the person to be arrested; and

(b) When the arrest is made under a warrant, the warrant is valid or reasonably believed by the actor to be valid.

(2) The use of deadly force is not justifiable under this section unless:

(a) The actor effecting the arrest is authorized to act as a peace officer or has been summoned by and is assisting a person whom he reasonably believes to be authorized to act as a peace officer; and

(b) The actor reasonably believes that the force employed creates no substantial risk of injury to innocent persons; and

(c) The actor reasonably believes that the crime for which the arrest is made was homicide, kidnapping, an offense under 2C:14–2 or 2C:14–3, arson, robbery, burglary of a dwelling, or an attempt to commit one of these crimes; and

(d) The actor reasonably believes:

(i) There is an imminent threat of deadly force to himself or a third party; or

(ii) The use of deadly force is necessary to thwart the commission of a crime as set forth in subparagraph (c) of this paragraph; or

(iii) The use of deadly force is necessary to prevent an escape.

c. Use of force to prevent escape from custody. The use of force to prevent the escape of an arrested person from custody is justifiable when the force could, under subsections a. and b. of this section, have been employed to effect the arrest under which the person is in custody. A correction officer or other person authorized to act as a peace officer is, however, justified in using any force including deadly force, which he reasonably believes to be immediately necessary to prevent the escape of a person committed to a jail, prison, or other institution for the detention of persons charged with or convicted of an offense so long as the actor believes that the force employed creates no substantial risk of injury to innocent persons.

d. Use of force by private person assisting an unlawful arrest. (1) A private person who is summoned by a peace officer to assist in effecting an unlawful arrest is justified in using any force which he would be justified in using if the arrest were lawful, provided that he does not believe the arrest is unlawful.

(2) A private person who assists another private person in effecting an unlawful arrest, or who, not being summoned, assists a peace officer in effecting an unlawful arrest, is justified in using any force which he would be justified in using if the arrest were lawful, provided that (a) he reasonably believes the arrest is lawful, and (b) the arrest would be lawful if the facts were as he believes them to be and such belief is reasonable.

e. Use of force to prevent suicide or the commission of a crime. The use of force upon or toward the person of another is justifiable when the actor reasonably believes that such force is immediately necessary to prevent such other person from committing suicide, inflicting serious bodily harm upon himself, committing or consummating the commission of a crime involving or threatening bodily harm, damage to or loss of property or a breach of the peace, except that:

(1) Any limitations imposed by the other provisions of this chapter on the justifiable use of force in self-protection, for the protection of others, the protection of property, the effectuation of an arrest or the prevention of an escape from custody shall apply notwithstanding the criminality of the conduct against which such force is used; and

(2) The use of deadly force is not in any event justifiable under this subsection unless the actor reasonably believes that it is likely that the person whom he seeks to prevent from committing a crime will endanger human life or inflict serious bodily harm upon another unless the commission or the consummation of the crime is prevented and that the use of such force presents no substantial risk of injury to innocent persons.

6. N. J. S. 2C:3–9 is amended to read as follows:

Mistake of law as to unlawfulness of force or legality of arrest; reckless or negligent use of excessive but otherwise justifiable force; reckless or negligent injury or risk of injury to innocent persons.

2C:3–9. Mistake of Law as to Unlawfulness of Force or Legality of Arrest; Reckless or Negligent Use of Excessive But Otherwise Justifiable Force; Reckless or Negligent Injury or Risk of Injury to Innocent Persons. a. The justification afforded by sections 2C:3–4 to 2C:3–7 is unavailable when:

(1) The actor's belief in the unlawfulness of the force or conduct against which he employs protective force or his belief in the lawfulness of an arrest which he endeavors to effect by force is erroneous; and

(2) His error is due to ignorance or mistake as to the provisions of the code, any other provisions of the criminal law or the law governing the legality of an arrest or search.

b. (Deleted by amendment; P. L. 1981, c. 290.)

c. When the actor is justified under sections 2C:3–3 to 2C:3–8 in using force upon or toward the person of another but he recklessly or negligently injures or creates a risk of injury to innocent per-

sons, the justification afforded by those sections is unavailable in a prosecution for such recklessness or negligence towards innocent persons.

7. N. J. S. 2C:3–11 is amended to read as follows:

Definitions.

2C:3–11. Definitions. In this chapter, unless a different meaning plainly is required: a. "Unlawful force" means force, including confinement, which is employed without the consent of the person against whom it is directed and the employment of which constitutes an offense or actionable tort or would constitute such offense or tort except for a defense (such as the absence of intent, negligence, or mental capacity; duress, youth, or diplomatic status) not amounting to a privilege to use the force. Assent constitutes consent, within the meaning of this section, whether or not it otherwise is legally effective, except assent to the infliction of death or serious bodily harm.

b. "Deadly force" means force which the actor uses with the purpose of causing or which he knows to create a substantial risk of causing death or serious bodily harm. Purposely firing a firearm in the direction of another person or at a vehicle, building or structure in which another person is believed to be constitutes deadly force. A threat to cause death or serious bodily harm, by the production of a weapon or otherwise, so long as the actor's purpose is limited to creating an apprehension that he will use deadly force if necessary, does not constitute deadly force.

c. "Dwelling" means any building or structure, though movable or temporary, or a portion thereof, which is for the time being the actor's home or place or lodging except that, as used in 2C:3–7, the building or structure need not be the actor's own home or place of lodging.

d. "Serious bodily harm" means bodily harm which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ or which results from aggravated sexual assault or sexual assault.

8. N. J. S. 2C:4–2 is amended to read as follows:

Evidence of mental disease or defect admissible when relevant to element of the offense.

2C:4–2. Evidence of Mental Disease or Defect Admissible When Relevant to Element of the Offense. Evidence that the defendant suffered from a mental disease or defect is admissible whenever it is

relevant to prove that the defendant did not have a state of mind which is an element of the offense. In the absence of such evidence, it may be presumed that the defendant had no mental disease or defect which would negate a state of mind which is an element of the offense. Mental disease or defect is an affirmative defense which must be proved by a preponderance of the evidence.

9. N. J. S. 2C:4–8 is amended to read as follows:

Commitment of a person by reason of insanity.

2C:4–8. Commitment of a Person by Reason of Insanity. a. After acquittal by reason of insanity, the court shall order that the defendant undergo a psychiatric examination by a psychiatrist of the prosecutor's choice. If the examination cannot take place because of the unwillingness of the defendant to participate, the court shall proceed as in section 2C:4–5c. The defendant, pursuant to this section, may also be examined by a psychiatrist of his own choice.

b. The court shall dispose of the defendant in the following manner:

(1) If the court finds that the defendant may be released without danger to the community or himself without supervision, the court shall so release the defendant; or

(2) If the court finds that the defendant may be released without danger to the community or to himself under supervision or under conditions, the court shall so order; or

(3) If the court finds that the defendant cannot be released with or without supervision or conditions without posing a danger to the community or to himself, it shall commit the defendant to a mental health facility approved for this purpose by the Commissioner of Human Services to be treated as a person civilly committed. In all proceedings conducted pursuant to this section, including any periodic review proceeding, the prosecuting attorney shall have the right to appear and be heard. The defendant's continued commitment, under the law governing civil commitment, shall be established by a preponderance of the evidence, during the maximum period of imprisonment that could have been imposed, as an ordinary term of imprisonment, for any charge on which the defendant has been acquitted by reason of insanity. Expiration of that maximum period of imprisonment shall be calculated by crediting the defendant with any time spent in confinement for the charge or charges on which the defendant has been acquitted by reason of insanity.

c. No person committed under this section shall be confined within any penal or correctional institution or any part thereof.

10. N. J. S. 2C:5–2 is amended to read as follows:

Conspiracy.

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

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

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

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

c. Conspiracy with multiple objectives. If a person conspires to commit a number of crimes, he is guilty of only one conspiracy so long as such multiple crimes are the object of the same agreement or continuous conspiratorial relationship. It shall not be a defense to a charge under this section that one or more of the objectives of the conspiracy was not criminal provided that one or more of its objectives or the means of promoting or facilitating an objective of the conspiracy is criminal.

d. Overt act. No person may be convicted of conspiracy to commit a crime, other than a crime of the first or second degree or distribution or possession with intent to distribute a controlled dangerous substance as defined under the "New Jersey Controlled Dangerous Substances Act," P. L. 1970, c. 226 (C. 24:21–1 et seq.), unless an overt act in pursuance of such conspiracy is proved to have been done by him or by a person with whom he conspired.

e. Renunciation of purpose. It is an affirmative defense which the actor must prove by a preponderance of the evidence that he, after conspiring to commit a crime, informed the authority of the existence of the conspiracy and his participation therein, and thwarted or caused to be thwarted the commission of any offense in furtherance of the conspiracy, under circumstances manifesting

a complete and voluntary renunciation of criminal purpose as defined in 2C:5–1d., provided, however, that an attempt as defined in 2C:5–1 shall not be considered an offense for purposes of renunciation under this subsection.

f. Duration of conspiracy. For the purpose of section 2C:1–6d.:

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

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

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

11. N. J. S. 2C:5–4 is amended to read as follows:

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

2C:5–4. Grading of Criminal Attempt and Conspiracy; Mitigation in Cases of Lesser Danger. a. Grading. An attempt or conspiracy to commit a crime of the first degree is a crime of the second degree. Otherwise an attempt is a crime of the same degree as the most serious crime which is attempted, and conspiracy is a crime of the same degree as the most serious crime which is the object of the conspiracy. An attempt or conspiracy to commit an offense defined by a statute outside the code shall be graded as a crime of the same degree as the offense is graded pursuant to sections 2C:1–4 and 2C:43–1.

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

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

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

12. N. J. S. 2C:11–3 is amended to read as follows:

Murder.

2C:11–3. Murder. a. Except as provided in section 2C:11–4 criminal homicide constitutes murder when:

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

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

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

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

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

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

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

b. Murder is a crime of the first degree but a person convicted of murder may be sentenced by the court (1) to a term of 30 years of which the person must serve 15 years before being eligible for parole, or (2) as in a crime of the first degree except that the maximum term for such a crime of the first degree shall be 30 years. Nothing contained in this subsection shall prohibit the court from imposing an extended term pursuant to 2C:43–7 for the crime of murder.

13. N. J. S. 2C:11–4 is amended to read as follows:

Manslaughter.

2C:11–4. Manslaughter. a. Criminal homicide constitutes aggravated manslaughter when the actor recklessly causes death under circumstances manifesting extreme indifference to human life.

b. Criminal homicide constitutes manslaughter when:

(1) It is committed recklessly; or

(2) A homicide which would otherwise be murder under section 2C:11–3 is committed in the heat of passion resulting from a reasonable provocation.

c. Aggravated manslaughter is a crime of the first degree. Manslaughter is a crime of the second degree.

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

Assault.

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

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

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

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

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

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

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

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

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

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

(5) Commits a simple assault as defined in subsection a. (1) and (2) of this section upon

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

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

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

Aggravated assault under subsection b. (1) is a crime of the second degree; under subsection b. (2) is a crime of the third degree; under subsection b. (3) and b. (4) is a crime of the fourth degree; and under subsection b. (5) is a crime of the third degree if the victim suffers bodily injury, otherwise it is a crime of the fourth degree.

15. N. J. S. 2C:12–3 is amended to read as follows:

Terroristic threats.

2C:12–3. Terroristic Threats. a. A person is guilty of a crime of the third degree if he threatens to commit any crime of violence with purpose to terrorize another or to cause evacuation of a building, place of assembly, or facility of public transportation, or otherwise to cause serious public inconvenience, or in reckless disregard of the risk of causing such terror or inconvenience.

b. A person is guilty of a crime of the third degree if he threatens to kill another with purpose to put him in imminent fear of death under circumstances reasonably causing the victim to believe the immediacy of the threat and the likelihood that it will be carried out.

16. N. J. S. 2C:17–1 is amended to read as follows:

Arson and related offenses.

2C:17–1. Arson and Related Offenses. a. Aggravated arson. A person is guilty of aggravated arson, a crime of the second degree, if he starts a fire or causes an explosion, whether on his own property or another's:

(1) Thereby purposely or knowingly placing another person in danger of death or bodily injury; or

(2) With the purpose of destroying a building or structure of another; or

(3) With the purpose of collecting insurance for the destruction or damage to such property under circumstances which recklessly place any other person in danger of death or bodily injury.

b. Arson. A person is guilty of arson, a crime of the third degree, if he purposely starts a fire or causes an explosion, whether on his own property or another's:

(1) Thereby recklessly placing another person in danger of death or bodily injury; or

(2) Thereby recklessly placing a building or structure of another in danger of damage or destruction; or

(3) With the purpose of collecting insurance for the destruction or damage to such property.

c. Failure to control or report dangerous fire. A person who knows that a fire is endangering life or a substantial amount of property of another and either fails to take reasonable measures to put out or control the fire, when he can do so without substantial risk to himself, or to give prompt fire alarm, commits a crime of the fourth degree if:

(1) He knows that he is under an official, contractual, or other legal duty to prevent or combat the fire; or

(2) The fire was started, albeit lawfully, by him or with his assent, or on property in his custody or control.

d. Any person who, directly or indirectly, pays or accepts any form of consideration including, but not limited to, money or any other pecuniary benefit, for the purpose of starting a fire or causing an explosion in violation of this section commits a crime of the first degree.

e. Definitions. "Structure" is defined in section 2C:18–1. Property is that of another, for the purpose of this section, if any one other than the actor has a possessory or proprietary interest therein. If a building or structure is divided into separately occupied units, any unit not occupied by the actor is an occupied structure of another.

17. N. J. S. 2C:17–3 is amended to read as follows:

Criminal mischief.

2C:17–3. Criminal Mischief. a. Offense defined. A person is guilty of criminal mischief if he:

(1) Purposely or knowingly damages tangible property of another or damages tangible property of another recklessly or negligently in the employment of fire, explosives or other dangerous means listed in section 2C:17–2a; or

(2) Purposely or recklessly tampers with tangible property of another so as to endanger person or property.

b. Grading. Criminal mischief is a crime of the third degree if the actor purposely causes pecuniary loss of $2,000.00 or more, or a substantial interruption or impairment of public communication, transportation, supply of water, gas or power, or other public service. It is a crime of the fourth degree if the actor causes pecuniary loss in excess of $500.00 but less than $2,000.00, or a disorderly persons offense if he causes pecuniary loss of $500.00 or less.

18. 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 he:

(1) Enters a 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; or

(2) Surreptitiously remains in a structure or a separately secured or occupied portion thereof knowing that he is not licensed or privileged to do so.

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.

19. N. J. S. 2C:20–7 is amended to read as follows:

Receiving stolen property.

2C:20–7. Receiving Stolen Property. a. Receiving. A person is guilty of theft if he knowingly receives or brings into this State movable property of another knowing that it has been stolen, or believing that it is probably stolen. It is an affirmative defense that the property was received with purpose to restore it to the owner. "Receiving" means acquiring possession, control or title, or lending on the security of the property.

b. Presumption of knowledge. The requisite knowledge or belief is presumed in the case of a person who:

(1) Is found in possession or control of two or more items of property stolen on two or more separate occasions; or

(2) Has received stolen property in another transaction within the year preceding the transaction charged; or

(3) Being a person in the business of buying or selling property of the sort received, acquires the property without having ascertained by reasonable inquiry that the person from whom he obtained it had a legal right to possess and dispose of it.

20. N. J. S. 2C:21-1 is amended to read as follows:

Forgery and related offenses.

2C:21-1. Forgery and Related Offenses. a. Forgery. A person is guilty of forgery if, with purpose to defraud or injure anyone, or with knowledge that he is facilitating a fraud or injury to be perpetrated by anyone, the actor:

(1) Alters or changes any writing of another without his authorization;

(2) Makes, completes, executes, authenticates, issues or transfers any writing so that it purports to be the act of another who did not authorize that act or of a fictitious person, or to have been executed at a time or place or in a numbered sequence other than was in fact the case, or to be a copy of an original when no such original existed; or

(3) Utters any writing which he knows to be forged in a manner specified in paragraph (1) or (2).

"Writing" includes printing or any other method of recording information, money, coins, tokens, stamps, seals, credit cards, badges, trademarks, and other symbols of value, right, privilege, or identification.

b. Grading of forgery. Forgery is a crime of the third degree if the writing is or purports to be part of an issue of money, securities, postage or revenue stamps, or other instruments, certificates or licenses issued by the government, or part of an issue of stock, bonds or other instruments representing interest in or claims against any property or enterprise.

Otherwise forgery is a crime of the fourth degree.

c. Possession of forgery devices. A person is guilty of possession of forgery devices, a crime of the third degree, when with purpose to use, or to aid or permit another to use the same for

purposes of forging written instruments, he makes or possesses any device, apparatus, equipment or article specially designed or adapted to such use.

21. N. J. S. 2C:21–4 is amended to read as follows:

Falsifying or tampering with records.

2C:21–4. Falsifying or Tampering with Records. a. Except as provided in subsection b. of this section, a person commits a crime of the fourth degree if he falsifies, destroys, removes, conceals any writing or record, or utters any writing or record knowing that it contains a false statement or information, with purpose to deceive or injure anyone or to conceal any wrongdoing.

b. Issuing a false financial statement. A person is guilty of issuing a false financial statement, a crime of the third degree, when, with purpose to deceive or injure anyone or to conceal any wrongdoing; he by oath or affirmation:

(1) Knowingly makes or utters a written instrument which purports to describe the financial condition or ability to pay of some person and which is inaccurate in some substantial respect; or

(2) Represents in writing that a written instrument purporting to describe a person's financial condition or ability to pay as of a prior date is accurate with respect to such person's current financial condition or ability to pay, whereas he knows it is substantially inaccurate in that respect.

22. N. J. S. 2C:21–5 is amended to read as follows:

Bad checks.

2C:21–5. Bad Checks. A person who issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee, commits an offense as provided for in subsection c. of this section. For the purposes of this section as well as in any prosecution for theft committed by means of a bad check, an issuer is presumed to know that the check or money order (other than a post-dated check or order) would not be paid, if:

a. The issuer had no account with the drawee at the time the check or order was issued; or

b. Payment was refused by the drawee for lack of funds, upon presentation within 30 days after issue, and the issuer failed to make good within 10 days after receiving notice of that refusal or after notice has been sent to the issuer's last known address.

Notice of refusal may be given to the issuer orally or in writing in any reasonable manner by any person.

c. An offense under this section is:

(1) a crime of the second degree if the check or money order is $75,000.00 or more;

(2) a crime of the third degree if the check or money order is $1,000.00 or more but is less than $75,000.00;

(3) a crime of the fourth degree if the check or money order is $200.00 or more but is less than $1,000.00;

(4) a disorderly persons offense if the check or money order is less than $200.00.

23. An additional section is added to chapter 21 of Title 2C as follows:

N. J. S. 2C:21-8.1 Definition; determination of degree of offense.

Definition; Determination of Degree of Offense. a. As used in chapter 21, unless a different meaning plainly is required:

"Benefit derived" means the loss resulting from the offense or any gain or advantage to the actor, or coconspirators, or any person in whom the actor is interested, whichever is greater, whether loss, gain or advantage takes the form of money, property, commercial interests or anything else the primary significance of which is economic gain.

b. The benefit derived or resulting harm in violation of chapter 21 shall be determined by the trier of fact. The benefit derived or resulting harm pursuant to one scheme or course of conduct, whether in relation to the same person or several persons, may be aggregated in determining the degree of the offense.

23A. N. J. S. 2C:21–7 is amended to read as follows:

Deceptive business practices.

2C:21–7. Deceptive Business Practices. A person commits an offense if in the course of business he:

a. Uses or possesses for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity;

b. Sells, offers or exposes for sale, or delivers less than the represented quantity of any commodity or service;

c. Takes or attempts to take more than the represented quantity of any commodity or service when as buyer he furnishes the weight or measure;

d. Sells, offers or exposes for sale adulterated or mislabeled commodities;

e. Makes a false or misleading statement in any advertisement addressed to the public or to a substantial segment thereof for the purpose of promoting the purchase or sale of property or services;

f. (Deleted by amendment; P. L. 1981, c. 290.)

g. (Deleted by amendment; P. L. 1981, c. 290.)

h. Makes a false or misleading written statement for the purpose of obtaining property or credit; or

i. Makes a false or misleading written statement for the purpose of promoting the sale of securities, or omits information required by law to be disclosed in written documents relating to securities.

The offense is a crime of the fourth degree if subsection h. or i. is violated. Otherwise it is a disorderly persons offense.

It is an affirmative defense to prosecution under this section if the defendant proves by a preponderance of the evidence that his conduct was not knowingly or recklessly deceptive.

"Adulterated" means varying from the standard of composition or quality prescribed by or pursuant to any statute providing criminal penalties for such variance, or set by established commercial usage. "Mislabeled" means varying from the standard of truth or disclosure in labeling prescribed by or pursuant to any statute providing criminal penalties for such variance, or set by established commercial usage.

C. 2C:21-7.1. False representation as Kosher Food.

23B. (New section) a. A person commits a disorderly persons offense if in the course of business he:

(1) Sells or exposes for sale any meat or meat preparations, article of food or food products, and falsely represents the same to be kosher or kosher for Passover, whether such meat or meat preparations, article of food or food products, be raw or prepared for human consumption, or as having been prepared under, or from a product or products sanctioned by, the Orthodox Hebrew religious requirements, or falsely represents any food products or the contents of any package or container to be so constituted and prepared, by having or permitting to be inscribed thereon the word "kosher" or "kosher-style" in any language; or

(2) Sells or exposes for sale a non-kosher meat or meat preparation, or food or food product, which is labeled or advertised with the words "Jewish" or "Hebrew," either alone or in conjunction with the words "style" or "type" or any similar expression, unless the word "non-kosher" is displayed in English letters, of at least

the same size as the words "Jewish" or "Hebrew," either alone or in conjunction with the words "style" or "type" or any similar expression; or

(3) Sells or exposes for sale in the same place of business both kosher and non-kosher food or food products, either raw or prepared for human consumption, and fails to indicate on his window signs and all display advertising, in block letters at least 4 inches in height, "kosher and non-kosher meat sold here" or "kosher and non-kosher food sold here";

(4) Exposes for sale in any show window or place of business both kosher and non-kosher meat or meat preparations, or kosher and non-kosher food or food products, either raw or prepared for human consumption, and fails to display over each kind of meat or meat preparation so exposed a sign in block letters at least 4 inches in height reading "kosher meat," or "non-kosher meat," as the case may be, or displays on his window, door, or in his place of business, or in handbills or other printed matter distributed in or outside of his place of business, words or letters in Hebraic characters other than the word "kosher," or any sign, emblem, insignia, six-pointed star, symbol, or mark in simulation of same, without displaying in conjunction therewith in English letters of at least the same size as such characters, signs, emblems, insignia, symbols, or marks, the words "we sell kosher meat and food only," or "we sell non-kosher meat and food only," or "we sell both kosher and non-kosher meat and food," as the case may be; or

(5) Exposes for sale at retail fresh meat or poultry as kosher without indicating on the label when packaged or by a sign when not packaged, the words "soaked and salted" as the case may be in letters at least as large as the letters of the words on the label or sign designating such meat and poultry as kosher.

Possession of non-kosher meat and food in any place of business advertising the sale of kosher meat and food only is presumptive evidence that the person in possession exposes the same for sale in violation of the provisions of this section.

As used in this section, fresh meat and poultry means meat that has not been processed except for salting and soaking.

b. A person commits a disorderly persons offense if he, in any hotel, restaurant, or other place where food products are sold for consumption on or off the premises:

(1) Sells or exposes for sale any meat or meat preparation, article of food or food products, and falsely represents the same

to be kosher or kosher for Passover, whether such meat or meat preparations, article of food or food products be raw or prepared for human consumption, or as having been prepared under, and of a product or products sanctioned by, the Orthodox Hebrew religious requirements, either by direct statement orally, or in writing, which might reasonably be calculated to deceive or lead a reasonable man to believe that a representation is being made that such food is kosher or prepared in accordance with the Orthodox Hebrew religious requirements, or falsely represents any food product or the contents of any package or container to be so constituted and prepared, by having or permitting to be inscribed thereon the word "kosher" or "kosher-style" in any language;

(2) Sells or exposes for sale a non-kosher meat or meat preparation, or food or food product, which is labeled or advertised with the words "Jewish" or "Hebrew," either alone or in conjunction with the words "style" or "type" or any similar expression, unless the word "non-kosher" is displayed in English letters, of at least the same size as the words "Jewish" or "Hebrew," either alone or in conjunction with the words "style" or "type" or any similar expression; or

(3) Sells or exposes for sale in the same place of business both kosher and non-kosher meat or meat preparations, either raw or prepared for human consumption, and fails to indicate on his window signs and all display advertising, in block letters at least 4 inches in height, "kosher and non-kosher food sold here"; or

(4) Exposes for sale in any show window or place of business both kosher and non-kosher food or food products, either raw or prepared for human consumption, and fails to display over each kind of food or food preparation so exposed "kosher food" or "non-kosher food," as the case may be; or

(5) Displays on his window, door, or in his place of business, or in handbills or other printed matter distributed in or outside of his place of business, words or letters in Hebraic characters other than the word "kosher" or any sign, emblem, insignia, six-pointed star, symbol, or mark in simulation of same, without displaying in conjunction therewith in English letters of at least the same size as such characters, signs, emblems, insignia, symbols or marks the words "we sell kosher food only," or "we sell non-kosher food only," or "we sell both kosher and non-kosher food" as the case may be.

c. A person commits a disorderly persons offense if he:

(1) Marks, stamps, tags, labels, or in any other way or by any other means of identification, represents or causes to be marked, stamped, tagged, branded, labeled, or represented as kosher or kosher style or as having been prepared in accordance with the Hebrew Orthodox religious requirements food or food products not kosher or not so prepared; or

(2) Removes, defaces, obliterates, covers, alters, or destroys or causes to be removed, defaced, obliterated, covered, altered or destroyed the original means of identification affixed to food or food products to indicate that such food or food products are kosher or have been prepared in accordance with the Hebrew Orthodox religious requirements; or

(3) Sells, disposes of or has in his possession, for the purpose of resale to any person as kosher, any food or food products not having affixed thereto the original slaughter house plumba or any other mark, stamp, tag, brand, label or other means of identification employed to indicate that such food or food products to which such plumba, mark, stamp, tag, brand, label or other means of identification has or have been fraudulently affixed.

d. (1) All articles of food or food products, both liquid and solid, sold as kosher or kosher for Passover in any container shall have a kosher or kosher for Passover identification securely affixed on the outside of such container only by the manufacturer, or packer at his premises. No person other than such manufacturer or packer shall possess or affix such marks of identification.

(2) All articles of food or food products, which are not packaged in a container and are sold as kosher or kosher for Passover shall have a kosher or kosher for Passover identification securely affixed thereto by the manufacturer at his premises. No person other than such manufacturer or packer shall possess or affix such marks of identification.

For the purposes of this section the term "food commodity in package form" shall be construed to mean a food commodity put up or packaged in any manner in advance of sale in units suitable for retail sale and which is not intended for consumption at point of manufacture.

Any person who violates this section is guilty of a disorderly persons offense.

24. N. J. S. 2C:21-9 is amended to read as follows:

Misconduct by corporate official.

2C:21–9. Misconduct by Corporate Official. A person is guilty of a crime when:

a. Being a director of a corporation, he knowingly with purpose to defraud, concurs in any vote or act of the directors of such corporation, or any of them, which has the purpose of:

(1) Making a dividend except in the manner provided by law;

(2) Dividing, withdrawing or in any manner paying to any stockholder any part of the capital stock of the corporation except in the manner provided by law;

(3) Discounting or receiving any note or other evidence of debt in payment of an installment of capital stock actually called in and required to be paid, or with purpose of providing the means of making such payment;

(4) Receiving or discounting any note or other evidence of debt with purpose of enabling any stockholder to withdraw any part of the money paid in by him on his stock; or

(5) Applying any portion of the funds of such corporation, directly or indirectly, to the purchase of shares of its own stock, except in the manner provided by law; or

b. Being a director or officer of a corporation, he, with purpose to defraud:

(1) Issues, participates in issuing, or concurs in a vote to issue any increase of its capital stock beyond the amount of the capital stock thereof, duly authorized by or in pursuance of law; or

(2) Sells, or agrees to sell, or is directly interested in the sale of any share of stock of such corporation, or in any agreement to sell the same, unless at the time of such sale or agreement he is an actual owner of such share, provided that the foregoing shall not apply to a sale by or on behalf of an underwriter or dealer in connection with a bona fide public offering of shares of stock of such corporation;

c. He purposely or knowingly uses, controls or operates a corporation for the furtherance or promotion of any criminal object.

If the benefit derived from a violation of this section is $75,000.00, or more, the offender is guilty of a crime of the second degree. If the benefit derived exceeds $1,000.00, but is less than $75,000.00, the offender is guilty of a crime of the third degree. If the benefit derived is $1,000.00, or less, the offender is guilty of a crime of the fourth degree.

25. 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 to 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 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 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 subsection 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. is guilty of a crime of the second degree and, notwithstanding the provisions of section 2C:43–3, shall be subject to a fine of not more than $250,000.00 and any other appropriate disposition authorized by section 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.

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 appear-

ance 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 shall be guilty of a crime of the fourth degree.

"Debt adjuster" means a person who 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 and, 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. "Debtor" means an individual or two or more individuals who are jointly and severally, or jointly or severally indebted.

The following persons shall not be deemed debt adjusters for the purposes of this section: an attorney at law of this State; a nonprofit social service or consumer credit counseling agency; a person who is a regular, full-time employee of a debtor, and who acts as an adjuster of his employer's debts; a person acting pursuant to any order or judgment of court, or pursuant to authority conferred by any law of this State or of the United States; 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; or 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 such debts.

26. N. J. S. 2C:28–3 is amended to read as follows:

Unsworn falsification to authorities.

2C:28–3. Unsworn Falsification to Authorities. a. Statements "Under Penalty." A person commits a crime of the fourth degree if he makes a written false statement which he does not believe to be true, on or pursuant to a form bearing notice, authorized

by law, to the effect that false statements made therein are punishable.

b. In general. A person commits a disorderly persons offense if, with purpose to mislead a public servant in performing his function, he:

(1) Makes any written false statement which he does not believe to be true;

(2) Purposely creates a false impression in a written application for any pecuniary or other benefit, by omitting information necessary to prevent statements therein from being misleading;

(3) Submits or invites reliance on any writing which he knows to be forged, altered or otherwise lacking in authenticity; or

(4) Submits or invites reliance on any sample, specimen, map, boundary-mark, or other object which he knows to be false.

c. Perjury provisions applicable. Subsections c. and d. of section 2C:28–1 and subsection c. of 2C:28–2 apply to the present section.

27. N. J. S. 2C:28–5 is amended to read as follows:

Tampering with witnesses and informants; retaliation against them.

2C:28–5. Tampering With Witnesses and Informants; Retaliation Against Them. a. Tampering. A person commits an offense if, believing that an official proceeding or investigation is pending or about to be instituted, he knowingly attempts to induce or otherwise cause a witness or informant to:

(1) Testify or inform falsely;

(2) Withhold any testimony, information, document or thing;

(3) Elude legal process summoning him to testify or supply evidence; or

(4) Absent himself from any proceeding or investigation to which he has been legally summoned.

The offense is a crime of the second degree if the actor employs force. Otherwise it is a crime of the third degree. Privileged communications may not be used as evidence in any prosecution for violations of paragraph (2), (3) or (4).

b. Retaliation against witness or informant. A person commits a crime of the fourth degree if he harms another by an unlawful act with purpose to retaliate for or on account of the service of another as a witness or informant.

c. Witness or informant taking bribe. A person commits a crime of the third degree if he solicits, accepts or agrees to accept any benefit in consideration of his doing any of the things specified in subsection a. (1) through (4) of this section.

28. N. J. S. 2C:29–2 is amended to read as follows:

Resisting arrest; eluding officer.

2C:29–2. Resisting Arrest; Eluding Officer. a. A person is guilty of a disorderly persons offense if he purposely prevents a law enforcement officer from effecting a lawful arrest, except that he is guilty of a crime of the fourth degree if he:

1. Uses or threatens to use phyiscal force or violence against the law enforcement officer or another; or

2. Uses any other means to create a substantial risk of causing physical injury to the public servant or another.

It is not a defense to a prosecution under this subsection that the law enforcement officer was acting unlawfully in making the arrest, provided he was acting under color of his official authority and provided the law enforcement officer announces his intention to arrest prior to the resistance.

b. Any person, while operating a motor vehicle on any street or highway in this State, who knowingly flees or attempts to elude any police or law enforcement officer after having received any signal from such officer to bring the vehicle to a full stop is a disorderly person.

29. N. J. S. 2C:29–3 is amended to read as follows:

Hindering apprehension or prosecution.

2C:29–3. Hindering Apprehension or Prosecution. a. A person commits an offense if, with purpose to hinder the apprehension, prosecution, conviction or punishment of another for an offense he:

(1) Harbors or conceals the other;

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

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

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

(5) Prevents or obstructs, by means of force, intimidation or deception, anyone from performing an act which might aid in the

discovery or apprehension of such person or in the lodging of a charge against him;

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

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

The offense is a crime of the third degree if the conduct which the actor knows has been charged or is liable to be charged against the person aided would constitute a crime of the second degree or greater, unless the actor is a spouse, parent or child of the person aided, in which case the offense is a crime of the fourth degree. The offense is a crime of the fourth degree if such conduct would constitute a crime of the third degree. Otherwise it is a disorderly persons offense.

b. A person commits an offense if, with purpose to hinder his own apprehension, prosecution, conviction or punishment, he:

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

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

(3) Prevents or obstructs by means of force, intimidation or deception any witness or informant from providing testimony or information, regardless of its admissibility, which might aid in his discovery or apprehension or in the lodging of a charge against him; or

(4) Volunteers false information to a law enforcement officer.

The offense is a crime of the third degree if the conduct which the actor knows has been charged or is liable to be charged against him would constitute a crime of the second degree or greater. The offense is a crime of the fourth degree if such conduct would constitute a crime of the third degree. Otherwise it is a disorderly persons offense.

30. N. J. S. 2C:29–5 is amended to read as follows:

Escape.

2C:29–5. Escape. a. Escape. A person commits an offense if he without lawful authority removes himself from official detention or fails to return to official detention following temporary leave

granted for a specific purpose or limited period. "Official detention" means arrest, detention in any facility for custody of persons under charge or conviction of a crime or offense, or committed pursuant to chapter 4 of this Title, or alleged or found to be delinquent, detention for extradition or deportation, or any other detention for law enforcement purposes; but "official detention" does not include supervision of probation or parole, or constraint incidental to release on bail.

b. Permitting or facilitating escape. A public servant concerned in detention commits an offense if he knowingly or recklessly permits an escape. Any person who knowingly causes or facilitates an escape commits an offense.

c. Effect of legal irregularity in detention. Irregularity in bringing about or maintaining detention, or lack of jurisdiction of the committing or detaining authority, shall not be a defense to prosecution under this section if the escape is from a prison or other custodial facility or from detention pursuant to commitment by official proceedings. In the case of other detentions, irregularity or lack of jurisdiction shall be a defense only if:

(1) The escape involved no substantial risk of harm to the person or property of anyone other than the detainee; or

(2) The detaining authority did not act in good faith under color of law.

d. Grading of offenses. An offense under this section is a crime of the second degree where the actor employs force, threat, deadly weapon or other dangerous instrumentality to effect the escape. Otherwise it is a crime of the third degree.

31. N. J. S. 2C:29–6 is amended to read as follows:

Implements for escape; other contraband.

2C:29–6. Implements for Escape; Other Contraband. a. Escape implements. A person commits an offense if he knowingly and unlawfully introduces within an institution or a detention facility, or knowingly and unlawfully provides an inmate with any weapon, tool or other thing which may be useful for escape. An inmate commits an offense if he knowingly and unlawfully procures, makes, or otherwise provides himself with, or has in his possession, any such implement of escape. "Unlawfully" means surreptitiously or contrary to law, regulation or order of the detaining authority. The offense is a crime of the second degree if the item is a weapon. Otherwise it is a crime of the third degree.

32. N. J. S. 2C:29–7 is amended to read as follows:

Bail jumping; default in required appearance.

2C:29–7. Bail Jumping; Default in Required Appearance. A person set at liberty by court order, with or without bail or who has been issued a summons, upon condition that he will subsequently appear at a specified time and place in connection with any offense or any violation of law punishable by a period of incarceration, commits an offense if, without lawful excuse, he fails to appear at that time and place. It is an affirmative defense for the defendant to prove, by a preponderance of evidence, that he did not knowingly fail to appear. The offense constitutes a crime of the third degree where the required appearance was to answer to a charge of a crime of the third degree or greater, or for disposition of any such charge and the actor took flight or went into hiding to avoid apprehension, trial or punishment. The offense constitutes a crime of the fourth degree where the required appearance was otherwise to answer to a charge of crime or for disposition of such charge. The offense constitutes a disorderly persons offense or a petty disorderly persons offense, respectively, when the required appearance was to answer a charge of such an offense or for disposition of any such charge. Where the bail imposed or summons issued is in connection with any other violation of law, the failure to appear shall be a disorderly persons offense.

This section does not apply to obligations to appear incident to release under suspended sentence or on probation or parole. Nothing herein shall interfere with or prevent the exercise by any court of this State of its power to punish for contempt.

33. An additional section is added to chapter 29 of Title 2C as follows:

N. J. S. 2C:29-8 Corrupting or influencing a jury.

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 of the third degree.

34. An additional section is added to chapter 29 of Title 2C as follows:

N. J. S. 2C:29-9 Contempt.

Contempt. A person is guilty of a crime of the fourth degree if he purposely or knowingly disobeys a judicial order or hinders, obstructs or impedes the effectuation of a judicial order or the exercise of jurisdiction over any person, thing or controversy by a court, administrative body or investigative entity.

35. N. J. S. 2C:33–1 is amended to read as follows:

Riot; failure to disperse.

2C:33–1. Riot: Failure to Disperse. a. Riot. A person is guilty of riot if he participates with four or more others in a course of disorderly conduct as defined in section 2C:33–2a:

(1) With purpose to commit or facilitate the commission of a crime;

(2) With purpose to prevent or coerce official action; or

(3) When he or any other participant, known to him, uses or plans to use a firearm or other deadly weapon.

Riot if committed under circumstances set forth in paragraph (3) is a crime of the third degree. Otherwise riot is a crime of the fourth degree.

b. Failure of disorderly persons to disperse upon official order. Where five or more persons are participating in a course of disorderly conduct as defined in section 2C:33–2a. likely to cause substantial harm, a peace officer or other public servant engaged in executing or enforcing the law may order the participants and others in the immediate vicinity to disperse. A person who refuses or knowingly fails to obey such an order commits a disorderly persons offense.

36. An additional chapter 40A, Miscellaneous, is added to Title 2C as follows:

Chapter 40A. Miscellaneous

Section 2C:40A-1. Employer Requiring Lie Detector Test.

Employer requiring lie detector test.

2C:40A-1. Employer Requiring Lie Detector Test. Any person who as an employer shall influence, request or require an employee to take or submit to a lie detector test as a condition of employment or continued employment, commits a disorderly persons offense. The provisions of this section shall not apply if the employer is authorized to manufacture, distribute or dispense narcotics or controlled dangerous substances pursuant to the provisions of the "New Jersey Controlled Dangerous Substances Act," P. L. 1970, c. 226 (C. 34:21-1 et seq.).

37. N. J. S. 2C:43-3 is amended to read as follows:

Fines and restitutions.

2C:43-3. Fines and Restitutions. A person who has been convicted of an offense may be sentenced to pay a fine, to make restitution, or both, such fine not to exceed:

a. $100,000.00, when the conviction is of a crime of the first or second degree;

b. $7,500.00, when the conviction is of a crime of the third or fourth degree;

c. $1,000.00, when the conviction is of a disorderly persons offense;

d. $500.00, when the conviction is of a petty disorderly persons offense;

e. Any higher amount equal to double the pecuniary gain to the offender or loss to the victim caused by the conduct constituting the offense by the offender. In such case the court shall make a finding as to the amount of the gain or loss, and if the record does not contain sufficient evidence to support such a finding the court may conduct a hearing upon the issue. For purposes of this section the terms "gain" means the amount of money or the value of property derived by the offender and "loss" means the amount of value separated from the victim;

f. Any higher amount specifically authorized by another section of this code or any other statute.

The restitution ordered paid to the victim shall not exceed his loss. Any restitution imposed on a person shall be in addition to any fine which may be imposed pursuant to this section.

38. N. J. S. 2C:43–6 is amended to read as follows:

Sentence of imprisonment for crime; ordinary terms; mandatory terms.

2C:43–6. Sentence of Imprisonment for Crime; Ordinary Terms; Mandatory Terms.

a. Except as otherwise provided, a person who has been convicted of a crime may be sentenced to imprisonment, as follows:

(1) In the case of a crime of the first degree, for a specific term of years which shall be fixed by the court and shall be between 10 years and 20 years;

(2) In the case of a crime of the second degree, for a specific term of years which shall be fixed by the court and shall be between 5 years and 10 years;

(3) In the case of a crime of the third degree, for a specific term of years which shall be fixed by the court and shall be between 3 years and 5 years;

(4) In the case of a crime of the fourth degree, for a specific term which shall be fixed by the court and shall not exceed 18 months.

b. As part of a sentence for any crime, the court may fix a minimum term not to exceed one-half of the term set pursuant to subsection a., or one-half of the term set pursuant to a maximum period of incarceration for a crime set forth in any statute other than this code, during which the defendant shall not be eligible for parole; provided that no defendant shall be eligible for parole at a date earlier than otherwise provided by the law governing parole.

c. A person who has been convicted under 2C:39–4a. or of a crime under any of the following sections: 2C:11–3; 2C:11–4; 2C:12–1b.; 2C:13–1; 2C:14–2a.; 2C:14–3a.; 2C:15–1; 2C:18–2; 2C:29–5, who, while in the course of committing or attempting to commit the crime, including the immediate flight therefrom, used or was in possession of a firearm as defined in 2C:39–1f., shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at, or between, one-third and one-half of the sentence imposed by the court or 3 years, whichever is greater, or 18 months in the case of a fourth degree crime, during which the defendant shall be ineligible for parole. The minimum terms established by this section shall not prevent the court from imposing presumptive terms of imprisonment pursuant to 2C:44–1f.(1) except in cases of crimes of the fourth degree. A

person who has been convicted of an offense enumerated by this subsection and who used or possessed a firearm during its commission, attempted commission or flight therefrom and who has been previously convicted of an offense involving the use or possession of a firearm as defined in 2C:44–3d., shall be sentenced by the court to an extended term as authorized by 2C:43–7c., notwithstanding that extended terms are ordinarily discretionary with the court.

d. The court shall not impose a mandatory sentence pursuant to subsection c. of this section, 2C:43–7c. or 2C:44–3d., unless the ground therefor has been established at a hearing. At the hearing, which may occur at the time of sentencing, the prosecutor shall establish by a preponderance of the evidence that the weapon used or possessed was a firearm. In making its finding, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing, or other court proceedings and shall also consider the presentence report and any other relevant information.

39. N. J. S. 2C:43–9 is amended to read as follows:

Release of all offenders; length of recommitment and reparole after revocation of parole.

2C:43–9. Release of All Offenders; Length of Recommitment and Reparole After Revocation of Parole. Release of offenders on parole, recommitment and reparole after revocation shall be governed by the "Parole Act of 1979," P. L. 1979, c. 441 (C. 30:4–123.45 et seq.).

40. N. J. S. 2C:44–1 is amended to read as follows:

Criteria for withholding or imposing sentence of imprisonment.

2C:44–1. Criteria for Withholding or Imposing Sentence of Imprisonment. a. In determining the appropriate sentence to be imposed on a person who has been convicted of an offense, the court may properly consider the following aggravating circumstances:

(1) The nature and circumstances of the offense, and the role of the actor therein, including whether or not it was committed in an especially heinous, cruel, or depraved manner;

(2) 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 sub-

stantially incapable of exercising normal physical or mental power of resistance;

(3) The risk that the defendant will commit another offense;

(4) A lesser sentence will depreciate the seriousness of the defendant's offense because it involved a breach of the public trust under chapters 27 and 30, or the defendant took advantage of a position of trust or confidence to commit the offense;

(5) There is a substantial likelihood that the defendant is involved in organized criminal activity;

(6) The extent of the defendant's prior criminal record and the seriousness of the offenses of which he has been convicted;

(7) The defendant committed the offense pursuant to an agreement that he either pay or be paid for the commission of the offense and the pecuniary incentive was beyond that inherent in the offense itself;

(8) The defendant committed the offense against a police or other law enforcement officer, correctional employee or fireman, acting in the performance of his duties while in uniform or exhibiting evidence of his authority, or the defendant committed the offense because of the status of the victim as a public servant;

(9) The need for deterring the defendant and others from violating the law.

b. In determining the appropriate sentence to be imposed on a person who has been convicted of an offense, the court may properly consider the following mitigating circumstances:

(1) The defendant's conduct neither caused nor threatened serious harm;

(2) The defendant did not contemplate that his conduct would cause or threaten serious harm;

(3) The defendant acted under a strong provocation;

(4) There were substantial grounds tending to excuse or justify the defendant's conduct, though failing to establish a defense;

(5) The victim of the defendant's conduct induced or facilitated its commission;

(6) The defendant has compensated or will compensate the victim of his conduct for the damage or injury that he sustained, or will participate in a program of community service;

(7) The defendant has no history of prior delinquency or criminal activity or has led a law-abiding life for a substantial period of time before the commission of the present offense;

(8) The defendant's conduct was the result of circumstances unlikely to recur;

(9) The character and attitude of the defendant indicate that he is unlikely to commit another offense;

(10) The defendant is particularly likely to respond affirmatively to probationary treatment;

(11) The imprisonment of the defendant would entail excessive hardship to himself or his dependents;

(12) The willingness of the defendant to cooperate with law enforcement authorities;

(13) The conduct of a youthful defendant was substantially influenced by another person more mature than the defendant.

c. (1) A plea of guilty by a defendant or failure to so plead shall not be considered in withholding or imposing a sentence of imprisonment.

(2) When imposing a sentence of imprisonment the court shall consider the defendant's eligibility for release under the law governing parole, including time credits awarded pursuant to Title 30 of the Revised Statutes, in determining the appropriate term of imprisonment.

d. Presumption of imprisonment. The court shall deal with a person who has been convicted of a crime of the first or second degree by imposing a sentence of imprisonment unless, having regard to the character and condition of the defendant, it is of the opinion that his imprisonment would be a serious injustice which overrides the need to deter such conduct by others.

e. The court shall deal with a person convicted of an offense other than a crime of the first or second degree, who has not previously been convicted of an offense, without imposing sentence of imprisonment unless, having regard to the nature and circumstances of the offense and the history, character and condition of the defendant, it is of the opinion that his imprisonment is necessary for the protection of the public under the criteria set forth in subsection a.

f. Presumptive Sentences. (1) When a court determines that a sentence of imprisonment be imposed, it shall, except for murder or kidnapping, sentence the defendant to a term of 15 years for a crime of the first degree, to a term of 7 years for a crime of the second degree, to a term of 4 years for a crime of the third degree and to a term of 9 months for a crime of the fourth degree unless the preponderance of aggravating factors or preponderance of miti-

gating factors, as set forth in subsections a. and b., weighs in favor of higher or lower terms within the limits provided in 2C:43–6.

In imposing a minimum term pursuant to 2C:43–6b, the sentencing court shall specifically place on the record the aggravating factors set forth in this section which justify the imposition of a minimum term.

Unless the preponderance of mitigating factors set forth in subsection b. weighs in favor of a lower term within the limits authorized, sentences imposed pursuant to 2C:43–7a(1) shall have a presumptive term of life imprisonment. Unless the preponderance of aggravating and mitigating factors set forth in subsections a. and b. weighs in favor of a higher or lower term within the limits authorized, sentences imposed pursuant to 2C:43–7a(2) shall have a presumptive term of 50 years' imprisonment; sentences imposed pursuant to 2C:43–7a(3) shall have a presumptive term of 15 years' imprisonment; and sentences imposed pursuant to 2C:43–7a (4) shall have a presumptive term of 7 years' imprisonment.

In imposing a minimum term pursuant to 2C:43–7b, the sentencing court shall specifically place on the record the aggravating factors set forth in this section which justify the imposition of a minimum term.

(2) In cases of convictions for crimes of the first or second degree where the court is clearly convinced that the mitigating factors substantially outweigh the aggravating factors and where the interest of justice demands, the court may sentence the defendant to a term appropriate to a crime of one degree lower than that of the crime for which he was convicted. If the court does impose sentence pursuant to this paragraph, or if the court imposes a non-custodial or probationary sentence upon conviction for a crime of the first or second degree, such sentence shall not become final for 10 days in order to permit the appeal of such sentence by the prosecution.

41. N. J. S. 2C:45–3 is amended to read as follows:

Summons or arrest of defendant under suspended sentence or on probation; commitment without bail; revocation and resentence.

2C:45–3. Summons or Arrest of Defendant Under Suspended Sentence or on Probation; Commitment Without Bail; Revocation and Resentence. a. At any time before the discharge of the defendant or the termination of the period of suspension or probation:

(1) The court may summon the defendant to appear before it or may issue a warrant for his arrest;

(2) A probation officer or peace officer, upon request of the chief probation officer or otherwise having probable cause to believe that the defendant has failed to comply with a requirement imposed as a condition of the order or that he has committed another offense, may arrest him without a warrant;

(3) The court, if there is probable cause to believe that the defendant has committed another offense or if he has been held to answer therefor, may commit him without bail, pending a determination of the charge by the court having jurisdiction thereof;

(4) The court, if satisfied that the defendant has inexcusably failed to comply with a substantial requirement imposed as a condition of the order or if he has been convicted of another offense, may revoke the suspension or probation and sentence or resentence the defendant, as provided in this section. No revocation of suspension or probation shall be based on failure to pay a fine or make restitution, unless the failure was willful.

b. When the court revokes a suspension or probation, it may impose on the defendant any sentence that might have been imposed originally for the offense of which he was convicted.

c. The commencement of a probation revocation proceeding shall toll the probationary period until termination of such proceedings. In the event that the court does not find a violation of probation, this subsection shall not operate to toll the probationary period.

42. N. J. S. 2C:51–2 is amended to read as follows:

Forfeiture of public office.

2C:51–2. Forfeiture of Public Office. a. 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, who is convicted of an offense shall forfeit such office or position if:

(1) He is convicted under the laws of this State of an offense involving dishonesty or of a crime of the third degree or above or under the laws of another state or of the United States of an offense or a crime which, if committed in this State, would be such an offense or crime;

(2) He is convicted of an offense involving or touching such office, position or employment; or

(3) The Constitution or a statute other than the code so provides.

b. The forfeiture set forth in subsection a. shall take effect:

(1) Upon finding of guilty by the trier of fact or a plea of guilty, if the court so orders; **or**

(2) Upon sentencing unless the court for good cause shown, orders a stay of such forfeiture. If the conviction be reversed, he shall be restored, if feasible, to his office, position or employment with all the rights, emoluments and salary thereof from the date of forfeiture.

c. In addition to the punishment prescribed for the offense, and the forfeiture set forth in 2C:51–2a., any person convicted of an offense involving or touching on his public office, position or employment shall be forever disqualified from holding any office or position of honor, trust or profit under this State or any of its administrative or political subdivisions.

d. Except as may otherwise be ordered by the Attorney General as the public need may require, any person convicted of an offense under section 2C:27–2, 2C:27–4, 2C:27–6, 2C:27–7, 2C:29–4, 2C:30–2, or 2C:30–3 of this Title shall be ineligible, either directly or indirectly, to submit a bid, enter into any contract, or to conduct any business with any board, agency, authority, department, commission, public corporation, or other body of this State, of this or one or more other states, or of one or more political subdivisions of this State for a period of, but not more than, 10 years from the date of conviction for a crime of the second degree, or 5 years from the date of conviction for a crime of the third degree. It is the purpose of this subsection to bar any individual convicted of any of the above enumerated offenses and any business, including any corporation, partnership, association or proprietorship in which such individual is a principal, or with respect to which such individual owns, directly or indirectly, or controls 5% or more of the stock or other equity interest of such business, from conducting business with public entities.

The State Treasurer shall keep and maintain a list of all corporations barred from conducting such business pursuant to this section.

43. N. J. S. 2C:52–3 is amended to read as follows:

Disorderly persons offenses and petty disorderly persons offenses.

2C:52–3. Disorderly Persons Offenses and Petty Disorderly Persons Offenses. Any person convicted of a disorderly persons offense or petty disorderly persons offense under the laws of this State who has not been convicted of any prior or subsequent crime, whether within this State or any other jurisdiction, or of another three disorderly persons or petty disorderly persons offenses, may, after the expiration of a period of 5 years from the date

of his conviction, payment of fine, satisfactory completion of probation or release from incarceration, whichever is later, present a duly verified petition as provided in section 2C:52–7 hereof 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.

44. Section 1 of P. L. 1980, c. 163 (C. 2C:52–4.1) is amended to read as follows:

C. 2C:52-4.1 Expungement of adjudication of juvenile delinquency.

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;

(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 the petition, and no proceeding or complaint is pending seeking such a conviction or adjudication;

(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.

45. N. J. S. 2C:52–27 is amended to read as follows:

Effect of expungement.

2C:52–27. Effect of Expungement. Unless otherwise provided by law, if an order of expungement is granted, the arrest, conviction and any proceedings related thereto shall be deemed not to have occurred, and the petitioner may answer any questions relating to their occurrence accordingly, except as follows:

a. The fact of an expungement, sealing or similar relief shall be disclosed as provided in section 2C:52–8b.;

b. The fact of an expungement of prior charges which were dismissed because of the person's acceptance into and successful completion of a supervisory treatment or other diversion program shall be disclosed by said person to any judge who is determining the propriety of accepting said person into a supervisory treatment or other diversion program for subsequent criminal charges; and

c. Information divulged on expunged records shall be revealed by a petitioner seeking employment within the judicial branch or with a law enforcement or corrections agency and such information shall continue to provide a disability as otherwise provided by law.

46. N. J. S. 2C:64–1 is amended to read as follows:

Property subject to forfeiture.

2C:64–1. Property Subject to Forfeiture.

a. Any interest in the following shall be subject to forfeiture and no property right shall exist in them:

(1) Controlled dangerous substances, firearms which are unlawfully possessed, carried, acquired or used, illegally possessed gambling devices and untaxed cigarettes. These shall be designated prima facie contraband.

(2) All property which has been, or is intended to be, utilized in furtherance of an unlawful activity, including, but not limited to, conveyances intended to facilitate the perpetration of illegal acts, or buildings or premises maintained for the purpose of committing offenses against the State.

(3) Property which has become or is intended to become an integral part of illegal activity, including, but not limited to, money which is earmarked for use as financing for an illegal gambling enterprise.

(4) Proceeds of illegal activities, including, but not limited to, property or money obtained as a result of the sale of prima facie contraband as defined by subsection a. (1), proceeds of illegal gambling, prostitution, bribery and extortion.

b. Any article subject to forfeiture under this chapter may be seized by the State or any law enforcement officer as evidence pending a criminal prosecution pursuant to section 2C:64–4 or, when no criminal proceeding is instituted, upon process issued by any court of competent jurisdiction over the property, except that seizure without such process may be made when not inconsistent with the Constitution of this State or the United States, and when

(1) The article is prima facie contraband; or

(2) The property subject to seizure poses an immediate threat to the public health, safety or welfare.

47. N. J. S. 2C:64–2 is amended to read as follows:

Forfeiture procedures; prima facie contraband.

2C:64–2. Forfeiture Procedures; Prima Facie Contraband.

Prima facie contraband shall be retained by the State until entry of judgment or dismissal of the criminal proceeding, if any, arising out of the seizure. Thereafter, prima facie contraband shall be forfeited to the entity funding the prosecuting agency involved, subject to the rights of owners and others holding interests pursuant to section 2C:64–5.

48. N. J. S. 2C:64–3 is amended to read as follows:

Forfeiture procedures.

2C:64–3. Forfeiture Procedures. a. Whenever any property other than prima facie contraband is subject to forfeiture under this chapter, such forfeiture may be enforced by a civil action, instituted within 90 days of the seizure and commenced by the State and against the property sought to be forfeited.

b. The complaint shall be verified on oath or affirmation. It shall describe with reasonable particularity the property that is the subject matter of the action and shall contain allegations setting forth the reason or reasons the article sought to be or which has been seized is contraband.

c. Notice of the action shall be given to any person known to have a property interest in the article. In addition, the notice requirements of the Rules of Court for an in rem action shall be followed.

d. The claimant of the property that is the subject of an action under this chapter shall file and serve his claim in the form of an

answer in accordance with the Rules of Court. The answer shall be verified on oath or affirmation, and shall 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 in behalf of the person entitled to possession by an agent, bailee or attorney, it shall state that he is duly authorized to make the claim.

e. 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.

f. If an answer is filed, the Superior or county district court shall set the matter down for a summary hearing as soon as practicable. Upon application of the State or claimant, if he be a defendant in a criminal proceeding arising out of the seizure, the Superior or county district court may stay proceedings in the forfeiture action until the criminal proceedings have been concluded by an entry of final judgment.

g. Any person with a property interest in the seized property, other than a defendant who is being prosecuted in connection with the seizure of property may secure its release pending the forfeiture action unless the article is dangerous to the public health, safety and welfare or the State can demonstrate that the property will probably be lost or destroyed if released or employed in subsequent criminal activity. Any person with such a property interest other than a defendant who is being prosecuted, prior to the release of said property shall post a bond with the court in the amount of the market value of the seized item.

h. The prosecuting agency with approval of the entity funding such agency may apply to the Superior or county district court for an order permitting use of seized property, pending the disposition of the forfeiture action. Approval shall be liberally granted but shall be conditioned upon the filing of a bond in an amount equal to the market value of the item seized or a written guarantee of payment for property which may be subject to return, replacement or compensation as to reasonable value in the event that the forfeiture is refused or only partial extinguishment of property rights is ordered by the court.

i. If the property is of such nature that substantial difficulty may result in preserving its value during the pendency of the forfeiture action, the Superior or county district court may appoint a trustee to protect the interests of all parties involved in the action.

j. Evidence of a conviction of a criminal offense in which seized property was either used or provided an integral part of the State's proofs in the prosecution shall be considered in the forfeiture proceeding as creating a rebuttable presumption that the property was utilized in furtherance of an unlawful activity.

49. N. J. S. 2C:64–4 is amended to read as follows:

Seized property; evidentiary use.

2C:64–4. Seized Property; Evidentiary Use. a. Nothing in this chapter shall impair the right of the State to retain evidence pending a criminal prosecution.

b. The fact that a prosecution involving seized property terminates without a conviction does not preclude forfeiture proceedings against the property pursuant to this chapter.

50. N. J. S. 2C:64–5 is amended to read as follows:

Seized property; rights of owners and others holding interests.

2C:64–5. Seized Property; Rights of Owners and Others Holding Interests. No forfeiture under this chapter shall affect the rights of any lessor or any person holding a perfected security interest in property subject to seizure unless it shall appear that such person had knowledge of or consented to any act or omission upon which the right of forfeiture is based. Such rights are only to the extent of interest in the seized property and at the option of the entity funding the prosecuting agency involved may be extinguished by appropriate payment.

51. N. J. S. 2C:65–2 is amended to read as follows:

Release of stolen property prior to final determination of proceeding.

2C:65–2. Release of Stolen Property Prior to Final Determination of Proceeding. a. A law enforcement agency, upon satisfactory proof of ownership of property held pursuant to this section, and upon presentation of proper personal identification, may release the property to the person presenting such proof pursuant to the provisions of subsection b. The release shall be without prejudice to the State or to the person from whom custody of the property was taken or to any person who may have a claim against the property. Any such delivery shall be noted in the book required by 2C:65–1. The person to whom the property is delivered shall sign a sworn declaration of ownership which shall be retained by the agency.

b. Nothing in this section shall prohibit a law enforcement agency from immediately returning property to its rightful owner where

the agency is satisfied that there is no colorable dispute as to ownership; provided, however, that where the law enforcement agency has reason to believe that there is a dispute concerning ownership of property, or if the person from whom custody of the property was taken shall claim ownership, or if any other person shall claim ownership, the property shall not be released to any person claiming it until a hearing has been held pursuant to subsection c.

c. The court having jurisdiction over the case in which the stolen property is involved, upon application by the person from whom possession was taken, or the person claiming ownership, shall review the matter and order the property to be delivered to the person claiming ownership, or to be retained by the law enforcement agency upon a finding that the person claiming ownership of the property is not entitled thereto.

Repealer.

52. P. L. 1966, c. 114 (C. 2A:170–90.1) is repealed.

53. This act shall take effect immediately.

Approved September 24, 1981.

CHAPTER 291

AN ACT to amend the title of "An act authorizing the conducting, operating and playing of certain amusement games, whether of chance or skill, or both, where the prizes or awards to be given shall be of merchandise only, of a retail value not in excess of $15.00, and the charge for the privilege of playing shall not exceed $0.25; providing for the licensing, regulation and control by a commissioner, of the conducting and operating of such games; providing restrictions as to the places where such games may be conducted and operated; providing that certain playing for money or other valuable things is not authorized; providing for the operation and inoperation of the act in any municipality when so determined by referendum vote therein; and providing for the submission of this act to the legal voters of the State for their approval or rejection before the same shall become operative within this State," approved June 16, 1959 (P. L. 1959, c. 109), so that the same shall read:

"AN ACT authorizing the conducting, operating and playing of certain amusement games, whether of chance or skill, or both, where the prizes or awards to be given shall be of merchandise only, of a value to be determined by the Amusement Games Control Commissioner, and the charge for the privilege of playing shall be determined by the commissioner; providing for the licensing, regulation and control by the commissioner, of the conducting and operating of such games; providing restrictions as to the places where such games may be conducted and operated; providing that certain playing for money or other valuable things is not authorized; providing for the operation and inoperation of the act in any municipality when so determined by referendum vote therein; and providing for the submission of this act to the legal voters of the State for their approval or rejection before the same shall become operative within this State," amending the body of said act, and providing for the submission of this act to the legal voters of the State for their approval or rejection before the same shall become operative within this State.

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

Title amended.

1. The title of P. L. 1959, c. 109 is amended to read as follows:

AN ACT authorizing the conducting, operating and playing of certain amusement games, whether of chance or skill, or both, where the prizes or awards to be given shall be of merchandise only, of a value to be determined by the Amusement Games Control Commissioner and the charge for the privilege of playing shall be determined by the commissioner; providing for the licensing, regulation and control by the commissioner, of the conducting and operating of such games; providing restrictions as to the places where such games may be conducted and operated; providing that certain playing for money or other valuable things is not authorized; providing for the operation and inoperation of the act in any municipality when so determined by referendum vote therein; and providing for the submission of this act to the legal voters of the State for their approval or rejection before the same shall become operative within this State.

2. Section 8 of P. L. 1959, c. 109 (C. 5:8–107) is amended to read as follows:

C. 5:8-107 Entry fee or payment; prizes and winners; determination.

8. The Amusement Games Control Commissioner shall determine the amount for any 1 game which shall be charged or accepted by any licensee from any 1 player or participant as an entry fee or payment for the privilege of participating therein. No prize or prizes shall be offered or given in any single game except of merchandise and the amount of the value of the merchandise prize or prizes so to be offered and given in any such game shall be determined by the commissioner and all winners shall be determined and all prizes shall be awarded in any game forthwith upon the completion of the game and before making or accepting any charge for participation in any subsequent game.

The commissioner shall make his determination pursuant to this section after a public hearing has been held thereon and subject to the provisions of P. L. 1981, c. 27 (C. 52:14B–4.1 et seq.).

3. For the purpose of complying with the provisions of the State Constitution, this act shall be submitted to the people for their approval or rejection at the next general election to be held 45 or more days following the date of its enactment.

4. There shall be printed on each official ballot to be used at such election the following:

If you favor making the act described below operative within the State, make a cross (×), plus (+) or check (√) in the square opposite the word "Yes."

If you are opposed to making the act described below so operative, make a cross (×), plus (+) or check (√) in the square opposite the word "No."

	Yes.	DETERMINATION OF PARTICIPANT'S FEE AND VALUES OF PRIZES FOR AMUSEMENT GAMES Shall chapter 291 of the laws of 1981 compelling the State Amusement Games Control Commissioner to set the participant's fee and the value of any prize offered or given in an amusement game, after a public hearing has been held thereon and subject to the provisions of P. L. 1981, c. 27 (C. 52:14B–4.1 et seq.), be approved and become operative?
	No.	INTERPRETATIVE STATEMENT This question, if approved by the public, would make possible the first change in the "Amusement Games Licensing Law," P. L. 1959, c. 109 (C. 5:8–100 et seq.) since its inception in 1959. Such changes would respond to the public's desire for larger and better prizes as well as any needed changes in fees to correspond with such prizes as well as inflation. Such changes could only be done after a public hearing and legislative review.

The chapter number assigned to this act shall be inserted in the appropriate place in the foregoing question.

In any election district in which voting machines are used the question shall be placed upon the official ballot to be used upon the voting machines with the foregoing instructions to the voters but with instructions to vote "Yes" or "No" by the use of such machines without marking as aforesaid.

5. If at such election a majority of all the votes cast both for and against the approval of this act shall be cast in favor of the approval thereof, then all of its provisions shall forthwith take effect throughout the State.

6. This section and sections 3, 4, and 5 of this act shall take effect immediately and the remainder of this act shall take effect as hereinbefore provided.

Approved September 24, 1981.

CHAPTER 292

AN ACT concerning utility bill credits and amending P. L. 1979, c. 197.

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

1. Section 3 of P. L. 1979, c. 197 (C. 48:2–29.17) is amended to read as follows:

C. 48:2-29.17 "Lifeline Credit Program."

3. The "Lifeline Credit Program" shall consist of an annual credit against the electric or gas utility bill of each eligible residential electric or gas customer at his principal residence. Such credit shall be applied to the electric or gas utility bills of such customer as soon as may be practicable, but in no case later than the bills issued in October of each year or as soon thereafter as eligibility is determined, and shall be applied to each subsequent utility bill after the first until the full amount of the credit is exhausted. No household shall receive more than one annual credit. In the event that electric and gas are provided to the same customer by the same utility, the total annual credit shall be applied to the combined bills from such utility. In the event that electric and gas are provided to the same customer by two separate utilities, half of the total annual credit shall be applied to the bills from each such utility. The annual credit shall be $150.00. Subject to the availability of appropriations, the level of credit shall be increased to $175.00 beginning in October, 1982.

2. This act shall take effect July 1, 1981.

Approved September 28, 1981.

CHAPTER 293

AN ACT creating the New Jersey Water Supply Authority, empowering the authority to acquire, finance, construct and operate water systems under certain circumstances, authorizing the issuance of bonds of the authority, and providing for the terms and security thereof.

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

C. 58:1B-1 Short title.

1. This act shall be known and may be cited as the "New Jersey Water Supply Authority Act."

C. 58:1B-2 Legislature's findings.

2. The Legislature finds that a State authority should be established to acquire, finance, construct and operate water systems pursuant to the provisions of this act.

C. 58:1B-3 Definitions.

3. As used in this act:

a. "Authority" means the New Jersey Water Supply Authority created by this act;

b. "Bonds" means bonds, notes, or other obligations issued or authorized pursuant to this act;

c. "Compensating reservoir" means the structures, facilities and appurtenances for the impounding, transportation and release of water for the replenishment in periods of drought or at other necessary times of all or a part of waters in or bordering the State diverted into a project;

d. "Cost" as applied to a project means the cost of acquisition and construction thereof, the cost of acquisition of lands, rights-of-way, property rights, easements, and interests required by the authority for acquisition and construction, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which buildings or structures may be moved, the cost of acquiring or constructing and equipping an office of the authority, the cost of machinery, furnishings, and equipment, financing expenses, reserves, interest prior to and during construction and for no more than 6 months after completion of construction, engineering, expenses of research and development with respect to any project, legal expenses, plans, specifications,

surveys, estimates of cost and revenues, working capital, other expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing a project, administrative expense, and such other expense as may be necessary or incident to the acquisition or construction of the project;

e. "Construct" and "construction" means and includes acts of construction, reconstruction, replacement, extension, improvement and betterment of a project;

f. "Department" means the Department of Environmental Protection;

g. "Governmental agency" means any municipality, county, or any agency thereof, the State Government and any instrumentality or subdivision thereof;

h. "Project" means a water system or any part thereof;

i. "Real property" means lands both within or without the State, and improvements thereof or thereon, or any rights or interests therein;

j. "Revenue" means all rents, fees and charges for water sold from, or for the use and services of any project of the authority and payments in respect of any loans or advances made to governmental agencies pursuant to this act;

k. "Service charges" means water service charges established or collected by the authority pursuant to this act;

l. "Water system" means the plants, structures and other real and personal property financed, acquired, constructed or operated or to be financed, acquired, constructed or operated by the authority under this act or additions and improvements thereto, including reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping stations, water transmission systems, compensating reservoirs, waterworks or sources of water supply, wells, purification or filtration plants or other plants, equipment and works, connections, rights of flowage or diversion, and other plants, structures, boats, conveyances, and other real and personal property and rights therein, and appurtenances necessary or useful and convenient for the accumulation, supply, treatment or transmission of water.

C. 58:1B-4 "New Jersey Water Supply Authority"; membership; terms; vacancy; removal; chairman and other officers; quorum; resolutions for issuance of bonds; compensation; designation of representative; dissolution.

4. a. There is established in but not of the Department of Environmental Protection a public body corporate and politic, with corporate succession, to be known as the "New Jersey Water Supply

Authority." The authority is hereby constituted as an instrumentality of the State exercising public and essential governmental functions.

b. The authority shall consist of the Commissioner of Environmental Protection, who shall be a member ex officio with full voting rights, and six public members appointed by the Governor with the advice and consent of the Senate for terms of 3 years; provided that of the members of the authority first appointed by the Governor, two shall serve for terms of 1 year, two shall serve for terms of 2 years, and two shall serve for terms of 3 years, of whom two shall be recognized experts in the fields of water resource management and distribution, and public finance, respectively. The remaining public members appointed by the Governor shall represent the following: the agricultural community, industrial water users, residential water users and private watershed associations. Each member shall hold office for the term of his appointment and until his successor shall have been appointed and qualified. A member shall be eligible for reappointment. Any vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only.

c. Each appointed member 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. Each member 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 these oaths shall be filed in the office of the Secretary of State.

d. The chairman, who shall be the chief executive officer of the authority, shall be the Commissioner of Environmental Protection, and the members of the authority shall elect one of their number as vice chairman thereof. The authority shall 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. The powers of the authority shall be vested in the members thereof in office from time to time and four members 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 at least four members of the authority. No vacancy in the membership of the authority shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the authority.

e. No resolution or other action of the authority providing for the issuance of bonds or the refunding of bonds shall be adopted or otherwise made effective by the authority without the prior approval, in writing, of the Governor and of the State Treasurer or the Comptroller of the Treasury. A true copy of the minutes of every meeting of the authority shall be prepared and forthwith delivered to the Governor. No action taken at such meeting by the authority shall have effect until 10 days, exclusive of Saturdays, Sundays and public holidays, after the copy of the minutes has been so delivered. If, in this 10-day period, the Governor returns the copy of the minutes with a veto of any action taken by the authority at that meeting, the action shall be of no effect.

f. Each member and the treasurer of the authority shall execute a bond to be conditioned upon the faithful performance of the duties of the member or treasurer, as the case may be, in a form and amount as may be prescribed by the Comptroller of the Treasury. The bonds shall be filed in the office of the Secretary of State. At all times thereafter the members and treasurer of the authority shall maintain these bonds in full force. The costs of the bonds shall be borne by the authority.

g. The members of the authority shall serve without compensation, but the authority shall reimburse its members for actual expenses necessarily incurred in the discharge of their duties. No officer or employee of the State shall be deemed to have forfeited or shall forfeit his office or employment or any benefits or emoluments thereof by reason of his acceptance of the office of ex officio member of the authority.

h. The Commissioner of Environmental Protection may designate an officer or employee of the department to represent him at meetings of the authority, and the designee may lawfully vote and otherwise act on behalf of the commissioner. The designation shall be in writing delivered to the authority and shall continue in effect until revoked or amended by writing delivered to the authority.

i. The authority may be dissolved by act of the Legislature on condition that the authority has no debts or obligations outstanding or that provision has been made for the payment or retirement of debts or obligations. Upon a dissolution of the authority all property, funds and assets thereof shall be vested in the State.

C. 58:1B-5 Transfer of water supply facilities to authority; operation.

5. a. All water supply facilities, owned or operated by the State, either now or hereafter, are transferred to the authority. The authority shall operate these facilities pursuant to the statutory

authorizations enabling the State to operate and manage the facilities. The Delaware and Raritan Canal Transmission Complex, the Spruce Run-Round Valley Reservoir Complex and all other State-operated facilities now or hereafter authorized to be designed, constructed and operated pursuant to any past or future bond issues, including the "Water Supply Bond Act of 1981," are specifically included as State water supply facilities.

b. The revenue from all State water supply facilities, the disposition of which is not otherwise expressly provided for by law, is pledged to the authority for the purposes provided herein.

C. 58:1B-6 Authority's powers and duties.

6. a. The authority is hereby empowered to design, initiate, acquire, construct, maintain, repair and operate projects or cause the same to be operated pursuant to a lease, sublease, or agreement with any person or governmental agency, and to issue bonds of the authority to finance these projects, payable from the revenues and other funds of the authority. All projects undertaken by the authority shall conform to the recommendations of the New Jersey Statewide Water Supply Plan.

b. The authority shall be subject to compliance with all State health and environmental protection statutes and regulations and any other statutes and regulations not inconsistent herewith. The authority may, upon the request of a governmental agency, enter into a contract to provide services for any project.

c. The authority shall consult with the Water Supply Advisory Council from time to time prior to final action on any project or undertaking authorized pursuant to this section.

C. 58:1B-7 Authority's powers.

7. Except as otherwise limited by the act, authority shall have power:

a. To sue and be sued.

b. To have an official seal and alter the same at pleasure.

c. To make and alter bylaws for its organization and internal management and for the conduct of its affairs and business.

d. To maintain an office at such place or places within the State as it may determine.

e. To acquire, lease as lessee or lessor, rent, hold, use and dispose of real or personal property for its purposes.

f. To borrow money and to issue its negotiable bonds and to secure the same by a mortgage on its property or any part thereof and otherwise to provide for and secure the payment thereof and to provide for the rights of the holders thereof.

g. To fix and revise from time to time and charge and collect rents, fees and charges for any of the services rendered by the authority, which shall be equitably assessed.

h. To procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as it deems desirable.

i. Subject to any agreement with bondholders to invest moneys of the authority not required for immediate use, including proceeds from the sale of any bonds, in such obligations, securities and other investments as the authority shall deem prudent.

j. To appoint and employ an executive director and such additional officers who need not be members of the authority and accountants, financial advisors or experts and such other or different officers, agents and employees as it may require and determine their qualifications, terms of office, duties and compensation, all without regard to the provisions of Title 11, Civil Service, of the Revised Statutes, except with respect to those officers and employees of the Water Supply Facilities Element who are transferred to the authority pursuant to section 24 of this act, and these officers and employees shall remain subject to the provisions of that Title.

k. To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the United States of America or any agency or instrumentality thereof, or from the State or any agency, instrumentality or political subdivision thereof, or from any other source and to comply, subject to the provisions of this act, with the terms and conditions thereof.

l. To acquire, hold, rent, lease, use and dispose of real or personal property in the exercise of its powers and the performance of its duties under this act.

m. To acquire, subject to the provisions of any other statute, in the name of the authority by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, except with respect to property owned by the State, by the exercise of the power of eminent domain, any land and other property, which it may determine is reasonably necessary for any of its projects and any and all rights, title and interest in that land and other property, including, providing there is no prudent and feasible alternative, public lands, reservations, highways or parkways, owned by or in which the State or any county, municipality, public corporation, or other political subdivision of the State has any right, title or interest, or parts thereof or rights therein and any fee simple

absolute or any lesser interest in private property, and any fee simple absolute in, easements upon or the benefit of restrictions upon, abutting property to preserve and protect the project.

n. To do and perform any acts and things authorized by the act under, through, or by means of its officers, agents or employees or by contract with any person.

o. To establish and enforce rules and regulations for the use and operation of its projects and the conduct of its activities, and provide for the policing and the security of its projects.

p. To do any and all things necessary or convenient to carry out its purposes in accordance with the powers given and granted in the act.

C. 58:1B-8 Payment of compensation; removal of public utility facilities.

8. a. Upon the exercise of the power of eminent domain, the compensation to be paid thereunder shall be ascertained and paid in the manner provided in P. L. 1971, c. 361 (C. 20:3–1 et seq.).

b. Whenever the authority shall determine that it is necessary that any public utility facilities such as tracks, pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances of any public utility, as defined in R. S. 48:2–13, which are now, or hereafter may be, located in, on, along, over or under any project, should be removed from such project, the public utility owning or operating such facilities shall relocate or remove the same in accordance with the order of the authority; provided, however, that the cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location or new locations, and the cost of any lands, or any rights or interests in lands, and any other rights acquired to accomplish such relocation or removal, less the cost of any lands or any rights of the public utility paid to the public utility in connection with the relocation or removal of such property, shall be ascertained and paid by the authority as a part of the cost of such project. In case of any such relocation or removal of facilities, as aforesaid, the public utility owning or operating the same, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances, in the new location, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate such facilities in their former location.

C. 58:1B-9 Issuance of bonds.

9. a. The authority is hereby empowered from time to time to issue its bonds in such principal amounts as in the opinion of the authority shall be necessary to provide sufficient funds for any of

its corporate purposes, including the payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds issued by it, whether the bonds or interest to be funded or refunded have or have not become due, the establishment or increase of such reserves to secure or to pay such bonds or interest thereon and all other costs or expenses of the agency incident to and necessary to carry out its corporate purposes and powers.

b. Except as may be otherwise expressly provided in this act or by the authority, every issue of bonds shall be general obligations payable out of and secured by any revenues or funds of the authority, subject only to any agreements with holders of particular bonds pledging any particular revenues or funds. The authority may issue such types of bonds as it may determine, including, without limiting the generality of the foregoing, bonds as to which the principal and interest are payable (1) exclusively from the revenues and funds derived from or relating to the project or part thereof financed with the proceeds of the bonds; (2) exclusively from the revenues and funds derived from or relating to certain designated projects or parts thereof, whether or not the same are financed in whole or in part from the proceeds of bonds; (3) exclusively from certain designated funds of the authority; or (4) from the revenues and funds of the authority generally. The bonds may be additionally secured by a pledge of any grant, subsidy or contribution from the United States of America or any agency or instrumentality thereof or the State of New Jersey or any agency, instrumentality or political subdivision thereof, or any person, or a pledge of any income or revenues, funds or moneys of the authority from any source whatsoever.

c. Whether or not the bonds are of such form and character as to be negotiable instruments under the terms of Title 12A, Commercial Transactions, New Jersey Statutes, the bonds are hereby made negotiable instruments within the meaning of and for all the purposes of said Title 12A, subject only to the provisions of the bonds for registration.

d. Bonds of the authority shall be authorized by a resolution or resolutions of the authority and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates of interest per annum, be in such denomination or 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 such resolution or resolutions may provide.

e. Bonds of the authority may be sold at public or private sale at such price or prices and in such manner as the authority shall determine. Every bond shall mature and be paid not later than 40 years from the date thereof.

f. Bonds may be issued under the provisions of the act without obtaining the consent of any department, division, commission, board, bureau or agency of the State, and without any other proceeding or the happening of any other conditions or other things than those proceedings, conditions or things which are specifically required by this act.

g. Bonds of the authority issued under the provisions of this act shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the authority and shall not create or constitute any indebtedness, liability or obligation of the State or of the political subdivision or be or constitute a pledge of the faith and credit of the State or of the political subdivision but all such bonds, unless funded or refunded by bonds of the authority, shall be payable solely from revenues or funds pledged or available for their payment as authorized in this act. Each bond shall contain on its face a statement to the effect that the authority is obligated to pay the principal thereof or the interest thereon only from revenues or funds of the authority and that neither the State nor any political subdivision thereof is obligated to pay the principal or interest and that neither the faith and credit nor the taxing power of the State or any political subdivision thereof is pledged to the payment of the principal of or the interest on the bonds.

h. All expenses incurred in carrying out the provisions of this act shall be payable solely from revenues or funds provided or to be provided under the provisions of this act and nothing in this act shall be construed to authorize the authority to incur any indebtedness or liability on behalf of or payable by the State or any political subdivision thereof.

C. 58:1B-10 Authority's additional powers.

10. In any resolution of the authority empowering or relating to the issuance of any bonds the authority, in order to secure the payment of such bonds and in addition to its other powers, shall have power, by provisions therein which shall constitute covenants by the authority and contracts with the holders of the bonds:

a. To pledge all or any part of its rents, fees, tolls, revenues or receipts to which its right then exists or may thereafter come into existence, and the moneys derived therefrom, and the proceeds of any bonds.

b. To pledge any lease or other agreement or the rents or other revenues thereunder and the proceeds thereof.

c. To mortgage all or any part of its property, real or personal, then owned or thereafter to be acquired.

d. To covenant against pledging all or any part of its rents, fees, tolls, revenues or receipts or its leases or agreements or rents or other revenues thereunder or the proceeds thereof, or against mortgaging all or any part of its real or personal property then owned or thereafter acquired, or against permitting or suffering any lien on any of the foregoing.

e. To covenant with respect to limitations on any right to sell, lease or otherwise dispose of any project or any part thereof or any property of any kind.

f. To covenant as to any bonds to be issued and the limitations thereon and the terms and conditions thereof and as to the custody, application, investment, and disposition of the proceeds thereof.

g. To covenant as to the issuance of additional bonds or as to limitations on the issuance of additional bonds and on the incurring of other debts by it.

h. To covenant as to the payment of the principal of or interest on the bonds, or any other obligations, as to the sources and methods of payment, as to the rank or priority of the bonds with respect to any lien or security or as to the acceleration of the maturity of the bonds.

i. To provide for the replacement of lost, stolen, destroyed or mutilated bonds.

j. To covenant against extending the time for the payment of bonds or interest thereon.

k. To covenant as to the redemption of bonds and privileges of exchange thereof for other bonds of the authority.

l. To covenant as to the rates of toll and other charges to be established and charged, the amount to be raised each year or other period of time by tolls or other revenues and as to the use and disposition to be made thereof.

m. To covenant to create or authorize the creation of special funds or moneys to be held in pledge or otherwise for construction, operating expenses, payment or redemption of bonds, reserves or

other purposes and as to the use, investment, and disposition of the moneys held in those funds.

n. To establish the procedure, if any, by which the terms of any contract or covenant with or for the benefit of the holders of bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which the consent may be given.

o. To covenant as to the construction, improvement, or maintenance of its real and personal property, the replacement thereof, the insurance to be carried thereon, and the use and disposition of insurance moneys.

p. To provide for the release of property, leases or other agreements, or revenues and receipts from any pledge or mortgage and to reserve rights and powers in, or the right to dispose of, property which is subject to a pledge or mortgage.

q. To provide for the rights and liabilities, powers and duties arising upon the breach of any covenant, condition or obligation and to prescribe the events of default and the terms and conditions upon which any or all of the bonds of the authority shall become or may be declared due and payable before maturity and the terms and conditions upon which any such declaration and its consequences may be waived.

r. To vest in a trustee or trustees within or without the State such property, rights, powers and duties in trust as the authority may determine, including the right to foreclose any mortgage, and to limit the rights, duties and powers of the trustee.

s. To execute all mortgages, bills of sale, conveyances, deeds of trust and other instruments necessary or convenient in the exercise of its powers or in the performance of its covenants or duties.

t. To pay the costs or expenses incident to the enforcement of such bonds or of the provisions of the resolution or of any covenant or agreement of the authority with the holders of its bonds; and

u. To limit the rights of the holders of any bonds to enforce any pledge or covenant securing bonds.

C. 58:1B-11 Revenues, moneys, funds or other property pledged; validity.

11. Any pledge of revenues, moneys, funds or other property made by the authority shall be valid and binding from the time when the pledge is made. The revenues, moneys, funds or other property so pledged and thereafter received by the authority unless otherwise agreed, shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of the pledge shall be valid and binding as against all parties

having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument by which a pledge of revenues, moneys or funds is created need be filed or recorded except in the records of the authority.

C. 58:1B-12 No personal liability.

12. Neither the members of the authority nor any person executing bonds issued pursuant to this act shall be liable personally on the bonds by reason of the issuance thereof.

C. 58:1B-13 Establishment of reserves, funds or accounts.

13. The authority may establish such reserves, funds or accounts as may be, in its discretion, necessary or desirable to further the accomplishment of the purposes of the authority or to comply with the provisions of any agreement made by or any resolution of the authority.

C. 58:1B-14 Pledge of State.

14. The State of New Jersey pledges to and covenants and agrees with the holders of any bonds issued pursuant to authority of the act that the State will not limit or alter the rights or powers vested in the authority to acquire, construct, maintain, improve, and repair any project in any way that would jeopardize the interest of such holders, or to perform and fulfill the terms of any agreement made with the holders of the bonds, or to fix, establish, charge and collect such rents, fees, rates or other charges as may be convenient or necessary to produce sufficient revenues to meet all expenses of the authority and fulfill the terms of any agreement made with the holders of the bonds, 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 such holders, until the bonds, together with interest thereon, are fully met and discharged or provided for.

C. 58:1B-15 Investment in sinking funds.

15. The State and all public officers, governmental units and agencies thereof, all banks, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries, may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds issued pursuant to

the act, and such bonds shall be authorized security for any and all public deposits.

C. 58:1B-16 Authorization to lease, grant or convey real property or interest.

16. Any governmental entity, notwithstanding any contrary provision of law, except any requiring notice or public hearing, is authorized to lease, lend, grant or convey to the authority at its request upon such terms and conditions as the governing body or other proper utility of such governmental entity may deem reasonable and fair and without the necessity for any advertisement, order of court or other action or formality, other than the ordinance, resolution or regular action thereof, any real property or interest therein which may be necessary or convenient to the effectuation of the purposes of the authority. No property of the State, other than meadowlands, riparian lands or lands under water and similar lands or interests therein referred to and whose disposition is controlled by the provisions in Title 12, Commerce and Navigation, and Title 13, Conservation and Development, of the Revised Statutes, shall be so granted, leased or conveyed to the authority, except upon the approval of the State House Commission and payment to the State of such price therefor as may be fixed by the State House Commission.

C. 58:1B-17 Maintenance and repairs by authority.

17. Every project, when constructed and placed in operation, shall be properly maintained and kept in good condition and repaired by the authority. Every project shall be operated by such operating employees as the authority may in its discretion employ or pursuant to a contract or lease with a governmental agency or person.

C. 58:1B-18 Limitations on authority.

18. Nothing in this act shall be construed to authorize or permit the authority to plan, initiate, acquire, construct, maintain, repair or operate any retail water system or project.

C. 58:1B-19 Establishment and alteration of rates; contracts and leases; agreements.

19. The authority may establish and alter rates and charges, and collect rents, fees and charges for water sold from, and for the use of services of any water system project and contract in the manner provided in this section with one or more persons, one or more governmental entities, or any combination thereof, receiving the use or services of any project, and fix the terms, conditions, rents, rates, fees and charges for such use or services.

The contract may provide for acquisition by such person or governmental agency of all or any part of the project for such consideration payable over the period of the contract or otherwise as the authority in its discretion determines to be appropriate, but subject to the provisions of any resolution of the authority authorizing the issuance of bonds or any trust agreement securing the same. Any water supply entity which has the power to construct, operate and maintain water management facilities may enter into a contract or lease with the authority whereby the use or services of any project of the authority will be made available to the entity and pay for the use or services such rents, rates, fees and charges as may be agreed to by the authority and the entity.

Any one or more public or private entity may cooperate with the authority in the acquisition or construction of a project and shall enter into such agreements with the authority as are necessary, with a view to effective cooperative action and safeguarding of the respective interests of the parties thereto, which agreements shall provide for such contributions by the parties thereto in such proportion as may be agreed upon and such other terms as may be mutually satisfactory to the parties including without limitation the authorization of the construction of the project by one of the parties acting as agent for all of the parties and the ownership and control of the project by the authority to the extent necessary or appropriate for purposes of the issuance of bonds by the authority. Any governmental agency may provide such contribution as is required under such agreements by the appropriation of money or, if otherwise authorized by law to issue bonds or levy taxes or assessments and issue bonds in anticipation of the collection thereof, by the issuance of bonds or by the levying of taxes or assessments and the issuance of bonds in anticipation of the collection thereof, and by the payment of such appropriated money or the proceeds of the bonds to the authority pursuant to such agreements.

C. 58:1B-20 Annual report.

20. On or before the last day of February in each year the authority shall make an annual report of its activities for the preceding calendar year to the Governor and to the Legislature. The report shall set forth a complete operating and financial statement covering its operations during the year. The authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and the cost thereof shall be considered an expense of the authority and a copy thereof shall be filed with the Comptroller of the Treasury.

C. 58:1B-21 Services rendered to authority by other agencies; cost and expenses; counsel.

21. All officers, departments, boards, agencies, divisions and commissions of the State are authorized to render such services to the authority as may be within the area of their respective governmental functions as fixed by law, and as may be requested by the authority. The cost and expense of the services shall be met and provided for by the authority. The Attorney General shall serve as counsel to the authority.

C. 58:1B-22 Authorization to enter into agreements and contracts.

22. The authority is hereby authorized to make and enter into contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers. No contract on behalf of the authority shall be entered into for the doing of any work, or for the hiring of equipment or vehicles, where the sum to be expended exceeds the sum of $2,500.00 unless the authority shall first publicly advertise for bids therefor, and shall award the contract to the lowest responsible bidder; but advertising shall not be required where the contract to be entered into is one for the furnishing or performing services of a professional nature or for the supplying of any product or the rendering of any service by a public utility subject to the jurisdiction of the Board of Public Utilities, and tariffs and schedules of the charges, made, charged, or exacted by the public utility for any such products to be supplied or services to be rendered are filed with the board. This section shall not prevent the authority from having any work done by its own employees, nor shall it apply to repairs, or to the furnishing of materials, supplies or labor, or the hiring of equipment or vehicles, when the safety or protection of its or other public property or the public convenience requires, or the exigency of the authority service will not admit of such advertisement. In such case the authority shall, by resolution, passed by the affirmative vote of a majority of its members, declare the exigency or emergency to exist, and set forth in the resolution the nature thereof and the approximate amount to be expended.

C. 58:1B-23 Exemption from taxation; issuance of bonds; exemption from local zoning.

23. a. All projects and other property of the authority is declared to be public property devoted to an essential public and governmental function and purpose and shall be exempt from all taxes and special assessments of the State or any political subdivision thereof; provided, however, that when any part of the project site not occupied or to be occupied by facilities of the project

is leased by the authority to another whose property is not exempt and the leasing of which does not make the real estate taxable, the estate created by the lease and the appurtenances thereto shall be listed as the property of the lessee thereof and be assessed and taxed as real estate. All bonds issued pursuant to this act are declared to be issued by a body corporate and politic of the State and for an essential public and governmental purpose and these bonds, and the interest thereon and the income therefrom, and all funds, revenues, income and other moneys received or to be received by the authority and pledged or available to pay or secure the payment of the bonds, or interest thereon, shall be exempt from taxation except for transfer inheritance and estate taxes.

b. Any project constructed, maintained or operated by the authority shall be exempt from compliance with local zoning regulations, but the authority shall wherever practicable adhere to the regulations.

C. 58:1B-24 Water Supply Facilities Element transferred.

24. The Water Supply Facilities Element in the Division of Water Resources of the Department of Environmental Protection, together with all its functions, powers and duties, is hereby transferred to the authority established pursuant to this act. This act shall not affect the terms of office of, nor the salaries received by, the present officers or employees of the element.

C. 58:1B-25 Compliance with "State Agency Transfer Act."

25. The transfer of responsibilities directed by this act shall be made in accordance with the "State Agency Transfer Act," P. L. 1971, c. 375 (C. 52:14D–1 et seq.).

26. This act shall take effect immediately.

Approved October 7, 1981.

CHAPTER 294

AN ACT concerning the lawful possession of weapons by certain persons and amending N. J. S. 2C:39–6.

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

1. N. J. S. 2C:39–6 is amended to read as follows:

Exemptions.

2C:39–6. Exemptions. a. Section 2C:39–5 does not apply to:

(1) Members of the Armed Forces of the United States or of the National Guard while actually on duty, or while traveling between places of duty and carrying authorized weapons in the manner prescribed by the appropriate military authorities;

(2) Federal law enforcement officers, and any other Federal officers and employees required to carry firearms in the performance of their official duties;

(3) Members of the State Police, a motor vehicle inspector;

(4) A sheriff, undersheriff, sheriff's officer, county prosecutor, assistant prosecutor, prosecutor's detective or investigator, deputy attorney general or State Investigator employed by the Division of Criminal Justice of the Department of Law and Public Safety, investigator employed by the State Commission of Investigation, inspectors and investigators of the Division of Alcoholic Beverage Control in the Department of Law and Public Safety, State park ranger, or State conservation officer;

(5) A prison or jail warden of any penal institution in this State or his deputies, or an employee of the Department of Corrections engaged in the interstate transportation of convicted offenders, while in the performance of his duties, and when required to possess such a weapon by his superior officer, or a correction officer or keeper of a penal institution in this State at all times while in the State of New Jersey, provided he annually passes an examination approved by the superintendent testing his proficiency in the handling of firearms;

(6) A civilian employee of the United States Government under the supervision of the commanding officer of any post, camp, station, base or other military or naval installation located in this State who is required, in the performance of his official duties, to carry firearms, and who is authorized to carry such firearms by said commanding officer, while in the actual performance of his official duties;

(7) A regularly employed member, including a detective, of the police department of any county or municipality, or of any State, interstate, municipal or county park police force or boulevard police force, at all times while in the State of New Jersey, or a special policeman appointed by the governing body of any county or municipality or by the commission, board or other body having control of a county park or boulevard police force, while engaged

in the actual performance of his official duties and when specifically authorized by the governing body to carry weapons.

b. Subsections a., b. and c. of section 2C:39–5 do not apply to:

(1) A law enforcement officer employed by a governmental agency outside of the State of New Jersey while actually engaged in his official duties, provided, however, that he has first notified the superintendent or the chief law enforcement officer of the municipality or the prosecutor of the county in which he is engaged; or

(2) A licensed dealer in firearms and his registered employees during the course of their normal business while traveling to and from their place of business and other places for the purpose of demonstration, exhibition or delivery in connection with a sale, provided, however, that any such weapon is carried in the manner specified in subsection g. of this section .

c. Subsections b. and c. of section 2C:39–5 do not apply to:

(1) A special agent of the Division of Taxation who has passed an examination in an approved police training program testing proficiency in the handling of any firearm which he may be required to carry or a railway policeman, while in the actual performance of his official duties and while going to or from his place of duty, a campus police officer appointed pursuant to P. L. 1970, c. 211 (C. 18A:6–4.2 et seq.) or any other police officer, while in the actual performance of his official duties;

(2) A State deputy conservation officer or a full-time employee of the Division of Parks and Forestry having the power of arrest and authorized to carry weapons, while in the actual performance of his official duties;

(3) A full-time member of the marine patrol force or a special marine patrolman authorized to carry such a weapon by the Commissioner of Environmental Protection, while in the actual performance of his official duties;

(4) A court attendant serving as such under appointment by the sheriff of the county or by the judge or magistrate of any court of this State, while in the actual performance of his official duties;

(5) A guard in the employ of any railway express company, banking or building and loan or savings and loan institution of this State, while in the actual performance of his official duties;

(6) A member of a legally recognized military organization while actually under orders or while going to or from the prescribed place of meeting and carrying the weapons prescribed for drill, exercise or parade;

(7) An officer of the Society for the Prevention of Cruelty to Animals, while in the actual performance of his duties; or

(8) An employee of a public utilities corporation actually engaged in the transportation of explosives.

d. Subsections c. and d. of section 2C:39–5 do not apply to antique firearms, provided that such antique firearms are unloaded or are being fired for the purposes of exhibition or demonstration at an authorized target range or in such other manner as has been approved in writing by the chief law enforcement officer of the municipality in which the exhibition or demonstration is held.

e. Nothing in subsections b., c. and d. of section 2C:39–5 shall be construed to prevent a person keeping or carrying about his place of business, residence, premises or other land owned or possessed by him, any firearm, or from carrying the same, in the manner specified in subsection g. of this section, from any place of purchase to his residence or place of business, between his dwelling and his place of business, between one place of business or residence and another when moving, or between his dwelling or place of business and place where such firearms are repaired, for the purpose of repair. For the purposes of this section, a place of business shall be deemed to be a fixed location.

f. Nothing in subsections b., c. and d. of section 2C:39–5 shall be construed to prevent:

(1) A member of any rifle or pistol club organized in accordance with the rules prescribed by the National Board for the Promotion of Rifle Practice, in going to or from a place of target practice, carrying such firearms as are necessary for said target practice, provided that the club has filed a copy of its charter with the superintendent and annually submits a list of its members to the superintendent, and provided further that the firearms are carried in the manner specified in subsection g. of this section;

(2) A person carrying a firearm or knife in the woods or fields or upon the waters of this State for the purpose of hunting, target practice or fishing, provided that the firearm or knife is legal and appropriate for hunting or fishing purposes in this State and he has in his possession a valid hunting license, or, with respect to fresh water fishing, a valid fishing license;

(3) A person transporting any firearm or knife while traveling:

(a) Directly to or from any place for the purpose of hunting or fishing, provided such person has in his possession a valid hunting or fishing license; or

(b) Directly to or from any target range, or other authorized place for the purpose of practice, match, target, trap or skeet shooting exhibitions, provided in all cases that during the course of such travel all firearms are carried in the manner specified in subsection g. of this section and the person has complied with all the provisions and requirements of Title 23 of the Revised Statutes and any amendments thereto and all rules and regulations promulgated thereunder;

(c) In the case of a firearm, directly to or from any exhibition or display of firearms which is sponsored by any law enforcement agency, any rifle or pistol club, or any firearms collectors club, for the purpose of displaying of the firearms to the public or to the members of such organization or club, provided, however, that not less than 30 days prior to such exhibition or display, notice of such exhibition or display shall be given to the Superintendent of the State Police by the sponsoring organization or club, and the sponsor has complied with such reasonable safety regulations or the superintendent may promulgate. Any firearms transported pursuant to this section must be transported in the manner specified in paragraph g. of this section.

g. All weapons being transported under subsections b. (2), e. or f. (1) or (3) of this section shall be carried unloaded and contained in a closed and fastened case, gunbox, securely tied package, or locked in the trunk of the automobile in which it is being transported, and the course of travel shall include only such deviations as are reasonably necessary under the circumstances.

2. This act shall take effect immediately.

Approved October 9, 1981.

CHAPTER 295

AN ACT providing for the regulation and licensing of radiologic technologists, establishing a radiologic technology board in the Department of Environmental Protection, amending P. L. 1971, c. 60 (C. 45:1–2.2), repealing P. L. 1968, c. 291 (C. 45:25–1 et seq.), and supplementing the "Radiation Protection Act," approved July 8, 1958 (P. L. 1958, c. 116, C. 26:2D–1 et seq.).

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

C. 26:2D-24 Legislature's findings and declarations.

1. The Legislature hereby finds and declares that the citizens of the State of New Jersey are entitled to the maximum protection practicable from the harmful effects of excessive and improper exposure to ionizing radiation; that the protection can be increased by requiring appropriate training and experience of persons operating medical equipment emitting ionizing radiation and requiring them to operate the equipment under the specific direction of a licensed practitioner; and that it is therefore necessary to establish standards of education, training and experience for these operators and to provide for the appropriate examination and certification thereof.

C. 26:2D-25 Short title.

2. (New section) This act shall be known and may be cited as the "Radiologic Technologist Act."

C. 26:2D-26 Definitions.

3. (New section) As used in this act:

a. "Board" means the Radiologic Technology Board of Examiners created pursuant to section 5 of this act.

b. "License" means a certificate issued by the board authorizing the licensee to use equipment emitting ionizing radiation on human beings for diagnostic or therapeutic purposes in accordance with the provisions of this act.

c. "Chest x-ray technologist" means a person, other than a licensed practitioner, whose practice of radiologic technology is limited to the chest area for diagnostic purposes only.

d. "Commissioner" means the Commissioner of Environmental Protection.

e. "Dental x-ray technologist" means a person, other than a licensed practitioner, whose practice of radiologic technology is limited to intraoral radiography for diagnostic purposes only.

f. "Health physicist" means a person who is certified by the American Board of Health Physics or the American Board of Radiology in radiation physics.

g. "Licensed practitioner" means a person licensed or otherwise authorized by law to practice medicine, dentistry, dental hygiene, podiatry, chiropody, osteopathy or chiropractic.

h. "Radiation therapy technologist" means a person, other than a licensed practitioner, whose application of radiation on human beings is for therapeutic purposes.

i. "Diagnostic x-ray technologist" means a person, other than a licensed practitioner, whose application of radiation on human beings is for diagnostic purposes.

j. "Radiologic technologist" means any person who is licensed pursuant to this act.

k. "Radiologic technology" means the use of equipment emitting ionizing radiation on human beings for diagnostic or therapeutic purposes under the supervision of a licensed practitioner.

C. 26:2D-27 Licensing required for persons using x-rays on human beings; use of titles; exceptions for residents and students.

4. (New section) a. Except as hereinafter provided, no person other than a licensed practitioner or the holder of a license as provided in this act shall use x-rays on a human being.

b. A person holding a license as a diagnostic x-ray technologist may use the title "licensed radiologic technologist" or the letters (LRT) (R) after his name. No other person shall be entitled to use the title or letters, or any other title or letters after his name that indicate or imply that he is a licensed diagnostic x-ray technologist; nor may any person hold himself out in any way, whether orally or in writing, expressly or by implication, as a licensed diagnostic technologist.

c. A person holding a limited license as a chest x-ray technologist may use the title "licensed chest x-ray technologist" or the letters (LRT(C)) after his name. No other person shall be entitled to use the title or letters, or any other title or letters after his name that indicate or imply that he is a licensed chest x-ray technologist; nor may any person hold himself out in any way, whether orally or in writing, expressly or by implication, as a licensed chest x-ray technologist.

d. A person holding a limited license as a dental x-ray technologist may use the title "licensed dental x-ray technologist" or the letters (LRT)(D) after his name. No other person shall be entitled to use the title or letters, or any other title or letters after his name that indicate or imply that he is a licensed dental x-ray technologist; nor may any person hold himself out in any way, whether orally or in writing, expressly or by implication, as a licensed dental x-ray technologist.

e. A person holding a license as a radiation therapy technologist may use the title "licensed therapy technologist" or LRT(T)

after his name. No other person shall be entitled to use the title or letters, or any other title or letters after his name that indicate or imply that he is a licensed therapy technologist; nor may any person hold himself out in any way, whether orally or in writing, expressly or by implication, as a licensed therapy technologist.

f. A person holding a license as provided by this act shall use medical equipment emitting ionizing radiation on human beings only for diagnostic or therapeutic purposes on a case by case basis at the specific direction of a licensed practitioner, and only if the application of the equipment is limited in a manner hereinafter specified.

g. Nothing in the provisions of this act relating to radiologic technologists shall be construed to limit, enlarge or affect, in any respect, the practice of their respective professions by duly licensed practitioners.

h. The requirement of a license shall not apply to a hospital resident specializing in radiology who is not a licensed practitioner in the State of New Jersey, or a student enrolled in and attending a school or college of medicine, osteopathy, chiropody, podiatry, dentistry, dental hygiene, dental assistance, chiropractic or radiologic technology who applies radiation to a human being while under the direct supervision of a licensed practitioner.

i. A person holding a license as a diagnostic x-ray technologist and a license as a radiation therapy technologist may use the letters LRT(R)(T) after his name.

C. 26:2D-28 Radiologic Technology Board of Examiners created; appointment of members; terms of office; meetings; quorum.

5. (New section) a. There is created a Radiologic Technology Board of Examiners which shall be an agency of the Commission on Radiation Protection in the Department of Environmental Protection and which shall report to the commission. The board shall consist of two commission members appointed annually to the membership of the board by the chairman of the commission, and 11 additional members appointed by the Governor with the advice and consent of the Senate. Of the members appointed by the Governor, two shall be radiologists who have practiced not less than 5 years; one shall be a licensed physician who has actively engaged in the practice of medicine not less than 5 years; one shall be a licensed dentist who has actively engaged in the practice of dentistry for not less than 5 years; one shall be an administrator of a general hospital with at least 5 years' experience; one shall be a health physicist who has practiced not less than 5 years; two

shall be practicing radiologic technologists with at least 5 years of experience in the practice of radiologic technology and holders of current certificates issued pursuant to this act; two shall be members of the general public; and one shall be a representative of the department designated by the Governor pursuant to subsection c. of section 2 of P. L. 1971, c. 60 (C. 45:1–2.2); provided, however, that for the remainder of their prescribed terms the members of the x-ray technicians board created by P. L. 1968, c. 291 (C. 45:25–4) shall constitute the membership of the board created by this section.

b. The terms of office of the members appointed by the Governor shall be 3 years. Vacancies shall be filled for an unexpired term only in the manner provided for the original appointment.

c. Members of the board shall serve without compensation but shall be reimbursed for their reasonable and necessary traveling and other expenses incurred in the perfomance of their official duties.

d. The commissioner shall designate an officer or employee of the department to act as secretary of the board who shall not be a member of the board.

e. The board, for the purpose of transacting its business, shall meet at least once every 4 months at times and places fixed by the board. At its first meeting each year it shall organize and elect from its members a chairman. Special meetings also may be held at times as the board may fix, or at the call of the chairman or the commissioner. A written and timely notice of the time, place and purpose of any special meeting shall be mailed by the secretary to all members of the board.

f. A majority of the members of the board shall constitute a quorum for the transaction of business at any meeting.

C. 26:2D-29 Requirements for licensing, general and specific; criteria and standards for therapy programs.

6. (New section) a. The board shall admit to examination for licensing any applicant who shall pay to the department a non-refundable fee established by rule of the commission and submit satisfactory evidence, verified by oath or affirmation, that the applicant:

(1) At the time of application is at least 18 years of age;

(2) Is of good moral character;

(3) Has successfully completed a 4-year course of study in a secondary school approved by the State Board of Education, or passed an approved equivalency test.

b. In addition to the requirements of subsection a. hereof, any person seeking to obtain a license in a specific area of radiologic technology must comply with the following requirements:

(1) Each applicant for a license as a diagnostic x-ray technologist (LRT(R)) shall have satisfactorily completed a 24-month course of study in radiologic technology approved by the board or its equivalent as determined by the board.

(2) Each applicant for a license as a therapy technologist (LRT(T)) shall have satisfactorily completed a 24-month course in radiation therapy technology approved by the board or the equivalent of such as determined by the board.

3) Each applicant for a license as a chest x-ray technologist (LRT(C)) shall have satisfactorily completed the basic curriculum for chest radiography as approved by the board or its equivalent as determined by the board.

(4) Each applicant for a license as a dental x-ray technologist (LRT(D)) shall have satisfactorily completed the curriculum for dental radiography as approved by the board or its equivalent as determined by the board.

c. The board shall establish criteria and standards for programs of diagnostic or radiation therapy and approve these programs upon a finding that the standards and criteria have been met.

C. 26:2D-30 24-month course; CAHEA standard for curriculum; hospital affiliation required for clinical experience.

7. (New section) a. The program of diagnostic x-ray technology shall be at least a 24-month course or its equivalent as determined by the board. The curriculum for this course may follow the Committee on Allied Health Education and Accreditation (CAHEA) standards; provided that the standards are not in conflict with board policies.

b. The program of radiation therapy technology shall be at least a 24-month course of study or its equivalent as determined by the board. The curriculum for the course may follow the Committee on Allied Health Education and Accreditation (CAHEA) standards; provided that the standards are not in conflict with board policies.

c. The board shall establish criteria and standards for programs of chest radiography and dental radiography and approve the programs upon a finding that the standards and criteria have been met.

d. An approved program of radiologic technology may be offered by a medical or educational institution or other public or private

agency or institution, and, for the purpose of providing the requisite clinical experience, shall be affiliated with one or more hospitals that, in the opinion of the board, are likely to provide the experience.

C. 26-2D-31 Examinations; acceptance of certificates; out-of-state licensees.

8. (New section) a. Each applicant shall be required to pass a license examination designated and approved by the board for his specialty.

b. The board shall hold an examination at least once every 6 months at times and places as the board may determine.

c. An applicant who fails to pass the examination may reapply for the examination; provided the applicant complies with the conditions established by the board.

d. The board may accept, in lieu of its own examination, a current certificate of the American Registry of Radiologic Technologists issued on the basis of a registry examination satisfactory to the board, provided that the standards of that agency are at least as stringent as those established by the board.

e. The board may accept, in lieu of its own examination, a current certificate, registration or license as a radiologic technologist issued by another state, provided that the standards in the other state are at least as stringent as those established by the board.

f. The board may accept, in lieu of its own examination, a current certificate of the New Jersey Board of Dentistry issued on the basis of satisfactory completion of the certification examination given by the Certifying Board of the American Dental Assistants' Association and any educational requirements as may be prescribed by the New Jersey Board of Dentistry, provided that the standards of that association are at least as stringent as those established by the board.

C. 26:2D-32 Licenses; limited and temporary, discretionary; technologists must carry.

9. (New section) a. The board shall issue a license to each candidate who has either successfully passed the examination, or who has paid the prescribed fee and has qualified under subsection d., e. or f. of section 8 of this act.

b. The board may, in its discretion, issue a limited license to any applicant who does not qualify by reason of a restricted area or duration of training and experience for the issuance of a license under the provisions of section 7 or 9 of this act, but who has demonstrated to the satisfaction of the board by examination that he is capable of performing the functions of a radiologic technologist in chest x-ray technology or of acting as a dental x-ray tech-

nologist. A limited license shall specify the activities that its holder may engage in, and shall be issued only if the board finds that its issuance will not violate the purposes of this act or tend to endanger the public health and safety.

c. The board may, in its discretion, issue a temporary license to any person whose license or relicense may be pending and in whose case the issuance of a temporary license may be justified by reason of special circumstances. A temporary license shall be issued only if the board finds that its issuance will not violate the purposes of this act or tend to endanger the public health and safety. A temporary license shall expire 90 days after the date of the next examination if the applicant is required to take the same, or, if the applicant does not take the examination, then on the date of the examination. In all other cases, a temporary license shall expire when the determination is made either to issue or deny the applicant a regular license and in no event shall a temporary license be issued for a period longer than 180 days.

d. Every radiologic technologist shall carry his current license on his person at work. The license shall be displayed on request.

C. 26:2D-33 2-year licensure; 2-year renewals; transition provisions.

10. (New section) a. All licenses are renewable on December 31 of every even numbered year following the year of its issuance. A license shall be renewed by the board for a period of 2 years upon payment of a renewal fee in an amount to be determined by rule of the commission.

b. A radiologic technologist who has been heretofore duly licensed in this State and whose license has not been revoked or suspended, and who has temporarily ceased his activities as a radiologic technologist for not more than 5 years, may apply for the reissuance of a license upon compliance with the application provisions of this act, including payment of any outstanding fee.

c. Any person who, as of the effective date of this act, holds an unlimited certificate as a certified x-ray technologist (CXT) issued pursuant to P. L. 1968, c. 291 shall be licensed as both a diagnostic x-ray and radiation therapy technologist until the expiration date of that certificate. Any person who, as of the effective date of this act, holds a limited certificate in chest x-ray, dental x-ray or radiation therapy pursuant to P. L. 1968, c. 291 shall be licensed in that category until the expiration date of that certificate.

d. All CXT certifications shall be renewed by the board by the issuance of a license as a diagnostic x-ray technologist. All limited

certificates shall be renewed only by the issuance of a license in the same limited category.

e. Within 5 years of the effective date of this act, the board may issue a license as a radiation therapy technologist to anyone upon the expiration of his CXT certificate upon the submission of a separate application accompanied by such information as required by the board and a fee as established by regulation.

C. 26:2D-34 Grounds for suspension or revocation of license or other disciplinary action; filing of written charge; hearing of contested case; restoration of revoked or annulled license.

11. (New section) a. The license of a radiologic technologist may be suspended for a fixed period, or may be revoked, or the technologist may be censured, reprimanded or otherwise disciplined, in accordance with the provisions and procedures defined in this act, if after due hearing it is determined that he:

(1) Is guilty of any fraud or deceit in his activities as a radiologic technologist or has been guilty of any fraud or deceit in procuring his license;

(2) Has been convicted in a court of competent jurisdiction, either within or without this State, of a crime involving moral turpitude, except that if the conviction has been reversed and the holder of the license discharged or acquitted, or if he has been pardoned or his civil rights restored, the license may be restored to him;

(3) Is or has been afflicted with any medical problem, disability, or addiction which, in the opinion of the board, would impair his professional competence;

(4) Has aided and abetted a person who is not a licensed radiologic technologist or otherwise authorized pursuant to section 4 of this act in engaging in the activities of a radiologic technologist;

(5) Has undertaken or engaged in any practice beyond the scope of the authorized activities of a radiologic technologist pursuant to this act;

(6) Has falsely impersonated a duly licensed or former duly licensed radiologic technologist or is engaging in the activities of a radiologic technologist under an assumed name;

(7) Has been guilty of unethical conduct as defined by rules promulgated by the commission;

(8) Has continued to practice without obtaining a license renewal as required by this act;

(9) Has applied ionizing radiation to a human being without the specific direction of a duly licensed practitioner as defined herein; or to any person or part of the human body outside the scope of his specific authorization;

(10) Has acted or is acting as an owner, co-owner, or employer in any enterprise engaged in the application of ionizing radiation to human beings for the purpose of diagnostic interpretation, chiropractic analysis, or the treatment of disease;

(11) Has expressed to a member of the public an interpretation of a diagnostic x-ray film or fluorescent image;

(12) Has used or is using the prefix "Dr.," unless entitled to do so pursuant to a degree granted, the word "doctor" or any suffix or affix to indicate or imply that the radiologic technologist is a duly licensed practitioner as defined herein when not so licensed;

(13) Is or has been guilty of incompetence or negligence in his activities as a radiologic technologist.

b. Proceedings against any radiologic technologist under this section shall be instituted by filing with the board a written charge or charges under oath against the radiologic technologist. The charges may be preferred by any person, corporation, association or public officer, or by the board in the first instance. A copy thereof, together with a report of the investigation as the board shall deem proper, shall be referred to the commission for its recommendation to the commissioner. If the commissioner determines the matter to be a contested case, he shall either designate three or more members of the board as a committee to hear and report on the charges and shall set a time and place for the hearing or shall refer the matter to the Office of Administrative Law for hearing before an administrative law judge, pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.). For the purpose of this section, the board, its committee or the administrative law judge shall have power to issue subpenas for the appearance of witnesses, and to take testimony under oath. Upon review of the record of the hearing, the commissioner may affirm, modify or reject the written report and recommendation of the committee or the administrative law judge. If the commissioner finds that the charges have not been proved, he shall order them dismissed. If the charges are found to be true, the commissioner may, in his discretion, issue an order suspending or revoking the license of the accused, or otherwise disciplining him.

c. When the license of any person has been revoked or annulled, as herein provided, the board may, after the expiration of 2 years, accept an application for restoration of the license.

C. 26:2D-35 License required for employment.

12. (New section) No person shall knowingly or negligently employ as a radiologic technologist any person who requires and does not possess a valid license to engage in the activities of a radiologic technologist.

C. 26:2D-36 Sanctions for violations.

13. (New section) Any person who violates any provision of this act or any rule, regulation or order promulgated or issued pursuant to the act to which this act is supplementary shall be subject to the sanctions contained in P. L. 1958, c. 116 (C. 26:2D–1 et seq.) as amended and supplemented.

14. Section 2 of P. L. 1971, c. 60 (C. 45:1–2.2) is amended to read as follows:

C. 45:1-2.2 Appointment by Governor of members of professional boards and commissions; nonbinding recommendations of professional organizations; public members; conflict of interest.

2. a. All members of the several professional boards and commissions shall be appointed by the Governor in the manner prescribed by law; except in appointing members other than those appointed pursuant to subsection b. or subsection c., the Governor shall give due consideration to, but shall not be bound by, recommendations submitted by the appropriate professional organizations of this State.

b. In addition to the membership otherwise prescribed by law, the Governor shall appoint in the same manner as presently prescribed by law for the appointment of members two additional members to represent the interests of the public, to be known as public members, to each of the following boards and commissions: the New Jersey State Board of Certified Public Accountants, the New Jersey State Board of Architects, the State Board of Barber Examiners, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, and the

State Board of Veterinary Medical Examiners, and one additional public member to each of the following boards: the Board of Beauty Culture Control, the Board of Examiners of Electrical Contractors, the State Board of Marriage Counselor Examiners and the State Board of Examiners of Master Plumbers. Each public member shall be appointed for the term prescribed for the other members of the board or commission and until the appointment of his successor. Vacancies shall be filled for the unexpired term only. The Governor may remove any such public member after hearing, for misconduct, incompetency, neglect of duty or for any other sufficient cause.

No public member appointed pursuant to this section shall have any association or relationship with the profession or a member thereof regulated by the board of which he is a member, where such association or relationship would prevent such public member from representing the interest of the public. Such a relationship includes a relationship with members of one's immediate family; and such association includes membership in the profession regulated by the board. To receive services rendered in a customary client relationship will not preclude a prospective public member from appointment. This paragraph shall not apply to individuals who are public members of boards on the effective date of this act.

It shall be the responsibility of the Attorney General to insure that no person with the aforementioned association or relationship or any other questionable or potential conflict of interest shall be appointed to serve as a public member of any board regulated by this section.

Where a board is required to examine the academic and professional credentials of an applicant for licensure or to test such applicant orally, no public member appointed pursuant to this section shall participate in such examination process, provided, however, that public members shall be given notice of and may be present at all such examination processes and deliberations concerning the results thereof, and, provided further, that public members may participate in the development and establishment of the procedures and criteria for such examination processes.

c. The Governor shall designate a department in the Executive Branch of the State Government which is closely related to the profession or occupation regulated by each of the boards or commissions designated in section 1 and shall appoint the head of such department, or the holder of a designated office or position in such

department, to serve without compensation at the pleasure of the Governor as a member of such board or commission.

d. A majority of the voting members of such boards or commissions shall constitute a quorum thereof and no action of any such board or commission shall be taken except upon the affirmative vote of a majority of the members of the entire board or commission.

Repealer.

15. P. L. 1968, c. 291 (C. 45:25–1 et seq.) is repealed.

16. This act shall take effect immediately.

Approved October 9, 1981.

CHAPTER 296

AN ACT concerning radiation protection, amending P. L. 1958, c. 116, P. L. 1971, c. 372 and P. L. 1977, c. 233, repealing section 11 of P. L. 1958, c. 116 and section 6 of P. L. 1971, c. 372 and supplementing Title 26 of the Revised Statutes.

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

1. Section 2 of P. L. 1958, c. 116 (C. 26:2D–2) is amended to read as follows:

C. 26:2D-2 Definitions.

2. As used in this act, unless the context indicates another or different meaning or intent:

(a) "Commission" means the Commission on Radiation Protection created pursuant to this act;

(b) "Department" means the Department of Environmental Protection;

(c) "Unnecessary radiation" means the use or presence of electromagnetic radiation including microwave, infrared, visible, ultraviolet, X-ray, and gamma-ray; sonic, infrasonic, or ultrasonic waves; and particle radiation including alphas, betas, high energy electrons, neutrons, protons and other atomic or nuclear particles in such manner as to be or tend to be injurious or dangerous to the health of the people or the industrial or agriculture potential of the State, or to the ecology of the State and its wildlife.

2. Section 7 of P. L. 1958, c. 116 (C. 26:2D–7) is amended to read as follows:

C. 26:2D-7 Codes, rules and regulations to prevent unnecessary radiation.

7. The commission shall have the power to formulate, adopt, promulgate, amend and repeal codes, rules and regulations as may be necessary to prohibit and prevent unnecessary radiation in accordance with the provisions of the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.)

3. Section 9 of P. L. 1958, c. 116 (C. 26:2D–9) is amended to read as follows:

C. 26:2D-9 Powers and duties of department.

9. The department shall:

(a) Administer this act and codes, rules or regulations promulgated by the commission;

(b) Provide the commission with the necessary personnel required to carry out its duties;

(c) Develop comprehensive policies and programs for the evaluation and determination of hazards associated with the use of radiation, and for their amelioration;

(d) Advise, consult, and cooperate with other agencies of the State, the Federal Government, other states and interstate agencies, and with affected groups, political subdivisions and industries;

(e) Accept and administer according to law loans, grants or other funds or gifts from the Federal Government and from other sources, public or private, for carrying out its functions under this act;

(f) Encourage, participate in or conduct studies, investigations, training, research and demonstrations relating to the control of radiation hazards, the measurement of radiation, the effects on health of exposure to radiation and related problems as it may deem necessary or advisable for the discharge of its duties under this act;

(g) Collect and disseminate health education information relating to radiation protection;

(h) Require registration of sources of radiation, and require records concerning sources of radiation to be kept in such manner as may be prescribed by codes, rules or regulations of the commission;

(i) Review plans and specifications on the design and shielding for radiation sources submitted pursuant to codes, rules or regu-

lations of the commission for the purpose of determining possible radiation hazards;

(j) Enter and inspect any building or place for the purpose of investigating an actual or suspected source of radiation and ascertaining compliance with this act or any rule, regulation or order promulgated or issued pursuant thereto and inspect radiation sources, their shielding and immediate surroundings and records concerning their operation for the determination of any possible radiation hazard;

(k) Have power, to be exercised subject to codes, rules and regulations of the commission, to require, issue, renew, amend, suspend and revoke licenses for the construction, operation or maintenance of sources of radiation including byproduct materials, source materials and special nuclear materials in quantities not sufficient to form a critical mass. The codes, rules and regulations may provide for recognition of other State or Federal licenses, subject to the registration requirements prescribed by or under the authority of this act;

(l) Have the power in accordance with a fee schedule adopted as a rule or regulation in accordance with the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), to establish and charge fees for any of the services it performs, which fees shall be annual or periodic as the department shall determine. The fees charged by the department pursuant to this section shall be based on criteria contained in the fee schedule. The criteria shall reflect the actual or projected expense incurred by the department in the performance of the service for which the fee is charged;

(m) Be empowered to issue orders for the implementation and enforcement of the provisions of this act or of any rule or regulation promulgated pursuant hereto.

4. Section 13 of P. L. 1958, c. 116 (C. 26:2D–13) is amended to read as follows:

C. 26:2D-13 Superior Court action to prevent violation; penalty provisions.

13. The department may bring a civil action in the Superior Court to prevent the violation of the provisions of this act or codes, rules or regulations promulgated by the commission and orders of the department and said court may proceed in the action in a summary manner or otherwise and may restrain in all such cases any person or legal entity from violating any of the provisions of this act or said codes, rules, regulations or orders.

Any person who violates the provisions of this act or any rule, regulation or order promulgated or issued pursuant hereto or uses, removes, or disposes of any property in violation of an embargo imposed under the provisions of this act shall be liable to a penalty of not more than $2,500.00 to be collected in a civil action by a summary proceeding under "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.) or in any case before a court of competent jurisdiction wherein injunctive relief has been requested. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense.

The department is authorized and enpowered to compromise and settle any claim for a penalty under this section in an amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances.

5. Section 4 of P. L. 1971, c. 372 (C. 26:2D–11.1) is amended to read as follows:

C. 26:2D-11.1 Embargo of source of radiation.

4. Notwithstanding any other remedy available to the department, whenever an agent of the department finds or has probable cause to believe that any material, machine, appliance, apparatus or device, or any part thereof, is a radiation hazard or danger of such nature as to constitute a threat to public health or welfare, or is being operated in a manner as to result in such a threat, he may embargo such article by affixing thereto a tag or other appropriate marking, giving notice that such article is, or is suspected to be, a radiation hazard or danger and has been detained or embargoed, and warning all persons not to use, remove or dispose of such article by sale or otherwise until permission for use, removal or disposal is given by the department, or he may cause any material, machine, appliance, apparatus or device to be secured or impounded. It shall be a violation of this act for any person to remove or dispose of such detained or embargoed article by sale or otherwise without such permission.

Within 10 days after embargoing or impounding any source of radiation, the department shall give notice to the person causing the violation or hazardous condition prescribing circumstances under which the source of radiation will be returned to the custody of the person. If the person, within a reasonable time as may be fixed by the department, does not furnish satisfactory evidence

to the department of present and intended future compliance with the conditions, the rights of the person, with respect to the source of radiation so secured or impounded, shall become the property of the State to be disposed of by the department on behalf of the State in any manner consistent with public health and safety.

6. Section 5 of P. L. 1977, c. 233 (C. 26:2D–22) is amended to read as follows:

C. 26:2D-22 Violation of act crime of fourth degree.

5. Any person who violates any provision of this act shall be liable to the penalties contained in P. L. 1958, c. 116. Any person who violates any provision of this act shall be guilty of a crime of the fourth degree. The State Police shall, and any local police department may, enforce the provisions of P. L. 1977, c. 233 (C. 26:2D–18 et seq.).

C. 26:2D-23 Entrance to premises upon presentation of written order.

7. (New section) No person shall obstruct, hinder, delay or interfere with, by force or otherwise, the performance by the department, its personnel or any of its authorized agents of any duty under the provisions of this act or refuse to permit the personnel or authorized agents to perform their duties by refusing them upon proper presentation of a written order of the department, entrance to any premises at reasonable hours.

Repealer.

8. The following acts and parts of acts are repealed:

a. P. L. 1958, c. 116, s. 11 (C. 26:2D–11);

b. P. L. 1971, c. 372, s. 6 (C. 26:2D–11.3).

9. This act shall take effect immediately.

Approved October 9, 1981.

CHAPTER 297

AN ACT to authorize the borough of Ogdensburg in the county of Sussex to make permanent the appointment of Joseph Kistle to the police department of the borough of Ogdensburg.

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

1. Pursuant to the provisions of P. L. 1948, c. 199 (C. 1:6–10 et seq.), under which a petition for a special law has been filed with the Legislature, the borough of Ogdensburg, in the county of Sussex is authorized to make permanent the appointment of Joseph Kistle to the police department of the borough of Ogdensburg notwithstanding his age is greater than the maximum age limit for appointment thereto set forth in N. J. S. 40A:14–127.

2. The board of trustees of the Police and Firemen's Retirement System of New Jersey shall accept as a member of the retirement system any policeman, otherwise eligible for membership, appointed pursuant to this act; provided there is paid into the retirement system, in such manner as the board shall prescribe, the contribution deemed due and payable from the date of original appointment.

3. This act shall take effect upon due adoption of an ordinance of the borough of Ogdensburg for the purpose of adopting same.

Approved October 9, 1981.

CHAPTER 298

AN ACT concerning the effective date of the Federal census of 1980.

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

C. 52:4-4 Effective date of census.

1. The Federal census of 1980 shall become effective January 1, 1982, or on the date of filing of the bulletin provided for in R. S. 52:4–1, whichever date is later.

2. This act shall take effect immediately.

Approved October 9, 1981.

CHAPTER 299

AN ACT concerning the requirement for landlords of residential property to file certain information with municipalities and to furnish the information to their tenants, authorizing municipalities to bring enforcement proceedings for violations by landlords, and amending P. L. 1974, c. 50.

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

1. Section 1 of P. L. 1974, c. 50 (C. 46:8–27) is amended to read as follows:

C. 46:8-27 "Landlord" defined.

1. The term "landlord," as used in this act, shall mean the person or persons who own or purport to own any building, structure or complex of buildings or structures in which there is rented or offered for rent housing space for living or dwelling purposes under either a written or oral lease, provided that this definition shall not include owner-occupied two unit premises.

2. Section 2 of P. L. 1974, c. 50 (C. 46:8–28) is amended to read as follows:

C. 46:8-28 Required statement; contents.

2. Every landlord shall, within 30 days following the effective date of this act, or at the time of the creation of the first tenancy in any newly constructed or reconstructed building, file with the clerk of the municipality in which the residential property is situated, a statement which shall contain the following information:

a. The name and address of the record owner or owners of the premises and the record owner or owners of the rental business if not the same persons;

b. If the record owner is a corporation, the name and address of the registered agent and corporate officers of said corporation;

c. If the address of any record owner is not located in the county in which the premises are located, the name and address of a person who resides in the county in which the premises are located and is authorized to accept notices from a tenant and to issue receipts therefor and to accept service of process on behalf of the record owner;

d. The name and address of the managing agent of the premises, if any;

e. The name and address, including the dwelling unit, apartment or room number of the superintendent, janitor, custodian or other individual employed by the record owner or managing agent to provide regular maintenance service, if any;

f. The name, address and telephone number of an individual representative of the record owner or managing agent who may be reached or contacted at any time in the event of an emergency affecting the premises or any unit of dwelling space therein, including such emergencies as the failure of any essential service or system, and who has the authority to make emergency decisions concerning the building and any repair thereto or expenditure in connection therewith;

g. The name and address of every holder of a recorded mortgage on the premises.

Every landlord hereby required to file a registration statement as described in this section hereinabove shall file an amended registration statement within 7 days after any change in the foregoing information required to be included thereon.

3. Section 5 of P. L. 1974, c. 50 (C. 46:8–31) is amended to read as follows:

C. 46:8-31 Service by mail upon record owner.

5. In any action in the county district court or municipal court by an occupant or tenant or to recover penalties against a landlord who has not complied with this act and who cannot be served within the county or municipality, the summons and complaint may be served by certified and regular mail upon the record owner at the last address listed in the tax records of either the municipality or county. Service of such summons and complaint by certified and regular mail shall be effective to bring the landlord before the county district court or municipal court even if it were not served within the county or municipality in which the court issuing the summons is located.

4. Section 6 of P. L. 1974, c. 50 (C. 46:8–32) is amended to read as follows:

C. 46:8-32 Service of process on court clerk.

6. Service of process on the clerk of the county district court or municipal court having jurisidiction over the county or municipality in which the property is located shall be deemed service on the landlord upon submission to the court of the following:

a. A certification of the tenant stating that he does not know the landlord's whereabouts after having made a diligent effort, satisfactory to the court, to determine the same; and

b. Proof of failure of service by certified mail as provided in section 5 of this act.

5. Section 9 of P. L. 1974, c. 50 (C. 46:8–35) is amended to read as follows:

C. 46:8-35 Penalty for violation; recovery to municipality.

9. Any landlord who shall violate any provision of this act shall be liable to a penalty of not more than $500.00 for each offense, recoverable by a summary proceeding under the "Penalty Enforcement Law" (N. J. S. 2A:58–1 et seq.). The county district court of the county or the municipal court of the municipality in which the premises are located shall have jurisdiction to enforce said penalty.

The Attorney General, the municipality in which the premises are located, or any other person may institute the proceeding; where the municipality or any other person other than the Attorney General institutes the proceeding, a recovered penalty should be remitted by the court to the municipality in which the premises subject to the proceeding are located.

6. This act shall take effect on the thirtieth day after enactment.

Approved October 14, 1981.

CHAPTER 300

AN ACT to amend the title of "An act concerning education, providing scholarships for children and widowed spouses of police, firemen and first aid or rescue squad workers in certain cases and supplementing Title 18A of the New Jersey Statutes," approved October 13, 1979 (P. L. 1979, c. 229), so that the same shall read "An act concerning education, providing scholarships for children and surviving spouses of police, firemen, first aid or rescue squad workers, civil defense workers and other law enforcement personnel in certain cases and supplementing Title 18A of the New Jersey Statutes," and to amend the body of said act.

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

Title amended.

1. The title of P. L. 1979, c. 229 is amended to read as follows:

AN ACT concerning education, providing scholarships for children and surviving spouses of police, firemen, first aid or rescue squad workers, civil defense workers and other law enforcement personnel in certain cases and supplementing Title 18A of the New Jersey Statutes.

2. Section 1 of P. L. 1979, c. 229 (C. 18A:71–77) is amended to read as follows:

C. 18A:71-77 Scholarships for children and surviving spouses of law enforcement personnel.

1. Any child or surviving spouse of a member or officer of a New Jersey volunteer fire company, volunteer first aid or rescue squad or municipal fire, police, county police or park police department, State Fire Service or of the Division of State Police, or of a permanent, active and full-time officer employee of this State or any political subdivision thereof holding the following titles: State investigator, correction officer, recruit, senior correction officer, sergeant, lieutenant, captain, correction officer duty keeper, court attendant and sheriff's officer, court attendant and sheriff's officer lieutenant, court attendant and sheriff's officer captain, court attendant and sheriff's officer deputy chief, prosecutor's detective, prosecutor's investigator, narcotics officer, marine patrolman, senior marine patrolman, principal marine patrolman, chief, bureau of marine law enforcement, or who is an inspector, assistant, technician, supervisor or superintendent with respect to the enforcement and regulation of weights and measures, or civil defense or disaster control worker, which member, officer or worker was killed in the performance of his duties as a member of such company, squad or fire or police department or division, or worker in a civil defense or disaster control unit upon such child or surviving spouse being accepted to pursue a course of undergraduate study in any public institution of higher education of this State as enumerated in N. J. S. 18A:62–1, shall, while enrolled as an undergraduate student in good standing at such college, have his tuition paid by the State.

Eligibility for this program shall be limited to a period of 8 years from the date of death of the member, officer or worker,

in the case of a surviving spouse, and 8 years following graduation from high school, in the case of a child pursuant to rules and regulations established by the Student Assistance Board.

3. This act shall take effect immediately.

Approved October 20, 1981.

CHAPTER 301

AN ACT to amend and supplement "An act for the establishment of a police and firemen's retirement system for police, firemen and certain other law enforcement officers," approved May 23, 1944 (P. L. 1944, c. 255) as said title was amended by P. L. 1976, c. 139.

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

1. Section 1 of P. L. 1944, c. 255 (C. 43:16A–1) is amended to read as follows:

C. 43:16A-1 Definitions.

1. As used in this act:

(1) "Retirement system" shall mean the Police and Firemen's Retirement System of New Jersey as defined in section 2 of this act.

(2) "Policeman or fireman" shall mean any permanent and full-time active uniformed employee, and any active permanent and full-time employee who is a detective, lineman, fire alarm operator or inspector of combustibles of any police or fire department. It shall also mean any permanent, active, and full-time firefighter or officer employee of the State of New Jersey, or any political subdivision thereof, with police powers and holding one of the following titles: motor vehicles officer, motor vehicles sergeant, motor vehicles lieutenant, motor vehicles captain, assistant chief, bureau of enforcement, and chief, bureau of enforcement in the Division of Motor Vehicles, alcoholic beverage control investigator, alcoholic beverage control inspector, assistant deputy director, bureau of enforcement and deputy director, bureau of enforcement in the Division of Alcoholic Beverage Control, conservation officer, assistant district conservation officer, district conservation officer, and

chief conservation officer, in the Division of Fish, Game, and Shell Fisheries, ranger, and chief ranger in the Bureau of Parks, State fire warden and chief, assistant chief, division fire warden, assistant division fire warden, staff section fire warden, and field section fire warden, in the Forest Fire Service, Department of Environmental Protection, marine patrolman, senior marine patrolman, principal marine patrolman, and chief, bureau of marine law enforcement, State fire marshal, deputy State fire marshal, and inspector fire safety, Department of Law and Public Safety, institution fire chief, and assistant institution fire chief, Department of Human Services, correction officer, senior correction officer, correction officer sergeant, correction officer lieutenant, correction officer captain, and deputy keeper in the Department of Corrections, medical security officer, assistant supervising medical security officer, and supervising medical security officer in the Department of Human Services, county detective, lieutenant of county detectives, captain of county detectives, deputy chief of county detectives, chief of county detectives, supervising auditor-investigator, auditor/investigator, electronics specialist, traffic safety coordinator/investigator and supervisor of electronics and investigations, county investigator in the office of the county prosecutors, sheriff's officer, sergeant sheriff's officer, lieutenant sheriff's officer, captain sheriff's officer, chief sheriff's officer, and sheriff's investigator in the office of the county sheriffs, county correction officer, county correction sergeant, county correction lieutenant, county correction captain, and county deputy warden in the several county jails, industrial trade instructor and identification officer in a county of the first class having a population of more than 925,000 inhabitants, cottage officer, head cottage officer, interstate escort officer, juvenile officer, head juvenile officer, assistant supervising juvenile officer, supervising juvenile officer, patrolman capitol police, patrolman institutions, sergeant patrolman institutions, and supervising patrolman institutions and patrolman or other police officer of the Board of Commissioners of the Palisades Interstate Park appointed pursuant to R. S. 32:14–21.

(3) "Member" shall mean any policeman or fireman included in the membership of the retirement system as provided in section 3 of this act.

(4) "Board of trustees" or "board" shall mean the board provided for in section 13 of this act.

(5) "Medical board" shall mean the board of physicians provided for in section 13 of this act.

(6) "Employer" shall mean the State of New Jersey, the county, municipality or political subdivision thereof which pays the particular policeman or fireman.

(7) "Service" shall mean service as a policeman or fireman paid for by an employer.

(8) "Creditable service" shall mean service rendered for which credit is allowed as provided under section 4 of this act.

(9) "Regular interest" shall mean interest as determined annually by the State Treasurer after consultation with the Directors of the Divisions of Investment and Pensions and the actuary of the system. It shall bear a reasonable relationship to the percentage rate of earnings on investments but shall not exceed 105% of such percentage rate.

(10) "Aggregate contributions" shall mean the sum of all the amounts, deducted from the compensation of a member or contributed by him or on his behalf, standing to the credit of his individual account in the annuity savings fund.

(11) "Annuity" shall mean payments for life derived from the aggregate contributions of a member.

(12) "Pension" shall mean payments for life derived from contributions by the employer.

(13) "Retirement allowance" shall mean the pension plus the annuity.

(14) "Earnable compensation" shall mean the full rate of the salary that would be payable to an employee if he worked the full normal working time for his position. 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.

(15) "Average final compensation" shall mean the average annual salary upon which contributions are made for the 3 years of creditable service immediately preceding his retirement or death, or it shall mean the average annual salary for which contributions are made during any 3 fiscal years of his or her membership providing the largest possible benefit to the member or his beneficiary.

(16) "Retirement" shall mean the termination of the member's active service with a retirement allowance granted and paid under the provisions of this act.

(17) "Annuity reserve" shall mean the present value of all payments to be made on account of any annuity or benefit in lieu of

any annuity computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(18) "Pension reserve" shall mean the present value of all payments to be made on account of any pension or benefit in lieu of any pension computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(19) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(20) "Beneficiary" shall mean any person receiving a retirement allowance or other benefit as provided by this act.

(21) "Child" shall mean a deceased member's or retirant's unmarried child either (a) under the age of 18 or (b) of any age who, at the time of the member's or retirant's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his 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.

(22) "Parent" shall mean the parent of a member who was receiving at least one-half 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 parent will be considered terminated by marriage of the parent subsequent to the death of the member.

(23) "Widower" shall mean the man to whom a member or retirant was married at least 2 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 one-half of his support from the member or retirant in the 12-month period immediately preceding the member's or retirant'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 the widower subsequent to the death of the member or retirant. In the event of the payment of an accidental death benefit, the 2-year qualification shall be waived.

(24) "Widow" shall mean the woman to whom a member o retirant was married at least 2 years before the date of h death and to whom he continued to be married until the date of

death and who has not remarried. In the event of the payment of an accidental death benefit, the 2-year qualification shall be waived.

(25) "Fiscal year" shall mean any year commencing with July 1, and ending with June 30, next following.

(26) "Compensation" shall mean the base salary, for services as a member as defined in this act, 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 duties beyond the regular work day.

(27) "Department" shall mean any police or fire department of a municipality or a fire department of a fire district located in a township or a county police or park police department or the appropriate department of the State or instrumentality thereof.

2. (New section) An eligible officer under this amendatory and supplementary act, who is a member of the Public Employees' Retirement System shall be permitted to transfer his membership in said fund to the Police and Firemen's Retirement System of New Jersey by waiving all rights and benefits which would otherwise be provided by the Public Employees' Retirement System. Any such officer will likewise be permitted to continue his membership in the Public Employees' Retirement System by waiving all rights and benefits which would otherwise be provided by the Police and Firemen's Retirement System. Waivers shall be accomplished by filing forms satisfactory to the New Jersey Division of Pensions within 90 days of the effective date of this amendatory and supplementary act. In the absence of the filing of a timely waiver by any eligible officer his pension status shall remain unchanged and his membership shall not be transferred to the Police and Firemen's Retirement System. This section shall not be applicable to any person heretofore eligible, who failed to file within the time period prescribed in section 4 of P. L. 1973, c. 156 (C. 43:16A–62) or in any supplement to said act.

3. (New section) Within 120 days following the effective date of this act the Public Employees' Retirement System shall remit to the Police and Firemen's Retirement System of New Jersey all accumulated deductions standing to the credit of each transferred employee as member of the fund, and within 180 days following the effective date of this act remit the pro rata part of the reserve fund constituting the employer's obligations under the

former system applicable to the employee's account, and the Police and Firemen's Retirement System shall then enter the respective sums so remitted to it to the credit of the employee in the Annuity Savings Fund and to the credit of the employer in the Pension Accumulation Fund of the Police and Firemen's Retirement System of New Jersey.

4. This act shall take effect immediately.

Approved October 23, 1981.

CHAPTER 302

AN ACT concerning the establishment of procedures for implementing protective action in the event of certain radiation accidents, requiring the preparation and implementation of a State Radiation Emergency Response Plan, providing for the assessment of certain electric utilities, providing penalties for violations, supplementing the "Radiation Protection Act," approved July 8, 1958 (P. L. 1958, c. 116, C. 26:2D–1 et seq.), and making an appropriation.

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

C. 26:2D-37 Short title.

1. This act shall be known and may be cited as "The Radiation Accident Response Act."

C. 26:2D-38 Legislature's findings and determinations.

2. The Legislature hereby finds and determines that the citizens of the State of New Jersey are entitled to the maximum protection possible from any and all threats to their health and welfare which may result from a radiation accident at a nuclear facility or during the transportation of radioactive material; that existing emergency response capabilities to abate these threats are dispersed among various State and local agencies and private organizations and limited in geographic scope; and that the dangers posed by these accidents can best be minimized by the development and implementation of a comprehensive and coherent response plan to coordinate and guide all necessary and appropriate resources and personnel into a unified course of action.

C. 26:2D-39 Definitions.

3. As used in this act:

a. "Department" means the Department of Environmental Protection;

b. "Division" means the Division of State Police in the Department of Law and Public Safety;

c. "Nuclear facility" means any facility which would pose a threat to the health and welfare of the public in the event of a radiation accident, including but not limited to, atomic fission or fusion electric generating facilities, nuclear fuel fabrication plants, nuclear fuel reprocessing plants, nuclear waste handling and disposal facilities, and any other facility requiring a certificate of handling pursuant to P. L. 1977, c. 233;

d. "Plan" means the State Radiation Emergency Response Plan mandated by section 4 of this act;

e. "Radiation accident" means any occurrence or event during the operation and maintenance of any nuclear facility or during the transportation of radioactive material which results in the release of unnecessary radiation as defined in section 1 of P. L. 1958, c. 116 (C. 26:2D–1).

C. 26:2D-40 State Radiation Emergency Response Plan.

4. The department and the division, after consultation with the Departments of Health, Energy, and Transportation and after careful review of all relevant guidelines established by the Federal Emergency Management Agency, shall, within 18 months of the effective date of this act, jointly prepare or cause to be prepared and adopt a State Radiation Emergency Response Plan. The plan shall be based upon planning criteria, objectives, requirements, responsibilities and concepts of operation for the implementation of all necessary and appropriate protective or remedial measures to be taken with respect to a radiation accident, or threatened radiation accident, at a nuclear facility or during the transportation of radioactive material, including but not limited to, the designation of all counties and municipalities which shall prepare radiation emergency response plans, the establishment and implementation of appropriate training programs for all personnel who may be involved in any aspect of radiation emergency planning and response, the establishment of an emergency operations headquarters proximate to the site of each nuclear facility from which emergency response operations can be coordinated efficiently and effectively, the development and installation of a mechanism to monitor all temporary circumstances or conditions such as road repairs, utility

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activities, and floods, which may impede or preclude implementation of the emergency response plan and apprise all relevant emergency response personnel thereof, the preparation and updating of an inventory of temporary housing facilities which may be required in the event of a radiation accident, the development and administration of a communications system to efficiently and effectively discharge all responsibilities and duties in the event of a radiation accident, the preparation of a public emergency response plan for residents of the affected area, the establishment of procedures and practices to review and monitor potential threats from nuclear facilities in neighboring states and to coordinate emergency response plans with any such plans established for such out-of-State facilities, and a public emergency notification and public information and educational program to furnish all citizens who may be affected with information as they may require to act safely and prudently. The plan shall be revised and updated at least biannually; provided, however, that a thorough revision and updating shall be undertaken and completed at least 6 months prior to the projected commencement of operations of any new nuclear facility. The criteria, objectives, requirements, concepts of operation, and designations shall be published by the department and division within 3 months of the effective date of this act.

C. 26:2D-41 Local radiation emergency response plans.

5. Every municipality in each county wherein is located one or more nuclear facilities or which is designated as an affected municipality within 6 months of the adoption of the designation and in conformity with the criteria and objectives, requirements, responsibilities, and concepts of operation established, shall prepare and submit to the county wherein it is located, a local radiation emergency response plan. The local radiation emergency response plans shall be submitted through the county for approval by the division and the department. The local plans shall be reviewed at least once every 18 months and revised, subject to county approval. Any municipality required to prepare an emergency response plan pursuant to this section may apply to the department for financial and technical assistance therefor.

C. 26:2D-42 County plans to coordinate, supplement or replace municipal plans.

6. Every county wherein is located one or more nuclear facilities or which is designated as an affected county, shall, within 6 months of the designation and in conformity with criteria and guidelines established, prepare and submit to the department and the division a county radiation emergency response plan which coordi-

nates and supplements and, if necessary, replaces radiation emergency response plans of municipalities within its jurisdiction. The county emergency response plan shall, after initial approval, be updated at least every 18 months.

C. 26:2D-43 Duties and responsibilities of department.

7. The department is authorized and directed to:

a. Carry out all duties and responsibilities established by any memorandum of understanding between the department and the division necessary or incident to the implementation of the plan;

b. Assess any danger attendant to a radiation accident, provide immediate public health and safety and other technical guidance, and coordinate on-site radiation emergency abatement procedures;

c. Provide public health and safety and other technical advice and guidance as it may deem appropriate with respect to the preparation and implementation of the plan;

d. Review, approve or modify, in cooperation with the division, all radiation emergency response plans and procedures developed or modified pursuant to this act;

e. Conduct, in cooperation with the division, public hearings annually in each designated county to determine the adequacy and effectiveness of the plan;

f. Direct, in cooperation with the division, the testing and evaluation of all plans developed pursuant to this act upon their adoption, and annually thereafter, to assure that all personnel with emergency response duties and responsibilities effectively carry out their assigned tasks;

g. Develop and implement a comprehensive monitoring strategy which shall include, but not necessarily be limited to, the daily monitoring of levels of radioactivity in the environment; and

h. Seek and apply for funds, grants, and other forms of financial assistance from the Federal Emergency Management Agency and any other public and private sources to support the purposes and provisions of this act.

C. 26:2D-44 Duties and responsibilities of division.

8. The division is authorized and directed to:

a. Carry out all duties and responsibilities established by any memorandum of understanding between the department and the division necessary or incident to the implementation of the plan;

b. Exercise operational control during any threatened or actual radiation emergency;

c. Review, approve or modify, in cooperation with the department, all radiation emergency response plans and procedures developed or modified pursuant to this act;

d. Direct, in cooperation with the department, the testing and evaluation of all emergency response plans developed pursuant to this act upon their adoption, and annually thereafter, to assure that all personnel with emergency response duties and responsibilities effectively carry out their assigned tasks.

C. 26:2D-45 Department of Health study.

9. The Department of Health shall, within 1 year of the effective date of this act:

a. Complete and update annually a study of the public health aspects of nuclear emergency response planning, which study shall include, but not necessarily be limited to, an evaluation of existing medical facilities and personnel to determine the State's present capacity to respond to any radiation threat to public health; an evaluation of the evacuation plans of hospitals and other health care facilities and alternate sources of care for patients; and an inventory of the standby plans, capacity, and distribution of all prophylactic or preventive supplies and equipment deemed medically advisable for use, as well as an evaluation of the feasibility and desirability of the State purchase and distribution of potassium iodide in order to minimize the adverse effects of the radiation accident. The results of the study, and any recommendations, shall be submitted to the department and the division for their use in preparing the plan and relevant portions of such study shall be submitted by the department to the municipalities charged with developing local emergency response plans to assist them in the preparation of such plans;

b. Establish standards and criteria to identify those persons at greatest health risk in the event of radiation exposure so that they may be afforded maximum protection;

c. Develop a plan for medical services to evacuees en route and at the sites of temporary shelter, and submit such plan to the department and the division for incorporation into the plan;

d. Develop and implement appropriate training programs for emergency medical personnel, health facility managers, and health officers;

e. Develop and implement, in cooperation with the division and the department, public educational programs concerning the effects and hazards of radiation.

C. 26:2D-46 Department of Transportation study.

10. The Department of Transportation shall, within 1 year of the effective date of this act:

a. Complete a study evaluating all means of transportation serving affected counties and municipalities and, in conjunction with the Department of Health, develop an inventory of emergency transport vehicles. Such study shall be submitted to the department and the division, and relevant portions thereof shall be submitted by the department to municipalities charged with developing local emergency response plans for their use in preparing emergency response plans;

b. Prepare and submit to the department and the division for inclusion in the plan, and annually update, a radiation emergency transportation plan, which plan shall include, but not be limited to, the designation, construction, and maintenance of primary and secondary routes to be used by radiation emergency response personnel and the general public in the event of a radiation accident or threatened radiation accident, and the development of traffic management procedures sufficient to assure rapid access to and from any affected county or municipality.

C. 26:2D-47 Department of Energy study.

11. The Department of Energy shall, within 1 year of the effective date of this act:

a. Complete a study and evaluation of all existing emergency energy supplies available to the State and accessible to affected counties and municipalities in the event of a radiation accident or threatened radiation accident, and submit such study to the department and the division, and relevant portions shall be submitted by the department thereof to municipalities charged with developing local emergency response plans for their use in preparing emergency response plans; and

b. Develop and submit to the department and the division, for inclusion in the plan, and update annually, an emergency energy supply plan to assure that any area affected by a radiation accident or threatened radiation accident, will have access to sufficient energy supplies to implement any emergency response plans or procedures.

C. 26:2D-48 Assessment against each electric utility with interest in nuclear facility in State.

12. a. In order to defray the expenses of local, county and State agencies in discharging their responsibilities under this act, including those costs associated with the development, testing and

updating of the Emergency Radiation Response Plans and for the acquisition and maintenance of any equipment necessary to carry out their responsibilities, the State Treasurer shall annually make an assessment against each electric utility which has an ownership or operating interest in a nuclear facility located in New Jersey;

b. The assessment shall be equal to a percentage of the gross receipts reported pursuant to P. L. 1940, c. 5 (C. 54:30A–49 et seq.) of the public utilities derived from intrastate electric operations during the preceding calendar year at a rate to be determined annually by the State Treasurer on or before June 30 in the following manner:

The total amount appropriated to the various local, county and State agencies by law for the purpose of discharging their responsibilities under this act for the next fiscal year shall be divided by the total amount of the said gross electric receipts of all affected electric utilities derived from intrastate electric operations during the preceding calendar year. The quotient resulting shall constitute the percentage rate of the assessment for the calendar year which such computation is made. The total amount so assessed to any particular utility shall not exceed $\frac{1}{10}$ of 1% of the said gross electric receipts subject to assessment hereunder of that utility derived from its intrastate electric operations during the preceding calendar year.

The assessment prescribed above shall be levied by the State Treasurer not later than July 1, and shall be paid within 30 days after mailing by first class mail to the affected electric utility notice thereof and a statement of the amount;

c. The assessments shall be appropriated through the regular appropriation process in accordance with a joint budget to be submitted by the division and the department.

C. 26:2D-49 Filing of objections; hearing.

13. Within 15 days after the date of mailing a statement as provided in this act, the electric utility against which the statement is rendered may file with the State Treasurer its objections thereto. Not less than 30 nor more than 60 days after giving notice thereof to the objecting utility, the State Treasurer shall hold a hearing on the objections.

C. 26:2D-50 Transmission of statement in accordance with findings.

14. If, after the hearing, the State Treasurer finds that any part of the charge against the objecting utility is excessive, erroneous, or invalid, he shall transmit to the utility, by registered mail,

an amended statement in accordance with the findings, which shall have the same force and effect as an original statement. If the State Treasurer finds the entire statement invalid, he shall notify the objecting utility, by registered mail, of the determination, and the original statement shall be null and void. If the State Treasurer finds that the statement as rendered is neither excessive, erroneous, unlawful nor invalid, in whole or in part, he shall transmit notice thereof to the objecting utility by registered mail.

C. 26:2D-51 No action for restraining or delaying collection or payment.

15. No action or proceeding shall be maintained in any court for the purpose of restraining or delaying the collection or payment of a statement rendered in compliance with the provisions of this act. A utility against which a statement is rendered shall pay the amount thereof, and after the payment may, in the manner provided by this act, at any time within 2 years from the date of the payment, bring against the State an action at law to recover the amount paid, with legal interest thereon from the date of payment, upon the ground that the assessment was excessive, erroneous, or invalid in whole or in part.

C. 26:2D-52 Seizure and sale of goods for nonpayment.

16. If any affected electric utility, to which a statement for the amount assessed against it as provided in this act has been rendered, fails to pay the amount within 15 days, or fails to file with the State Treasurer objections to the statement as provided herein, the State Treasurer shall proceed to collect the amount stated to be due, with legal interest, by seizure and sale of any goods or chattels, including stocks, securities, bank accounts, evidences of debt and accounts receivable belonging to the affected electric utility anywhere within the State.

C. 26:2D-53 Rules and regulations.

17. The department and the division are authorized in accordance with the provisions of the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), to jointly promulgate, adopt, and enforce any rules and regulations necessary or appropriate to carry out the purposes and intent of this act.

C. 26:2D-54 Authority for inspection.

18. The department and the division shall have the authority to enter and inspect any building or place for the purpose of determining compliance or noncompliance with the provisions of this act, any rules or regulations adopted pursuant thereto, or the plan.

C. 26:2D-55 Radiation Emergency Plan to remain in effect temporarily.

19. The existing State Radiation Emergency Plan, as contained in the PIPAG Manual (Procedures for Implementing Protective Action Guides), shall continue in full force and effect until all emergency response plans required by this act are adopted, after which it shall expire.

C. 26:2D-56 Partial invalidity.

20. If any section, part, phrase, or provision of this act or the application thereof to any person be adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the section, part, phrase, provision, or application directly involved in the controversy in which the judgment shall have been rendered and it shall not affect or impair the validity of the remainder of this act or the application thereof to other persons.

C. 26:2D-57 Penalty for willful violation.

21. Any person who willfully violates this act or any rule, or regulation promulgated pursuant hereto, including the State Radiation Emergency Response Plan, shall be liable to a penalty of not more than $2,500.00 for each offense, to be collected by the department and the division in a summary proceeding under "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.) or in any case before a court of competent jurisdiction wherein injunctive relief is requested. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. The department and the division are authorized to compromise and settle any claim for penalty under this section in an amount in their discretion as may appear appropriate in all these circumstances.

C. 26:2D-58 Advisory Council for Emergency Services to be consulted.

22. In implementing the provisions of this act, the department and the division shall seek the advice of the Governor's Advisory Council for Emergency Services established pursuant to P. L. 1972, c. 133.

23. a. There is appropriated from the General Fund to the Department of Environmental Protection such sums as are necessary, but not to exceed $250,000.00, to immediately implement the provisions of this act.

b. There is appropriated from the General Fund to the Department of Law and Public Safety, Division of State Police such sums

as are necessary, but not to exceed $350,000.00 to immediately implement the provisions of this act.

c. The appropriations made pursuant to this section shall be repaid to the General Fund as soon as practicable from the assessments made pursuant to section 12 of this act.

24. This act shall take effect immediately.

Approved October 27, 1981.

CHAPTER 303

AN ACT concerning certain privileged communications and amending the "Practicing Psychology Licensing Act," approved September 12, 1966 (P. L. 1966, c. 282) and "The Evidence Act, 1960," approved June 20, 1960 (P. L. 1960, c. 52).

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

1. Section 28 of P. L. 1966, c. 282 (C. 45:14B–28) is amended to read as follows:

C. 45:14B-28 Psychologist-patient privilege.

28. The confidential relations and communications between and among a licensed practicing psychologist and individuals, couples, families or groups in the course of the practice of psychology are placed on the same basis as those provided between attorney and client, and nothing in this act shall be construed to require any such privileged communications to be disclosed by any such person.

2. Section 23 of P. L. 1960, c. 52 (C. 2A:84A–23) is amended to read as follows:

C. 2A:84A-23 Priest-penitent privilege.

23. Rule 29. Priest-penitent privilege.

Subject to Rule 37, a clergyman, minister or other person or practitioner authorized to perform similar functions, of any religion shall not be allowed or compelled to disclose a confession or other confidential communication made to him in his professional character, or as a spiritual advisor in the course of the discipline or practice of the religious body to which he belongs or of the religion which he professes, nor shall he be compelled to disclose

the confidential relations and communications between and among him and individuals, couples, families or groups with respect to the exercise of his professional counseling role.

3. This act shall take effect immediately.

Approved November 11, 1981.

CHAPTER 304

A SUPPLEMENT to the "New Jersey State Health Benefits Program Act," approved June 3, 1961 (P. L. 1961, c. 49, C. 52:14–17.25 et seq.), as said short title was amended by P. L. 1972, c. 75.

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

C. 52:14-17.29a Prescription program for retired police officers with terminal illnesses.

1. The State Health Benefits Commission shall undertake by an amendatory or supplementary contract to extend the coverage of the employee drug prescription program, authorized pursuant to subsection (F) of section 5 of P. L. 1961, c. 49 (C. 52:14–17.29), to State employees retiring or who have retired on or after January 1, 1980 under the State Police Retirement System after 25 or more years of service and who as of the time of their retirement are or shall be medically certified to be suffering from an illness characterized as terminal by two or more physicians licensed in the practice of medicine and surgery in this State.

2. This act shall take effect immediately.

Approved November 11, 1981.

CHAPTER 305

AN ACT concerning the civil service status of certain county police officers of certain counties of the first class.

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

1. Notwithstanding any provision of law relating to the qualifications required for appointment to any permanent position in accordance with the provisions of Title 11 (Civil Service) of the Revised Statutes, any former municipal police officer holding, on the effective date of this act, a provisional position as a county police officer in a county of the first class having a population in excess of 900,000, according to the 1970 Federal census, who: a. possesses at least the minimum job qualification requirements as they appear in the civil service approved job specifications, b. received, as a provisional county police officer, an overall job performance rating of at least "satisfactory" through an internal evaluation by his respective supervisors in accordance with the county's civil service approved employee performance evaluation program, and c. was separated from his former service as a municipal police officer for any reason other than cause or charges of misconduct or delinquency, may be appointed upon adoption of an ordinance or resolution, as appropriate, providing therefor by the governing body of the county to the permanent civil service title corresponding to his present employment, and shall be certified thereafter by the Civil Service Commission without examination.

Any person appointed and certified pursuant to the provisions of this act shall be recorded as having been permanently appointed on the date of his appointment as a provisional county police officer.

2. This act shall take effect immediately and shall expire 90 days after enactment.

Approved November 17, 1981.

CHAPTER 306

A SUPPLEMENT to the "Solid Waste Management Act," approved May 6, 1970 (P. L. 1970, c. 39, C. 13:1E–1 et seq.), as said short title was amended by P. L. 1975, c. 326.

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

C. 13:1E-100 Short title.

1. This act shall be known and may be cited as the "Sanitary Landfill Facility Closure and Contingency Fund Act."

C. 13:1E-101 Legislature's findings and declarations.

2. The Legislature finds and declares that the proper closure of sanitary landfills is essential to the public health, safety and welfare; that closure activities can require capital expenditures at a time when revenues collected by sanitary landfill facilities are minimal or nonexistent; and that it is necessary to guarantee that adequate funds are reserved to insure such closure.

The Legislature further finds and declares that the improper operation or closure of sanitary landfill facilities can result in the contamination of surface and ground waters, including potable water supplies; that the migration of methane gas from sanitary landfill facilities poses a significant threat to life and property; that compensation for the damage resulting from improper operation or closure is, at best, inadequate; and that it is necessary to provide a mechanism for the prompt and adequate compensation for these damages.

C. 13:1E-102 Definitions.

3. As used in this act:

a. "Closing costs" or "closure" means all activities and costs associated with the design, purchase, construction or maintenance of all measures required by the department, pursuant to law, in order to prevent, minimize or monitor pollution or health hazards resulting from sanitary landfill facilities subsequent to the termination of operations at any portion thereof, including, but not necessarily limited to, the costs of the placement of earthen or vegetative cover, and the installation of methane gas vents or monitors and leachate monitoring wells or collection systems at the site of any sanitary landfill facility.

b. "Owner or operator" means and includes, in addition to the usual meanings thereof, every owner of record of any interest in land whereon a sanitary landfill facility is or has been located, and any person or corporation which owns a majority interest in any other corporation which is the owner or operator of any sanitary landfill facility.

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

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

e. "Tax period" means every calendar month, or any other period as may be prescribed by rule and regulation adopted by the director,

on the basis of which the owner or operator of a sanitary landfill facility is required to report to the director pursuant to this act.

f. "Taxpayer" means the owner or operator of a sanitary landfill facility subject to the tax provisions of this act.

C. 13:1E-103 Joint and several liability for any proximately resulting damages.

4. Every owner or operator of a sanitary landfill facility shall be jointly and severally liable for the proper operation and closure of the facility, as required by law, and for any damages, no matter by whom sustained, proximately resulting from the operations or closure.

C. 13:1E-104 Tax on owner or operator of every sanitary landfill facility; filing of return; registration; director to determine amount of tax due if no return filed; penalties for nonfiling or nonpayment; certificate of director presumptive evidence; additional powers of director; "State Tax Uniform Procedure Law" governs.

5. a. There is levied upon the owner or operator of every sanitary landfill facility a tax to insure the proper closure thereof and to provide funds to compensate for any damages resulting from the operations or closure of the facility. The tax shall be levied on all solid waste accepted for disposal, at the rate of $0.15 per cubic yard of solids and $0.002 per gallon of liquids. In the event that any solid waste is measured, upon acceptance for disposal, by other than cubic yards or gallons, the tax shall be levied on the equivalents thereof as shall be determined by the director.

b. (1) Every owner or operator of a sanitary landfill facility shall, on or before the twentieth day of the month following the close of each tax period, render a return under oath to the director on such form as may be prescribed by the director indicating the number of cubic yards of solid waste and gallons of liquid waste accepted for disposal and at said time the owner or operator shall pay the full amount of tax due.

(2) Every owner or operator of a sanitary landfill which accepts solid or liquid waste for disposal and which is subject to the tax under subsection a. of this section shall, within 20 days after the first acceptance of this waste, register with the director on forms prescribed by him.

c. If a return required by this act is not filed, or if a return when filed is incorrect or insufficient in the opinion of the director, the amount of tax due shall be determined by the director from such information as may be available. Notice of such determination shall be given to the taxpayer liable for the payment of the tax. Such determination shall finally and irrevocably fix the tax unless

the person against whom it is assessed, within 30 days after receiving notice of such determination, shall apply to the director for a hearing, or unless the director on his own motion shall redetermine the same. After such hearing the director shall give notice of his determination to the person to whom the tax is assessed.

d. Any taxpayer who shall fail to file his return when due or to pay any tax when the same becomes due, as herein provided, shall be subject to such penalties and interest as provided in the "State Tax Uniform Procedure Law," Subtitle 9 of Title 54 of the Revised Statutes. If the Division of Taxation determines that the failure to comply with any provision of this section was excusable under the circumstances, it may remit such part or all of the penalty as shall be appropriate under such circumstances.

e. (1) Any person failing to file a return, failing to pay the tax, or filing or causing to be filed, or making or causing to be made, or giving or causing to be given any return, certificate, affidavit, representation, information, testimony or statement required or authorized by this act, or rules or regulations adopted hereunder which is willfully false, or failing to keep any records required by this act or rules and regulations adopted hereunder, shall, in addition to any other penalties herein or elsewhere prescribed, be guilty of a crime of the fourth degree.

(2) The certificate of the director to the effect that a tax has not been paid, that a return has not been filed, that information has not been supplied or that inaccurate information has been supplied pursuant to the provisions of this act or rules or regulations adopted hereunder shall be presumptive evidence thereof.

f. In addition to the other powers granted to the director in this section, he is hereby authorized and empowered:

(1) To delegate to any officer or employee of his division such of his powers and duties as he may deem necessary to carry out efficiently the provisions of this section, and the person or persons to whom such power has been delegated shall possess and may exercise all of said powers and perform all of the duties delegated by the director;

(2) To prescribe and distribute all necessary forms for the implementation of this section.

g. The tax imposed by this section shall be governed in all respects by the provisions of the "State Tax Uniform Procedure Law," Subtitle 9 of Title 54 of the Revised Statutes, except only to the extent that a specific provision of this section may be in conflict therewith.

C. 13:1E-105 Sanitary Landfill Contingency Fund established.

6. The Sanitary Landfill Facility Contingency Fund (hereinafter referred to as "the fund") is established as a nonlapsing, revolving fund in the Department of Environmental Protection. The fund shall be administered by the department, and shall be credited with all tax revenues collected by the division pursuant to section 5 of this supplementary act. Interest received on moneys in the fund shall be credited to the fund.

C. 13:1E-106 Fund strictly liable for all damages; immediate awards on pro rata basis if exceed current fund balance.

7. a. The fund shall be strictly liable for all direct and indirect damages, no matter by whom sustained, proximately resulting from the operations or closure of any sanitary landfill. These damages shall include, but not be limited to:

(1) The cost of restoring, repairing or replacing any real or personal property damaged or destroyed;

(2) The cost of restoration and replacement, where possible, of any natural resource damaged or destroyed, including any potable water supply;

(3) The cost of any personal injuries, including medical expenses incurred and income lost as a result thereof; and

(4) The costs of the design, construction, installation, operation and maintenance of any device or action deemed necessary by the department to clean up, remedy, mitigate, monitor or analyze any threat to the public health, safety or welfare of the citizens of this State, including the installation and maintenance of methane gas monitors and vents and leachate monitoring wells and collection systems, and the sampling and analysis of any public or private potable water supply.

b. In the event that the total of claims awarded exceeds the current balance of the fund, the immediate award shall be paid on a pro rata basis, and all claimants paid on a pro rata basis shall be paid, as determined by the department, on a pro rata share of all moneys received by the fund until the total amount of the proven damages is paid to the claimants. The department may also provide, by regulation, priority for the payment of claims based on extreme hardship or extreme existing or imminent hazard.

C. 13:1E-107 Claims to be filed within one year.

8. Claims against the fund shall be filed within 1 year of the date of discovery of damage, and in the manner as shall be prescribed by the department.

C. 13:1E-108 Disbursement of fund.

9. Moneys in the fund shall be disbursed by the department for the following purposes and no others:

a. Administrative costs incurred by the department pursuant to section 6 of this supplementary act; and

b. Damages as provided in section 7 hereof.

C. 13:1E-109 Monthly deposits in escrow account; violation crime of third degree.

10. a. The owner or operator of every sanitary landfill facility shall deposit, on a monthly basis in an interest-bearing account with an accredited financial institution, an amount equal to $0.30 per cubic yard of solids and $0.004 per gallon of liquids of all solid waste accepted for disposal during the preceding month at the sanitary landfill facility. In the event that any solid waste is measured, upon acceptance for disposal, by other than cubic yards or gallons, the amount to be deposited shall be calculated by using the equivalents thereof as shall be determined by the division.

The account established pursuant to this subsection shall constitute an escrow account for the closure of the particular sanitary landfill facility, and no withdrawals therefrom may be made without written approval of the department, except as otherwise authorized by the department.

b. Any owner or operator of a sanitary landfill facility who shall fail to deposit funds into an escrow account, as provided herein, or uses those funds for any purpose other than closing costs, as approved by the department, shall be guilty of a crime of the third degree.

C. 13:1E-110 Annual audit of escrow account; money remaining after closure to be paid into fund.

11. a. Every owner or operator of a sanitary landfill facility shall file with the department an annual audit of the escrow account established for the closure of the facility pursuant to this supplementary act. The audit shall be conducted by a certified public accountant, and shall be filed no later than October 31 of each year.

b. Any moneys remaining in the escrow account of any sanitary landfill facility subsequent to the proper and complete closure thereof, as determined by the department, shall be paid by the owner or operator thereof into the fund.

C. 13:1E-111 Subrogation to department.

12. Payment of any damages by the fund shall be conditioned upon the department acquiring, by subrogation, all rights of the claimant to recovery of the damages from any owner or operator of a sanitary landfill facility.

C. 13:1E-112 Tax may be collected as surcharge; Board of Public Utilities may direct reduction of rate of payments; board to increase tariffs.

13. a. The provisions of any law to the contrary notwithstanding, the owner or operator of any sanitary landfill facility may collect the tax imposed pursuant to, and the escrow account payments required by, this supplementary act as a surcharge on any tariff established pursuant to law for the solid waste disposal operations of the facility.

b. The Board of Public Utilities may direct the owner or operator of a sanitary landfill facility to reduce the rate of payments to an escrow account required by section 10 hereof, but only to the extent that:

(1) The current tariff established pursuant to law for the solid waste disposal operations of the facility specifically allocates a portion thereof for closing costs; and

(2) The amount collected for closing costs pursuant to this tariff are deposited, on a monthly basis, in the escrow account for the facility.

c. The Board of Public Utilities shall, within 60 days of the effective date of this supplementary act, issue an appropriate order increasing current tariffs established pursuant to law for solid waste collection operations by an amount equal to the total increase in the relevant solid waste disposal tariff pursuant to subsection a. of this section. In issuing this order, the board shall not be bound to find a rate base under the provisions of section 31 of P. L. 1962, c. 198 (C. 48:2–21.2).

C. 13:1E-113 Expenditure mandated by State law.

14. Any additional expenditures for the collection or disposal of solid waste made by any county or municipality as a result of the tax imposed pursuant to this supplementary act shall, for the purposes of P. L. 1976, c. 68 (C. 40A:4–45.1 et seq.), be considered an expenditure mandated by State law.

C. 13:1E-114 Rules and regulations.

15. The department shall adopt, pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), such rules and regulations as are necessary to effectuate this supplementary act.

C. 13:1E-115 Remedies additional to existing.

16. Nothing in this supplementary act shall be deemed to preclude the pursuit of any other civil or injunctive remedy by any person. The remedies provided in this supplementary act are in addition

to those provided by existing statutory or common law, but no person who receives compensation for damages pursuant to any other State or Federal law shall be permitted to receive compensation for the same damages or cleanup costs under this supplementary act.

C. 13:1E-116 Contract for land sale must state use as sanitary landfill facility; contract voidable.

17. a. No person shall contract to sell any land which has been utilized as a sanitary landfill facility at any time prior to the effective date of this supplementary act unless the contract of sale for the land shall state the fact and the period of time that the land was so utilized.

Any prospective purchaser of such land may obtain from the department, upon written request therefor, a history of the compliance by the facility with all applicable statutes, rules and regulations administered by the department.

b. Any contract made in violation of this section is voidable.

18. This act shall take effect on the first day of the second month following enactment, and shall be retroactive to the extent provided in section 8 hereof.

Approved November 25, 1981.

CHAPTER 307

AN ACT to amend the "Criminal Injuries Compensation Act of 1971," approved October 4, 1971, (P. L. 1971, c. 317).

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

1. Section 18 of P. L. 1971, c. 317 (C. 52:4B–18) is amended to read as follows:

C. 52:4B-18 2-year statute of limitations; reduction for contributory conduct; exclusions; $10,000 maximum.

18. No order for the payment of compensation shall be made under section 10 of this act unless the application has been made within 2 years after the date of the personal injury or death or after that date upon determination by the board that good cause exists for the delayed filing, and the personal injury or death

was the result of an offense listed in section 11 of this act which had been reported to the police within 3 months after its occurrence.

In determining the amount of an award, the board shall determine whether, because of his conduct, the victim of such crime contributed to the infliction of his injury, and the board shall reduce the amount of the award or reject the application altogether, in accordance with such determination; provided, however, that the board shall not consider any conduct of the victim contributory toward his injury, if the record indicates such conduct occurred during efforts by the victim to prevent a crime or apprehend a person who had committed a crime in his presence or had in fact committed a misdemeanor.

No compensation shall be awarded if the victim

a. is a relative of the offender,

b. was at the time of the personal injury or death of the victim living with the offender as a member of his family relationship group,

c. was guilty of a violation of subtitle 10 or 12 of Title 2A of the New Jersey Statutes, which caused or contributed to his injuries,

d. was injured as a result of the operation of a motor vehicle, boat or airplane unless the same was used as a weapon in a deliberate attempt to run the victim down.

No award shall be made on an application unless the applicant has incurred a minimum out-of-pocket loss of $100.00 or has lost at least 2 continuous weeks' earnings or support. Out-of-pocket loss shall mean unreimbursed and unreimbursable expenses or indebtedness reasonably incurred for medical care or other services necessary as a result of the injury upon which such application is based.

No compensation shall be awarded under this act in an amount in excess of $10,000.00, and all payments shall be made in a lump sum, except that in the case of death or protracted disability the award may provide for periodic payments to compensate for loss of earnings or support. No award made pursuant to this act shall be subject to execution or attachment other than for expenses resulting from the injury which is the basis of the claim.

2. This act shall take effect immediately and shall be applicable to applications submitted on or after the effective date of this act.

Approved November 30, 1981.

CHAPTER 308

AN ACT to amend "An act to permit investment by savings banks, savings and loan associations, and credit unions in certain obligations of foreign governments and international development banks, and supplementing chapter 2 of Title 17 of the Revised Statutes," approved March 23, 1977 (P. L. 1977, c. 45).

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

1. Section 1 of P. L. 1977, c. 45 (C. 17:2–10) is amended to read as follows:

C. 17:2-10 Investment in development bonds issued by foreign governments; principal and interest payable in U. S. dollars.

1. In addition to investments in obligations of foreign governments permitted by Title 17 of the Revised Statutes or by regulation of the Commissioner of Banking, any savings bank, savings and loan association or credit union organized under the laws of this State may invest in such development bonds issued by foreign governments or in such obligations of international development banks as are approved by the Comptroller of the Currency for investment by national banks; provided, however, that the principal and interest payable thereon shall be payable in United States dollars; and provided further that such investments are approved by the Commissioner of Banking. In addition, the commissioner may by regulation approve investment in other bond issues of foreign governments in which the principal and interest payable thereon are payable in United States dollars. Such investments may not exceed, in the case of development bonds in the aggregate 5% of the institution's capital deposits, surplus, and reserves, and in the case of other foreign bonds, 10% of an institution's capital deposits, surplus, and reserves.

2. This act shall take effect immediately.

Approved November 30, 1981.

CHAPTER 309

A SUPPLEMENT to the "Local Health Services Act," approved March 3, 1976 (P. L. 1975, c. 329, C. 26:3A2–1 et seq.).

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

C. 26:3A2-14.1 Provisional public health nurses eligible to compete in examination.

1. Any other law, rule or regulation relating to the qualifications required for appointment to any permanent position in accordance with the provisions of Title 11 (Civil Service) of the Revised Statutes to the contrary notwithstanding, any employee of a local health agency, created pursuant to the act to which this act is a supplement, who has served in a provisional status for more than 2 years as a public health nurse and is holding such position on the effective date of this act shall be eligible to compete in appropriate examination for this position in accordance with the provisions of Title 11, Civil Service.

2. This act shall take effect immediately.

Approved December 3, 1981.

CHAPTER 310

AN ACT to amend "An act to defer payment of assessments levied for local improvements in certain cases," approved March 3, 1976 (P. L. 1975, c. 341).

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

1. Section 2 of P. L. 1975, c. 341 (C. 40:56–41.2) is amended to read as follows:

C. 40:56-41.2 Payment of assessments for local improvements deferred for farmland; no interest charge as of effective date of act.

2. a. When all or part of the cost of the installation of a local improvement, as defined in R. S. 40:56–1 is assessed against the lands benefited thereby, payment of bills for the amount of the

assessment levied, or for any installment thereof, with respect to farmland or other open space shall be deferred, except as to the extent of the immediate benefit of the local improvement, until the land is no longer actively devoted to agricultural or horticultural use as defined by section 5 of the "Farmland Assessment Act of 1964," P. L. 1964, c. 48 (C. 54:4–23.5).

b. With respect to local improvements authorized by the municipality on or after the date of enactment of this act, interest shall not be charged on any assessment so deferred, either during the period of deferment or as accumulated interest at the termination of the deferment. With respect to local improvements authorized by the municipality before the date of enactment of this act, interest may be charged on any assessments so deferred, except where the owner, or in the case of a corporate owner, the principal stockholder, makes his principal residence on the lands against which the deferred assessment is charged, on adjacent land, or on other farmland or other open space. Interest shall not exceed the rate that may be charged on installments pursuant to R. S. 40:56–35 and shall be due and payable upon the termination of the deferment.

2. This act shall take effect immediately and shall with respect to the charging of interest be retroactive to March 3, 1976.

Approved December 3, 1981.

CHAPTER 311

AN ACT concerning the transportation and storage of household goods, office goods and special commodities, licensing public movers and warehousemen, and repealing P. L. 1968, c. 375.

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

C. 45:14D-1 Short title.

1. This act shall be known and may be cited as the "Public Movers and Warehousemen Licensing Act."

C. 45:14D-2 Definitions.

2. As used in this act:

a. "Accessorial service" means the preparation of articles for shipment including, but not limited to, the packing, crating, boxing

and servicing of appliances, the furnishing of containers, unpacking, uncrating and reassembling of articles, placing them at final destination and the moving or shifting of articles from one location to another within a building, or at a single address;

b. "Board" means the State Advisory Board of Public Movers and Warehousemen established under this act;

c. "Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety;

d. "Department" means the Department of Law and Public Safety;

e. "Household goods" means personal effects, fixtures, equipment, stock and supplies or other property usually used in or as part of the stock of a dwelling, when it is put into storage or when it is transported by virtue of its removal, in whole or in part, by a householder from one dwelling to another, or from the dwelling of a householder to the dwelling of another householder, or between the dwelling of a householder and a repair or storage facility, or from such dwelling to an auction house or other place of sale. The term "household goods" shall not apply to property moving from a factory or store, except such property as the householder has purchased and which is transported at his request as part of the movement by the householder from one dwelling to another;

f. "Intrastate commerce" means commerce moving wholly between points within the State over all public highways, or at a single location;

g. "License" means a license issued by the director;

h. "Motor vehicle" means any vehicle, machine, tractor, truck or semitrailer, or any combination thereof, propelled, driven or drawn by mechanical power, and used upon the public highways in the transportation of household goods, office goods and special commodities in intrastate commerce;

i. "Mover's services" means all of the services rendered by a public mover;

j. "Storage services" means all of the services rendered by a warehouseman;

k. "Office goods" means personal effects, fixtures, equipment, stock and supplies or other property usually used in or as part of the stock of any office, or commercial, institutional, professional or other type of establishment, when it is put into storage or when such property is transported by virtue of its removal, in whole or in part, from one location to another;

l. "Person" means any individual, copartnership, association, company, or corporation, and includes any trustee, receiver, assignee, lessee, or personal representative of any person herein defined;

m. "Place of business" means a business office located in New Jersey from which the mover or warehouseman conducts his daily business and where records are kept;

n. "Property" means all of the articles in the definition of household goods, office goods or special commodities;

o. "Public highway" or "highway" means any public street, road, thoroughfare, bridge and way in this State open to the use of the public as a matter of right for purposes of motor vehicular travel, including those that impose toll charges;

p. "Public mover" or "mover" means any person who engages in the transportation of household goods, office goods or special commodities by motor vehicle for compensation in intrastate commerce between points in this State, including the moving of household goods, office goods or special commodities from one location to another at a single address, and any person who engages in the performance of accessorial services; except that the term "public mover" or "mover" shall not apply to any person who engages in, or holds himself out to the general public as engaging in, the transportation of special commodities when such commodities are not transported by virtue of a removal, in whole or in part, and who does not engage, nor hold himself out to the general public as engaging in, the transportation of household or office goods;

q. "Special commodities" means uncrated or unboxed works of art, furniture, fixtures, appliances, business machines, electronic equipment, displays, exhibits, home, office, store, theatrical or show equipment, musical instruments, or other articles being put into storage or being moved, and which require the use of equipment and personnel usually furnished or employed by warehousemen or public movers;

r. "Storage" means the safekeeping of property in a depository for compensation;

s. "Tariff" means a schedule of rates and charges for the storage or transportation of property in intrastate commerce;

t. "Warehouseman" means a person engaged in the business of storage.

C. 45:14D-3 Exclusions.

3. The provisions of this act shall not be construed to include motor vehicles owned or operated by:

a. The United States, the State, or any local government, subdivision, agency or instrumentality thereof;

b. Persons transporting property in intrastate commerce without compensation or where such person is the owner of the property and the transportation is not performed as a subterfuge to avoid regulation hereunder.

C. 45:14D-4 State Advisory Board of Public Movers and Warehousemen; public and industry representatives; duties; quarters; executive secretary; assistants.

4. There is created in the Division of Consumer Affairs in the Department of Law and Public Safety a State Advisory Board of Public Movers and Warehousemen consisting of four citizen members to be appointed by the Governor, with the advice and consent of the Senate. Two of the four citizen members shall be representatives of the public and two shall be representatives of the moving and storage industry.

The term of office of each citizen board member shall be 4 years; except that of the members first appointed, one shall serve for 1 year, one shall serve for 2 years, one shall serve for 3 years, and one shall serve for 4 years. Vacancies shall be filled for the unexpired terms only. No citizen member may be appointed for more than two consecutive terms.

The organization, meetings and management of the board shall be established in regulations promulgated by the director. The board shall participate in the formulation of rules and regulations, the hearing of grievances, the establishment of standards, and the issuance and revocation of licenses.

The officers and members of the board shall serve without compensation but shall be reimbursed for actual expenses reasonably incurred in the performance of their duties.

The Attorney General shall maintain within any public building, whether owned or leased by the State, suitable quarters for the board's office and meeting place, except that no such office or meeting place shall be within premises owned or occupied by an officer or member of the board.

The executive secretary of the board shall be appointed by the director and shall serve at his pleasure. He shall receive such salary as shall be determined by the director within the limits of available funds.

The director shall be empowered, within the limits of available funds, to hire such assistants as he may deem necessary to administer this act.

C. 45:14D-5 Removal from office.

5. The Governor may remove from office any member of the board for incompetence, neglect of duty, or unprofessional conduct; except that no board member may be removed until after a hearing of the charges, and upon at least 30 days' prior written notice to the member of the charges, and of the date of the hearing.

C. 45:14D-6 Powers and duties of director.

6. The director shall, in addition to such other powers and duties as he may possess by law:

a. Administer and enforce the provisions of this act;

b. Adopt and promulgate rules and regulations, pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), to effectuate the purposes of this act;

c. Examine and pass on the qualifications of all applicants for license under this act, and issue a license to each qualified applicant;

d. Establish professional standards for persons licensed under this act;

e. Conduct hearings pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.); except that the director shall have the right to administer oaths to witnesses, and shall have the power to issue subpenas for the compulsory attendance of witnesses and the production of pertinent books, papers, or records;

f. Conduct proceedings before any board, agency or court of competent jurisdiction for the enforcement of the provisions of this act;

g. Annually publish a list of the names, addresses and tariffs of all persons who are licensed under this act;

h. Establish reasonable requirements with respect to proper and adequate movers' and warehousemen's services and the furnishing of estimates, and prescribe a uniform system of accounts, records and reports;

i. Adopt and promulgate rules and regulations to protect the interests of the consumer, including, but not limited to, regulations concerning the contents of information brochures which a mover or warehouseman shall give to a customer prior to the signing of a contract for moving or storage services.

C. 45:14D-7 Revocation, suspension, nonrenewal, nonissuance of licenses; grounds; hearing.

7. The director may, after notice and opportunity for a hearing revoke, suspend or refuse to renew or issue any license issued pursuant to this act upon a finding:

a. That such license was obtained by means of fraud, misrepresentation or concealment of material facts;

b. Of fraud or deceit in connection with services rendered;

c. Of unprofessional or unethical conduct or gross negligence by a person holding such license;

d. That the provisions of this act, or the rules or regulations promulgated pursuant to this act, have been violated.

The licensee or applicant shall be furnished with an official statement of the reasons for the director's proposed action and shall be afforded an opportunity for a hearing.

C. 45:14D-8 Restoration after one year.

8. The director may, after 1 year from the date of the revocation of any license, restore the license.

C. 45:14D-9 License, permanent place of business in State mandatory; application, required information, issuance; grounds for denial; copy of license to be carried on vehicle.

9. a. It shall be unlawful for any person to engage in the business of public moving or storage unless he shall have obtained from the director a license to engage in such business and shall have a permanent place of business in this State;

b. Application for a license shall be made in writing to the director, be verified under oath by the agent in charge and shall be in such form and contain the following information: (1) the name and location of the applicant; (2) description of the applicant's moving vehicles and storage facilities; (3) identification of the issuer and amount of any insurance or surety bonds maintained by the applicant. A license shall be issued to a qualified applicant if it is found that the applicant is fit, willing and able to perform the service of a mover or warehouseman, and to conform to the provisions of this act;

c. Every person advertising moving or storage services shall include in any advertisement the number of his license, and his New Jersey business address and telephone number;

d. No license shall be issued to an applicant if the applicant has (1) committed any act which if committed by a licensee would be grounds for suspension or revocation; (2) misrepresented any

material fact on his application; (3) not registered each vehicle which will be performing intrastate moves in New Jersey except on vehicles which have been rented or leased and are operated by a public mover licensed under this act;

e. A copy of the license shall be carried on each truck, tractor, trailer or semitrailer or combination thereof at all times when the vehicle is being used in operations subject to this act.

C. 45:14D-10 Receipt or bill of lading required; Title 12A applicable.

10. Every person engaged in the business of storing or moving household goods, office goods, or special commodities for transportation in intrastate commerce shall issue a receipt or bill of lading therefor and shall be liable to the lawful holder thereof in accordance with the provisions of chapters 3, 4, 5, 6 and 7 of Title 12A of the New Jersey Statutes.

C. 45:14D-11 Observance of rules and regulations.

11. Every warehouseman or mover shall provide safe, proper and adequate service and shall observe the director's rules and regulations concerning the storage or transportation of property.

C. 45:14D-12 2-year statute of limitations.

12. a. All actions at law against movers or warehousemen subject to this act for recovery of charges, or any part thereof, or for the recovery of overcharges shall be begun within 2 years from the time the cause of action accrues;

b. All claims against any mover or warehouseman for damage to property shall be filed in writing with the mover or warehouseman within 90 days from the time the cause of action accrues and all suits in respect thereof shall be instituted within 2 years of the day that the mover or warehouseman has disallowed the claim or any part or parts thereof specified in the notice.

C. 45:14D-13 No preferential treatment.

13. It shall be unlawful for any mover or warehouseman to make, give, or cause any undue or unreasonable preference or advantage to any particular person, port, gateway, locality, or traffic of any description in any respect whatsoever, or to subject any particular person, port, gateway, locality, or traffic to any undue or unreasonable prejudice or disadvantage.

C. 45:14D-14 Tariffs.

14. a. Public movers and warehousemen shall file their tariffs with the director semiannually;

b. No public mover or warehouseman shall charge, demand, collect or receive a greater or lesser compensation for his service than specified in the tariff.

C. 45:14D-15 Fees; one-year licenses; fees only to defray expenses.

15. a. The director shall by rule or regulation establish, prescribe or change the fees for licenses, renewals of licenses or other services. Licenses shall expire 1 year from the date of issue unless the holder thereof shall, 30 days before such expiration, pay to the director a renewal fee accompanied by a renewal application on a form prescribed by the director.

b. The director's fees established, prescribed or changed pursuant to this section shall be established, prescribed or changed to such extent as shall be necessary to defray all proper expenses incurred by the advisory board, the director, and any staff employed to administer this act; but such fees shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required.

c. All fees and any fines imposed by the director shall be paid to the director and shall be forwarded by the director to the State Treasurer and become part of the General Fund.

d. There shall be annually appropriated to the Department of Law and Public Safety for the use of the director such sums as shall be necessary to implement and effectuate the provisions of this act.

C. 45:14D-16 Violations of act; penalties.

16. Any person who violates the provisions of this act shall be subject to a penalty of not less than $100.00 nor more than $200.00 for the first offense and not less than $200.00 nor more than $500.00 for each subsequent offense, to be sued for and recovered by and in the name of the director pursuant to the provisions of the "Penalty Enforcement Law" (N. J. S. 2A:58–1 et seq.).

Repealer.

17. P. L. 1968, c. 375 (C. 48:22–1 et seq.) is repealed.

18. This act shall take effect 90 days after enactment.

Approved December 3, 1981.

CHAPTER 312

AN ACT concerning death by auto and amending N. J. S. 2C:11–5.

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

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

Death by auto.

2C:11–5. Death by Auto. a. Criminal homicide constitutes death by auto when it is caused by driving a vehicle recklessly.

b. Death by auto is a crime of the fourth degree.

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

2. This act shall take effect immediately.

Approved December 3, 1981.

CHAPTER 313

AN ACT concerning education and supplementing chapter 61 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:61-2.1 Katzenbach School advisory board.

1. The State Board of Education with the approval of the Governor shall appoint biannually an advisory board to the Marie H. Katzenbach School for the Deaf which shall consist of not less than seven nor more than 15 members representative of professional and lay interests. The advisory board shall advise the superintendent of the school in planning, implementing and evaluating the educational program of the school.

2. This act shall take effect immediately.

Approved December 3, 1981.

CHAPTER 314

AN ACT to amend the "Bio-analytical Laboratory and Laboratory Directors Act (1953)," approved September 18, 1953 (P. L. 1953, c. 420) and repealing sections 6, 8, 9 and 21 thereof.

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

1. Section 2 of P. L. 1953, c. 420 (C. 45:9–42.2) is amended to read as follows:

C. 45:9-42.2 Definitions.

2. As used in this act, the following terms are defined as follows:

a. "Board" means the State Board of Medical Examiners which shall have authority to examine and license bio-analytical laboratory directors as set forth in this act. The board is authorized to make necessary rules to implement the provisions of this act.

b. "License" means a license granted and issued by the board under this act to any person who makes application therefor and fulfills the requirements set forth by this act. A license shall be either a plenary or specialty license issued pursuant to the provisions of section 7 of P. L. 1953, c. 420 (C. 45:9–42.7).

c. A "Bio-analytical Laboratory" is any place, establishment or institution organized and operated primarily for the performance of chemical, microscopic, serological, parasitological, bacteriological or any other tests, by the practical application of one or more of the fundamental sciences, to material originating from the human body, for the purpose of obtaining scientific data which may be used as an aid to ascertain the state of health. The interpretation of cytologic and histologic criteria of disease is not considered to be within the scope of this definition of a bio-analytical laboratory.

d. A "Bio-analytical Laboratory Director" is any person licensed and qualified to direct and supervise the technical work in a bio-analytical laboratory as defined in this act.

2. Section 3 of P. L. 1953, c. 420 (C. 45:9–42.3) is amended to read as follows:

C. 45:9-42.3 State Board of Medical Examiners to meet at least twice annually on laboratory director applications.

3. The State Board of Medical Examiners shall, in addition to conducting examinations for licenses to practice all professions placed under its jurisdiction, hold meetings for the licensure or examination, or both, of all applicants under this act for a license as a bio-analytical laboratory director not less than twice each year which meetings shall be held at such times and places as the board shall designate. The board shall keep an official record of all such meetings and an official register of all applicants for such license.

3. Section 4 of P. L. 1953, c. 420 (C. 45:9–42.4) is amended to read as follows:

C. 45:9-42.4 Application form; proof required; $100 fee.

4. All persons desiring a bio-analytical laboratory director's license shall apply therefor to the board.

a. Every applicant for plenary license shall present to the secretary of the board, at least 30 days before the examination at which he requests to be examined and every applicant for a specialty license shall also present to the secretary of the board a written application on a form provided by the board, together with satisfactory proof that he is more than 18 years of age, is of good moral character and has met satisfactorily all the necessary requirements of education, training and experience or certification as hereinafter provided.

b. A fee of $100.00 shall accompany all applications.

4. Section 7 of P. L. 1953, c. 420 (C. 45:9–42.7) is amended to read as follows:

C. 45:9-42.7 Qualifications as to education and experience; examination required; specialty licenses.

7. a. Any person possessing the educational and experience qualifications hereinafter set forth may apply for examination for a plenary license as a bio-analytical laboratory director. The following qualifications as to education and experience are established as prerequisites for application for examination or licensure for a bio-analytical laboratory director's plenary license:

(1) A doctorate degree, plus not less than 1 year of experience, or

(2) A master's degree, plus not less than 2 years of experience, or

(3) A bachelor's degree, plus not less than 3 years of experience.

The above academic degrees shall be course-earned in the fields of chemistry, pharmacy or the biological sciences and awarded by an educational institution approved by the board. "Years of experience," as used in this section, means for plenary license applicants, years of general bio-analytical laboratory experience acceptable to the board.

b. The board shall grant a plenary license to all applicants who meet the qualifications for licensure and satisfactorily complete the examination given by the board.

All examinations shall be written in the English language, but the board, in its discretion, may use supplementary oral and practical examinations of the whole class or of individual applicants. The scope of all examinations shall be such as to determine the competence of the applicant to perform and supervise such tests which are within the scope of the director's plenary license and the clinical laboratory license under the "New Jersey Clinical Laboratory Improvement Act," P. L. 1975, c. 166 (C. 45:9–42.26 et seq.).

c. The board shall grant a specialty license in one or more of the fields of toxicological chemistry, microbiology, cytogenetics and clinical chemistry if the applicant is certified by a national accrediting board, which board requires a doctorate degree plus experience, such as but not limited to the American Board of Pathology, the American Osteopathic Board of Pathology, the American Board of Medical Microbiology, the American Board of Clinical Chemistry, the American Board of Bio-analysis or the American Society of Cytopathology or any other national accrediting board recognized by the Board of Medical Examiners.

The applicant for a specialty license must offer proof to the satisfaction of the Board of Medical Examiners of one year's experience in the specialty, which one year's experience must be within 3 years next preceding the date of application for the specialty license.

The specialty license shall authorize the licensee to perform and supervise only those tests which are within the scope of the specialty.

Repealer.

5. Sections 6, 8, 9 and 21 of P. L. 1953, c. 420 (C. 45:9–42.6, 45:9–42.8, 45:9–42.9, and 45:9–42.21) are repealed.

6. This act shall take effect immediately.

Approved December 3, 1981.

CHAPTER 315

AN ACT concerning the repair, replacement or renovation of certain docks and other structures and amending R. S. 12:5–3.

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

1. R. S. 12:5–3 is amended to read as follows:

Department of Environmental Protection approval required for waterfront development; exemptions.

12:5–3. a. All plans for the development of any waterfront upon any navigable water or stream of this State or bounding thereon, which is contemplated by any person or municipality, in the nature of individual improvement or development or as a part of a general plan which involves the construction or alteration of a dock, wharf, pier, bulkhead, bridge, pipeline, cable, or any other similar or dissimilar waterfront development shall be first submitted to the Department of Environmental Protection. No such development or improvement shall be commenced or executed without the approval of the Department of Environmental Protection first had and received, or as hereinafter in this chapter provided.

b. The following are exempt from the provisions of subsection a. of this section:

(1) The repair, replacement or renovation of a permanent dock, wharf, pier, bulkhead or building existing prior to January 1, 1981, provided the repair, replacement or renovation does not increase the size of the structure and the structure is used solely for residential purposes or the docking or servicing of pleasure vessels;

(2) The repair, replacement or renovation of a floating dock, mooring raft or similar temporary or seasonal improvement or structure, provided the improvement or structure does not exceed in length the waterfront frontage of the parcel of real property to which it is attached and is used solely for the docking or servicing of pleasure vessels.

2. This act shall take effect immediately.

Approved December 3, 1981.

CHAPTER 316

AN ACT to amend the "New Jersey Controlled Dangerous Substances Act," approved October 19, 1970 (P. L. 1970, c. 226).

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

1. Section 18 of P. L. 1970, c. 226 (C. 24:21–18) is amended to read as follows:

C. 24:21-18 Drug to be kept in original container.

18. Drug to be kept in original container. An individual to whom or for whose use any controlled dangerous substance has been prescribed, sold or dispensed, by a practitioner and the owner of any animal for which any such substance has been prescribed, sold, or dispensed by a veterinarian, may lawfully possess it only in the container in which it was delivered to him by the person selling or dispensing the same; provided, however, that an individual may possess not more than a 10-day supply of a controlled dangerous substance in other than the original container and if he does so, upon the request of a law enforcement officer, he shall produce the name and address of the practitioner who prescribed, sold or dispensed the substance or the name and address of the pharmacist who sold or dispensed the substance. Any individual who possesses no more than 10-day supply of a controlled dangerous substance in other than the original container without providing the required information upon the request of a law enforcement officer is a disorderly person.

2. This act shall take effect immediately.

Approved December 3, 1981.

CHAPTER 317

AN ACT making void and unenforceable certain hold harmless agreements and supplementing subtitle 6 of Title 2A of the New Jersey Statutes.

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

C. 2A:40A-1 Construction hold harmless agreements void and unenforceable.

1. A covenant, promise, agreement or understanding in, or in connection with or collateral to a contract, agreement or purchase order, relative to the construction, alteration, repair, maintenance, servicing, or security of a building, structure, highway, railroad, appurtenance and appliance, including moving, demolition, excavating, grading, clearing, site preparation or development of real property connected therewith, purporting to indemnify or hold harmless the promisee against liability for damages arising out of bodily injury to persons or damage to property is against public policy and is void and unenforceable; provided that this section shall not affect the validity of any insurance contract workmen's compensation or agreement issued by an authorized insurer.

C. 2A:40A-2 Architects' hold harmless agreements void and unenforceable.

2. A covenant, promise, agreement or understanding in, or in connection with or collateral to a contract, agreement or purchase order, whereby an architect, engineer, surveyor or his agents, servants, or employees shall be indemnified or held harmless for damages, claims, losses or expenses including attorneys' fees arising either out of (1) the preparation or approval by an architect, engineer, surveyor or his agents, servants, employees or invitees, of maps, drawings, opinions, reports, surveys, change orders, designs or specifications, or (2) the giving of or the failure to give directions or instructions by the architect, engineer, surveyor or his agents, servants or employees; provided such giving or failure to give is the cause of the damage, claim, loss or expense, is against public policy and is void and unenforceable.

C. 2A:40A-3 Railroads, State exempt.

3. This act shall not apply to a covenant, promise or agreement made directly with a railroad relative to construction, alteration, repair, maintenance or access upon, under or across the right of way of an operating railroad. This act shall not apply to any contract, agreement, understanding or purchase order to which the State of New Jersey or any of its departments, agencies, or authorities is a party.

C. 2A:40A-4 Effective date.

4. This act shall take effect with respect to covenants, promises. agreements or understandings which are subject hereof made or executed from and after the effective date of this act.

5. This act shall take effect immediately.

Approved December 3, 1981.

CHAPTER 318

AN ACT prohibiting smoking in elevators.

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

C. 26:3D-1 Legislature's findings and declarations.

1. The Legislature finds and declares that the resolution of the conflict between the right of the smoker to smoke and the right of the nonsmoker to breathe clean air involves a determination of when and where, rather than whether, a smoker may legally smoke. It is not the public policy of this State to deny anyone the right to smoke. However, the Legislature finds that in those elevators affected by this act the right of the nonsmoker to breathe clean air should supersede the right of the smoker to smoke. In addition to the deleterious effects upon smokers, tobacco smoke is (1) at least an annoyance and a nuisance to a substantial percentage of the nonsmoking public, and (2) a substantial health hazard to a smaller segment of the nonsmoking public. The purpose of this act, therefore, is to prohibit smoking in passenger elevators in every building other than a single family dwelling.

C. 26:3D-2 "Smoking" defined.

2. For purposes of this act, "smoking" means the burning of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco.

C. 26:3D-3 Smoking prohibited in passenger elevators.

3. Smoking is prohibited in every passenger elevator in every building other than a single family dwelling. On every elevator affected by this act and on the wall adjacent to the entrance to the elevator on each floor, the owner or person in control of the building shall post a sign with letters at least 2 inches in height contrasting in color with the sign stating "Smoking Prohibited: Violators are Subject to Fine."

C. 26:3D-4 Smokers subject to fine; elevator owners subject to fine; disposition of penalties; municipal court jurisdiction; summary proceedings.

4. a. The owner, manager or any other person having control of the building or any agent thereof, or a police officer or other public servant engaged in executing or enforcing this act may order any person smoking in violation of this act to comply with the provisions of this act. Thereupon any such person who smokes in an

elevator in violation of this act is subject to a fine not to exceed $100.00.

b. The State Department of Health or the local board of health or such board, body or officers exercising the functions of the local board of health according to law, upon written complaint and having reason to suspect that the elevator in any building is or may be in violation of the provisions of this act shall, by written notification, advise the owner, manager or other person having control of the building accordingly and order appropriate action to be taken. Thereupon, any person receiving such notice who knowingly fails or refuses to comply with the order is subject to a fine not to exceed $25.00 for the first offense and not to exceed $100.00 for the second offense and not to exceed $200.00 for each offense thereafter. In addition to the penalty provided herein, the court may order immediate compliance with the provisions of this act.

c. Any penalty recovered under the provisions of this act shall be recovered by and in the name of the Commissioner of Health of the State of New Jersey or by and in the name of the local board of health. When the plaintiff is the Commissioner of Health, 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.

d. Every municipal court shall have jurisdiction over proceedings to enforce and collect any penalty imposed because of a violation of any provision 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 (N. J. S. 2A:58–1 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 of the State of New Jersey, or the local board of health, as the case may be, as plaintiff.

C. 26:3D-5 Only Health commissioner or local boards may bring action.

5. No owner, manager or other person having control of the building or any agent thereof shall be subject to any action in any court by any party other than by the Commissioner of Health of the State of New Jersey or the local board of health for failure to meet the provisions of this act.

C. 26:3D-6 Joint committee to monitor implementation of act.

6. The Judiciary, Law, Public Safety and Defense Committee of the General Assembly, and the Law, Public Safety and Defense

Committee of the Senate, or their respective successors, are constituted a joint committee for the purposes of monitoring and evaluating the effectiveness of the implementation of this act. The Commissioner of Health of the State of New Jersey shall, 2 years from the effective date of this act, report to the joint committee, an evaluation of the effectiveness of this act and the committee shall, upon receiving such report, issue as it may deem necessary and proper, recommendations for administrative or legislative changes affecting the implementation of this act.

7. This act shall take effect 180 days after enactment.

Approved December 3, 1981.

CHAPTER 319

AN ACT controlling smoking in health care facilities and in the waiting rooms of offices of persons licensed to practice the healing arts.

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

C. 26:3D-7 Legislature's findings and declarations.

1. The Legislature finds and declares that the resolution of the conflict between the right of the smoker to smoke and the right of the nonsmoker to breathe clean air involves a determination of when and where, rather than whether, a smoker may legally smoke. It is not the public policy of this State to deny anyone the right to smoke. However, the Legislature finds that in those health care facilities and in the waiting rooms of offices of persons licensed to practice the healing arts affected by this act the right of the nonsmoker to breathe clean air should supersede the right of the smoker to smoke. In addition to the deleterious effects upon smokers, tobacco smoke is (1) at least an annoyance and a nuisance to a substantial percentage of the nonsmoking public, and (2) a substantial health hazard to a smaller segment of the nonsmoking public. The purpose of this act, therefore, is to control smoking in health care facilities, except in designated areas, and in the waiting rooms of offices of persons licensed to practice the healing arts.

C. 26:3D-8 Definitions.

2. As used in this act:

a. "Health care facility" means those facilities or institutions described in section 2 of P. L. 1971, c. 136 (C. 26:2H-2).

b. "Persons licensed to practice the healing arts" means those persons licensed to practice medicine and surgery pursuant to R. S. 45:9-1 et seq., except any person specializing in psychotherapy, dentistry pursuant to R. S. 45:6-1 et seq., or chiropractic pursuant to article 3 of Title 45 of the Revised Statutes (C. 45:9-41.1 et seq.).

c. "Smoking" means the burning of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco.

C. 26:3D-9 Smoking prohibited in health care facilities; exceptions; waiting rooms; rules and regulations.

3. a. Smoking is prohibited in all health care facilities, except it may be permitted in the following areas unless otherwise prohibited by municipal ordinance under authority of R. S. 40:48-1 and 40:48-2 or by any other statute or regulation adopted pursuant to this act or any other law for purposes of protecting life and property from fire:

(1) private rooms or rooms where all patients consent upon admission to permit smoking;

(2) at least one waiting room or lobby if there is more than one waiting room or lobby in a health care facility. Smoking may be permitted in a waiting room or lobby if it is the only waiting room or lobby in a facility, as long as an adequate section, as determined by the person who has control of the health care facility, is provided therein for nonsmokers;

(3) a cafeteria or other dining area with an occupied capacity of 50 or more persons, provided that an adequate section, as determined by the person who has control of the health care facility, is provided therein for nonsmokers; and

(4) totally enclosed offices used only by employees unless otherwise prohibited by the health care facility.

b. Smoking is prohibited in the waiting rooms of the offices of all persons licensed to practice the healing arts; if there is more than one waiting room in an office, at least one may be designated a smoking area unless otherwise prohibited by municipal ordinance under authority of R. S. 40:48-1 and 40:48-2.

c. The commissioner of the Department of Health is authorized to adopt rules and regulations in accordance with the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), regu-

lating the smoking and carrying of lighted tobacco in health care facilities.

C. 26:3D-10 Guidelines; other laws superseded.

4. a. The State or any agency or political subdivision thereof may suggest guidelines for establishing nonsmoking areas in health care facilities and the offices of persons licensed to practice the healing arts which may be adopted by the persons who have control thereof but in no case shall they be mandatory.

b. The provisions of this act shall supersede any other statute, municipal ordinance, and rule or regulation adopted pursuant to law concerning smoking in health care facilities or the offices of persons licensed to practice the healing arts except where smoking is prohibited by municipal ordinance under authority of R. S. 40:48–1 and 40:48–2 or by any other statute or regulation adopted pursuant to law for purposes of protecting life and property from fire.

C. 26:3D-11 Posting of signs.

5. a. A sign indicating that smoking is prohibited in the health care facility except in designated areas shall be posted by any person or his agent who has control of the facility at each public entrance to the facility. Each permitted smoking area shall be posted as such by a sign, except in private rooms and rooms where all patients consent to permit smoking. Except for the entrance signs, the signs required by this subsection shall consist of letters at least 2 inches in height, contrasting in color with the sign and shall state either "Smoking Permitted" or "Smoking Prohibited: Violators Subject to Fine." Every sign shall be located so as to be clearly visible to the public.

b. A sign indicating that smoking is prohibited or permitted in the waiting room of an office of any person licensed to practice the healing arts shall be posted by the person who has control of the office at each public entrance to the office. The signs required by this subsection shall consist of letters at least 2 inches in height contrasting in color with the sign and shall state either "Smoking Permitted" or "Smoking Prohibited: Violators Subject to Fine." Every sign shall be located so as to be clearly visible to the public.

C. 26:3D-12 Smokers subject to fine; owners subject to fine; disposition of penalties; municipal court jurisdiction; summary proceedings.

6. a. The owner, manager, proprietor or any other person having control of the health care facility or waiting room of an office of a person licensed to practice the healing arts or any agent thereof may order any person smoking in violation of this act to comply with the provisions of this act. Thereupon any such person who

smokes in such facility or room in violation of this act is subject to a fine not to exceed $100.00.

b. The State Department of Health or the local board of health or such board, body or officers exercising the functions of the local board of health according to law, upon written complaint and having reason to suspect that any health care facility or the waiting room of an office of a person licensed to practice the healing arts is or may be in violation of the provisions of this act shall, by written notification, advise the owner, administrator or other person having control of such facility or office accordingly and order appropriate action to be taken. Thereupon any person receiving such notice who knowingly fails or refuses to comply with the order is subject to a fine not to exceed $25.00 for the first offense and not to exceed $100.00 for the second offense and not to exceed $200.00 for each offense thereafter. In addition to the penalty provided herein, the court may order immediate compliance with the provisions of this act.

c. Any penalty recovered under the provisions of this act shall be recovered by and in the name of the Commissioner of Health of the State of New Jersey or by and in the name of the local board of health. When the plaintiff is the Commissioner of Health, 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.

d. Every municipal court shall have jurisdiction over proceedings to enforce and collect any penalty imposed because of a violation of any provision 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 (N. J. S. 2A:58–1 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 of the State of New Jersey, or the local board of health, as the case may be, as plaintiff.

C. 26:3D-13 Only Health commissioner or local boards may bring action.

7. No owner, manager, proprietor or other person or agent thereof having control of the health care facility or waiting room of an office of a person licensed to practice the healing arts shall be subject to any action in any court by any party other than by the Commissioner of Health of the State of New Jersey or the local board of health for failure to meet the provisions of this act.

C. 26:3D-14 Joint committee to monitor implementation of act.

8. The Judiciary, Law, Public Safety and Defense Committee of the General Assembly, and the Law, Public Safety and Defense Committee of the Senate, or their respective successors, are constituted a joint committee for the purposes of monitoring and evaluating the effectiveness of the implementation of this act. The Commissioner of Health of the State of New Jersey shall, 2 years from the effective date of this act, report to the joint committee, an evaluation of the effectiveness of this act and the committee shall, upon receiving such report, issue as it may deem necessary and proper, recommendations for administrative or legislative changes affecting the implementation of this act.

9. This act shall take effect 180 days after enactment.

Approved December 3, 1981.

CHAPTER 320

AN ACT controlling smoking in institutions providing education or training.

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

C. 26:3D-15 Legislature's findings and declarations.

1. The Legislature finds and declares that the resolution of the conflict between the right of the smoker to smoke and the right of the nonsmoker to breathe clean air involves a determination of when and where, rather than whether, a smoker may legally smoke. It is not the public policy of this State to deny anyone the right to smoke. However, the Legislature finds that in those institutions providing education or training affected by this act the right of the nonsmoker to breathe clean air should supersede the right of the smoker to smoke. In addition to the deleterious effects upon smokers, tobacco smoke is (1) at least an annoyance and a nuisance to a substantial percentage of the nonsmoking public, and (2) a substantial health hazard to a smaller segment of the nonsmoking public. The purpose of this act, therefore, is to control smoking on the premises of schools, colleges, universities and professional training schools, except in designated areas.

C. 26:3D-16 "Smoking" defined.

2. For purposes of this act, "smoking" means the burning of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco.

C. 26:3D-17 Smoking prohibited in educational institutions, except in designated areas.

3. The appropriate governing body, board or individual responsible for or who has control of the administration of a school, college, university, or professional training school, either public or private, shall make and enforce suitable regulations prohibiting the smoking of tobacco on their premises, except in designated areas wherein smoking is not prohibited by municipal ordinance under authority of R. S. 40:48–1 and 40:48–2 or by any other statute or regulation adopted pursuant to law for purposes of protecting life and property from fire. Smoking in classrooms, lecture halls and auditoriums shall be prohibited except as part of a classroom instruction or a theatrical production.

C. 26:3D-18 Posting of signs.

4. Every entrance to a school, college, university or professional training school building shall be posted by the person who has control of the building with a sign stating "Smoking Prohibited Except in Designated Areas: Violators Subject to Fine." Areas where smoking is permitted shall be so designated with a sign stating "Smoking Permitted." Every sign shall contain lettering not less than 2 inches in height contrasting in color with the sign. Every sign shall be located so as to be clearly visible to the public.

C. 26:3D-19 Guidelines; other laws superseded.

5. a. The State or any agency or political subdivision thereof may suggest guidelines for rules governing smoking on the premises of a school, college, university or professional training school which may be adopted by the persons who have control of the premises but in no case shall they be mandatory.

b. The provisions of this act shall supersede any other statute, municipal ordinance, and rule or regulation adopted pursuant to law concerning smoking on the premises of schools, colleges, universities and professional training schools except where smoking is prohibited by municipal ordinance under authority of R. S. 40:48–1 and 40:48–2 or by any other statute or regulation adopted pursuant to law for purposes of protecting life and property from fire.

C. 26:3D-20 Smokers subject to fine; school administrators subject to fine; disposition of penalties; municipal court jurisdiction; summary proceedings.

6. a. The person responsible for administration of the school, college, university, or professional training school or any other person having control of such premises or any agent thereof or a police officer or other public servant engaged in executing or enforcing this act may order any person smoking in violation of this act to comply with the provisions of this act. Thereupon any such person who smokes on such premises in violation of this act is subject to a fine not to exceed $100.00.

b. The State Department of Health or the local board of health or such board, body or officers exercising the functions of the local board of health according to law, upon written complaint and having reason to suspect that any school, college, university or professional training school is or may be in violation of the provisions of this act shall, by written notification, advise the person responsible for the administration of the school, college, university or professional training school or other person having control of the premises accordingly and order appropriate action to be taken. Thereupon, any person receiving such notice who knowingly fails or refuses to comply with the order is subject to a fine not to exceed $25.00 for the first offense and not to exceed $100.00 for the second offense and not to exceed $200.00 for each offense thereafter. In addition to the penalty provided herein, the court may order immediate compliance with the provisions of this act.

c. Any penalty recovered under the provisions of this act shall be recovered by and in the name of the Commissioner of Health of the State of New Jersey or by and in the name of the local board of health. When the plaintiff is the Commissioner of Health, 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.

d. Every municipal court shall have jurisdiction over proceedings to enforce and collect any penalty imposed because of a violation of any provision 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 (N. J. S. 2A:58–1 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 of the State of New Jersey, or the local board of health, as the case may be, as plaintiff.

C. 26:3D-21 Only Health commissioner or local boards may bring action.

7. No person responsible for the administration of the school, college, university or professional training school or other person having control of such premises or any agent thereof shall be subject to any action in any court by any party other than by the Commissioner of Health of the State of New Jersey or the local board of health for failure to meet the provisions of this act.

C. 26:3D-22 Joint committee to monitor implementation of act.

8. The Judiciary, Law, Public Safety and Defense Committee of the General Assembly, and the Law, Public Safety and Defense Committee of the Senate, or their respective successors, are constituted a joint committee for the purposes of monitoring and evaluating the effectiveness of the implementation of this act. The Commissioner of Health of the State of New Jersey shall, 2 years from the effective date of this act, report to the joint committee, an evaluation of the effectiveness of this act and the committee shall, upon receiving such report, issue as it may deem necessary and proper, recommendations for administrative or legislative changes affecting the implementation of this act.

9. This act shall take effect 180 days after enacement.

Approved December 3, 1981.

CHAPTER 321

AN ACT concerning certain fees charged by the Department of Banking and revising parts of the statutory law.

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

1. Section 7 of P. L. 1960, c. 40 (C. 17:16C–7) is amended to read as follows:

C. 17:16C-7 Sales finance company license fee.

7. Every sales finance company shall pay to the commissioner at the time of making the application and biennially thereafter upon renewal a license fee for its principal place of business and for each additional place of business conducted in this State. The commissioner shall charge for a license such fee as he shall prescribe by rule or regulation. Each fee shall not exceed $1,000.00.

The license shall run from the date of issuance to the end of the biennial period. When the initial license is issued in the second year of the biennial licensing period, the license fee shall be an amount equal to one-half of the fee for the biennial licensing period.

2. Section 8 of P. L. 1960, c. 40 (C. 17:16C–8) is amended to read as follows:

C. 17:16C-8 Motor vehicle installment seller license fee.

8. Every motor vehicle installment seller shall pay to the commissioner at the time of making the application and biennially thereafter upon renewal a license fee for its principal office and for each additional place of business conducted in this State. The commissioner shall charge for a license such fee as he shall prescribe by rule or regulation. Each fee shall not exceed $300.00. The license shall run from the date of issuance to the end of the biennial period. When the initial license is issued in the second year of the biennial licensing period, the fee shall be an amount equal to one-half of the license fee for the biennial licensing period.

3. Section 21 of P. L. 1960, c. 41 (C. 17:16C–82) is amended to read as follows:

C. 17:16C-82 Home financing agency; home repair contractor, salesman license fees.

21. (a) Every home financing agency shall pay to the commissioner at the time of making the application and biennially thereafter upon renewal a license fee for its principal place of business and for each additional place of business conducted in this State. The commissioner shall charge for a license such fee as he shall prescribe by rule or regulation. Each fee shall not exceed $600.00. The license shall run from the date of issuance to the end of the biennial period. When the initial license is issued in the second year of the biennial licensing period, the license fee shall be an amount equal to one-half of the fee for the biennial licensing period.

(b) Every home repair contractor shall pay to the commissioner at the time of making the application and biennially thereafter upon renewal a license fee for its principal place of business and for each additional place of business conducted in this State. The commissioner shall charge for a license such fee as he shall prescribe by rule or regulation. Each fee shall not exceed $300.00. The license shall run from the date of issuance to the end of the biennial period. When the initial license is issued in second year of the biennial licensing period, the license fee shall be an amount equal to one-half of the fee for the biennial licensing period.

(c) Every home repair salesman shall pay to the commission at the time of making the application and biennially thereafter upon renewal a license fee. The commissioner shall charge for a license such fee as he shall prescribe by rule or regulation, not to exceed $60.00. The license shall run from the date of issuance to the end of the biennial period. When the initial license is issued in the second year of the biennial licensing period, the license fee shall be an amount equal to one-half of the fee for the biennial licensing period.

4. Section 4 of P. L. 1968, c. 221 (C. 17:16D–4) is amended to read as follows:

C. 17:16D-4 Licenses.

4. Licenses. No person shall engage in the business of financing insurance premiums in this State without first having obtained a license as a premium finance company from the Commissioner of Banking, except that any State or national bank authorized to do business in this State shall be authorized to transact business as a premium finance company, subject to all of the provisions of this act, except that it shall not be required to obtain a license or pay a license fee hereunder. Any person who shall engage in the business of financing insurance premiums in this State without a valid license as provided hereunder shall, upon conviction as provided in R. S. 17:33–2, be subject to a fine of not more than $300.00. The commissioner shall charge for a license such fee as he shall prescribe by rule or regulation, not to exceed $1,000.00. The license shall run from the date of issuance to the end of the biennial period. When the initial license is issued in the second year of the biennial licensing period, the license fee shall be an amount equal to one-half of the fee for the biennial licensing period.

Licenses may be renewed from year to year as of January 1 of each year upon payment of the fee established by the commissioner. The fee for said license shall be paid to the commissioner for the use of the State. No portion of the license fee shall be refunded if the license is surrendered by the licensee or suspended or revoked by the commissioner.

Before any licensee changes his address he shall return his license to the commissioner who shall indorse the license indicating the change.

The person to whom the license or the renewal thereof may be issued shall file sworn answers, subject to the penalties of perjury,

to such interrogatories as the commissioner may require. The commissioner shall have authority, at any time, to require the applicant fully to disclose the identity of all stockholders, partners, officers and employees, and he may, in his discretion, refuse to issue or renew a license in the name of any firm, partnership, or corporation if he is not satisfied that any officer, employee, stockholder, or partner thereof who may materially influence the applicant's conduct meets the standards of this act.

5. Section 4 of P. L. 1951, c. 187 (C. 17:15A–4) is amended to read as follows:

C. 17:15A-4 Investigation fee; additional sum for each principal place of business.

4. Such applicant at the time of making such application shall pay to the commissioner the sum of $100.00 as a fee for investigating the application and additional sum as shall be prescribed by rule or regulation of the commissioner, not to exceed $1,000.00 for each principal place of business or station.

The license shall run from the date of issuance to the end of the biennial period. When the initial license is issued in the second year of the biennial licensing period, the licensee fee shall be an amount equal to one-half of the fee for the biennial licensing period.

Any licensee requesting a change of address, shall at the time of making such request, pay to the commissioner the sum of $50.00 as a fee for investigating the new address; provided, however, that the Commissioner, may, in his discretion, waive such investigation fee if warranted.

6. Section 5 of P. L. 1970, c. 205 (C. 17:11A–38) is amended to read as follows:

C. 17:11A-38 License fee for principal place of business and each branch office.

5. An applicant shall pay to the commissioner at the time the application is filed, and biennially thereafter upon renewal, a license fee for his principal place of business and for each branch office in this State. The commissioner shall charge for a license such fee as he shall prescribe by rule or regulation. Each fee shall not exceed $1,000.00. The license shall run from the date of issuance to the end of the biennial period. When the initial license is issued in the second year of the biennial licensing period, the license fee shall be an amount equal to one-half of the licensing fee for the biennial licensing period.

7. R. S. 17:10–3 is amended to read as follows:

Application for license; fees; commissioner agent for service of process; net worth and liquid asset requirements.

17:10–3. Application for the license shall be in writing, under oath or affirmation, and in the form prescribed by the commissioner. It shall state the name and address both of the residence and place of business of the applicant, and if the applicant is a copartnership or association, of every member thereof, and if a corporation, of each officer and director thereof. It shall also state the county and municipality with street and number if any, where the business is to be conducted and any other information the commissioner requires. The applicant, at the time of making the application, shall pay to the commissioner the sum of $150.00 as a fee for investigating the application and an additional sum as shall be prescribed by rule or regulation of the commissioner, not to exceed $1,000.00, as a biennial license fee. The license shall run from the date of issuance to the end of the biennial period. When the initial license is issued in the second year of the biennial licensing period, the license fee shall be an amount equal to one-half of the licensing fee for the biennial licensing period.

In addition to the biennial license fee every licensee hereunder will pay to the commissioner the actual cost of each examination of his business as provided for in R. S. 17:10–11.

Every applicant shall, in writing, and in due form to be prescribed by the commissioner, file with the application a duly executed instrument constituting the commissioner and his successors in office the true and lawful agent and attorney of the applicant in this State, upon whom all original process in any action or legal proceeding, caused by the operation of a small loan business under this chapter, against the applicant or licensee may be served, except the notices prescribed in R. S. 17:10–7 and R. S. 17:10–10. The applicant shall agree therein that any original process or legal proceeding, except as above stated, against the applicant or licensee shall be of the same force and effect as if served on the applicant or licensee personally. The commissioner shall keep a record of such process, showing the date and hour of service.

Every applicant shall also prove in form satisfactory to the commissioner, that said applicant has a net worth of at least $25,000.00, and has available for the purpose of making loans under this chapter, at the location specified in the application, liquid assets of at least $25,000.00.

8. R. S. 17:10–9 is amended to read as follows:

Biennial license fee.

17:10–9. Every licensee shall, on or before December 10 of every other year, pay to the commissioner a biennial license fee for the next two calendar years. The commissioner shall charge for a license such fee as he shall prescribe by rule or regulation, not to exceed $1,000.00. The license shall run from the date of issuance to the end of the biennial period. When the initial license is issued in the second year of the biennial licensing period, the license fee shall be an amount equal to one-half of the fee for the biennial licensing period.

9. Section 334 of P. L. 1948, c. 67 (C. 17:9A–334) is amended to read as follows:

C. 17:9A-334 Fees payable by foreign banks.

334. Fees payable by foreign banks. A foreign bank shall pay the following fees to the commissioner for the use of the State:

(1) for filing a copy of its certificate of incorporation or amendment thereof or other change therein ..	$ 25.00
(2) for filing a statement of its financial condition	25.00
(3) for filing a power of attorney	10.00
(4) for each substitution of securities pursuant to subsection B of section 320	25.00

The commissioner shall charge for the issuance of a certificate of authority or a certificate of renewal of a certificate of authority such fee as he shall prescribe by rule or regulation, not to exceed $1,500.00. The certificate shall run from the date of issuance to the end of the biennial period. When the initial certificate is issued in the second year of the biennial certification period, the certificate fee shall be an amount equal to one-half of the fee for the biennial certification period.

10. R. S. 45:22–4 is amended to read as follows:

License to do business in State upon payment of fee and filing of bond.

45:22–4. Upon application to the Commissioner of Banking, such official may in his discretion issue to the applicant upon payment of the license fee and the filing of a bond as hereinafter provided, a license to do business in this State. The license shall not be assignable and shall be renewed biennially. The commissioner shall charge for a license such fee as he shall prescribe by rule or regulation, not to exceed $800.00. The license shall run from the date of issuance to the end of the biennial period.

When the initial license is issued in the second year of the biennial licensing period, the license fee shall be an amount equal to one-half of the fee for the biennial licensing period. The Commissioner of Banking may require proof to his satisfaction of the financial ability of the applicant to carry on such business.

11. R. S. 17:15–1 is amended to read as follows:

Certificate of authority to transmit money to foreign countries.

17:15–1. Hereafter no person other than an individual or private banker authorized by the commissioner to transact business in this State, and no corporation other than a bank, a trust company or an express company or telegraph company, or a passenger steamship company receiving moneys for transmission through its regularly authorized agencies, shall engage in the business of transmitting money to foreign countries, or of receiving money on deposit to be transmitted to foreign countries, without a certificate of authority to transact such business granted by the commissioner. Such certificate of authority shall be renewed biennially as of January 1 of every other year, and the person or corporation receiving it shall pay to the commissioner a fee for its principal place of business and for each additional place of business conducted in this State. The commissioner shall charge for the issuance of a certificate of authority or certificate of renewal of a certificate of authority such fee as he shall prescribe by rule or regulation. Each fee shall not exceed $1,000.00. The certificate shall run from the date of issuance to the end of the biennial period. When the initial certificate is issued in the second year of the biennial certification period, the certificate fee shall be an amount equal to one-half of the license fee for the biennial certification period.

Nothing in this chapter shall be construed to authorize any person or corporation to whom such certificate is issued to receive money on deposit on any other terms than that it be forwarded to a foreign country forthwith, or not later than 5 days from its receipt. No certificate of authority to transact such business shall be issued to any person who is not a citizen of the United States.

12. Section 6 of P. L. 1964, c. 273 (C. 17:15B–7) is amended to read as follows:

C. 17:15B-7 License fee; bond; securities.

6. License fee; bond; securities. Within 30 days after the conditional approval by the commission of an application for an

original license and advice thereof to the applicant, as provided in section 5, or within such longer period as the commissioner may authorize, the applicant shall, as a condition for the issuance of the license, (a) pay to the commissioner a biennial license fee. The commissioner shall charge for a license such fee as he shall prescribe by rule or regulation, not to exceed $1,200.00. The license shall run from the date of issuance to the end of the biennial period. When the initial license is issued in the second year of the biennial licensing period, the license fee shall be an amount equal to one-half the fee for the biennial licensing period, and (b) file with the commissioner a corporate surety bond in the principal sum of $100,000.00. The bond shall be in form satisfactory to the commissioner and shall be issued by a surety company authorized by the laws of this State to transact business in this State. The bond shall run to the State and shall be conditioned that the licensee will pay any and all moneys that may become due and owing any claimant with respect to the sale or issuance of checks in this State. The aggregate liability of the surety on the bond shall, in no event, exceed the amount of such bond. The surety on the bond shall have the right to cancel such bond upon giving 30 days' written notice to the commissioner and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of said cancellation.

In lieu of such corporate surety bond the applicant may keep on deposit with any banking institution or insured savings and loan institution in this State as such applicant may designate and the commissioner may approve, securities, interest-bearing stocks and bonds, notes, debentures, or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States, or of this State, or of a county, city, township, borough, or any other instrumentality of this State, or guaranteed by this State, or dollar deposits, to an aggregate amount, based upon principal amount in the case of the above described securities, of not less than the amount of such corporate surety bond. Such securities or funds shall be deposited to secure the same obligation as would a corporate surety bond filed under this section. So long as licensee shall continue solvent, such licensee shall be permitted to collect the dividends or interest on the securities or funds so deposited and from time to time to exchange or examine the same.

13. This act shall take effect 60 days following its enactment.

Approved December 3, 1981.

CHAPTER 322

AN ACT to amend "An act concerning motor vehicle drivers' licenses, amending R. S. 39:3–10 and supplementing chapter 3 of Title 39 of the Revised Statutes," approved January 2, 1980 (P. L. 1979, c. 261), amending R. S. 39:3–10 and repealing section 4 thereof.

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

1. Section 1 of P. L. 1979, c. 261 (C. 39:3–10f) is amended to read as follows:

C. 39:3-10f Color photograph drivers' licenses.

1. In addition to the requirements for the form and content of a motor vehicle driver's license under R. S. 39:3–10, each initial New Jersey license issued to a person under the age of 21 after the effective date of this act shall have a color photograph of the licensee. Each initial motor vehicle license issued to a person 21 years of age or older on or after May 1, 1982, shall have a color photograph of the licensee. Every renewal of a motor vehicle license, execept as provided in this amendatory and supplementary act, issued to a person on or after January 2, 1984 shall have a color photograph of the licensee. To facilitate transition to color photograph driver licenses the director shall arrange and notify the holders of approximately ½ of the driver licenses expiring in 1982 and 1983 that a color photograph is required for renewal of their licenses. Any initial motor vehicle license issued prior to May 1, 1982 to a person under the age of 21 shall be valid for a period of 36 calendar months. All other licenses bearing a color photograph of the licensee as provided in this act shall be valid for a period of 48 calendar months.

To replace a photo-license for a licensee who is temporarily out of this State, the director may issue a "valid without photo" photo-license for the unexpired term of the license.

2. R. S. 39:3–10 is amended to read as follows:

Motor vehicle license requirements; classifications; fees.

39:3–10. No person shall drive a motor vehicle on a public highway in this State unless licensed to do so in accordance with this article. No person under 17 years of age shall be licensed to drive

motor vehicles, nor shall a person be licensed until he has passed a satisfactory examination as to his ability as an operator. The examination shall include a test of the applicant's vision, his ability to understand traffic control devices, his knowledge of safe driving practices, his knowledge of such portions of the mechanism of motor vehicles as is necessary to insure the safe operation of a vehicle of the kind or kinds indicated by the applicant and of the laws and ordinary usages of the road and a demonstration of his ability to operate a vehicle of the class designated.

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

a. Motorcycles;

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

c. Articulated vehicles means a combination of a commercial motor vehicle registered at a gross weight in excess of 18,000 pounds and one or more motor-drawn vehicles joined together by means of a coupling device;

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

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

A driver's license for motorcycles may be issued separately, but if issued to the holder of a basic driver's license, it shall be by endorsement on the basic driver's license.

The director, upon payment of the lawful fee and after he or an inspector of his has examined the applicant and is satisfied of the applicant's ability as an operator, may, in his discretion, license the applicant to drive a motor vehicle. The license shall authorize him to drive any registered vehicle, of the kind or kinds indicated, and shall expire, except as otherwise provided, on the last day of the forty-eighth calendar month following the calendar month in which such license was issued.

The director may issue a renewal of a basic driver's license which does not bear a photograph, and which shall expire on the last day of the twenty-fourth calendar month following the calendar month in which such license was issued, to any person 60 years of age or older who makes application for such a license.

The director may, at his discretion and for good cause shown, issue licenses which shall expire on a date fixed by him. The fee for such licenses shall be fixed by the director in amounts proportionately less or greater than the fee herein established.

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

Motorcycle license or endorsement	$8.00
Omnibus or school bus endorsement	$16.00
Articulated vehicle endorsement	$8.00
Basic driver's license	$16.00

The required fee for a basic driver's license for the 24 month period shall be $8.00.

The required fee for a license for the 36 month period shall be as follows:

Motorcycle license or endorsement	$6.00
Omnibus or school bus endorsement	$12.00
Articulated vehicle endorsement	$6.00
Basic driver's license	$12.00

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

The driver's license shall have the legal name of the licensee endorsed thereon in his own handwriting. For purposes of this section, legal name shall mean the name recorded on a birth certificate unless otherwise changed by marriage, divorce or order of court. The director may require that only the legal name be recorded on the driver's license. A licensee whose name is changed due to marriage, divorce, or by judgment of the court, shall notify the director of the change in name within 2 weeks after the change is made. A person who violates this provision shall be subject to a penalty of not more than $10.00.

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

All applications for renewals of licenses shall be made on forms prescribed by the director and in accordance with procedures established by him.

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

A person violating this section shall be subject to a fine not exceeding $500.00 or imprisonment in the county jail for not more than 60 days.

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

Repealer.

3. Section 4 of P. L. 1979, c. 261 (C. 39:3–10i) is repealed.

4. This act shall take effect immediately.

Approved December 9, 1981.

CHAPTER 323

AN ACT making it unlawful to refuse to rent to persons with children under certain circumstances and to refuse to rent to a person because of objections to the person's source of income and providing civil penalties therefor and repealing N. J. S. 2A:170–92.

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

C. 2A:42-100 Unlawful to refuse to rent because of source of income.

1. No person, firm or corporation or any agent, officer or employee thereof shall refuse to rent or lease any house or apartment to another person because of the source of any lawful income received by the person or the source of any lawful rent payment to be paid for the house or apartment. This section shall not apply to any

owner-occupied house containing not more than two dwelling units. Nothing contained in this section shall limit the ability of a person, firm or corporation or any agent, officer or employee thereof to refuse to rent or lease any house or apartment because of the credit worthiness of the person or persons seeking to rent a house or apartment.

C. 2A:42-101 Unlawful to refuse to rent to families including children; exemption for senior citizen projects.

2. No person, firm or corporation or any agent, officer or employee thereof shall refuse to rent or lease any house or apartment to another person because his family includes children under 14 years of age or shall make an agreement, rental or lease of any house or apartment which provides that the agreement, rental or lease shall be rendered null and void upon the birth of a child. This section shall not apply to any State or Federally financed or assisted housing project constructed for occupancy by senior citizens or to any property located in a retirement subdivision as defined in the "Retirement Community Full Disclosure Act" (P. L. 1969, c. 215; C. 45:22A–1 et seq.) or to any owner-occupied house containing not more than two dwelling units.

C. 2A:42-102 Penalties; summary proceedings.

3. Any person, firm or corporation or any agent, officer or employee thereof who shall violate any provision of this act shall be subject to a civil penalty of not more than $200.00 for the first offense and not more than $500.00 for each subsequent offense. Any such penalty shall be enforced and collected in accordance with "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.) by summary proceedings or in a summary manner. Any action to collect or enforce any such penalty shall be brought in the Superior Court, county district court or municipal court by the Attorney General, a municipal or county prosecutor, or the injured party.

Repealer.

4. N. J. S. 2A:170–92 is repealed.

5. This act shall take effect immediately.

Approved December 9, 1981.

CHAPTER 324

AN ACT concerning collateral for retail installment loans and amending and supplementing P. L. 1960, c. 40.

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

1. Section 29 of P. L. 1960, c. 40 (C. 17:16C–29) is amended to read as follows:

C. 17:16C-29 Allocation of payments on continuing retail agreements.

29. Whenever a payment is made on such a continuing agreement after additional purchases have been added, the payment shall be considered as allocated among each of the separate purchases included, in full to the purchase made earliest in time, and the retail seller before repossessing or attempting to repossess any goods under any such agreement shall actually allocate in such manner all such payments made to him by the retail buyer. When the amount owing on any separate purchase has been fully paid, the goods so paid for shall become the absolute property of the retail buyer and shall not be subject to repossession for any subsequent default on the agreement. The retail buyer under any such agreement may at any time prepay the amount due on any of the separate purchases and in case of repossession may redeem any of such separate purchases by payment of the amount due on such purchase alone.

C. 17:16C-39.1 Real property mortgage as additional security for retail sale void and unenforceable.

2. (New section) No retail installment contract, retail charge account or separate instrument executed in connection therewith shall contain any provision whereby the retail seller, sales finance company or holder takes a real property mortgage as additional security in connection with a retail sale. Any such provision shall be void and unenforceable.

3. This act shall take effective immediately.

Approved December 9, 1981.

CHAPTER 325

AN ACT concerning medical and dental education, establishing the University of Medicine and Dentistry of New Jersey and revising parts of the statutory law.

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

1. Section 2 of P. L. 1970, c. 102 (C. 18A:64G–2) is amended to read as follows:

C. 18A:64G-2 University of Medicine and Dentistry of New Jersey established.

2. The Legislature and Governor of the State of New Jersey hereby find that the establishment and operation of a program of medical and dental education is in the best interest of the State to provide greater numbers of trained medical personnel to assist in the staffing of the hospitals and public institutions and agencies of the State and to prepare greater numbers of students for the general practice of medicine and dentistry, and find, declare and affirm, as a matter of public policy of the State, that it is the responsibility of the State to provide funds necessary to establish and operate such programs of education, in the most economical and efficient manner, and that, in furtherance of such policy, the school of medicine heretofore established by Rutgers, The State University, (hereinafter called the "Rutgers Medical School") and the New Jersey College of Medicine and Dentistry shall be combined into a single entity to be known as the University of Medicine and Dentistry of New Jersey.

2. Section 3 of P. L. 1970, c. 102 (C. 18A:64G–3) is amended to read as follows:

C. 18A:64G-3 Body corporate and politic in Department of Higher Education.

3. There is hereby established in the Department of Higher Education a body corporate and politic to be known as the "University of Medicine and Dentistry of New Jersey." The exercise by the university of the powers conferred by this act in the presentation and operation of a progam of medical and dental education shall be deemed to be public and essential governmental functions necessary for the welfare of the State and the people of New Jersey.

C. 18A:64G-3.1 Self-government.

3. (New section) It is declared to be the public policy of the State that the university shall be given a high degree of self-

government and that the government and conduct of the university shall be free of partisanship.

C. 18A:64G-3.2 No undergraduate degrees or expansion of graduate program.

4. (New section) It is declared to be the public policy of the State that the use of the title university by the College of Medicine and Dentistry of New Jersey does not imply a future change in its institutional mission to permit the granting of undergraduate degrees or the expansion of its graduate degree programs beyond the biomedical science fields now authorized.

5. 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; meetings; chairman and other officers; 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 Chancellor of the Department of Higher Education and the Commissioner of Health, who shall serve ex officio, without vote, and 11 voting members, each of whom shall be appointed by the Governor, with the advice and consent of the Senate, for a term of 3 years and shall serve until his successor is appointed and has qualified. 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.

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 man-

agement and operation of the university, consistent with this act and other applicable statutes.

C. 18A:64G-4.1 Board of college continued as board of university.

6. (New section) The board of trustees of the College of Medicine and Dentistry of New Jersey is continued as the board of trustees of the university and shall have and exercise the powers, authority, rights and privileges and shall be subject to the duties, obligations, and responsibilities set forth in this act.

7. Section 6 of P. L. 1970, c. 102 (C. 18A:64G–6) is amended to read as follows:

C. 18A:64G-6 Powers and duties.

6. The board of trustees of the university, within the general policies and guidelines set by the Board of Higher Education, shall have the general supervision over and be vested with the conduct of the university, including its health care facilities regardless of the source of funding. It shall have the power and duty to:

(a) Adopt and use a corporate seal;

(b) Determine the educational curriculum and program of the university;

(c) Determine policies for the organization, administration, and development of the university;

(d) Study the educational and financial needs of the university, annually acquaint the Governor and the Legislature with the condition of the university, and prepare and submit an annual request for appropriation to the State Board of Higher Education in accordance with law;

(e) Disburse all moneys appropriated to the university by the Legislature and all moneys received from tuition, fees, auxiliary services and other sources;

(f) Direct and control expenditures and transfers of funds appropriated to the university in accordance with the provisions of the State budget and appropriation acts of the Legislature, and, as to funds received from other sources, direct and control expenditures and transfers in accordance with the terms of any applicable trusts, gifts, bequests, or other special provisions, reporting changes and additions thereto and transfers thereof to the Director of the Division of Budget and Accounting in the State Department of the Treasury and to the Chancellor of Higher Education. All accounts of the university shall be subject to audit by the State at any time;

(g) In accordance with the provisions of the State budget and appropriation acts of the Legislature, appoint and fix the compensation and term of office of a president of the university who shall be the executive officer of the university;

(h) In accordance with the provisions of the State budget and appropriation acts of the Legislature, appoint, upon nomination of the president, such deans and other members of the academic, administrative and teaching staffs as shall be required and fix their compensation and terms of employment;

(i) In accordance with the provisions of the State budget and appropriation acts of the Legislature, appoint, remove, promote and transfer such other officers, agents, or employees as may be required to carry out the provisions of this act and assign their duties, determine their salaries, and prescribe qualifications for all positions and in accordance with the salary schedules of the State Civil Service Commission wherever possible;

(j) Fix and determine, after consultation with the Board of Higher Education, tuition rates, and other fees to be paid by students;

(k) Grant diplomas, certificates or degrees;

(l) Enter into contracts and agreements with the State or any of its political subdivisions or with the United States, or with any public body, department or other agency of the State or the United States or with any individual, firm or corporation which are deemed necessary or advisable by the board for carrying out the provisions of this act. A contract or agreement pursuant to this subsection may require a municipality to undertake obligations and duties to be performed subsequent to the expiration of the term of office of the elected governing body of such municipality which initially entered into or approved said contract or agreement, and the obligations and duties so incurred by such municipality shall be binding and of full force and effect, notwithstanding that the term of office of the elected governing body of such municipality which initially entered into or approved said contract or agreement, shall have expired;

(m) Accept from any government or governmental department, agency or other public or private body or from any other source grants or contributions of money or property which the board may use for or in aid of any of its purposes;

(n) (1) Acquire (by gift, purchase, condemnation or otherwise), own, lease, dispose of, use and operate property, whether real,

personal or mixed, or any interest therein, which is necessary or desirable for university purposes;

(2) Adopt standing operating rules and procedures for the purchase of all equipment, materials, supplies and services; however, no contract on behalf of the university shall be entered into for the purchase of services, materials, equipment and supplies, for doing of any work, or for the hiring of equipment or vehicles, where the sum to be expended exceeds the sum established in P. L. 1954, chapter 48 and all amendments and supplements thereto, unless the university shall first publicly advertise for bids and shall award the contract to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the university, price and other factors considered. Such advertising shall not be required in those exceptions created by the board of trustees of the university, which shall be in substance those exceptions contained in sections 4 and 5 of P. L. 1954, c. 48 (C. 52:34–9 and 10) or for the supplying of any product or the rendering of any service by a public utility subject to the jurisdiction of the Board of Public Utilities of this State and tariffs and schedules of the charges, made, charged, or exacted by the public utility for any such products to be supplied or services to be rendered are filed with the said board.

This subsection shall not prevent the university from having any work done by its own employees, nor shall it apply to repairs, or to the furnishing of materials, supplies or labor, or the hiring of equipment or vehicles, when the safety or protection of its or other public property or the public convenience requires, or the exigency of the university's service will not admit of such advertisement. In such case, the university shall, by resolution passed by the affirmative vote of its board of trustees, declare the exigency or emergency to exist, and set forth in the resolution the nature and approximate amount to be expended; shall maintain appropriate records as to the reason for such awards; and shall report regularly to its board of trustees on all such purchases, the amounts and the reasons therefor;

(3) Employ architects to plan buildings; secure bids for the construction of buildings and for the equipment thereof; make contracts for the construction of buildings and for equipment; and supervise the construction of buildings. All capital expenditures in excess of $500,000.00 shall be subject to the approval of the Board of Higher Education; and

with the board of trustees of the university, for the sale of such site to the university without compliance with the laws relating to the sale of public property.

(c) Any bonds of the municipality authorized under this section for the acquisition of such a site (including land, clearance and relocation) shall be authorized by a bond ordinance in form and adopted by the governing body in the manner or mode of procedure prescribed by the local bond law, constituting chapter 2 of Title 40A of the New Jersey Statutes and shall be issued in the manner or mode of procedure prescribed by said law, except that said bond ordinance may be adopted notwithstanding (1) the provisions of section 40A:2–6 of said law or debt or other limit prescribed by any other law, and (2) the provisions of section 40A:2–11 of said law and no down payment shall be required, and (3) the provisions of section 40A:2–8 of said law, may authorize the issuance of bond anticipation notes in anticipation of the issuance of the bonds authorized by the bond ordinance which may mature in not exceeding 1 year and may be renewed from time to time for periods not exceeding 1 year and all such notes, including renewals, shall mature and be payable not later than the third anniversary of the date of the original note, and (4) the provisions of section 40A:2–22 subdivision (d) and the governing body may determine that the period of usefulness for which bonds are authorized pursuant to this section, according to their reasonable life, computed from the date of the bonds, is a period not greater than 40 years.

(d) Any bonds or notes authorized by the municipality pursuant to this section shall constitute a deduction from its gross debt and shall not be considered in determining its net debt for debt incurring purposes.

13. Section 17 of P. L. 1970, c. 102 (C. 18A:64G–17) is amended to read as follows:

C. 18A:64G-17 Sale of hospital by municipality to university.

17. The governing body of any municipality in which a site has been selected for the university under this act and wherein a public hospital is located under the control of said governing body pursuant to chapter 9 of Title 30 of the Revised Statutes or any other law, is hereby empowered to enter into an agreement subject to the approval of the State House Commission, or declaration of intention, with the board of trustees of the university for the sale of such hospital to the university and such sale may be made

without compliance with the laws relating to the sale of public property.

14. Section 18 of P. L. 1970, c. 102 (C. 18A:64G–18) is amended to read as follows:

C. 18A:64G-18 Retirement rights of hospital employees.

18. The acquisition of the hospital by the university shall not alter the retirement anticipation of any former municipal employee of the hospital.

a. Upon the effective date of the acquisition of the hospital by the university the former municipal employees of the hospital who continue as employees of the university and who are members of a municipal retirement system established pursuant to P. L. 1954, c. 218, as amended and supplemented (C. 43:13–22.3 et seq.), shall continue their membership in such retirement system. Following the year of such acquisition, the university shall pay annually to such retirement system on behalf of such members the amount of the employer's contribution as would have been required of the municipality under the terms of said P. L. 1954, c. 218.

b. Upon the effective date of the acquisition of the hospital by the university, the former permanent municipal employees of the hospital who are not members of such municipal employees' retirement system and who anticipated the receipt of a pension from the municipality under the provisions of chapter 4 of Title 43 of the Revised Statutes or the "General Noncontributory Pension Act," P. L. 1955, c. 263 (C. 43:8B–1 et seq.) shall continue their eligibility for such pension to be paid by the municipality. When any such pension shall be paid by the municipality on the basis of service rendered with the municipality and subsequently with the university the university shall annually pay to the municipality on account of such pension an amount which shall be in the same proportion as the employee's years of service with the university bear to his total service upon which the pension has been calculated.

15. Section 19 of P. L. 1970, c. 102 (C. 18A:64G–19) is amended to read as follows:

C. 18A:64G-19 Pension obligations in State appropriation.

19. The comptroller of the university shall include such employer pension obligations in his budget request for inclusion in the annual appropriation paid by the State to the university. Payment of such moneys shall be made to the municipality upon audit and warrant of the comptroller of the university.

16. Section 20 of P. L. 1970, c. 102 (C. 18A:64G–20) is amended to read as follows:

C. 18A:64G-20 Payment of death benefits.

20. No retirement, death, or other benefits shall be payable by the State or the university to such former municipal employees, except that the board of trustees is hereby authorized and permitted to pay death benefits on behalf of certain former municipal employees of the hospital who continue as employees of the university as specified below, and to include in the annual budgets of the university such amounts as the board of trustees expects may be required to pay such benefits.

Upon death prior to retirement, the board of trustees may pay death benefits on behalf of former municipal employees of the hospital who, following the acquisition of the hospital by the university, have continued as employees of the university, and, with respect to whom, no death benefit is payable either (a) under section 23 of P. L. 1954, c. 218, as amended and supplemented (C. 43:13–22.25) or (b) under section 41, 45, 46, 48 or 49 of P. L. 1954, c. 84 as amended and supplemented (C. 43:15A–41, 43:15A–45, 43:15A–46, 43:15A–48 and 43:15A–49).

The amount of benefits provided for each person specified above shall not exceed an amount equal to such person's annual salary as the employee of the university received at the time of death. If the Employees' Retirement System of the city of Newark, established pursuant to said P. L. 1954, c. 218, as amended and supplemented from time to time, provides any other death benefit with respect to any employee of the university, exclusive of a return of contributions, the amount of death benefit pursuant to this provision shall be reduced by the amount of such other death benefit provided with respect to such employee under said system.

Any person on behalf of whom the board of trustees may provide such death benefit may designate a beneficiary and may from time to time change his designation, by filing written notice thereof, over his signature, with the board of trustees. If at the death of a person with respect to whom a death benefit is payable there be no surviving designated beneficiary as to all, or any part of his death benefit, then the amount of death benefit payable for which there is no surviving designated beneficiary shall be payable to the person or persons listed below surviving as of the date of his death in the following order of precedence: (1) to the widow or widower of such person; (2) if neither of the aforementioned, to the child or children

of the person, in equal shares, and descendants of deceased children by representation; (3) if none of the aforementioned, to the parents of such person, in equal shares or the survivor of them; (4) if none of the aforementioned, to the duly appointed executor or administrator of the estate of such person; (5) if none of the aforementioned, to other next of kin of such person as may be determined by the board of trustees to be entitled under the laws of the domicile of such person at the time of his death.

17. Section 21 of P. L. 1970, c. 102 (C. 18A:64G–21) is amended to read as follows:

C. 18A:64G-21 Classified civil servants protected.

21. Upon the effective date of the acquisition of the hospital by the university, all permanent municipal employees of the hospital in the classified Civil Service, except physicians and dentists, shall continue as employees of the university and in accordance with the provisions of Title 11 of the Revised Statutes, Civil Service, shall not suffer loss of position or be removed, suspended or demoted except for cause.

18. Section 1 of P. L. 1959, c. 40 (C. 52:27B–56.1) is amended to read as follows:

C. 52:27B-56.1 Purchases by Division of Purchase and Property authorized.

1. The Director of the Division of Purchase and Property may, by joint action, purchase any articles used or needed by the State and the Palisades Interstate Park Commission, the New Jersey Highway Authority, the New Jersey Turnpike Authority, the Delaware River Joint Toll Bridge Commission, the Port Authority of New York and New Jersey, the South Jersey Port Corporation, the Passaic Valley Sewerage Commission, the Delaware River Port Authority, Rutgers, The State University, the University of Medicine and Dentistry of New Jersey, the New Jersey Sports and Exposition Authority, the New Jersey Housing Finance Agency, the New Jersey Mortgage Finance Authority, the New Jersey Health Care Facilities Financing Authority, the New Jersey Education Facilities Authority, the New Jersey Economic Development Authority, the New Jersey Expressway Authority or any other agency, commission, board, authority or other such governmental entity which is established and is allocated to a State department or any bi-state governmental entity of which the State of New Jersey is a member.

C. 18A:64G-3.3 Appropriations and other money and property transferred to university; employees' rights protected; rules remain effective.

19. (New section) Upon the establishment of the body corporate and politic known as the University of Medicine and Dentistry of New Jersey:

a. All appropriations available and to become available to the College of Medicine and Dentistry of New Jersey shall be transferred to the university by the Director of the Division of Budget and Accounting in the Department of the Treasury and shall be available for the objects and purposes for which appropriated, subject to any terms, restrictions, limitations or other requirements imposed by the State budget;

b. All other grants, gifts, other moneys and property available and to become available to or for the College of Medicine and Dentistry of New Jersey shall be transferred to the university and shall be available for the objects and purposes of the university, subject to any terms, restrictions, limitations or other requirements imposed by State and Federal law or otherwise;

c. All employees of the College of Medicine and Dentistry of New Jersey shall become employees of the university. Nothing in this act shall be considered to deprive any person of any tenure rights or of any right or protection provided him under any pension law or retirement system or any other law of this State;

d. All files, papers, records, equipment and other personal property of the College of Medicine and Dentistry of New Jersey shall be transferred to the university; and

e. All orders, rules or regulations theretofore made or promulgated by the College of Medicine and Dentistry of New Jersey shall continue with full force and effect as the orders, rules and regulations of the university until amended or repealed by the university.

C. 18A:64G-3.4 Civil and criminal actions unaffected; matters and proceedings continued.

20. (New section) This act shall not affect actions or proceedings, civil or criminal, brought by or against the College of Medicine and Dentistry of New Jersey, but such actions or proceedings may be prosecuted or defended in the same manner and to the same effect by the University of Medicine and Dentistry of New Jersey as if the foregoing provisions had not taken effect; nor shall any of the foregoing provisions affect any order or regulation made by, or other matters or proceedings before, the College of Medicine and Dentistry of New Jersey, and all such matters or proceedings pending before the College of Medicine and Dentistry

of New Jersey on the effective date of this act shall be continued by the university, as if the foregoing provisions had not taken effect.

C. 18A:64G-3.5 References to college apply to university.

21. (New section) Whenever in any law, rule, regulation, contract, document, judicial or administrative proceeding or otherwise, reference is made to the College of Medicine and Dentistry of New Jersey, the same shall mean and refer to the University of Medicine and Dentistry of New Jersey.

C. 18A:64G-3.6 Power of State Board of Higher Education.

22. (New section) The general powers of supervision and control of the State Board of Higher Education over the University of Medicine and Dentistry of New Jersey include the power to visit the university to examine into its manner of conducting its affairs and to enforce an observance of its laws and regulations and the laws of the State.

C. 18A:64G-3.7 Existing powers continue.

23. (New section) Nothing in this act shall be construed to abrogate or derogate from the powers of the Board of Higher Education of supervision and control of the university in accordance with existing law.

Repealer.

24. Section 13 of P. L. 1970, c. 102 (C. 18A:64G–13) is repealed.

25. All acts and parts of acts inconsistent with any of the provisions of this act to the extent of such inconsistency are superseded.

26. This act shall take effect immediately.

Approved December 10, 1981.

CHAPTER 326

AN ACT to amend the "Public School Education Act of 1975," approved September 29, 1975 (P. L. 1975, c. 212).

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

1. Section 25 of P. L. 1975, c. 212 (C. 18A:7A–25) is amended to read as follows:

C. 18A:7A-25 Permissible rates of increase in school district budgets.

25. A district which has a net current expense budget per pupil in the prebudget year of less than the State average net current expense budget per pupil may increase its net current expense budget per pupil in the following year by no more than an amount found by multiplying three-fourths of the latest annual percentage increase in the total State equalized valuation by the State average net current expense budget per pupil for the prebudget year, and multiplying the product by the quotient resulting from dividing the State average net current expense budget per pupil by the school district net current expense budget per pupil for the prebudget year. Any other district may increase its net current expense budget per pupil by no more than an amount found by multiplying three-fourths of the latest annual percentage increase in the total State equalized valuation by the school district's net current expense budget per pupil for the prebudget year, and multiplying the product by the quotient resulting from dividing the State average net current expense budget per pupil by the school district net current expense budget per pupil for the prebudget year. For the purpose of these calculations, the enrollment of a district shall be assumed to remain constant between the prebudget year and the year during which the budget will be implemented and the figure used for the latest annual percentage increase in the total State equalized valuation shall not be less than the average of such percentage increases for the latest 3 years. For the purposes of this section, the State average net current expense budget per pupil shall be calculated and applied separately for (a) limited purpose regional districts offering grades 9 through 12, (b) limited purpose regional districts offering grades 7 through 12; provided, however, that the figure used for such district shall not be less than 90% of the State average net current expense budget per pupil for limited purpose regional districts offering grades 9 through 12, and (c) county vocational schools. For all other districts, the State average net current expense budget per pupil shall be calculated pursuant to section 3 of P. L. 1975, c. 212 (C. 18A:7A–3).

Annually, on or before November 15, the commissioner shall certify to each local board of education the amount by which the school district may increase its budget for the next year without exceeding the permissible rate of increase.

The commissioner may approve the request of a local board of education for a greater increase, having adjudged that (1) a real-

location of resources or any other action taken within the permissible level of spending would be insufficient to meet the goals, objectives and standards established pursuant to this act, or (2) an increased enrollment may reasonably be anticipated in the district.

2. This act shall take effect immediately but shall not affect any district's increase in the net current expense budget per pupil for the 1980-81 school year.

Approved December 11, 1981.

CHAPTER 327

AN ACT appropriating $58,700,000.00 from the State Land Acquisition and Development Fund to enable the State to acquire and develop lands for recreation and conservation purposes and to provide for State grants to assist local units of government to acquire and develop lands for recreation and conservation purposes.

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

1. There is appropriated to the Department of Environmental Protection from the "State Land Acquisition and Development Fund" established pursuant to the "New Jersey Green Acres Bond Act of 1978," P. L. 1978, c. 118, the sum of $58,700,000.00 for the purpose of acquisition and development of lands by the State, and for State grants to local units for acquisition and development of lands, for recreation and conservation purposes. This sum shall include administrative costs and shall be allocated as follows:

a. $28,500,000.00 for State acquisition and development and for State grants to local units for the acquisition and development of lands located in urban areas;

b. $17,800,000.00 for State acquisition and development of lands located in non-urban areas;

c. $12,400,000.00 for State grants to local units for acquisition and development of lands located in non-urban areas.

Of the funds allocated under subsection a. of this section, $2,220,000.00 shall be used by the department for grants to cities

with a population of more than 80,000 for the purpose of constructing or developing swimming pools, parks, or playgrounds. The funds appropriated by this act shall not be used for the acquisition and development by the State of lands adjacent to Allamuchy State Park.

2. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P. L. 1978, c. 118.

3. This act shall take effect immediately.

Approved December 11, 1981.

CHAPTER 328

AN ACT concerning the appointment of certain administrative law judges and amending P. L. 1978, c. 67.

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

1. Section 4 of P. L. 1978, c. 67 (C. 52:14F–4) is amended to read as follows:

C. 52:14F-4 Appointment of administrative law judges.

4. Permanent administrative law judges shall be appointed by the Governor with the advice and consent of the Senate to initial terms of 1 year. During this initial term, each judge shall be subject to a program of evaluation as delineated in section 5 of P. L. 1978, c. 67 (C. 52:14F–5). First reappointment of a judge after this initial term shall be by the Governor for a term of 4 years and until the appointment and qualification of the judge's successor.

Administrative law judges nominated by the Governor before July 1, 1981 shall, upon their confirmation by the Senate, serve for terms of 5 years and until the appointment and qualification of their successors.

Subsequent reappointments of a judge shall be by the Governor with the advice and consent of the Senate to terms of 5 years and until the appointment and qualification of the judge's successor. The advice and consent of the Senate, as provided in this section, shall be exercised within 45 days after a nomination for appointment has been submitted to the Senate, and if no action has been

taken within the 45-day period, the nomination shall be deemed confirmed. This 45-day period shall not apply to any person nominated by the Governor for the position of administrative law judge prior to July 1, 1981.

2. This act shall take effect immediately and shall be retroactive to November 6, 1981.

Approved December 11, 1981.

CHAPTER 329

AN ACT concerning county colleges, and amending sections 18A:64A–1, 18A:64A–8, 18A:64A–9, 18A:64A–12, 18A:64A–22 and 18A:64A–23 of the New Jersey Statutes, P. L. 1968, c. 180 and P. L. 1974, c. 89 and repealing section 10 of P. L. 1974, c. 89.

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

1. N. J. S. 18A:64A–1 is amended to read as follows:

Definitions.

18A:64A–1. As used in this chapter:

a. "Base year" means the fiscal year 2 years prior to that in which the budget is to be implemented; provided, however, for determining the level of State aid for fiscal 1982, the "base year" shall be the fiscal year 3 years prior to that in which the budget is to be implemented;

b. "Capital outlay expense" means those funds devoted to or required for the acquisition, landscaping or improvement of land; the acquisition, construction, reconstruction, improvement, remodeling, alteration, addition or enlargement of buildings or other structures; and the purchase of furniture, apparatus and other equipment;

c. "County college" means an educational institution established or to be established by one or more counties, offering programs of instruction, extending not more than 2 years beyond the high school, which may include but need not be limited to specialized or comprehensive curriculums, including college credit transfer courses, terminal courses in the liberal arts and sciences, and technical institute type programs;

d. "Educational and general costs" means expenditures of a county college audited and approved according to regulations established by the Board of Higher Education;

e. "Local bond law" means the local bond law, chapters 1 and 2 of Title 40A of the New Jersey Statutes (N. J. S. 40A:1–1 et seq.);

f. "Operational expense" means those funds devoted to or required for the regular or ordinary expenses of the college, including administrative, maintenance, minor capital and salary expenses but excluding capital outlay expenses;

g. For the purposes of this act an "elected public official" means a person elected to a public office in the State of New Jersey other than an elected representative serving on a board of education pursuant to the provisions of N. J. S. 18A:12–1.

2. N. J. S. 18A:64A–8 is amended to read as follows:

Board of trustees, composition; student representative; trustee search committee; college established by more than one county.

18A:64A–8. For each county college there shall be a board of trustees, consisting of the county superintendent of schools and 10 persons, eight of whom shall be appointed by the appointing authority of the county with the advice and consent of the board of chosen freeholders, at least two of whom shall be women and two of whom shall be appointed by the State Board of Higher Education, subject to the approval of the Governor, according to criteria and for such initial terms as shall be established. The president of the college shall serve as an ex officio member of the board of trustees without vote. In addition, the student body of each county college shall be entitled to elect from the graduating class one representative to serve as a non-voting member on the board of trustees for a term of 1 year commencing at the next organization of the board following graduation of his class. The State Board of Higher Education shall by regulation prescribe the rights and duties of the student representative.

The appointing authority of the county shall establish a trustee search committee of not less than five members who shall be residents of the county. The members of the trustee search committee shall not be elected public officials and shall not be eligible for appointment to the board of trustees for a period of 6 months after their service on the trustee search committee. The trustee search committee shall nominate individuals according to criteria promulgated by the Board of Higher Education for consideration by the

appointing authority of the county for appointment to the board of trustees.

When a county college is established by more than one county, the board of trustees shall be increased by two members for each additional participating county. The membership of the board of trustees shall be apportioned by the chancellor among the several counties as nearly as may be according to the number of inhabitants in each county as shown by the last Federal census, officially promulgated in this State. Each apportionment shall continue in effect until a reapportionment shall become necessary by reason of the official promulgation of the next Federal census or the enlargement of the board by the admission of one or more additional counties as provided for in section 18A:64A-24. Each county shall be entitled to have at least two members and the county superintendent of the schools of said county on the board of trustees.

3. N. J. S. 18A:64A-9 is amended to read as follows:

Qualifications for appointment; term of office.

18A:64A-9. Appointed members of the board of trustees shall have been residents of the county for a period of 4 years prior to said appointment, and no elected public official or employee of the county college shall serve as a voting member of the board. The term of office of appointed members, except for the first appointments, shall be for 4 years. Each member shall serve until his successor shall have been appointed and qualified.

Vacancies shall be filled in the same manner as the original appointment for the remainder of the unexpired term. Any appointed member may be removed by the board of chosen freeholders of the appointing county for cause upon notice and opportunity to be heard. Members shall serve without compensation but shall be entitled to be reimbursed for all reasonable and necessary expenses.

A voting member of a board of trustees shall not be eligible to accept employment as an employee of the college at which he has served as a member of the board for a period of 2 years following resignation or expiration of his term as a member.

In the case of a county college established by one county, the terms of office of members initially appointed to the board of trustees by the appointing authority of the county shall be as follows: two persons shall receive terms of 1 year; two, terms of 2 years; two, terms of 3 years; and two, terms of 4 years.

In the case of a county college established by more than one county, the chancellor shall fix the terms of the members initially appointed to the board of trustees so that as nearly as possible, one-quarter of the appointed members will receive terms of 4 years, one-quarter terms of 3 years, one-quarter terms of 2 years and the remainder terms of 1 year. Such terms shall be allocated by the chancellor among the participating counties, in accordance with the number of members on the board of trustees apportioned to each county, starting with the terms of 4 years, by allocating one of such terms to each of the participating counties in alphabetical order of the names of such counties, and continuing, still in such order, with the terms of 3 years, the terms of 2 years and the terms of 1 year.

Members initially appointed to the board may serve from the time of their respective appointments, but the term of such office shall be deemed to commence as of November 1 of the year in which the appointment was made.

4. N. J. S. 18A:64A–12 is amended to read as follows:

Powers.

18A:64A–12. For the effectuation of the purposes of this chapter, the board of trustees of a county college in addition to such other powers expressly granted to it by this chapter and subject to the rules and regulations of the Board of Higher Education, is hereby granted the following powers:

a. To adopt or change the name of the county college;

b. To adopt and use a corporate seal;

c. To sue and be sued;

d. To determine the educational curriculum and program of the college;

e. To appoint and fix the compensation and term of office of a president of the college who shall be the executive officer of the college and an ex officio member of the board of trustees;

f. To appoint, upon nomination of the president, members of the administrative and teaching staffs and fix their compensation and terms of employment subject to the provisions of section 18A:64A–13;

g. To appoint or employ such other officers, agents and employees as may be required to carry out the provisions of this chapter and to fix and determine their qualifications, duties, compensation, terms of office and all other conditions and terms of employment and retention;

h. To fix and determine tuition rates and other fees to be paid by students;

i. To grant diplomas, certificates or degrees;

j. To enter into contracts and agreements with the State or any of its political subdivisions or with the United States, or with any public body, department or other agency of the State or the United States or with any individual, firm or corporation which are deemed necessary or advisable by the board for carrying out the provisions of this chapter;

k. To accept from any government or governmental department, agency or other public or private body or from any other source grants or contributions of money or property which the board may use for or in aid of any of its purposes;

l. To acquire (by gift, purchase, condemnation or otherwise), own, lease, use and operate property, whether real, personal or mixed, or any interest therein, which is necessary or desirable for college purposes;

m. To determine that any property owned by the county college is no longer necessary for college purposes and to sell the same at such price and in such manner and upon such terms and conditions as shall be established by the board of higher education;

n. To exercise the right of eminent domain, pursuant to the provisions of Title 20, Eminent Domain, of the Revised Statutes, to acquire any property or interest therein;

o. To make and promulgate such rules and regulations, not inconsistent with the provisions of this chapter or with the rules and regulations of the board of higher education, that are necessary and proper for the administration and operation of a county college and to implement the provisions of this chapter; and

p. To exercise all other powers, not inconsistent with the provisions of this chapter or with the rules and regulations of the Board of Higher Education, which may be reasonably necessary or incidental to the establishment, maintenance and operation of a county college;

q. To establish and maintain a dedicated reserve fund for minor capital needs which in any given year shall not exceed 3% of the replacement value of the college's physical plant.

5. N. J. S. 18A:64A–22 is amended to read as follows:

Annual budget requests for State support of colleges.

18A:64A–22. Annual budget requests for State support of colleges. The Board of Higher Education shall formulate annual

budget requests for State support of county colleges. Within the limits of funds appropriated to the Board of Higher Education for such purposes and in accordance with rules and regulations prescribed by the Board of Higher Education, the board of trustees of a county college may apply to the Board of Higher Education and receive State support:

a. For capital projects approved by the Board of Higher Education in amounts not to exceed one-half of the cost of said capital projects, and

b. For operational costs to the extent of 43% but not to exceed 50% of the educational and general costs of the county colleges in the base year; provided, however, that for the purposes of determining State aid, only credit courses and noncredit remedial, developmental, general education development and adult basic education courses shall be included in calculating such costs. This sum shall be distributed to the county colleges by the Board of Higher Education in consultation with the Council of County Colleges according to a formula that includes categorical support and differential funding based on program costs.

No county college shall receive more than 50% of its projected educational and general costs through the provisions of this act.

Each county which operates a county college shall continue to provide moneys for the support of the college in an amount no less than those moneys provided in the year in which this act is enacted or 25% of the operational expense in the base State fiscal year, whichever is greater.

State support for the operational expenses of county colleges shall be made within limits of State appropriation and only after an annual review and approval by the Board of Higher Education of the financial program for operation of each county college, including the charges to be made for student tuition and fees and the establishment of the county share of said costs.

6. N. J. S. 18A:64A–23 is amended to read as follows:

Acceptance of students residing in other counties; required certificates; charges to home counties.

18A:64A–23. a. Each county college shall, to the extent its facilities will permit and subject to regulations of the Board of Higher Education, accept students who are residents of any other county in the State.

b. Any person desiring to enroll in a county college as a nonresident student shall apply to the chief fiscal officer of his county

of residence for a certificate of residence showing that said person is a resident of said county. The chief fiscal officer of each county shall, upon application and submission to him of satisfactory evidence of such residence, issue said certificate provided that (1) the county does not sponsor a county college or contribute to the support of a county assisted college, or (2) the local county or county assisted college certifies that it does not offer the particular course or program of study desired by the applicant, or (3) the local county or county assisted college certifies that it cannot admit the applicant into a particular course or the desired program of study, pursuant to criteria established by the Board of Higher Education. If the chief fiscal officer of a county refuses to issue such a certificate, the applicant may appeal to the board of chosen freeholders of the county within 10 days of the receipt of notice of such refusal. The board of chosen freeholders shall make a determination after a hearing, upon 10 days' notice to such chief fiscal officer and the applicant, and such determination shall be final and binding on the county.

Upon his registration for each college year, the nonresident student shall file with the college such a certificate of residence issued not earlier than 2 months prior thereto and such certificate of residence shall be valid for the current or next academic year succeeding the date of issuance, as the case may be.

c. Any county college so admitting nonresident students shall charge to and collect from each county within the State which has issued a certificate or certificates of residence pursuant to subsection (b) and on the basis of which such nonresident students are attending such college, the sending county's share of the operating expenses of such county college, as certified by the board of school estimate and as paid by the receiving county for resident students, computed on a per full-time equated (FTE) student basis and multiplied by cost ratios as determined by the Board of Higher Education for various instructional categories. Any county college shall additionally charge and collect the sum of $1.00 per credit hour for each student so enrolled to compensate for minor capital costs of the college, which moneys shall be expended according to regulations promulgated by the Board of Higher Education.

d. Within 10 days after the commencement of each college term, the county college shall charge the county's per FTE student share of operating expenses of such college for that term as aforesaid to each county which has issued a certificate or certificates of residence pursuant to subsection (b), on the basis of which nonresi-

dent students are attending such county college. The amount so charged to the county issuing the certificate or certificates shall be paid within 30 days of the date of the billing.

7. Section 3 of P. L. 1974, c. 89 (C. 18A:64A–32) is amended to read as follows:

C. 18A:64A-32 Community college commission; membership; terms of office; trustee search committee.

3. The community college commission shall consist of the county superintendent of schools and nine public members who are residents of the county and have resided therein for a period of 4 years prior to their appointment having no official connection with educational institutions contracting with the commission. No elected public official shall serve as a voting member of the commission. The president of the commission shall be an ex officio member of the commission without vote. Seven of the public members shall be appointed by the appointing authority of the county, with the advice and consent of the board of chosen freeholders, and two of the members shall be appointed by the State Board of Higher Education, subject to the approval of the Governor, for such initial terms as shall be established by the board. Members shall be appointed for terms of 4 years each, except that the initial appointments shall be made in four classes as nearly equal as possible in number, one class to serve for 1 year, one class to serve for 2 years, one class to serve for 3 years, and one class to serve for 4 years. The term of all members of the commission shall begin on July 1. Members initially appointed to the commission may serve from the time of their respective appointments, but the term of such office shall be deemed to commence as of July 1 of the year in which the appointment was made. Each member shall serve until his successor shall have been appointed and qualified. Vacancies shall be filled in the same manner as the original appointments and for the remainder of the unexpired terms. The members of the commission shall serve without compensation for their services, but shall be entitled to receive reimbursement for all reasonable and necessary expenses incurred by virtue of services as a member of the commission.

A voting member of a community college commission shall not be eligible to accept employment of the college at which he has served as a member of the commission for a period of 2 years following resignation or expiration of his term as a member.

The appointing authority of the county shall establish a trustee search committee of not less than five members who shall be resi-

dents of the county. The members of the trustee search committee shall not be elected public officials and shall not be eligible for appointment to the board of trustees for a period of 6 months after their service on the trustee search committee. The trustee search committee shall nominate persons according to criteria promulgated by the Board of Higher Education for consideration by the appointing authority of the county for appointment to the board of trustees.

8. Section 4 of P. L. 1974, c. 89 (C. 18A:64A–33) is amended to read as follows:

C. 18A:64A-33 Commission established by more than one county.

4. When a community college commission is established by more than one county, the number of public members shall be increased by two for each additional participating county. Each county shall also be represented by the county superintendent of schools.

9. Section 2 of P. L. 1968, c. 180 (C. 18A:64B–6) is amended to read as follows:

C. 18A:64B-6 Coordinating agency for higher education; membership; terms of office; search committee.

2. The coordinating agency for higher education shall consist of the county superintendent of schools and nine residents of the county who have resided therein for a period of 4 years prior to their appointment having no present official connection with the educational institutions contracting with the agency. No elected public official shall serve as a voting member of the coordinating agency. The executive director of the coordinating agency shall be an ex officio member of the agency without vote.

Seven of the public members shall be appointed by the appointing authority of the county with the advice and consent of the board of chosen freeholders and two of the members shall be appointed by the State Board of Higher Education, subject to the approval of the Governor, for such initial terms as shall be established by the board. Members shall be appointed for terms of 4 years each. Terms of all members of the agency shall begin on November 1. Each member shall serve until his successor shall have been appointed and qualified. Vacancies shall be filled in the same manner as the original appointment for the remainder of the unexpired term. The members of the agency shall serve without compensation for their services, but shall be entitled to receive reimbursement for all reasonable and necessary expenses incurred by virtue of service of the member for the agency.

A voting member of the coordinating agency shall not be eligible to accept employment as an employee of the college at which he has served as a member of the coordinating agency for a period of 2 years following resignation or expiration of his term as a member.

The appointing authority of the county shall establish a search committee of not less than five members who shall be residents of the county. The members of the search committee shall not be elected public officials and shall not be eligible for appointment to the coordinating agency for a period of 6 months after their service on the search committee. The search committee shall nominate persons according to criteria promulgated by the Board of Higher Education for consideration by the appointing authority of the county for appointment to the coordinating agency.

Repealer.

10. Section 10 of P. L. 1974, c. 89 (C. 18A:64A–39) is repealed.

11. For the fiscal years 1982 and 1983 each college shall receive in State aid for operational expenses an amount equal to its budgeted enrollment for the fiscal year multiplied by $725.00, or the amount allocated by the Board of Higher Education pursuant to sections 5 and 6 of this act, whichever is the greater.

12. This act shall take effect immediately.

Approved December 14, 1981.

CHAPTER 330

AN ACT to amend the "Local Lands and Buildings Law," approved June 9, 1971 (P. L. 1971, c. 199).

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

1. Section 13 of P. L. 1971, c. 199 (C. 40A:12–13) is amended to read as follows:

C. 40A:12-13 Sales of real property, capital improvements or personal property; exceptions; procedure.

13. Sales of real property, capital improvements or personal property; exceptions; procedure. Any county or municipality may sell any real property, capital improvements or personal property,

or interests therein, not needed for public use, as set forth in the resolution or ordinance authorizing the sale, other than county or municipal lands, real property otherwise dedicated or restricted pursuant to law, and, except as otherwise provided by law, all such sales shall be made by one of the following methods:

(a) By open public sale at auction to the highest bidder after advertisement thereof in a newspaper circulating in the municipality or municipalities in which the lands are situated by two insertions at least once a week during 2 consecutive weeks, the last publication to be not earlier than 7 days prior to such sale. In the case of public sales, the governing body may by resolution fix a minimum price, or prices, with or without the reservation of the right to reject all bids where the highest bid is not accepted. Notice of such reservation shall be included in the advertisement of the sale and public notice thereof shall be given at the time of sale. Such resolution may provide, without fixing a minimum price, that upon the completion of the bidding, the highest bid may be accepted or all the bids may be rejected. The invitation to bid may also impose restrictions on the use to be made of such real property, capital improvement or personal property and any conditions of sale as to buildings or structures, or as to the type, size, or other specifications of buildings or structures to be constructed thereon, or as to demolition, repair, or reconstruction of buildings or structures, and the time within which such conditions shall be operative, or any other conditions of sale in like manner and to the same extent as by any other vendor. Such conditions shall be included in the advertisement, as well as the nature of the interest retained by the county or municipality. Such restrictions or conditions shall be related to a lawful public purpose and encourage and promote fair and competitive bidding of the county or municipality and shall not, in the case of a municipality, be inconsistent with or impose a special or higher standard than any zoning ordinance or building, plumbing, electrical, or similar code or ordinance then in effect in the municipality.

In any case in which a county or municipality intends to retain an estate or interest in any real property, capital improvement or personal property, in the nature of an easement, contingent or reversionary, the invitation to bid and the advertisement required herein shall require each bidder to submit one bid under each Option A and Option B below.

(1) Option A shall be for the real property, capital improvement or personal property subject to the conditions or re-

strictions imposed, or interest or estate retained, which the county or municipality proposes to retain or impose.

(2) Option B shall be for the real property, capital improvement or personal property to be sold free of all such restrictions, conditions, interests or estates on the part of the county or municipality.

The county or the municipality may elect or reject either or both options and the highest bid for each. Such acceptance or rejection shall be made not later than at the second regular meeting of the governing body following the sale, and, if the governing body shall not so accept such highest bid, or reject all bids, said bids shall be deemed to have been rejected. Any such sale may be adjourned at the time advertised for not more than 1 week without readvertising.

(b) At private sale when authorized by resolution, in the case of a county, or by ordinance, in the case of a municipality, in the following cases:

(1) A sale to any political subdivision, agency, department, commission, board or body corporate and politic of the State of New Jersey or to an interstate agency or body of which the State of New Jersey is a member or to the United States of America or any department or agency thereof.

(2) A sale to a person submitting a bid pursuant to subsection (a) of this section where all bids have been rejected, provided that the terms and price agreed to shall in no event be less than the highest bid rejected and provided further that the terms and conditions of sale shall remain identical.

(3) A sale by any county or municipality when it has or shall have conveyed its right, title and interest in any real property, capital improvement or personal property not needed for public use, and it was assumed and intended that there should be conveyed a good and sufficient title in fee simple to said real property, capital improvement or personal property, free of all encumbrances and the full consideration has been paid therefor, and it shall thereafter appear that the title conveyed was insufficient or that said county or municipality at the time of said conveyance was not the owner of some estate or interest in said real property, capital improvement or personal property or of some encumbrances thereon and the county or municipality shall thereafter acquire a good and sufficient title in fee simple, free of all encumbrances of said real property,

capital improvement or personal property or shall acquire such outstanding estate or interest thereon or outstanding encumbrance thereon and said county or municipality, by resolution of the governing body and without the payment of any additional consideration, has deemed to convey or otherwise transfer to said purchaser, his heirs or assigns, such after-acquired title, or estate or interest in, or encumbrance upon, such real property, capital improvement or personal property to perfect the title or interest previously conveyed.

(4) A sale of an easement upon any real property previously conveyed by any county or municipality may be made when the governing body of any county by resolution, or any municipality, by ordinance, has elected to release the public rights in the nature of easements, in, on, over or under any real property within the county or the municipality, as the case may be, upon such terms as shall be agreed upon with the owner of such lands, if the use of such rights is no longer desirable, necessary or required for public purposes.

(5) A sale to the owner of the real property contiguous to the real property being sold; provided that the property being sold is less than the minimum size required for development under the municipal zoning ordinance and is without any capital improvement thereon; except that when there is more than one owner with real property contiguous thereto, said property shall be sold to the highest bidder from among all such owners. Any such sale shall be for not less than the fair market value of said real property.

In the case of any sale of real property hereafter made pursuant to subsection (b) of this section, in no event shall the price agreed upon with the owner be less than the difference between the highest bid accepted for the real property subject to easements (Option A) and the highest bid rejected for the real property not subject to easements (Option B). After the adoption of the resolution or ordinance, and compliance by the owner of said real property with the terms thereof, said real property shall be free, and entirely discharged of and from such rights of the public and of the county or municipality, as the case may be, but no such release shall affect the right of lawful occupancy or use of any such real property by any municipal or private utility to occupy or use any such real property lawfully occupied or used by it.

A list of the property so authorized to be sold, pursuant to subsection (b) of this section, together with the minimum prices

respectively, as determined by the governing body, shall be included in the resolution or ordinance authorizing the sale, and said list shall be posted on the bulletin board or other conspicuous space in the building which the governing body usually holds its regular meetings, and advertisement thereof made in a newspaper circulating in the municipality or municipalities in which the real property, capital improvement or personal property is situated within 5 days following enactment of said resolution or ordinance. Offers for any or all properties so listed may thereafter be made to the governing body or its designee for a period of 20 days following the advertisement herein required, at not less than said minimum prices, by any prospective purchaser, real estate broker, or other authorized representative. In any such case, the governing body may reconsider its resolution or ordinance, not later than 30 days after its enactment, and advertise the real property, capital improvement, or personal property in question for public sale pursuant to subsection (a) of this section.

Any county or municipality selling any real property, capital improvement or personal property pursuant to subsection (b) of this section shall file with the Director of the Division of Local Government Services in the Department of Community Affairs, sworn affidavits verifying the publication of advertisements as required by this subsection.

All sales either public or private may be made for cash or upon credit. A deposit not exceeding 10% of the minimum price or value of the property to be sold may be required of all bidders. When made upon credit, the county or municipality may accept a purchase-money mortgage, upon terms and conditions which shall be fixed by the resolution of the governing body; provided, however, that such mortgage shall be fully payable within 5 years from the date of the sale and shall bear interest at a rate equal to that authorized under Title 31 of the Revised Statutes, as amended and supplemented, and the regulations issued pursuant thereto, or the rate last paid by the county or municipality upon any issue of notes pursuant to the Local Bond Law (chapter 2 of Title 40A of the New Jersey Statutes), whichever is highest. The governing body may, by resolution, fix the time for closing of title and payment of the consideration.

In all sales made pursuant to this section, the governing body of any county or municipality may provide for the payment of a commission to any real estate broker, or authorized representative

other than the purchaser actually consummating such sale; provided, however, that no commission shall be paid unless notice of the governing body's intention to pay such a commission shall have been included in the advertisement of sale and the recipient thereof shall have filed an affidavit with the governing body stating that said recipient is not the purchaser. Said commisisons shall not exceed, in the aggregate, 5% of the sale price, and be paid, where there has been a public sale, only in the event that the sum of the commission and the highest bid price does not exceed the next highest bid price (exclusive of any realtor's commission). As used in this section, "purchaser" shall mean and include any person, corporation, company, association, society, firm, partnership, or other business entity owning or controlling, directly or indirectly, more than 10% of the purchasing entity.

2. This act shall take effect immediately.

Approved December 14, 1981.

CHAPTER 331

AN ACT concerning child labor, amending P. L. 1940, c. 153, P. L. 1962, c. 91 and P. L. 1981, c. 147.

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

1. Section 1 of P. L. 1940, c. 153 (C. 34:2–21.1) is amended to read as follows:

C. 34:2-21.1 Definitions.

1. As used in this act:

(a) "Employment certificate" means a certificate granted by the issuing officer authorizing the employment of a child as permitted under this act.

(b) "Age certificate" means a certificate issued for a person between the ages of 18 and 21 years.

(c) "Issuing officer" means any superintendent of schools, supervising principal, or teacher in a school district who is designated by the board of education in the district to issue certificates or permits in accordance with the provisions of this act.

(d) "School district" means any geographical area having authority over the public schools within that area.

(e) "Agriculture" includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section 15 (g) of the Agricultural Marketing Act, as amended), the planting, transplanting and care of trees and shrubs and plants, the raising of livestock, bees, fur-bearing animals or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market, provided that such practices shall be performed in connection with the handling of agricultural or horticultural commodities the major portion of which have been produced upon the premises of an owning or leasing employer.

(f) "Newspaper carrier" means any minor between 12 and 18 years of age who engages in the occupation of delivering, soliciting, selling and collecting for, newspapers outside of school hours on residential routes.

(g) "Restaurant" means any establishment or business primarily engaged in the preparation and serving of meals or refreshments, both food and drink, and shall include but not be limited to the following: dining establishments, catering establishments, industrial caterers, and drive-in restaurants.

(h) "Theatrical production" means and includes stage, motion picture and television performances and rehearsals therefor.

2. Section 3 of P. L. 1940, c. 153 (C. 34:2–21.3) is amended to read as follows:

C. 34:2-21.3 Limitations on hours of work by minors.

3. Except as provided in section 15 and except for domestic service or messengers employed by communications companies subject to the supervision and control of the Federal Communications Commission, no minor under 18 years of age shall be employed, permitted, or suffered to work in, about, or in connection with any gainful occupation more than 6 consecutive days in any 1 week, or more than 40 hours in any 1 week, or more than 8 hours in any 1 day, nor shall any minor under 16 years of age be so employed, permitted, or suffered to work before 7 a.m. or after 6

p.m. of any day; nor shall any minor between 16 and 18 years of age be so employed, permitted or suffered to work before 6 a.m. or after 11 p.m. of any day; provided, that minors between 16 and 18 years of age may be employed after 11 p.m. during any regular school vacation season, and in a restaurant after 12 o'clock midnight on such days which do not precede a regularly scheduled school day, with a special written permit from their parents or legal guardian stating the hours they are permitted to work; provided, further than minors may be employed in a concert or a theatrical performance up to 11:30 p.m.; and provided, further, that minors not less than 16 years of age and who are attending school may be employed as pinsetters only in public bowling alleys up to 11:30 p.m., but may not be so employed during the school term without a special written permit from the superintendent of schools or the supervising principal as the case may be, which permit must state that the minor has undergone a complete physical examination by the medical inspector, and, in the opinion of the superintendent or supervising principal may be so employed, without injury to health or interference with progress in school, such special permits to be good for a period of 3 months only and are revocable in the discretion of the superintendent or supervising principal. Such permit may not be renewed until satisfactory evidence has been submitted to the superintendent or supervising principal showing that the minor has had a physical examination and the minor's health is not being injured by said work; and provided, further, that minors between 16 and 18 years of age may not be employed after 10 p.m. during the regular school vacation seasons in or for a factory or in any occupation otherwise prohibited by law or by order or regulation made in pursuance of law. The combined hours of work and hours in school of minors under 16 employed outside school hours shall not exceed a total of 8 per day.

This section is not applicable to the employment of a minor between 16 and 18 years of age during the months of June, July, August or September by a summer resident camp, conference or retreat operated by a nonprofit or religious corporation or association, unless the employment is primarily general maintenance work or food service activities.

3. Section 17 of P. L. 1940, c. 153 (C. 34:2-21.17) is amended to read as follows:

C. 34:2-21.17 Prohibited work by minors.

17. No minor under 16 years of age shall be employed, permitted or suffered to work in, about, or in connection with power-driven machinery.

No minor under 18 years of age shall be employed, permitted or suffered to work in, about, or in connection with the following:

The manufacture or packing of paints, colors, white lead, or red lead;

The handling of dangerous or poisonous acids or dyes; injurious quantities of toxic or noxious dust, gases, vapors or fumes;

Work involving exposure to benzol or any benzol compound which is volatile or which can penetrate the skin;

The manufacture, transportation or use of explosives or highly inflammable substances;

Oiling, wiping, or cleaning machinery in motion or assisting therein;

Operation or helping in the operation of power-driven woodworking machinery; provided, that apprentices operating under conditions of bona fide apprenticeship may operate such machines under competent instruction and supervision;

Grinding, abrasive, polishing or buffing machines; provided, that apprentices operating under conditions of bona fide apprenticeship may grind their own tools;

Punch presses or stamping machines if the clearance between the ram and the dye or the stripper exceeds ¼ inch;

Cutting machines having a guillotine action;

Corrugating, crimping or embossing machines;

Paper lace machines;

Dough brakes or mixing machines in bakeries or cracker machinery;

Calender rolls or mixing rolls in rubber manufacturing;

Centrifugal extractors, or mangles in laundries or dry cleaning establishments;

Ore reduction works, smelters, hot rolling mills, furnaces, foundries, forging shops, or any other place in which the heating, melting, or heat treatment of metals is carried on;

Mines or quarries;

Steam boilers carrying a pressure in excess of 15 pounds;

Construction work of any kind;

Fabrication or assembly of ships;

Operation or repair of elevators or other hoisting apparatus;

The transportation of payrolls other than within the premises of the employer.

No minor under 18 years of age shall be employed, permitted, or suffered to work in, about, or in connection with any establishment where alcoholic liquors are distilled, rectified, compounded, brewed, manufactured, bottled, or are sold for consumption on the premises, or in a pool or billiard room; provided, however, this paragraph shall not apply to minors 16 years of age or over, employed as pinsetters only in public bowling alleys as provided in section 3 hereof or to minors employed in theatrical productions where alcoholic beverages are sold on the premises.

Minors 14 years of age or over may be employed as golf course caddies and pool attendants.

No minor under 18 years of age shall be employed, permitted, or suffered to work in any place of employment, or at any occupation hazardous or injurious to the life, health, safety, or welfare of such minor, as such occupation shall, from time to time, be determined and declared by the Commissioner of Labor to be hazardous or injurious to the life, health, safety, or welfare of such minors, after a public hearing thereon and after such notice as the commissioner may by regulation prescribe.

None of the provisions of this section regarding employment in connection with alcoholic liquors shall be construed to prevent the employment of minors 16 years of age or more in a restaurant as defined in section 1 and as provided for in section 3 of this act, or in the executive offices, maintenance departments, or pool or beach areas of a hotel, motel or guesthouse; provided, however, that no minor shall engage in the preparation, sale, or serving of alcoholic beverages, nor in the sale of cigarettes or other tobacco products, nor in the preparation or sale of photographs, nor in any dancing or theatrical exhibition or performance which is not part of a theatrical production where alcoholic beverages are sold on the premises, while so employed.

Nothing in this section shall be deemed to apply to the work done by pupils in public or private schools of New Jersey, under the supervision and instruction of officers or teachers of such organizations or schools, or to a minor who is 17 years of age employed in the type of work in which such minor majored under the conditions

of the special vocational school graduate permit provided in section 15 of this act (C. 34:2–21.15).

Nothing in this section shall be construed to prevent minors 16 years of age or older who are members of a Junior Firemen's Auxiliary, created pursuant to N. J. S. 40A:14–95, from engaging in any activities authorized by N. J. S. 40A:14–98.

4. Section 1 of P. L. 1962, c. 91 (C. 34:2–21.57) is amended to read as follows:

C. 34:2-21.57 Theatrical production definitions.

1. As used in this act:

a. "Professional employment" means employment for pay as an actor or performer in a theatrical production.

b. "Theatrical production" means and includes stage, motion picture and television performances and rehearsals therefor.

c. "Prohibited performance" means and includes appearances as a rope or wire walker or rider, gymnast, wrestler, boxer, contortionist, acrobat, rider of a horse or other animal unless the minor is trained to safely ride such horse or animal or rider of any vehicle other than that generally used by a minor of the same age, or appearance in any illegal, indecent or immoral exhibition, practice, or theatrical production or in any practice, exhibition or theatrical production dangerous to the life, limb, health or morals of a minor, or appearance or exhibition of any physically deformed or mentally deficient minor.

5. Section 3 of P. L. 1962, c. 91 (C. 34:2–21.59) is amended to read as follows:

C. 34:2-21.59 Permits authorizing employment of minors in theatrical productions.

3. a. Upon application of an employer, bearing the endorsed approval of a parent or guardian of the minor a permit authorizing employment of the minor in a theatrical production may be issued if:

(a) The minor is in good health and will not likely be endangered by the working conditions of the prospective employment as certified by a currently issued statement of a licensed physician based upon a physical examination which, for minors under 8 years of age, includes a visual acuity screening if practicable;

(b) The place of employment is approved by the Department of Labor and the period for which the permit is desired is not in excess of 3 months;

(c) The minor is not attending public school and the application is for a period other than during the school summer vacation period, that he is receiving equivalent instruction approved by the Department of Education or by the state or county of his residence if he be a nonresident of New Jersey;

(d) The proposed employment will not exceed two shows or productions in a day or a total of eight shows or productions in any week where the professional employment is reasonably separable into discrete shows or productions; that the employment will not be for more than 6 days in any week, 5 hours in any day or a total of 24 hours, including rehearsal time, in any week and that the minor will not be employed before 7:00 a.m. or after 11:30 p.m. and that school and theatrical performance time shall not exceed 8 hours in any 1 day and that the combined time spent on a set or on call and performance time shall not exceed a total of eight hours in any one day;

(e) The employment does not involve a type of prohibited performance as hereinafter defined; and

(f) The minor will be under the direct care and supervision of an adult who is a parent, guardian or a representative of the employer, named in the application, at all times during his employment or while living away from home when required as an incident of such employment.

b. A permit or certificate, as the case may be, may be issued by the issuing officer or by the Commissioner of Labor in cases involving a significant contribution to the development of the motion picture industry in the State as determined by the Motion Picture and Television Development Commission. In such cases, the commissioner shall also have the authority to alter or amend the hours of the day but not the total hours in the day during which a minor may work as set forth in paragraph (d), subsection a. of this section, if such alteration or amendment will not foreseeably impair the educational instruction, supervision, health and welfare of the minor, and such an alteration or amendment is necessary for good reasons shown by the employer. The commissioner shall set forth the terms of any alteration or amendment in the permit or certificate.

6. Section 4 of P. L. 1962, c. 91 (C. 34:2–21.60) is amended to read as follows:

C. 34:2-21.60 Refusal to grant permit.

4. The issuing officer or the Commissioner of Labor, pursuant to section 3b. of P. L. 1962, c. 91 (C. 34:2–21.59), may refuse to grant

a permit or certificate if, in his judgment, the best interests of the minor would be served by such refusal and he shall keep a record of such refusals, and the reasons therefor. A refusal by the issuing officer shall not preclude a contrary decision by the commissioner.

7. Section 6 of P. L. 1981, c. 147 (C. 34:2–21.63b) is amended to read as follows:

C. 34:2-21.63b Violations of act.

6. Whoever obtains any permit under this act (P. L. 1962, c. 91; C. 34:2–21.57 et seq.) upon any false statement made in applying therefor, or employs or permits or suffers any minor to be employed or to work in violation of this act or of the terms of any permit issued under this act or of any order or ruling issued under the provisions of this act, or obstructs the Departments of Labor and Education, their officers or agents, or any other person authorized to inspect places of employment under this act, and whoever, having under his control or custody any minor, permits or suffers him to be employed or to work in violation of this act is guilty of an offense. Where a defendant acts knowingly, an offense under this section shall be a crime of the fourth degree. Otherwise, it shall be a disorderly persons offense. Each day during which any violation of this act continues shall constitute a separate and distinct offense, and the employment of any minor in violation of the act shall with respect to each minor so employed, constitute a separate and distinct offense.

8. Section 8 of P. L. 1962, c. 91 (C. 34:2–21.64) is amended to read as follows:

C. 34:2-21.64 Forms and regulations; special safeguards.

8. The Department of Education and the Department of Labor shall prescribe forms and regulations concerning applications for and issuance of permits and certificates and the Department of Labor may issue regulations concerning the administration and enforcement of this act and, notwithstanding any provisions of law to the contrary, after consultation with the Department of Education, shall prescribe special safeguards governing the working conditions, supervision and education of minors under the age of 16, with particular attention to minors under the age of 6 years not inconsistent with the purposes of this act.

9. Section 19 of P. L. 1940, c. 153 (C. 34:2–21.19) is amended to read as follows:

C. 34:2-21.19 Employment of minor classified as offense.

9. Whoever employs or permits or suffers any minor to be employed or to work in violation of this act, or of any order or ruling issued under the provisions of this act, or obstructs the Department of Labor, its officers or agents, or any other person authorized to inspect places of employment under this act, and whoever, having under his control or custody any minor, permits or suffers him to be employed or to work in violation of this act, shall be guilty of an offense. Where a defendant acts knowingly, an offense under this section shall be a crime of the fourth degree. Otherwise it shall be a disorderly persons offense. Each day during which any violation of this act continues shall constitute a separate and distinct offense, and the employment of any minor in violation of the act shall with respect to each minor so employed, constitute a separate and distinct offense.

10. This act shall take effect immediately.

Approved December 14, 1981.

CHAPTER 332

AN ACT to amend the "Sales and Use Tax Act," approved April 27, 1966 (P. L. 1966, c. 30).

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

1. Section 10 of P. L. 1966, c. 30 (C. 54:32B–10) is amended to read as follows:

C. 54:32B-10 Certain sales of motor vehicles, aircraft and boats and other vessels.

10. Certain sales of motor vehicles, aircraft and boats and other vessels.—(a) Receipts from any sale of a motor vehicle, an aircraft or a boat or other vessel shall not be subject to the retail sales tax imposed under subsection (a) of section 3, despite the taking of physical possession by the purchaser within this State, provided that the purchaser, at the time of taking delivery:

(1) is a nonresident of this State,

(2) has no permanent place of abode in this State,

(3) is not engaged in carrying on in this State any employment, trade, business or profession in which the motor vehicle, aircraft or boat or other vessel will be used in this State,

(4) prior to taking delivery, furnishes to the vendor: any affidavit, statement or additional evidence, documentary or otherwise, which the director may require to assure proper administration of the tax imposed upon subsection (a) of section 3, and

(5) will not house, moor, base or otherwise place the aircraft, boat or other vessel in this State for use on other than a transient basis or for repairs at any time within 12 months from the date of purchase. In the event that any of the conditions specified in this subsection (a) have not been met, the exemption herein granted shall not be applicable and the purchaser shall be liable for the payment of the sales tax.

(b) A vendor shall not be liable for failure to collect tax on receipts from any sale of a motor vehicle, an aircraft or a boat or other vessel; provided that the vendor prior to making delivery obtains and keeps available for inspection by the director any affidavit, statement or additional evidence, documentary or otherwise, as may be required to be furnished under subsection (a) above; provided, that such affidavit, statement or additional evidence is not known by the vendor, prior to making physical delivery of the motor vehicle, aircraft or boat or other vessel, to be false.

2. This act shall take effect 60 days after enactment.

Approved December 14, 1981.

CHAPTER 333

AN ACT to amend "An act governing civil actions for the collection of bonds or notes secured by mortgages, amending sections 2A:50–2 to 2A:50–10, inclusive and section 2A:50–22 of the New Jersey Statutes, and supplementing chapter 50 of the New Jersey Statutes," approved January 14, 1980 (P. L. 1979, c. 286).

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

1. Section 13 of P. L. 1979, c. 286 (C. 2A:50–2.3) is amended to read as follows:

C. 2A:50-2.3 Real property mortgage exceptions.

13. This act shall not apply to proceedings to collect a debt evidenced by a note and secured by a mortgage on real property in the following instances:

a. Where the debt secured is for a business or commercial purpose other than a two-family, three-family or four-family residence in which the owner or his immediate family resides;

b. Where the mortgaged property is other than a one-family, two-family, three-family or four-family dwelling in which the owner or his immediate family resides at the time of institution of proceedings to collect the debt;

c. Where a banking institution, savings and loan association or building and loan association, operating pursuant to State or Federal law, is the lender or his assignee and the mortgage is not the primary security for the debt, as evidenced by (1) the financial condition of one or more persons directly or indirectly liable on the note, or (2) the giving of collateral in addition to the mortgage as security for the debt;

d. Where a banking institution, savings and loan association, building and loan association or licensed secondary mortgage lender, operating pursuant to State or Federal law, is the lender, and the mortgage is given to secure payment of a loan evidenced by a note, and where the mortgage so given is subject to the lien or liens of a prior mortgage or mortgages not held by such institution or association or by any holder in which such institution or association has an interest or with which such institution or association has an affiliation.

2. This act shall take effect immediately.

Approved December 14, 1981.

CHAPTER 334

AN ACT authorizing the sale of surplus real property owned by the State and now or formerly occupied by Greystone Psychiatric Hospital located on Hanover avenue in the borough of Morris Plains in Morris county.

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

1. The Department of Human Services is authorized to sell and convey all of the State's interest in 2.6 acres of surplus real property located in the borough of Morris Plains, Morris county. The property is designated as Block 39, Lot 33, on the tax map of the borough of Morris Plains.

2. The sale shall be upon terms and conditions as approved by the State House Commission.

3. This act shall take effect immediately.

Approved December 14, 1981.

CHAPTER 335

AN ACT to amend and supplement the "New Jersey Sports and Exposition Authority Law," approved May 10, 1971 (P. L. 1971, c. 137).

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

1. Section 4 of P. L. 1971, c. 137 (C. 5:10–4) is amended to read as follows:

C. 5:10-4 Sports and Exposition Authority; membership; removal from office; officers; bonds; veto power of Governor.

4. a. There is hereby established in the Department of Community Affairs a public body corporate and politic, with corporate succession, to be known as the "New Jersey Sports and Exposition Authority." The authority is hereby constituted as an instrumentality of the State exercising public and essential governmental functions, and the exercise by the authority of the powers conferred by the act shall be deemed and held to be an essential governmental function of the State and the application of the revenue derived from the project to the purposes provided in this act shall be deemed and held to be applied in support of government.

b. The authority shall consist of the State Treasurer, the Attorney General and a member of the Hackensack Meadowlands Development Commission to be appointed by the Governor, who shall be members ex officio, and six members appointed by the Governor with the advice and consent of the Senate for terms of 4 years, provided that the members of the authority (other than

the ex officio members) first appointed by the Governor shall serve for terms of 1 year, 2 years, 3 years and 4 years, respectively. Each member shall hold office for the term of his appointment and until his successor shall have been appointed and qualified. A member shall be eligible for reappointment. Any vacancy in the membership occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only.

c. Each appointed member may be removed from office by the Governor, for cause, after a public hearing, and may be suspended by the Governor pending the completion of such hearing. Each member before entering upon his duties shall take and subscribe an oath to perform the duties of his office faithfully, impartially and justly to the best of his ability. A record of such oaths shall be filed in the office of the Secretary of State.

d. The chairman shall be appointed by the Governor from the members of the authority other than ex officio members, and the members of the authority shall elect one of their number as vice chairman thereof. The authority shall 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. The powers of the authority shall be vested in the members thereof in office from time to time and five members 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 at least five members of the authority. No vacancy in the membership of the authority shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the authority.

e. Each member and the treasurer of the authority shall execute a bond to be conditioned upon the faithful performance of the duties of such member or treasurer, as the case may be, in such form and amount as may be prescribed by the Comptroller of the Treasury. Such bonds shall be filed in the office of the Secretary of State. At all times thereafter the members and treasurer of the authority shall maintain such bonds in full force and effect. All costs of such bonds shall be borne by the authority.

f. The members of the authority shall serve without compensation, but the authority shall reimburse its members for actual expenses necessarily incurred in the discharge of their duties. Notwithstanding the provisions of any other law, no officer or employee of the State shall be deemed to have forfeited or shall forfeit his

office or employment or any benefits or emoluments thereof by reason of his acceptance of the office of ex officio member of the authority or his services therein.

g. Each ex officio member of the authority may designate an officer or employee of his department or agency to represent him at meetings of the authority, and each such 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 authority and shall continue in effect until revoked or amended by writing delivered to the authority.

h. The authority may be dissolved by act of the Legislature on condition that the authority has no debts or obligations outstanding or that provision has been made for the payment or retirement of such debts or obligations. Upon any such dissolution of the authority all property, funds and assets thereof shall be vested in the State.

i. A true copy of the minutes of every meeting of the authority shall be forthwith delivered by and under the certification of the secretary thereof to the Governor. No action taken at such meeting by the authority shall have force or effect until 15 days after such copy of the minutes shall have been so delivered unless during such 15-day period the Governor shall approve the same in which case such action shall become effective upon such approval. If, in said 15-day period, the Governor returns such copy of the minutes with veto of any action taken by the authority or any member thereof at such meeting, such action shall be null and void and of no effect. The powers conferred in this paragraph (i) upon the Governor shall be exercised with due regard for the rights of the holders of bonds and notes of the authority at any time outstanding, and nothing in, or done pursuant to, this paragraph (i) shall in any way limit, restrict or alter the obligation or powers of the authority or any representative or officer of the authority to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the authority with respect to its bonds or notes or for the benefit, protection or security of the holders thereof.

2. (New section) The two additional members first appointed pursuant to this amendatory and supplementary act shall serve for terms of 3 years and 4 years, respectively as designated by the Governor.

3. This act shall take effect immediately.

Approved December 14, 1981.

CHAPTER 336

AN ACT to validate certain proceedings of school districts and any bonds or other obligations issued or to be issued pursuant to such proceedings.

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

1. All proceedings heretofore had or taken by any school district or at any school district election for the authorization or issuance of bonds of the school district, and any bonds or other obligations of the school district issued or to be issued in pursuance of a proposal adopted by the legal voters at such election, are hereby ratified, validated and confirmed, notwithstanding that the notice of such election did not state the proper time for the closing of the election as required by law, or the polls for such election were not open until the closing time required by N. J. S. 18A:14-45; provided, that notice of such election did state that the meeting of the legal voters would be held at 9 a.m. and that the polls would remain open until 8 p.m.; and provided further, that the polls of such meeting or election were open during the time from 9 a.m. to 8 p.m.; and provided further, that no action, suit or other proceeding of any nature to contest the validity of such election has heretofore been instituted prior to the date upon which this act takes effect and within the time fixed therefor by or pursuant to law or rule of court or when such time has not heretofore expired, is instituted within 15 days after the effective date of this act.

2. This act shall take effect immediately.

Approved December 16, 1981.

CHAPTER 337

AN ACT to amend "The New Jersey Campaign Contributions and Expenditures Reporting Act," approved April 24, 1973 (P. L. 1973, c. 83).

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

1. Section 8 of P. L. 1973, c. 83 (C. 19:44A–8) is amended to read as follows:

C. 19:44A-8 Election Law Enforcement Commission reports of committees.

8. Each State, county and municipal committee of a political party, each political committee and each political information organization shall make a full report, upon a form prescribed by the Election Law Enforcement Commission of all moneys, loans, paid personal services, or other things of value contributed to it and all expenditures made, incurred, or authorized by it in furtherance of the nomination, election or defeat of any candidate, or in aid of the passage or defeat of any public question, or to provide political information on any candidate or public question, during the period ending with the day preceding the date of the report and beginning on the date of the most recent such report filed. The report, except as hereinafter provided, shall contain the name and address of each person or group from whom moneys, loans, paid personal services or other things of value have been contributed and the amount contributed by each person or group. In the case of any loan reported pursuant to this section, the report shall contain the name and address of each person who co-signs such loan. The report shall also contain the name and address of each person, firm or organization to whom expenditures have been paid and the amount and purpose of each such expenditure. The report shall be filed with the Election Law Enforcement Commission on the dates designated in section 16 hereof. The campaign treasurer of the committee or political committee reporting or the treasurer of the political information organization reporting shall certify to the correctness of each report.

Each State, county and municipal committee of a political party and each political information organization shall also file with the Election Law Enforcement Commission, not later than March 1 of each year, an annual report of all moneys, loans, paid personal services or other things of value contributed to it during the previous calendar year and all expenditures made, incurred, or authorized by it, whether or not such expenditures were made, incurred or authorized in furtherance of the election or defeat of any candidate, or in aid of the passage or defeat of any public question or to provide information on any candidate or public question. The report shall contain the name and address of each person or group from whom moneys, loans, paid personal services or other things of value have been contributed and the amount contributed by each person or group. In the case of any loan reported pursuant

to this section, the report shall contain the name and address of each person who co-signs such loan. The report shall also contain the name and address of each person, firm or organization to whom expenditures have been paid and the amount and purpose of each such expenditure. The treasurer of the committee or organization reporting shall certify to the correctness of each report.

In any report filed pursuant to the provisions of this section the organization or committee reporting may exclude from the report the names and addresses of contributors whose contributions during the period covered by the report did not exceed $100.00; provided, however, that (1) such exclusion is unlawful if any person responsible for the preparation or filing of the report knew that it was made with respect to any person whose contributions relating to the same election or issue and made to the reporting organization or committee or to an allied campaign organization or organizations aggregate, in combination with the contribution in respect of which such exclusion is made, more than $100.00 and (2) any person who knowingly prepares, assists in preparing, files or acquiesces in the filing of any report from which the identification of a contributor has been excluded contrary to the provisions of this section is subject to the provisions of section 21 of this act, but (3) nothing in this proviso shall be construed as requiring any committee or organization reporting pursuant to this act to report the amounts, dates or other circumstantial data regarding contributions made to any other organization or political committee, committee of a political party or campaign organization of a candidate.

Any report filed pursuant to the provisions of this section shall include an itemized accounting of all receipts and expenditures relative to any testimonial affairs held since the date of the most recent report filed, which accounting shall include the names and addresses of each contributor in excess of $100.00 to such testimonial affair and the amount contributed by each, the expenses incurred, and the disposition of the proceeds of such testimonial affair.

No State, county or municipal committee of a political party nor any political committee nor any political information organization shall be required to file reports pursuant to this section of contributions received or expenditures made in behalf of any candidate who is not required to file reports pursuant to section 16 of this act.

2. Section 16 of P. L. 1973, c. 83 (C. 19:44A–16) is amended to read as follows:

C. 19:44A-16 Reports by campaign treasurers of candidates; final accounting; exemptions; testimonial affairs.

16. a. Each campaign treasurer of a candidate shall make a full report, upon a form prescribed by the Election Law Enforcement Commission, of all moneys, loans, paid personal services or other things of value, contributed to him or to the deputy campaign treasurers of the candidate, and all expenditures paid out of the campaign fund of the candidate, during the period ending with the day preceding the date of the report and beginning on the date the most recent such report was filed, or, in the case of the first such report filed after the appointment of the campaign treasurer, beginning on the date of the appointment of the campaign treasurer. The report shall also contain the name and address of each person or group from whom moneys, loans, paid personal services or other things of value have been contributed and the amount contributed by each person or group. In the case of any loan reported pursuant to this section, the report shall further contain the name and address of each person who co-signs such loan. The campaign treasurer and the candidate shall certify the correctness of the report.

b. During the period between the appointment of the campaign treasurer and the election with respect to which contributions are accepted or expenditures made by him, the campaign treasurer shall file his report (1) on the seventh day preceding the election, and (2) on the twenty-fifth day preceding the election; and after the election he shall file his report on the fifteenth day following such election. Concurrent with the report filed on the fifteenth day following an election, or at any time thereafter, the campaign treasurer of a candidate or political committee or committee of a political party or the treasurer of a political information organization may certify to the Election Law Enforcement Commission that the campaign fund of such candidate, political committee or committee of a political party, or the fund of such political information organization, having been instituted for the purposes of the late election, has wound up its business and been dissolved or, in the case of a political committee or a committee of a political party or a political information organization which continues its activities beyond the election, that its business regarding the late election has been wound up; and said certification shall be accompanied by a final accounting of such campaign fund, or of

the transactions relating to such election, including the final disposition of any balance remaining in such fund at the time of dissolution or the arrangements which have been made for the discharge of any obligations remaining unpaid at the time of dissolution. Until such certification has been filed, each such treasurer shall continue to file, at the conclusion of each 60-day interval from the fifteenth day following such election, reports in the form and manner herein prescribed.

c. In the case of a primary, general, municipal, school, or special election of a candidate for an office elected by a municipal or county-wide constituency or a school district a duplicate copy of the campaign treasurer's report, duly certified, shall be filed at the same time with the county clerk of the county in which the candidate resides.

d. There shall be no obligation to file the reports required by this section on behalf of a candidate if such candidate files with the Election Law Enforcement Commission a sworn statement to the effect that the total amount to be expended in behalf of his candidacy by the candidate, by any State, county or municipal committee of a political party, by any political committee, or by any person shall not in the aggregate exceed $1,000.00; provided, that if a candidate who has filed such a sworn statement receives contributions from any one source aggregating more than $100.00 he shall forthwith make report of the same, including the identity of the source and the aggregate total of contributions therefrom, to the Election Law Enforcement Commission.

e. There shall be no obligation imposed upon a candidate seeking election to a public office of a school district to file either the reports required under section 16b. or the sworn statement referred to in subsection d. of this section or to comply with the requirements of section 9, 11 or 12 of this act, if the total amount expended and to be expended in behalf of his candidacy by the candidate, any political committee, any political party committee or by any person, does not in the aggregate exceed $1,000.00; provided, that if such candidate receives contributions from any one source aggregating more than $100.00 he shall forthwith make a report of the same, including the identity of the source and the aggregate total of contributions therefrom, to the commission.

f. In any report filed pursuant to the provisions of this section, the names and addresses of contributors whose contributions during the period covered by the report did not exceed $100.00 may be excluded; provided, however, that (1) such exclusion is unlawful

if any person responsible for the preparation or filing of the report knew that such exclusion was made with respect to any person whose contributions relating to the same election and made to the reporting candidate or to an allied campaign organization or organizations aggregate, in combination with the contribution in respect of which such exclusion is made, more than $100.00, and (2) any person who knowingly prepares, assists in preparing, files or acquiesces in the filing of any report from which the identity of any contributor has been excluded contrary to the provisions of this section is subject to the provisions of section 21 of this act, but (3) nothing in this proviso shall be construed as requiring any candidate reporting pursuant to this act to report the amounts, dates or other circumstantial data regarding contributions made to any other candidate, political committee or committee of a political party.

g. Any report filed pursuant to the provisions of this section shall include an itemized accounting of all receipts and expenditures relative to any testimonial affair held since the date of the most recent report filed, which accounting shall include the names and addresses of each contributor in excess of $100.00 to such testimonial affair and the amount contributed by each, the expenses incurred, and the disposition of the proceeds of such testimonial affair.

3. This act shall take effect January 1 next following enactment.

Approved December 16, 1981.

CHAPTER 338

AN ACT to amend "An act concerning public records and their examination by citizens of this State, providing certain exceptions to the right to examine public records, and conferring jurisdiction upon the Superior Court in respect to such examination," approved May 31, 1963 (P. L. 1963, c. 73).

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

1. Section 4 of P. L. 1963, c. 73 (C. 47:1A–4) is amended to read as follows:

C. 47:1A-4 Costs and attorney's fees in proceeding relative to inspection of public records.

4. Any such citizen of this State who has been or shall have been denied for any reason the right to inspect, copy or obtain a copy of any such record as provided in this act may apply to the Superior Court of New Jersey by a proceeding in lieu of prerogative writ for an order requiring the custodian of the record to afford inspection, the right to copy or to obtain a copy thereof, as provided in this act. A plaintiff in whose favor such an order issues shall be entitled to taxed costs and may be awarded a reasonable attorney's fee not to exceed $500.00. A defendant who prevails in preventing the issuance of such an order shall be entitled to taxed costs.

2. This act shall take effect immediately.

Approved December 16, 1981.

CHAPTER 339

AN ACT to amend the "Environmental Rights Act," approved December 9, 1974 (P. L. 1974, c. 169).

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

1. Section 10 of P. L. 1974, c. 169 (C. 2A:35A–10) is amended to read as follows:

C. 2A:35A-10 Counsel and expert witness fees.

10. a. In any action under this act the court may in appropriate cases award to the prevailing party reasonable counsel and expert witness fees, but not exceeding a total of $5,000.00.

b. The doctrines of collateral estoppel and res judicata may be applied by the court to prevent multiplicity of suits.

c. An action commenced pursuant to the provisions of this act may not be dismissed without the express consent of the court in which the action was filed.

2. This act shall take effect immediately.

Approved December 16, 1981.

CHAPTER 340

AN ACT to validate certain proceedings of school districts and any bonds or other obligations issued or to be issued pursuant to such proceedings.

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

1. All proceedings heretofore had or taken by any school district or at any school district election for the authorization of bonds of the school district, and any bonds or other obligations of the school district issued or to be issued in pursuance of a proposal adopted by the legal voters at such election, are hereby ratified, validated and confirmed, notwithstanding that notices relating to such election were not published as required by the provisions of N. J. S. 18A:14–19; provided, however, that notices of such election were posted in accordance with N. J. S. 18A:14–19; and provided further, that no action, suit or other proceeding of any nature to contest the validity of such election has heretofore been instituted prior to the date on which this act takes effect and within the time fixed therefor by or pursuant to law or rule of court, or, when such time has not heretofore expired, is instituted within 30 days after the effective date of this act.

2. This act shall take effect immediately.

Approved December 16, 1981.

CHAPTER 341

AN ACT to amend "The Check Cashing Law," approved June 7, 1951 (P. L. 1951, c. 187; C. 17:15A–1 et seq.).

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

1. Section 3 of P. L. 1951, c. 187 (C. 17:15A–3) is amended to read as follows:

C. 17:15A-3 Applications for check cashing licenses; fingerprinting of persons directly connected with licensees.

3. Application for such license shall be in writing, under oath, and in the form prescribed by the commissioner, and shall contain the name and the address both of the residence and place of business of the applicant, and if the applicant is a copartnership or association, of every member thereof, and if a corporation, of each officer and director thereof; also if the business is to be conducted at a specific address, the address at which the business is to be conducted, and if the business is to be conducted from a mobile unit, the New Jersey State registration number or other identification of such mobile unit and the area in which the applicant proposes to operate such mobile unit; and also such further information as the commissioner may require. Every person directly connected with the licensee in the check cashing business shall submit to being fingerprinted on forms supplied by the commissioner, which said fingerprints shall be submitted by the commissioner to the New Jersey State Police and, following a technical search by the New Jersey State Police, filed with the New Jersey Department of Banking. The Department of Banking is authorized to exchange the fingerprinting data of every person directly connected with the licensee in the check cashing business with the Federal Bureau of Investigation.

2. This act shall take effect immediately and shall be retroactive to the effective date of P. L. 1979, c. 498.

Approved December 17, 1981.

CHAPTER 342

AN ACT to amend and supplement "An act providing for the uniform administration of the alternate programs of benefits for certain members of the faculty and other eligible employees of the New Jersey College of Medicine and Dentistry, Rutgers, The State University of New Jersey, the Newark College of Engineering, the Department of Higher Education, the State Department of Education, and the State and county colleges, and supplementing chapter 66 of Title 18A of the laws of 1968," approved December 22, 1969 (P. L. 1969, c. 242) as said title was amended by P. L. 1974, c. 67.

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

1. Section 4 of P. L. 1969, c. 242 (C. 18A:66–170) is amended to read as follows:

C. 18A:66-170 Eligibility for alternate benefit program.

4. All full-time officers and all full-time members of the faculty of the New Jersey College of Medicine and Dentistry, Rutgers, The State University, the Newark College of Engineering, the State and county colleges and all regularly appointed teaching and administrative staff members in applicable academic positions as determined by the Board of Higher Education, shall be eligible and shall participate in the alternate benefit program except those persons appointed in a part-time or temporary capacity, persons compensated on a fee basis, persons temporarily in the United States under an F or J visa and members of the Teachers' Pension and Annuity Fund, the Public Employees' Retirement System, the Police and Firemen's Retirement System or the Group Annuity Plan who did not elect to transfer to the alternate benefit program in accordance with the provisions of chapter 64C or 65 of Title 18A of the New Jersey Statutes, P. L. 1967, c. 278 or c. 281, or P. L. 1968, c. 181.

Any person participating in the alternate benefit program shall be ineligible for membership in the Teachers' Pension and Annuity Fund, the Public Employees' Retirement System, the Police and Firemen's Retirement System or the Group Annuity Plan and any person electing to participate in the alternate benefit program shall thereby waive all rights and benefits provided by the Teachers' Pension and Annuity Fund, the Public Employees' Retirement System, the Police and Firemen's Retirement System or the Group Annuity Plan as a member of said fund, system or plan except as herein and otherwise provided by law or under terms of the Group Annuity Plan.

Any person required to participate in the alternate benefit program by reason of employment, who at the time of such employment is a member of the Teachers' Pension and Annuity Fund, shall be permitted to transfer his membership in said fund to the Public Employees' Retirement System, by waiving all rights and benefits which would otherwise be provided by the alternate benefit program. Any such new employee who is a member of the Public Employees' Retirement System will be permitted to continue his membership in that system, by waiving all rights and benefits which would other-

wise be provided by the alternate benefit program. Such waivers shall be accomplished by filing forms satisfactory to the Division of Pensions within 30 days of the beginning date of employment.

Any person receiving a benefit by reason of his retirement from any retirement or pension system of the State of New Jersey or any political subdivision thereof shall be ineligible to participate in the alternate benefit program.

No person eligible for participation in the alternate benefit program shall be eligible for, or receive, benefits under chapters 4 and 8B of Title 43 of the Revised Statutes.

The alternate benefit programs established pursuant to this act are deemed to be pension funds or retirement systems for purposes of P. L. 1968, c. 23 (C. 43:3C–1).

2. Section 7 of P. L. 1969, c. 242 (C. 18A:66–173) is amended to read as follows:

C. 18A:66-173 Transfers from other retirement systems.

7. (a) When a member of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System elects to transfer to an alternate benefit program by filing the proper application form declaring his election to participate in such alternate benefit program, the respective retirement system shall transfer the amount of his accumulated deductions as of the date of transfer to his individual account in the program.

(b) There shall also be transferred from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or from the Group Annuity Plan to the individual's account in the alternate benefit program, the pension reserve required as of the date of his transfer to provide a pension for each year of service credited to the account of the member as set forth in N. J. S. 18A:66–36 or N. J. S. 18A:66–44 or as set forth in section 38 or section 48 of P. L. 1954, c. 84 as such sections have been amended and supplemented as of July 1, 1969 (C. 43:15A–38, C. 43:15A–48) or as set forth in section 17 of P. L. 1964, c. 241 (C. 43:16A–11.2) or section 5 of P. L. 1944, c. 255 (C. 43:16A–5) or for each year of service credited under the Group Annuity Plan. Such transfer from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System

or the Police and Firemen's Retirement System or the Group Annuity Plan shall be made at the time of the member's transfer to the alternate benefit program in the case of any such member who has then met the eligibility requirements for a pension under the aforementioned N. J. S. 18A:66–36, or N. J. S. 18A:66–44, or section 38 or section 48 of P. L. 1954, c. 84 (C. 43:15A–38, C. 43:15A–48) or section 17 of P. L. 1964, c. 241 (C. 43:16A–11.2) or section 5 of P. L. 1944, c. 255 (C. 43:16A–5) or the Group Annuity Plan. In the case of any member who elects to participate in the alternate benefit program who has not then met the eligibility requirements for a pension under N. J. S. 18A:66–36 or N. J. S. 18A:66–44, or under section 38 or section 48 of P. L. 1954, c. 84 (C. 43:15A–38, C. 43:15A–48) or section 17 of P. L. 1964, c. 241 (C. 43:16A–11.2) or section 5 of P. L. 1944, c. 255 (C. 43:16A–5) or under the Group Annuity Plan, the transfer from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or the Group Annuity Plan shall be effected at the time such requirements have been met, taking into account for the purpose of such eligibility requirement his years of membership service at the time of his election and his subsequent years of service as a full-time member of the faculty of the College of Medicine and Dentistry, Rutgers, The State University, the Newark College of Engineering or the State or county colleges or as an eligible employee of the Department of Higher Education, or at the time he shall have 10 years of credit for New Jersey service and becomes physically incapacitated for the performance of duty if he had been a member of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System as of the date of transfer.

The annuity to be used in determining the amount of pension is the actuarial equivalent of the member's accumulated deductions transferred from the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System to the date the member attains 60 years of age, if subsequent to the date of election. The amount of pension is that established by formula within N. J. S. 18A:66–44 or section 48 of P. L. 1954, c. 84 as such sections have been amended and supplemented as of July 1, 1969 (C. 43:15A–48) or section 5 of P. L. 1944, c. 255 (C. 43:16A–5) or under the Group Annuity Plan, and changes to N. J. S. 18A:66–44 or section 48 of P. L. 1954, c. 84

(C. 43:15A–48) or section 5 of P. L. 1944, c. 255 (C. 43:16A–5) enacted subsequent to this act or the Group Annuity Plan shall have no application to the provisions of this act.

In the event that the eligibility requirement under section 18A:66–36 of the New Jersey Statutes or under section 38 of P. L. 1954, c. 84 (C. 43:15A–38) or section 17 of P. L. 1964, c. 241 (C. 43:16A–11.2) or under the Group Annuity Plan is changed at some future date to permit members to become eligible for such benefit prior to the completion of 15 years of service, the transfer of the reserve from the contingent reserve fund or the pension fund of the Teachers' Pension and Annuity Fund or the Public Employees' Retirement System or the Police and Firemen's Retirement System or from the Group Annuity Plan shall be effective as of the date the member who had elected the alternate benefit program meets the amended eligibility requirement or the effective date of the amendment, whichever is later.

In the event an option is available with respect to the distribution of employee and employer contributions between fixed and variable annuities under the alternate benefit program, the employee shall have the right to determine the percentage distribution of these funds subject to any limitations imposed by the designated insurer or insurers.

(c) No transfer of pension reserves shall be made pursuant to this section where more than 2 consecutive years elapse in which no employer contributions to an alternate benefit program are required.

C. 18A:66-173.1 Transfer from Police and Firemen's Retirement System.

3. (New section) Any person who is or has been a member of the Police and Firemen's Retirement System and who has taken, or shall take, office, position or employment in any position covered by the alternate benefit programs established pursuant to P. L. 1969, c. 242 (C. 18A:66–167 et seq.), but who, prior to the enactment of this amendatory and supplementary act, was ineligible to transfer his contributions from the Police and Firemen's Retirement System, shall be entitled, upon application, to transfer his contributions from the Police and Firemen's Retirement System to the alternate benefit programs as provided in section 7 of P. L. 1969, c. 242. If the person's membership in the Police and Firemen's Retirement System has expired on or before the effective date of this act, but he has not withdrawn his contributions from the system, he shall be entitled, upon application, to transfer his con-

tributions from the Police and Firemen's Retirement System to the alternate benefit programs as provided in section 7 of P. L. 1969, c. 242.

4. This act shall take effect immediately.

Approved December 17, 1981.

CHAPTER 343

AN ACT concerning corporation business taxes and amending P. L. 1981, c. 184.

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

1. Section 5 of P. L. 1981, c. 184 (C. 54:10A–15.4) is amended to read as follows:

C. 54:10A-15.4 Underpayment of installment; amount; period; exception; interest.

5. a. In case of any underpayment of an installment payment by a taxpayer, there shall be added to the tax for the fiscal or calendar accounting year an amount determined by applying the rate established in this section to the amount of the underpayment for the period of the underpayment.

b. For purposes of subsection a., the amount of underpayment shall be the excess of:

(1) The amount of the installment payment which would be required to be paid if all installment payments were equal to 90% of the tax shown on the return for the fiscal or calendar accounting year, or if no return was filed, 90% of the tax for that year, over

(2) The amount, if any, of the installment payment paid on or before the last date prescribed for payment.

c. For purposes of subsection a., the period of the underpayment shall run from the date the installment payment was required to be paid to whichever of the following dates is the earlier:

(1) The fifteenth day of the fourth month after the close of the fiscal or calendar accounting year.

(2) With respect to any portion of the underpayment, the date on which that portion is paid.

For purposes of this subsection, a payment of any installment payment shall be considered a payment of any previous underpayment only to the extent that payment exceeds the amount of the installment payment determined under subsection b. (1) for that installment payment.

d. Notwithstanding the provisions of the preceding subsections, the addition to the tax with respect to any underpayment of any installment payment shall not be imposed if the total amount of all installment payments made on or before the last date prescribed for the payment of that installment equals or exceeds the amount which would have been required to be paid on or before that date if the total amount of all installment payments were the lesser of (1) or (2) as follows:

(1) An amount equal to the tax computed at the rates applicable to the current fiscal or calendar accounting year but otherwise on the basis of the facts shown on the return of the taxpayer for, and the law applicable to, the preceding fiscal or calendar accounting year; or

(2) An amount equal to 90% of the tax for the current fiscal or calendar accounting year computed by placing on an annualized basis the taxable entire net income and entire net worth:

(a) For the first 3 months of the current fiscal or calendar accounting year, in the case of the installment payment required to be paid in the fourth month,

(b) For the first 3 months or for the first 5 months of the current fiscal or calendar accounting year, in the case of the installment payment required to be paid in the sixth month,

(c) For the first 6 months or for the first 8 months of the current fiscal or calendar accounting year, in the case of the installment payment required to be paid in the ninth month,

(d) For the first 9 months or for the first 11 months of the current fiscal or calendar accounting year, in the case of the installment payment required to be paid in the twelfth month, and

(e) For the last 3 months of the preceding taxable year, in the case of the installment payment required to be paid in the first month of the current fiscal or calendar accounting year.

e. Any taxpayer who shall fail to pay, or shall underpay by more than 10% of the amount due, any installment payment required pursuant to this act, shall pay, in addition to the tax, interest on the amount of underpayment at a per annum rate of 5% above

the average predominant prime rate, as determined by the Board of Governors of the Federal Reserve System, quoted by commercial banks to large businesses as of the first business day of the calendar quarter within which the payment was due.

2. This act shall take effect immediately, shall be applicable with respect to taxpayers whose accounting periods end on or after December 31, 1980, and shall be retroactive to the date of enactment of P. L. 1981, c. 184 (C. 54:10A–15 et al.).

Approved December 17, 1981.

CHAPTER 344

AN ACT to validate certain proceedings of school districts and any bonds or other obligations issued or to be issued pursuant to such proceedings.

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

1. All proceedings heretofore had or taken by any school district or at any school district election for the authorization or issuance of bonds of the school district, and any bonds or other obligations of the school district issued or to be issued in pursuance of any proposal adopted by the legal voters at such election, are hereby ratified, validated and confirmed, notwithstanding that a supplemental debt statement required by N. J. S. 18A:24–16 was not prepared and filed as required by N. J. S. 18A:24–16 and N. J. S. 18A:24–17, and notwithstanding that notices relating to such election were not published as required by the provisions of the "Absentee Voting Law," P. L. 1953, c. 211 (C. 19:57–1 et seq.), provided, however, that a supplemental debt statement, prepared as of a date on or prior to the date of such election, shall have been made, sworn to and filed in the places required by law prior to the issuance of such bonds; and provided further, that notices of such election were posted prior to the election as required by law; and provided further, that no action, suit or other proceedings of any nature to contest the validity of such proceedings has heretofore been instituted prior to the date on which this act takes effect and within the time fixed therefor by or pursuant to law or rule of court, or when

such time has not heretofore expired, is instituted within 30 days after the effective date of this act.

2. This act shall take effect immediately.

Approved December 17, 1981.

CHAPTER 345

AN ACT concerning deductions from public employees' compensation to pay dues to employee organizations and amending P. L. 1967, c. 310.

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

1. Section 1 of P. L. 1967, c. 310 (C. 52:14-15.9e) is amended to read as follows:

C. 52:14-15.9e Written authorizations for deductions for dues to employee organizations.

1. Whenever any person holding employment, whose compensation is paid by this State or by any county, municipality, board of education or authority in this State, or by any board, body, agency or commission thereof shall indicate in writing to the proper disbursing officer his desire to have any deductions made from his compensation, for the purpose of paying the employee's dues to a bona fide employee organization, designated by the employee in such request, and of which said employee is a member, such disbursing officer shall make such deduction from the compensation of such person and such disbursing officer shall transmit the sum so deducted to the employee organization designated by the employee in such request.

Any such written authorization may be withdrawn by such person holding employment at any time by the filing of notice of such withdrawal with the above-mentioned disbursing officer. The filing of notice of withdrawal shall be effective to halt deductions as of the January 1 or July 1 next succeeding the date on which notice of withdrawal is filed.

Nothing herein shall preclude a public employer and a duly certified majority representative from entering into a collectively negotiated written agreement which provides that employees in-

cluded in the negotiating unit may only request deduction for the payment of dues to the duly certified majority representative. Such collectively negotiated agreement may include a provision that existing written authorizations for payment of dues to an employee organization other than the duly certified majority representative be terminated. Such collectively negotiated agreement may also include a provision specifying the effective date of a termination in deductions as of the July 1 next succeeding the date on which notice of withdrawal is filed by an employee with the public employer's disbursing officer.

This authorization for negotiation of exclusive dues deduction provisions shall not apply to any negotiating unit which includes employees of any local school district or county college.

As used in this section, dues shall mean all moneys required to be paid by the employee as a condition of membership in an employee organization and any voluntary employee contribution to a committee or fund established by such organization, including but not limited to welfare funds, political action committees, charity funds, legal defense funds, educational funds, and funds for donations to schools, colleges, and universities.

2. This act shall take effect immediately.

Approved December 18, 1981.

CHAPTER 346

AN ACT concerning vacancies among primary election nominees and amending R. S. 19:13–20.

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

1. R. S. 19:13–20 is amended to read as follows:

Vacancies among primary election nominees; selection of candidates; meetings of county committees; procedure in event of tie vote; filing with Secretary of State; certification of candidate.

19:13–20. In the event of a vacancy, howsoever caused, among candidates nominated at primaries, which vacancy shall occur not later than 37 days 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.

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 chairmen of said county committees, acting jointly, to call together the members of their respective committees who are so empowered.

(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 chairman of such county committee to call together the members of the committee who are so empowered.

(3) A county committee chairman or chairmen 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 they are so entitled pursuant to subsection a.

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, 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 thirty-fourth 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 said thirty-fourth day, and in the following manner:

(1) A selection made by a State committee of political party shall be certified to the Secretary of State by the State chairman 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 chairman 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 chairman shall certify the selection to the State chairman 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 chairmen of said committees, acting jointly, to the State chairman 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 is qualified under the laws of this State to be a candidate for the office mentioned in the statement, that he consents to stand as a candidate at the ensuing general election and that he is a member of the political party named in said statement, and further that he 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 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.

2. This act shall take effect immediately.

Approved December 22, 1981.

CHAPTER 347

AN ACT concerning improvements to the facilities and services of small water companies and supplementing Title 58 of the Revised Statutes.

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

C. 58:11-59 Failure to comply by small water companies.

1. Whenever any small water company is found, after notice and public hearing, to have failed to comply, within a specified time, with any order of the Department of Environmental Protection concerning the availability of water, the potability of water and the provision of water at adequate volume and pressure, which the department is authorized to enforce pursuant to Title 58 of the Revised Statutes, the department and the Board of Public Utilities shall, after notice to capable proximate public or private water companies, municipal utilities authorities established pursuant to P. L. 1957, c. 183 (C. 40:14B–1 et seq.), municipalities or any other suitable governmental entities wherein the small water company provides service, and the Department of the Public Advocate, conduct a joint public hearing to determine: the actions that may be taken and the expenditures that may be required, including acquisition costs, to make all improvements necessary to assure the availability of water, the potability of water and the provision thereof at adequate volume and pressure, including, but not necessarily limited to, the acquisition of the small water company by the most suitable public or private entity. As used in this act, "small water company" means any company, purveyor or entity, other than a governmental agency, that provides water for human consumption and which regularly serves less than 1,000 customer connections.

C. 58:11-60 Compensation for acquisition.

2. Compensation for the acquisition of a small water company shall be determined:

a. By agreement between the parties, subject to the approval of the Board of Public Utilities, in consultation with the Department of Environmental Protection, and after the holding of a joint public hearing by the board and the department; or

b. Through use of the power of eminent domain.

C. 58:11-61 Acquisition by most suitable entity; extension of franchise.

3. a. The Department of Environmental Protection and the Board of Public Utilities, upon a determination that the costs of improvements to and the acquisition of the small water company are necessary and reasonable, shall order the acquisition of the small water company by the most suitable public or private entity. This order shall provide for the immediate inclusion in the rates of the acquiring company the anticipated costs of necessary improvements, or, if the determination of acquisition costs has been deferred, as soon as possible thereafter as may be practicable and feasible.

b. The Board of Public Utilities shall extend the franchise area of the acquiring public or private water company to the extent necessary to cover the service area of the small water company taken over pursuant to this act.

C. 58:11-62 Compliance with order.

4. Any water company, municipal utilities authority, municipality or other suitable governmental entity which receives an order pursuant to section 3 of this act shall acquire the small water company and shall make the necessary improvements to assure the availability of water, the potability of the water and the provision of water at adequate volume and pressure. The small water company shall immediately comply with the order and shall facilitate its sale to the water company, municipal utilities authority, municipality or other suitable governmental entity ordered to acquire the small water company.

5. This act shall take effect immediately.

Approved December 22, 1981.

CHAPTER 348

AN ACT concerning the registration of certain aircraft based in the State of New Jersey and amending the "Aircraft Registration Act (1964)," approved July 1, 1964 (P. L. 1964, c. 128).

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

1. Section 6 of P. L. 1964, c. 128 (C. 6:1–68) is amended to read as follows:

C. 6:1-68 Fees for registration of aircraft; "historic aircraft."

6. The following fees shall be charged and collected for the registration of each aircraft and for the renewal of such registration:

Gross Weight in Pounds	Fee
0- 1,500	$15.00
1,501- 2,500	25.00
2,501- 3,500	40.00
3,501- 5,000	60.00
5,001- 7,500	75.00
7,501- 10,000	100.00
10,001- 12,500	150.00
12,501- 20,000	250.00
20,001- 30,000	350.00
30,001- 60,000	500.00
60,001-100,000	750.00
100,001———	1,000.00

For the purposes of this section the gross weight shall be deemed to mean the maximum permissible takeoff weight for the various makes and models of aircraft as set by the Federal Aviation Agency.

Upon proper application by the owner and certification by the commissioner, aircraft may be registered as "Historic Aircraft." Registration shall be limited to aircraft which meet and conform with Federal Aviation Administration requirements governing the registration and identification of antique and exhibition aircraft. Applications for registration as "Historic Aircraft" shall be made on forms and in a manner prescribed by the commissioner. The fee for the initial registration of each "Historic Aircraft" and for each renewal shall be $10.00.

2. This act shall take effect immediately.

Approved December 22, 1981.

CHAPTER 349

AN ACT concerning members of the Division of State Police and amending the "Temporary Disability Benefits Law," approved June 1, 1948 (P. L. 1948, c. 110).

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

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

C. 43:21-27 Definitions.

3. As used in this act, unless the context clearly requires otherwise:

(a) (1) "Covered employer" means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, who is an employer subject to the chapter to which this act is a supplement, designated as the Unemployment Compensation Law (R. S. 43:21–1 et seq.), except the State, its political subdivisions, and any instrumentality of the State unless such governmental entity elects to become a covered employer under the Temporary Disability Benefits Law; provided, however, that commencing with the effective date of this act the State of New Jersey, including Rutgers, The State University, the College of Medicine and Dentistry of New Jersey and the New Jersey Institute of Technology, shall be deemed a covered employer, as defined herein.

(2) Any governmental entity or instrumentality which is an employer under R. S. 43:21–19(h)(5) may elect to become a "covered employer" under this subsection beginning with the date on which its coverage under subsection 19(h)(5) begins or as of January 1 of any year thereafter by filing written notice of such election with the division within at least 30 days of the effective date. Such election shall remain in effect for at least 2 full calendar years and may be terminated as of January 1 of any year thereafter by filing with the division a written notice of termination at least 30 days prior to the termination date.

(b) "Covered individual" means any person who is in employment, as defined in the chapter to which this act is a supplement, for which he is entitled to remuneration from a covered employer, or who has been out of such employment for less than 2 weeks. However, a "covered individual" who is employed by the State of New Jersey, including Rutgers, The State University, the College of Medicine and Dentistry of New Jersey and the New Jersey Institute of Technology, or by any governmental entity or instrumentality which elects to becoming a "covered employer" pursuant to this amendatory act, shall not be eligible to receive any benefits under the Temporary Disability Benefits Law until such individual has exhausted all sick leave accumulated as an employee in the

classified service of the State or accumulated under terms and conditions similar to classified employees or accumulated under the terms and conditions pursuant to the laws of this State or as the result of a negotiated contract with any governmental entity or instrumentality which elects to become a "covered employer."

"Covered individual" shall not mean any member of the Division of State Police in the Department of Law and Public Safety.

(c) "Division" or "commission" means the Division of Unemployment and Temporary Disability Insurance of the Department of Labor, and any transaction or exercise of authority by the director of the division shall be deemed to be performed by the division.

(d) "Day" shall mean a full calendar day beginning and ending at midnight.

(e) "Disability" shall mean such disability as is compensable under section 5 of this act.

(f) "Disability benefits" shall mean any cash payments which are payable to a covered individual pursuant to this act.

(g) "Period of disability" with respect to any individual shall mean the entire period of time, during which he is continuously and totally unable to perform the duties of his employment, except that two periods of disability due to the same or related cause or condition and separated by a period of not more than 14 days shall be considered as one continuous period of disability; provided, the individual has earned wages during such 14-day period with the employer who was his last employer immediately preceding the first period of disability.

(h) "Wages" shall mean all compensation payable by covered employers to covered individuals for personal services, including commissions and bonuses and the cash value of all compensation payable in any medium other than cash.

(i) "Base week" means any calendar week during which an individual earned not less than $15.00 from a covered employer, in employment as defined in the chapter to which this act is a supplement.

(j) "Average weekly wage" means the amount derived by dividing a covered individual's total wages earned from his most recent covered employer during the base weeks in the 8 calendar weeks immediately preceding the calendar week in which disability commenced, by the number of such base weeks. If this computation yields a result which is less than the individual's average weekly earnings in employment, as defined in the chapter to which this act

is a supplement, with all covered employers during the base weeks in such 8 calendar weeks, then the average weekly wage shall be computed on the basis of earnings from all covered employers during the 8 base weeks immediately preceding the week in which the disability commenced.

2. This act shall take effect immediately.

Approved December 22, 1981.

CHAPTER 350

AN ACT concerning education, supplementing chapter 46 of Title 18A of the New Jersey Statutes and making an appropriation.

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

C. 18A:46-3.1 Regional consultants for the hearing impaired.

1. The Commissioner of the Department of Education shall appoint four regional consultants for the hearing impaired. The duties of these consultants shall include assisting the child study teams in the educational evaluation and placement of hearing handicapped children and the development of appropriate individual educational programs for each handicapped child with significant hearing loss.

2. There is hereby appropriated for the purposes of this act $55,000.00.

3. This act shall take effect immediately.

Approved December 24, 1981.

CHAPTER 351

AN ACT concerning education and supplementing chapter 46 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:46-2.1 Legislature's findings.

1. The Legislature finds that impaired hearing can greatly handicap a child's ability to acquire language and develop speech. This can have a profoundly negative effect, not only on the child's intellectual development, but on his emotional and social development as well. The Legislature further finds that in order to safeguard the well-being of those children in this State with significant hearing loss it is of the utmost importance that they be provided with adequate educational services. This bill attempts to insure that the educational needs of all hearing impaired children are met by establishing within the Department of Education the position of coordinator of deaf education.

C. 18A:46-2.2 Appointment of coordinator of deaf education.

2. The Commissioner of the Department of Education shall appoint a coordinator of deaf education.

C. 18A:46-2.3 Duties.

3. The duties of the coordinator of deaf education shall include evaluating, coordinating and developing local, county, regional and State-operated educational programs and services for hearing impaired children.

4. There is appropriated for the purposes of this act $16,000.00.

5. This act shall take effect immediately.

Approved December 24, 1981.

CHAPTER 352

AN ACT concerning the taxation of motor fuels and amending R. S. 54:39–19.

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

1. R. S. 54:39–19 is amended to read as follows:

Bonds required of distributors and gasoline jobbers.

54:39–19. The total amount of the bond or bonds required to be filed shall be fixed by the director and may be increased or reduced by the director at any time subject to the limitations herein provided. In fixing the total amount of the bond or bonds required to be filed by any distributor or gasoline jobber, the director may require a bond or bonds equivalent to an amount no greater than

three times the tax on the greatest amount of motor fuels handled during a monthly period of the previous 12-month period in such manner as the director may deem proper. The director shall take into account the applicant's prior record as a New Jersey taxpayer and all such other information as may be available to him which would establish the applicant's financial responsibility. Where application is made by any person who has theretofore never engaged in business in this State as a distributor or gasoline jobber, prior to the filing of such application, the director, after investigation, shall fix the total amount of such bond or bonds from such information as he may obtain after such investigation. The total amount of the bond or bonds required to be filed by any distributor or gasoline jobber shall never be less than $5,000.00 nor more than $500,000.00. No recoveries on any bond or any execution of any new bond shall invalidate any bond and no revocation of any license shall affect the validity of any bond.

2. This act shall take effect 60 days after enactment.

Approved December 24, 1981.

CHAPTER 353

AN ACT concerning judges of workers' compensation and supplementing chapter 15 of Title 34 of the Revised Statutes.

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

C. 34:15-49.1 Referees designated judges of compensation.

1. Notwithstanding the provisions of R. S. 34:15–49 to the contrary, referees of formal hearings in the Division of Workers' Compensation who have been so employed for a period of 10 years or more and who have been attorneys at law of this State for a period of 10 years or more, are hereby designated judges of compensation and shall commence service as judges of compensation upon the effective date of this act at the first step in salary range 39 of the appropriate compensation plan adopted by the Civil Service Commission in accordance with chapter 8 of Title 11 of the Revised Statutes.

2. This act shall take effect immediately.

Approved December 26, 1981.

CHAPTER 354

A SUPPLEMENT to "An act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1982 and regulating the disbursement thereof," approved June 30, 1981 (P. L. 1981, c. 190).

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

1. The following sum is appropriated out of the General Fund for the purpose herein specified:

DEPARTMENT OF THE TREASURY

GOVERNMENT DIRECTION, MANAGEMENT AND CONTROL

75 State Subsidies and Financial Aid—State Aid

29-2088 Locally Provided Services

For additional payment to the town of Montclair for services to State owned property pursuant to P. L. 1977, c. 272 (C. 54:4–2.2a et seq.) $87,889.90

2. This act shall take effect immediately.

Approved December 26, 1981.

CHAPTER 355

AN ACT concerning the licensing of persons to sell life insurance contracts on a variable basis and amending N. J. S. 17B:28–3 and N. J. S. 17B:28–14.

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

1. N. J. S. 17B:28–3 is amended to read as follows:

Certificate to sell.

17B:28–3. Certificate to sell. a. No agent or solicitor employed by an agent heretofore or hereafter licensed shall be authorized to sell or act or aid in any manner in the negotiation of a contract

on a variable basis until he has received a certificate to sell contracts on a variable basis from the commissioner, which certificate shall not be issued by the commissioner until such agent or solicitor has qualified by personal examination, to the satisfaction of the commissioner, as to his trustworthiness and competence to act as such agent or solicitor.

b. Before a first-time applicant for a license to solicit and negotiate contracts on a variable basis shall be admitted to the examination, the applicant shall be required to concurrently hold an agent's license granting authority to solicit and negotiate contracts of life insurance in this State or hold a license to act as a solicitor for such an agent. Application for a license must be made on such forms as the commissioner may prescribe.

c. The examination fee shall be $25.00 for each examination scheduled and such examination fee shall not be returned for any reason. The licensee fee shall be $25.00. A renewal license shall be issued biennially subject to the payment of the renewal license fee as required by this section and upon request of the insurer. Licenses issued in accordance with this section shall expire on April 30 of each odd numbered year.

d. No written examination shall be required of:

(1) An applicant who is the holder of a valid agent's or solicitor's license issued pursuant to this section by the commissioner or an applicant for a renewal of such license, except in a case where the commissioner has good and sufficient cause to believe that the applicant for renewal has demonstrated incompetence in the conduct of his business as such agent or solicitor to the detriment of the public;

(2) An applicant whose license to do business as an agent or solicitor issued pursuant to this section has expired less than 3 years prior to the date of application. If the applicant has permitted his license to lapse for a period of more than 3 years he must submit to and pass an examination in the same manner as a new applicant, except where the applicant is a veteran who meets the requirements of subsection (4) hereunder, when no re-examination shall be required;

(3) An applicant whose previous license issued pursuant to this section has been revoked or suspended; provided this examination exemption is only at the discretion of the commissioner;

(4) An applicant who is a citizen of New Jersey and has served in the Armed Forces of the United States and has been honorably

discharged or released under conditions other than dishonorable and was the holder at any time of a license in New Jersey which authorized the applicant to solicit or negotiate contracts on a variable basis.

e. The commissioner may issue a nonresident agent's or solicitor's license upon the application of a nonresident who is duly licensed under the law of the state of his residence or domicile to act as an agent or solicitor for contracts on a variable basis if said state does not prohibit residents of this State from acting as nonresident agents or solicitors therein, when:

(1) The applicant has shown by a statement from the proper official of the state in which he has his resident license that he is authorized to do business as an agent or solicitor in such state with authority for which the applicant is to be licensed under the New Jersey nonresident license.

(2) The applicant has paid the annual license fee as provided for in this section.

(3) The applicant has no place of business in this State.

(4) The commissioner may enter into reciprocal agreements with the appropriate supervisory insurance official of any other state waiving the written examination of any applicant resident in such other state, provided:

(a) A written examination is required of applicants for an agent's or solicitor's license in such other state.

(b) The appropriate supervisory insurance official of such other state certifies that the applicant holds a currently valid license as an agent or solicitor in such other state, and either,

(i) Passed a written examination,

(ii) Was the holder of an agent's or solicitor's license prior to the time a written examination was required, or

(iii) Was not required to take such examination by reason of provisions of the applicable agent's or solicitor's licensing law.

(c) That in such other state, a resident of this State is privileged to procure such an agent's or solicitor's license upon the foregoing conditions and without discrimination as to fees or otherwise in favor of residents of such other state. If the laws of another state require the sharing of commissions with resident agents or solicitors of that state on applications for contracts on a variable basis written by nonresident agents or solicitors, then the same provision shall apply when resident

agents or solicitors of that state, licensed as nonresident agents or solicitors of New Jersey write applications for contracts on a variable basis in this State.

2. N. J. S. 17B:28–14 is amended to read as follows:

Regulation of separate account contracts, insurers issuing the same and sales agents.

17B:28–14. Regulation of separate account contracts, insurers issuing the same and sales agents. The commissioner shall have the sole and exclusive authority to regulate the issuance and sale of separate account contracts; and such contracts, the insurers which issue them and the agents, solicitors or other persons who sell them shall not be subject to the Uniform Securities Law (1967) (P. L. 1967, c. 93) as amended or supplemented, in the issuance or sale of such contracts.

3. This act shall take effect 90 days after its enactment.

Approved December 26, 1981.

CHAPTER 356

AN ACT concerning corporations ineligible to conduct business with public entities and amending N. J. S. 2C:51–2.

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

1. N. J. S. 2C:51–2 is amended to read as follows:

Forfeiture of public office.

2C:51–2. Forfeiture of Public Office. a. 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, who is convicted of an offense shall forfeit such office or position if:

(1) He is convicted under the laws of this State of an offense involving dishonesty or of a crime of the third degree or above or under the laws of another state or of the United States of an offense or a crime which, if committed in this State, would be such an offense or crime;

(2) He is convicted of an offense involving or touching such office, position or employment; or

(3) The Constitution or a statute other than the code so provides.

b. The forfeiture set forth in subsection a. shall take effect:

(1) Upon finding of guilty by the trier of fact or a plea of guilty, if the court so orders; or

(2) Upon sentencing unless the court for good cause shown, orders a stay of such forfeiture. If the conviction be reversed, he shall be restored, if feasible, to his office, position or employment with all the rights, emoluments and salary thereof from the date of forfeiture.

c. In addition to the punishment prescribed for the offense, and the forfeiture set forth in 2C:51–2a., any person convicted of an offense involving or touching on his public office, position or employment shall be forever disqualified from holding any office or position of honor, trust or profit under this State or any of its administrative or political subdivisions.

d. Except as may otherwise be ordered by the Attorney General as the public need may require, any person convicted of an offense under section 2C:27–2, 2C:27–4, 2C:27–6, 2C:27–7, 2C:29–4, 2C:30–2, or 2C:30–3 of this Title shall be ineligible, either directly or indirectly, to submit a bid, enter into any contract, or to conduct any business with any board, agency, authority, department, commission, public corporation, or other body of this State, of this or one or more other states, or of one or more political subdivisions of this State for a period of, but not more than, 10 years from the date of conviction for a crime of the second degree, or 5 years from the date of conviction for a crime of the third degree. It is the purpose of this subsection to bar any individual convicted of any of the above enumerated offenses and any business, including any corporation, partnership, association or proprietorship in which such individual is a principal, or with respect to which such individual owns, directly or indirectly, or controls 5% or more of the stock or other equity interest of such business, from conducting business with public entities.

The State Treasurer shall keep and maintain a list of all corporations barred from conducting such business pursuant to this section.

2. This act shall take effect immediately.

Approved December 26, 1981.

CHAPTER 357

AN ACT to amend the title of "An act providing for the testing of newborn children for purposes of the early detection of hypothyroidism," approved January 10, 1978 (P. L. 1977, c. 321), so that the same shall read "An act providing for the testing of newborn children for purposes of the early detection of biochemical disorders," to amend and supplement the body of said act, and to repeal P. L. 1964, c. 268 (C. 26:2–84 et seq.).

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

Title amended.

1. The title of P. L. 1977, c. 321 is amended to read as follows:

An act providing for the testing of newborn children for purposes of the early detection of biochemical disorders.

2. Section 1 of P. L. 1977, c. 321 (C. 26:2–110) is amended to read as follows:

C. 26:2-110 Declared public policy.

1. It is hereby declared to be the public policy of this State that in the interests of public health every effort should be made to detect in newborn infants, hypothyriodism, galactosemia, phenylketonuria, and other preventable biochemical disorders which may cause mental retardation or other permanent disabilities.

3. Section 2 of P. L. 1977, c. 321 (C: 26:2–111) is amended to read as follows:

C. 26:2-111 Mandatory testing of newborn infants.

2. All newborn infants shall be tested for hypothyriodism, galactosemia and phenylketonuria. The Commissioner of Health shall issue regulations to assure that newborns are so tested in a manner approved by the commissioner. The State Department of Health may charge a reasonable fee for the tests performed pursuant to this act. The amount of the fee and the procedures for collecting the fee shall be determined by the commissioner.

The commissioner may also require testing of newborn infants for other preventable biochemical disorders if reliable and efficient

testing techniques are available. If the commissioner determines that an additional test shall be required, 90 days prior to requiring the test he shall advise the President of the Senate, Speaker of the General Assembly and chairmen of the standing reference committees on Revenue, Finance and Appropriations and Institutions, Health and Welfare of his determination.

The commissioner shall provide a program of reviewing and following up on positive cases in order that measures may be taken to prevent mental retardation or other permanent disabilities.

Information on newborn infants and their families compiled pursuant to this section may be used by the department and agencies designated by the commissioner for the purposes of carrying out this act, but otherwise the information shall be confidential and not divulged or made public so as to disclose the identity of any person to which it relates, except as provided by law. The department shall conduct an intensive educational and training program among physicians, hospitals, public health nurses and the public concerning those biochemical disorders. This program shall include information concerning the nature of the disorders and testing for the detection of these disorders.

The provisions of this section shall not apply if the parents of a newborn infant object to the testing on the grounds that it would conflict with their religious tenets or practices.

C. 26:2-112 Agreements authorized.

4. The commissioner is authorized to enter into agreements with the Federal Government and public health agencies in other states to achieve greater effectiveness or efficiency in carrying out the provisions of this act.

Repealer.

5. P. L. 1964, c. 268 (C. 26:2–84 et seq.) is repealed.

6. This act shall take effect 90 days following enactment.

Approved December 29, 1981.

CHAPTER 358

AN ACT concerning the taxation of mobile homes and repealing P. L. 1981, c. 9.

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

1. a. Any mobile home assessed and taxed as real property prior to and on March 20, 1979 for which no appeal has been taken on the imposition of a real property tax as of said date, shall be assessed and taxed as real property. Any mobile home that was not assessed and taxed as real property prior to and on March 20, 1979 shall not be assessed and taxed as real property until October 1, 1982 for the tax year 1983.

b. Any mobile home acquired after March 20, 1979 shall be assessed and taxed as real property; except that any mobile home located after said date in any mobile home park in which mobile homes were not assessed and taxed as real property prior to March 20, 1979, shall not be assessed and taxed as real property until October 1, 1982 for the tax year 1983.

c. During the period of the moratorium and for the tax years 1978, 1979, 1980, 1981, and 1982, no mobile home subject to the moratorium shall be assessed as an added or omitted assessment and taxed as real property.

2. a. Except as otherwise provided in subsection b. of this section, a sales tax pursuant to subsection (v) of section 2 of P. L. 1966, c. 30 (C. 54:32B–2 (v)) on any mobile home sale made on or after March 20, 1979, shall remain in effect and be enforced as heretofore until December 31, 1982.

b. Any sale of a mobile home assessed and taxable as real property pursuant to section 1 of this act shall not be subject to the sales tax, except in the case of the sale of a new or previously unused mobile home which shall be subject to the sales tax only to the extent of the taxation of the sale of tangible personal property for building construction pursuant to subsection (e) (2) (A) of section 2 of P. L. 1966, c. 30 (C. 54:32B–2 (e) (2) (A)).

Repealer.

3. P. L. 1981, c. 9 is repealed.

4. This act shall take effect immediately.

Approved December 30, 1981.

New Jersey State Library

CHAPTER 359

AN ACT to amend the "Optional County Charter Law," approved September 19, 1972 (P. L. 1972, c. 154).

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

1. Section 102 of P. L. 1972, c. 154 (C. 40:41A–102) is amended to read as follows:

C. 40:41A-102 Recording of ordinances and resolutions.

102. Recording of ordinances and resolutions. The clerk to the board of freeholders shall record all ordinances and resolutions adopted by the board and at the close of each year, with the advice and assistance of the county counsel shall compile or codify true copies of all the ordinances and resolutions adopted during that year, properly indexed. He shall cause such copies thereof to be printed as the county governing body may require. A copy of the codified ordinances and resolutions shall be transmitted to each municipality within the county, upon request and without charge, and to any member of the general public, upon request and at cost.

2. This act shall take effect immediately.

Approved December 30, 1981.

CHAPTER 360

A SUPPLEMENT to "An act relating to the transportation system of the State and making appropriations therefor," approved April 15, 1980 (P. L. 1980, c. 21).

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

1. Notwithstanding the provisions of P. L. 1980, c. 21 to the contrary, the following projects shall be authorized as appropriated by section 8 of P. L. 1980, c. 12:

Route	Description	County	Estimated Cost
18	N. J. Turnpike to Main Street—Resurfacing	Middlesex	($2,500,000)
27	Drainage Improvement at Mill Brook	Middlesex	(350,000)
36	Joline Avenue to Monmouth Beach	Monmouth	(5,700,000)
130	Bridge over PC Railroad	Middlesex	(600,000)
202	Summer Road to Old York Road—Resurfacing	Hudson and Somerset	(850,000)
1	South of Milltown Road to south of Morris Goodkind Bridge	Middlesex	(1,200,000)
70	South of Red Lion Circle to Medford Circle	Burlington	(765,000)

2. This act shall take effect immediately.

Approved December 30, 1981.

CHAPTER 361

AN ACT to amend the "Cigarette Tax Act," approved April 29, 1948 (P. L. 1948, c. 65).

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

1. Section 609 of P. L. 1948, c. 65 (C. 54:40A–32) is amended to read as follows:

C. 54:40A-32 Records; possession and transportation of unstamped cigarettes; seizure and confiscation of vessel or vehicle.

609. Records; possession and transportation of unstamped cigarettes; seizure and confiscation of vessel or vehicle.

Every person who shall transport cigarettes not stamped as required by this act upon the public highways, waterways, roads or streets of this State shall have in his actual possession invoices

or delivery tickets for such cigarettes which shall show the true name and complete and exact address of the consignor or seller, the true name and complete and exact address of the consignee or purchaser, the quantity and brands of the cigarettes transported and in addition shall show separately the true name and complete and exact address of the person who has or shall assume the payment of the New Jersey State tax or the tax, if any, of the State or foreign country at the point of ultimate destination, provided that any common carrier which has issued a bill of lading for a shipment of cigarettes and is without notice to itself or to any of its agents or employees that said cigarettes are not stamped as required by this act shall be deemed to have complied with this act and the vehicle or vessel in which said cigarettes are being transported shall not be subject to confiscation hereunder. In the absence of such invoices, delivery tickets or bills of lading, as the case may be, the cigarettes so transported, the vehicle, or vessel in which the cigarettes are being transported and any paraphernalia or devices used in connection with the unstamped cigarettes, are declared to be contraband goods and may be seized by the director, his agents or employees or by any peace officer of the State when directed by the director, his agents or employees so to do, without a warrant. The director shall immediately thereafter institute a proceeding for the confiscation thereof in the County Court, county district court or the municipal court within the jurisdiction of which the seizure is made. The owner or any person having a security interest in any such vehicle may secure release of the same by depositing with the clerk of the court, in which such proceeding is pending, a bond with good and sufficient sureties in an amount to be fixed by the court, conditioned upon the return of said vehicle to the director upon demand after completion of said proceeding. The court may proceed in a summary manner and may direct confiscation to the director; provided, however, anything to the contrary notwithstanding, that the owner or any person claiming to be the holder of a mortgage, conditional sales contract or other security interest in any vehicle or vessel, the disposition of which is provided for above, may present his petition so alleging and be heard, and in the event it appears to the court that the property was unlawfully used by a person other than the owner or such claimant, and if such owner or claimant acquired ownership or his security interest in good faith and without knowledge that the vehicle or vessel was going to be so used, the court shall either waive forfeiture in favor of such owner or

claimant and order the vehicle or vessel returned or delivered to such owner or claimant, or if it is found that the value thereof exceeds the amount of the claim, the court shall order payment of the amount of the claim out of the proceeds of the sale. Every transporter who violates the provisions of this act is a disorderly person, and shall, in addition to such penalties as attached thereto, be liable to a penalty equal to the amount of tax due on any unstamped cigarettes transported by him, which penalty shall be sued for and recovered in the same manner as provided for the penalties imposed by section 601 of the act to which this act is amendatory (C. 54:40A–24).

2. This act shall take effect immediately.

Approved December 30, 1981.

CHAPTER 362

AN ACT concerning change of name and amending N. J. S. 2A:52–1 and 2A:52–2.

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

1. N. J. S. 2A:52–1 is amended to read as follows:

Action for change of name.

2A:52–1. Any person may institute an action in Superior Court, for authority to assume another name. The complaint for a change of name shall state whether or not the applicant has been convicted of a crime and whether any criminal charges are pending against him and, if so, shall provide such details in connection therewith sufficient to readily identify the matter referred to. Service of a copy of the complaint, whether or not citing a prior conviction or pending charges, shall be made upon the Attorney General, the county prosecutor of the county in which the action is filed, and, if applicable, upon the prosecutor of the county in which the applicant was previously convicted of a crime or in which charges against him are pending for such response as they may deem appropriate. A person commits a disorderly persons offense if he knowingly gives or causes to be given false information under this section.

2. N. J. S. 2A:52–2 is amended to read as follows:

Copy to Bureau of Identification.

2A:52–2. Such person, from and after the day specified therefor in the judgment in the action, shall be known by the name which, by the judgment, he is authorized to assume, and by no other. The judgment for change of name shall include the applicant's date of birth, and the clerk of the court shall forward a copy of the judgment to the State Bureau of Identification in the Division of State Police.

3. This act shall take effect immediately.

Approved December 30, 1981.

CHAPTER 363

AN ACT concerning antique firearms and amending N. J. S. 2C:39–1 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:39–1 is amended to read as follows:

Definitions.

2C:39–1. Definitions. The following definitions apply to this chapter and to chapter 58:

a. "Antique firearm" means any firearm which is incapable of being fired or discharged, or which does not fire fixed ammunition regardless of date of manufacture, or which was manufactured before 1898 for which cartridge ammunition is not commercially available, and is possessed as a curiosity or ornament or for its historical significance or value.

b. "Deface" means to remove, deface, cover, alter or destroy the name of the maker, model designation, manufacturer's serial number or any other distinguishing identification mark or number on any firearm.

c. "Destructive device" means any device, instrument or object designed to explode or produce uncontrolled combustion, including (1) any explosive or incendiary bomb, mine or grenade; (2) any rocket having a propellant charge of more than four ounces or any missile having an explosive or incendiary charge of more than one-

quarter of an ounce; (3) any weapon capable of firing a projectile of a caliber greater than .60 caliber, except a shotgun or shotgun ammunition generally recognized as suitable for sporting purposes; (4) any Molotov cocktail or other device consisting of a breakable container containing flammable liquid and having a wick or similar device capable of being ignited. The term does not include any device manufactured for the purpose of illumination, distress signaling, line-throwing, safety or similar purposes.

d. "Dispose of" means to give, give away, lease, loan, keep for sale, offer, offer for sale, sell, transfer, or otherwise transfer possession.

e. "Explosive" means any chemical compound or mixture that is commonly used or is possessed for the purpose of producing an explosion and which contains any oxidizing and combustible materials or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion or by detonation of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects. The term shall not include small arms ammunition, or explosives in the form prescribed by the official United States Pharmacopœia.

f. "Firearm" means any handgun, rifle, shotgun, machine gun, automatic or semi-automatic rifle, or any gun, device or instrument in the nature of a weapon from which may be fired or ejected any solid projectable ball, slug, pellet, missile or bullet, or any gas, vapor or other noxious thing, by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances. It shall also include, without limitation, any firearm which is in the nature of an air gun, spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas or vapor, air or compressed air, or is ignited by compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person.

g. "Firearm silencer" means any instrument, attachment, weapon or appliance for causing the firing of any gun, revolver, pistol or other firearm to be silent, or intended to lessen or muffle the noise of the firing of any gun, revolver, pistol or other firearm.

h. "Gravity knife" means any knife which has a blade which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force.

i. "Machine gun" means any firearm, mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir, belt or other means of storing and carrying ammunition which can be loaded into the firearm, mechanism or instrument and fired therefrom.

j. "Manufacturer" means any person who receives or obtains raw materials or parts and processes them into firearms or finished parts of firearms, except a person who exclusively processes grips, stocks and other nonmetal parts of firearms. The term does not include a person who repairs existing firearms or receives new and used raw materials or parts solely for the repair of existing firearms.

k. "Handgun" means any pistol, revolver or other firearm originally designed or manufactured to be fired by the use of a single hand.

l. "Retail dealer" means any person including a gunsmith, except a manufacturer or a wholesale dealer, who sells, transfers or assigns for a fee or profit any firearm or parts of firearms or ammunition which he has purchased or obtained with the intention, or for the purpose, of reselling or reassigning to persons who are reasonably understood to be the ultimate consumers, and includes any person who is engaged in the business of repairing firearms or who sells any firearm to satisfy a debt secured by the pledge of a firearm.

m. "Rifle" means any firearm designed to be fired from the shoulder and using the energy of the explosive in a fixed metallic cartridge to fire a single projectile through a rifled bore for each single pull of the trigger.

n. "Shotgun" means any firearm designed to be fired from the shoulder and using the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shots or a single projectile for each pull of the trigger, or any firearm designed to be fired from the shoulder which does not fire fixed ammunition.

o. "Sawed-off shotgun" means any shotgun having a barrel or barrels of less than 18 inches in length measured from the breech to the muzzle, or a rifle having a barrel or barrels of less than 16 inches in length measured from the breech to the muzzle, or any firearm made from a rifle or a shotgun, whether by alteration, or otherwise, if such firearm as modified has an overall length of less than 26 inches.

p. "Switchblade knife" means any knife or similar device which has a blade which opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife.

q. "Superintendent" means the Superintendent of the State Police.

r. "Weapon" means anything readily capable of lethal use or of inflicting serious bodily injury. The term includes, but is not limited to, all (1) firearms, even though not loaded or lacking a clip or other component to render them immediately operable; (2) components which can be readily assembled into a weapon; and (3) gravity knives, switchblade knives, daggers, dirks, stilettos, or other dangerous knives, billies, blackjacks, bludgeons, metal knuckles, sandclubs, slingshots, cesti or similar leather bands studded with metal filings or razor blades imbedded in wood; and any weapon or other device which projects, releases, or emits tear gas or any other substance intended to produce temporary physical discomfort or permanent injury through being vaporized or otherwise dispensed in the air.

s. "Wholesale dealer" means any person, except a manufacturer, who sells, transfers, or assigns firearms, or parts of firearms, to persons who are reasonably understood not to be the ultimate consumers, and includes persons who receive finished parts of firearms and assemble them into completed or partially completed firearms, in furtherance of such purpose, except that it shall not include those persons dealing exclusively in grips, stocks and other nonmetal parts of firearms.

2. N. J. S. 2C:58–3 is amended to read as follows:

Purchase of firearms.

2C:58–3. Purchase of Firearms. 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 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 section 2C:58–2a., 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 a crime, whether or not armed with or possessing a weapon at the time of such offense;

(2) To any drug dependent person as defined in 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; or

(5) To any person where the issuance would not be in the interest of the public health, safety or welfare.

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 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, and such other information as the superintendent shall deem necessary for the proper enforce-

ment 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 $2.00, or the application for the firearms purchaser identification card together with a fee of $5.00, 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 5 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 5 days shall be an offense under section 2C:39–10a. 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 county 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 5 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, but 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.

3. This act shall take effect immediately.

Approved December 30, 1981.

CHAPTER 364

AN ACT providing counties and municipalities with a lien for the costs of providing assigned counsel and other related costs for the defense of indigent persons accused of a nonindictable offense.

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

C. 40:6A-1 Lien on defendant's property.

1. Whenever a county or municipality is required to pay the costs of the assignment of counsel and other related costs for the defense of an indigent person pursuant to R. 3:27–2 of the Rules Governing the Courts of the State of New Jersey or pursuant to any rule or law subsequently enacted, the amount paid by the county or municipality for the defense of the indigent shall be a lien on any and all property which the defendant shall have or in which he shall acquire an interest. The county or municipal counsel shall effectuate such lien whenever the costs of the defense exceed $150.00. To effectuate the lien, the county or municipal counsel shall file a notice setting forth the amount which was paid for the defense of the indigent with the clerk of the Superior Court. The filing of said notice with the clerk of the Superior Court shall from the date thereof constitute a lien on said property for a period of 10 years, unless sooner discharged and except for such

time limitations shall have the force and effect of a Judgment at Law. Within 10 days of the filing of the Notice of Lien, the county or municipal counsel shall send by certified mail, or serve personally, a copy of such notice with a statement of the date of the filing thereof to or upon the defendant at his last known address.

C. 40:6A-2 Books for filing liens.

2. The clerk of the superior court may provide separate books for the filing of said liens indexed in the name of the judgment debtor, or he may record the liens in the books used for filing liens incurred for the services of the Public Defender.

C. 40:6A-3 Remedies for collection.

3. The county or municipal counsel shall have all the remedies and may take all the proceedings for the collection of moneys due the county or municipality for the costs incurred in the defense of the indigent which may be had or taken for or upon the recovery of a judgment in a civil action, and may institute and maintain any action or proceeding in the court necessary therefor. In any such proceeding or action, the costs paid by the county or municipality shall be presumed to represent the true and reasonable value of the services rendered to the defendant.

C. 40:6A-4 Compromise and settlement.

4. The county or municipal counsel may recommend to their respective governing bodies a compromise and settlement of any claim for payment of costs incurred by the county or municipality in defense of an indigent whenever it appears in his judgment to be in the best interests of the county or municipality. The compromise or settlement may be approved by resolution of the governing body.

5. This act shall take effect immediately.

Approved December 30, 1981.

CHAPTER 365

AN ACT concerning motor vehicle offenses in certain cases.

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

C. 39:4-203.1 Payment of fine in installments.

1. Any defendant convicted of a traffic offense, other than a parking offense, pursuant to Title 39 of the Revised Statutes, shall, upon a satisfactory showing of a condition of indigency, be permitted by the court to pay the fine in installments. The court shall set the amount and frequency of each installment, except that the final installment shall be due no later than 6 months from the date of conviction.

C. 39:4-203.2 Suspension of license for noncompliance.

2. If the defendant fails to comply with any of the terms of the installment order, the court may, in addition to any other penalties it may impose, order the suspension of the defendant's driver's license and notify the Director of the Division of Motor Vehicles of the action.

3. This act shall take effect 120 days following its enactment.

Approved December 30, 1981.

CHAPTER 366

AN ACT appropriating funds from the Emergency Flood Control Fund for the purpose of providing State grants to local units for the acquisition, development, construction and maintenance of flood control facilities.

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

1. There is appropriated to the Department of Environmental Protection from the "Emergency Flood Control Fund" created pursuant to the "Emergency Flood Control Bond Act," P. L. 1978, c. 78, the sum of $6,347,704.00 for the purpose of providing State grants to local units for the acquisition, development, construction

and maintenance of flood control facilities and for State administrative costs. The terms and conditions of these grants shall be specified by rule or regulation pursuant to section 5 of P. L. 1978, c. 78, but no such grant shall be for more than 50% of the cost of any project.

2. The expenditure of the sums appropriated by this act is subject to the provisions of P. L. 1978, c. 78 and P. L. 1979, c. 196.

3. This act shall take effect immediately.

Approved December 30, 1981.

CHAPTER 367

AN ACT relating to housing, providing additional loans for the financial feasibility and stability of existing qualified housing developments owned by qualified mortgagors and on which the New Jersey Housing Finance Agency has made first mortgage loans, and making an appropriation therefor from the Mortgage Assistance Fund.

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

1. There is hereby appropriated to the Department of Community Affairs from the Mortgage Assistance Fund, established by P. L. 1976, c. 94, the sum of $8,264,361.00 in order to make additional loans for the financial feasibility and stability of existing housing developments which are owned by qualified mortgagors within the meaning of P. L. 1976, c. 94, on which the New Jersey Housing Finance Agency has made first mortgage loans and which are qualified housing developments within the meaning of P. L. 1976, c. 94. The money hereby appropriated may be used by the Housing Finance Agency to make the additional loans or it may be used by the Department of Community Affairs to make the additional loans, as the Commissioner of the Department of Community Affairs shall determine. The additional loans may be subordinated to the existing mortgage loans on the housing projects held by the Housing Finance Agency and the repayment of principal and interest on the additional loans may be deferred until the existing Housing Finance Agency mortgage loans are paid or otherwise

discharged or released. If the Housing Finance Agency has already advanced the amount of an additional loan, the Department of Community Affairs may reimburse the Housing Finance Agency the amount of its advance from the money hereby appropriated. In furtherance of this appropriation, the Commissioner of the Department of Community Affairs may withdraw from the Mortgage Assistance Fund money hereby appropriated in such amounts and at such times as he shall deem necessary or advisable subject, however, to such restrictions as are otherwise exercised over appropriated State funds.

2. The Commissioner of the Department of Community Affairs is hereby authorized to take such steps as he deems necessary or advisable to render the Housing Finance Agency the obligee and mortgagee of all additional loans heretofore made, or heretofore or hereby authorized to be made, by the Department of Community Affairs with funds heretofore or hereby appropriated from the Mortgage Assistance Fund. In addition to such other steps as the commissioner may deem necessary or advisable, the commissioner may assign any such additional loans to the Housing Finance Agency or, if not yet advanced, may make the money heretofore or hereby appropriated from the Mortgage Assistance Fund available to the Housing Finance Agency in order for the Housing Finance Agency to advance the proceeds of such additional loans.

3. Any money, whether principal or interest, which the Department of Community Affairs or the Housing Finance Agency receives in repayment of an additional loan for which money is hereby appropriated, or for which money was heretofore appropriated from the Mortgage Assistance Fund, shall be deposited with the State Treasurer upon receipt for credit to the Mortgage Assistance Fund, notwithstanding any other direction to the contrary, including, particularly, P. L. 1976, c. 133 (C. 55:14J–41 et seq.).

4. The State Treasurer shall hold all money which is to be credited to the Mortgage Assistance Fund pursuant to P. L. 1976, c. 94 or this act in a separate account to be deposited in such depositories as may be selected by him to the credit of the Mortgage Assistance Fund. The State Treasurer shall disburse money hereby appropriated to or upon the order of the Commissioner of the Department of Community Affairs.

5. This act shall take effect immediately.

Approved December 30, 1981.

CHAPTER 368

AN ACT appropriating $2,000,000.00 from the Natural Resources Fund for the purpose of State projects for harbor cleanup in the Delaware river and bay area.

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

1. a. There is appropriated to the Department of Environmental Protection from the Natural Resources Fund created pursuant to the "Natural Resources Bond Act of 1980" (P. L. 1980, c. 70) the sum of $2,000,000.00 for the purpose of State projects for harbor cleanup in the Delaware river and bay area, which sum shall include administrative costs. Of this sum, the amount of $950,400.00 shall be utilized for a grant to the South Jersey Port Corporation for the demolition and removal of the derelict pier located on Spruce street in the city of Camden.

b. This sum shall be made available by the sale of bonds authorized by the "Natural Resources Bond Act of 1980" (P. L. 1980, c. 70).

2. The expenditure of the sum appropriated by this act is subject to the provisions and conditions of P. L. 1980, c. 70.

3. This act shall take effect immediately.

Approved December 30, 1981.

CHAPTER 369

AN ACT concerning the prevention and control of forest fires; amending, supplementing and repealing certain sections of Title 13 of the Revised Statutes.

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

C. 13:9-44.1 Short title.

1. (New section) Sections 1 through 10 inclusive of this act shall be cited and may be known as the "Forest Fire Prevention and Control Act."

C. 13:9-44.2 State policy.

2. (New section) The Legislature declares it to be the policy of this State to prevent, control and manage wildfires on or threatening the forests or wildlands of New Jersey in order to preserve forests and other natural resources; to enhance the growth and maintenance of forests; to protect recreational, residential, wildlife, plant life, watershed, airshed, and other values; to promote the stability of forest using industries; and to prevent loss of life, bodily injury and damage to property from wildfires and conflagrations.

C. 13:9-44.3 Definitions.

3. (New section) As used in this amendatory and supplementary act:

a. "Commissioner" means the Commissioner of Environmental Protection or an official designated by the commissioner.

b. "Back fire" means a controlled fire purposely ignited in the path of wildfire along the inner edge of a control line.

c. "Department" means the Department of Environmental Protection.

d. "Forest" means and includes any forest, bushland, grassland, salt marsh, and any combination thereof.

e. "Wildfire" means an uncontrolled fire burning the different types of vegetation that cover the land.

C. 13:9-44.4 Investigations authorized.

4. (New section) The Department of Environmental Protection is authorized to make, conduct or participate in any investigation or survey designed to establish the cause of and responsibility for a particular wildfire and to cooperate with any law enforcement officers of this State with respect to violations of this act.

C. 13:9-44.5 Rules and regulations.

5. (New section) The Department of Environmental Protection is authorized to formulate, promulgate, amend, and repeal rules and regulations and to issue orders to carry out the purposes of this act.

C. 13:9-44.6 Prohibitions.

6. (New section) No person shall discharge or cause to be discharged any incendiary device on or across any forest land, or operate a welding torch or other mechanism which may cause a wildfire, without clearing flammable material surrounding the operation or without taking such other precautions as prescribed by the department to insure against the ignition and spread of

wildfire, or cause to be operated any engine, locomotive, power vehicle, equipment, or other machinery not equipped with spark arrestors or other suitable controls, approved by the department by rule to prevent the escape of fire or sparks. Spark arrestors or devices must be in good working order and in use. The department may prohibit the operation of any locomotive, rapid transit, engine, equipment, or other motorized unit not properly equipped with department approved fire protection devices. Escape of fire from such equipment shall be presumed to be evidence that it was not maintained properly in compliance with this section. Any person in violation thereof may be put upon his proof to rebut such presumption in any civil proceeding under this act.

C. 13:9-44.7 No throwing of cigarettes.

7. (New section) No person shall throw or drop any object within forests which is likely to cause a wildfire, including but not limited to a lighted cigarette, lighted cigar, match or live ashes.

C. 13:9-44.8 Public nuisance.

8. (New section) The rights-of-way of all railroads which are operated through forests shall be prescribed burned by the railroad during the fall and winter months and kept cleared of all obsolete ties or other flammable material. The department shall notify the owner of such property that failure to comply will result in the property being declared a public nuisance which by reason of its condition or operation is a special forest fire hazard and as such endangers other property or human life. The department shall notify the owner of such property or the person responsible for the condition or operation thereof, that it has been declared a public nuisance and order him to abate it.

C. 13:9-44.9 Recovery of costs.

9. (New section) The department may, in the name of the State, recover costs of extinguishment and costs associated therewith from any person or agency, public or private, whose negligence or whose knowing violation of any provision of this act caused any fire in the State for the services of persons and equipment under the provisions of this act to control, confine, extinguish, or suppress such fire. The claim shall be paid within 60 days and if not paid within that time, the department may bring suit against the person or agency in a court of competent jurisdiction for the collection of the claim.

C. 13:9-44.10 Violations of act.

10. (New section) If any person violates any of the provisions of this act or any rule, regulation or order promulgated pursuant to provisions of this act, the department may:

(a) Institute a civil action in a court of competent jurisdiction for injunctive relief to prohibit and prevent such violation and the court may proceed in the action in a summary manner. Any person who violates the provisions of this act or any rule, regulation or order promulgated pursuant to this act shall be liable to a penalty of not more than $5,000.00 for each offense, to be collected in a civil action by a summary proceeding under "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.) or in any case before a court of competent jurisdiction wherein injunctive relief has been requested. The Superior Court, municipal court and county district court shall have jurisdiction to enforce "the penalty enforcement law." The Attorney General or the prosecuting attorney of the municipality or county in which the offense was committed may prosecute the case. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. The department is authorized to settle any claim for a penalty under this section in such amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances;

(b) Petition the Attorney General to bring a criminal action against any person who knowingly violates any of the provisions of this act or any rule, regulation or order promulgated pursuant to the provisions of this act and thereby causes a wildfire. Such person shall, upon conviction, be guilty of a crime of the fourth degree and notwithstanding the provisions of N. J. S. 2C:43–3 shall be subject to a fine of not more than $100,000.00 for each offense; or

(c) Levy a civil administrative remedy of not more than $5,000.00 for each violation and additional penalties of not more than $500.00 for each day during which such violation continues after receipt of an order from the department. No penalty shall be levied pursuant to this section until the person has been notified by certified mail or personal service. The notice shall include a reference to the section of the statute violated; a concise statement of the facts alleged to constitute a violation; a statement of the person's right to a hearing. The person shall have 20 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, then the notice shall become a final order after the expiration of the 20 day period. Payment is due when the final order is issued or the notice becomes a final order.

11. R. S. 13:9–1 is amended to read as follows:

Forest fire service.

13:9–1. The Department of Environmental Protection shall maintain a forest fire service for the protection of forests, and property adjacent thereto, wherever the department shall determine the necessity therefor.

12. R. S. 13:9–2 is amended to read as follows:

Powers of department.

13:9–2. The department, through its agents, shall have power to:

a. Determine forest fire hazards;

b. Remove or cause to be removed brush, undergrowth or other material which contributes to forest fire hazards;

c. Maintain or cause to be maintained fire breaks;

d. Plough lands, set prescribed fires and back fires, order any highway or road closed to traffic and adopt regulations for burning forests or any forest material;

e. Summon any person between the ages of 18 and 50, who may be within the jurisdiction of the State, to assist in extinguishing fires; and

f. Require the use of materials, equipment or property needed for extinguishing wildfires when required to abate an emergency.

13. R. S. 13:9–3 is amended to read as follows:

Firewardens.

13:9–3. The department shall have power from time to time, subject to the limitations of this chapter, to prescribe such duties and make such regulations for the government of firewardens for the prevention and extinguishing of forest fires, and for the employment, discharge and pay of firewardens, as, in its judgment, shall be efficacious to that purpose. Firewardens shall perform such service and have such authority as shall be determined by the department.

14. R. S. 13:9–4 is amended to read as follows:

Property, equipment and supplies.

13:9–4. The department may purchase and distribute to the firewardens such material, supplies and equipment and purchase

such other property as it may deem necessary to effectuate the provisions of this chapter. The department shall be custodian of all property, equipment and supplies used in the protection of forests.

15. R. S. 13:9–5 is amended to read as follows:

Expenses to be paid by State.

13:9–5. All expenses incurred by the department in carrying out the provisions of this chapter, including the compensation of officers and employees in the forest fire service, shall be paid by the State; but such sums shall not exceed the amount appropriated therefor by the Legislature with the amount available from cooperative forest fire funds received from the Federal Government or any county, municipality, corporation or person.

16. R. S. 13:9–6 is amended to read as follows:

Divisions, sections and districts.

13:9–6. The department shall divide the forest areas of the State into divisions, sections and districts.

17. R. S. 13:9–7 is amended to read as follows:

Officers and employees.

13:9–7. The department may appoint, removable by the department after charges have been preferred and hearing granted, a State firewarden, and such supervisors, deputies, assistants, other officers and employees as may be needed and fix their compensation. The department may create job titles and appoint with or without annual salary, a work force necessary to conduct the business of the service.

18. R. S. 13:9–9 is amended to read as follows:

Emergency provisions.

13:9–9. The department shall, when the emergency arises, employ work crews and purchase equipment to fight forest fires as may be deemed necessary. The department may enter into cooperative or contractual agreements with the United States or any agency or department thereof, other State departments and any subdivisions of this State or any other person or body politic for the accomplishment of the purposes of this amendatory and supplementary act. The department shall cooperate with any public and private agencies or persons in the conduct of fire management plans and other matters of mutual interest.

19. R. S. 13:9–10 is amended to read as follows:

Deputy firewardens.

13:9–10. Each firewarden, subject to the approval of the department, may designate one or more proper persons to act as deputy or deputies in case of his absence or disability from any cause.

20. R. S. 13:9–13 is amended to read as follows:

Duties of State firewarden.

13:9–13. The State firewarden, under the direction of the commissioner, shall administer and supervise the forest fire service, cooperating agencies and such laws as shall deal with the protection of forests from wildfire.

21. R. S. 13:9–15 is amended to read as follows:

Trained law enforcement officers.

13:9–15. Firewardens shall be trained law enforcement officers and shall enforce the laws of this State for the protection of forests from wildfire. They shall have control and direction of all persons and apparatus engaged in extinguishing fires in forests. They may plough lands or set back fires to check any fire. They may summon any person between the ages of 18 and 50 years, living or being within their jurisdiction, to assist in extinguishing fires, and may require the use of any property needed for such purpose. No physically fit person so summoned shall refuse or neglect to assist, nor shall any person refuse the use of any property, equipment or material required.

22. R. S. 13:9–16 is amended to read as follows:

Obstruction prohibited.

13:9–16. No person shall obstruct, threaten, abuse, assault, injure or in anywise interfere with any firewarden, his deputies or assistants, or any one or more of them, in the performance of any duty under this chapter.

23. R. S. 13:9–17 is amended to read as follows:

No action for trespass.

13:9–17. No action for trespass shall lie against any person crossing or working upon lands of another to extinguish wildfire. Any duly authorized employee of the department and any law enforcement officer or fire protection officer having jurisdiction to enforce any provision of this amendatory and supplementary act shall have power to enter upon any forest lands at any time in

order to inspect the same and to ascertain the degree of compliance with this act and rule, regulation or order adopted pursuant to this act.

24. R. S. 13:9–19 is amended to read as follows:

Written permission.

13:9–19. In any district for which firewardens have been appointed under the provisions of this chapter, no person shall set fire to or cause to be set on fire in any manner whatsoever; or to start fires anywhere and permit them to spread to forests, thereby causing damage to or threat to life or property, either accidentally or otherwise, directly or indirectly, in person or by agent, or cause to be burned waste, fallows, stumps, logs, brush, dry grass, fallen timber or any property, material, or vegetation being grown thereon, or anything that may cause a forest fire, without first obtaining the written permission of the department. Within the designated protection area this requirement supersedes any law, rule, regulation or ordinance inconsistent therewith. No such permission shall be granted if, in the department's opinion, any forest will be endangered thereby; or if it violates the air pollution statutes; nor shall any such permission, if granted, relieve or exonerate any person from any penalties provided by this chapter, if by reason of such wildfire, any forest be burned.

25. R. S. 13:9–20 is amended to read as follows:

Back fire on own property.

13:9–20. No person shall, unless granted a permit by the department, set fire to or burn, or cause to be burned, any forest, but nothing in this section shall be interpreted to forbid any person from setting a back fire upon his own property to protect the same; but, if such permitted back fire be allowed to escape or does escape to adjoining property, the person setting such back fire, or causing it to be set, shall be subject to costs of extinguishment and all damage incurred upon the property of another. Any firewarden, however, shall have power to set any back fire. Any person maintaining a recreational fire or a permitted fire or a fire to burn any brush, grass, litter, undergrowth or other material shall keep and maintain a competent watch. All reasonable precautions must be taken to prevent its escape from control. No such fire shall be left until extinguished or certified by a firewarden to be safely contained.

26. R. S. 13:9–21 is amended to read as follows:

Extinguishing of wildfires.

13:9–21. In any district in which a fire service is established, any person finding a wildfire burning in a forest or where the forest is endangered, shall immediately extinguish the same and shall notify a firewarden as soon as possible.

27. R. S. 13:9–22 is amended to read as follows:

Stealing and mutilation forbidden.

13:9–22. No person shall willfully or maliciously steal, mutilate, tear down or destroy any forest fire service property, equipment or any notice concerning forest fires, which has been posted under regulations of the department.

28. R. S. 13:9–23 is amended to read as follows:

Extraordinary fire hazard.

13:9–23. The owner or lessee of any forest, any contractor or employee with authority of the owner of, or any person doing public work in or upon, such forest, who shall permit or suffer the accumulation by human activity of any litter from trees, to lie or be upon such forest within 100 feet of any road trail or fire break, to such an extent or in such manner as to facilitate either the origin or spread of forest fires, shall be deemed thereby to have created an extraordinary fire hazard, which endangers life and property and to have made and maintained a public nuisance.

29. R. S. 13:9–24 is amended to read as follows:

Investigation of alleged nuisances; abatement.

13:9–24. On the complaint of a firewarden or any citizen, the department shall cause an investigation to be made of the alleged nuisance mentioned in section 13:9–23 of this Title. If, in its judgment, a situation endangering the security of adjacent property, either with reference to the possible origin or spread of forest fires, exists, it shall require the responsible party to remove such menace within a reasonable specified time, in manner as directed and at his own cost. If he neglects to do so, he shall be subject to penalties provided for in this act. When the department considers it necessary to prevent danger to life or property, it may abate such public nuisance and charge the costs to the responsible person, owner, lessee, firm, corporation or public agency. If the removal is done by burning, all the provisions and requirements of this chapter shall be observed. If fire escapes and damages the property of another, nothing done under this chapter shall operate as a release of responsibility therefor.

30. R. S. 13:9–25 is amended to read as follows:

Action for damages not barred.

13:9–25. Compliance with the provisions of this chapter shall not bar any action for damages for which any person or corporation would otherwise be liable; but conformance with the provisions of this chapter and with the terms of any notice or order issued by the department may be shown and considered as evidence of the use of due care on the part of such person or corporation.

31. R. S. 13:9–28 is amended to read as follows:

Disposition of penalty payments.

13:9–28. All payments on account of penalties under this chapter shall be made to the Department of Environmental Protection for the support of the fire service.

32. R. S. 13:9–29 is amended to read as follows:

Arrest without warrant.

13:9–29. Any firewarden may arrest, without warrant, any person whom he has probable cause to believe is committing a violation of this act.

33. Section 1 of P. L. 1948, c. 11 (C. 13:9–52) is amended to read as follows:

C. 13:9-52 Proclamation during drought.

1. Notwithstanding the provisions of any other law to the contrary:

Whenever, by reason of drought, the forests of the State are in danger of fires, the commissioner shall have the authority to forbid by proclamation any person or persons, except those authorized by such proclamation, from entering forests in such parts of the State as the department deems the public interest requires, and may by such proclamation suspend or curtail any open season for taking fish, game birds, game animals and furbearing animals, or any of them, therein. Such proclamation shall be in effect at such time as the commissioner may determine after notice is given in the manner the commissioner may determine and remain in force and effect until rescinded by the commissioner. It shall be unlawful for any person or persons, except those authorized by written permission of the commissioner, to enter such forests while such proclamation shall be in effect.

Repealer.

34. The following are repealed:
R. S. 13:8–17;
R. S. 13:8–18;
R. S. 13:9–8;
R. S. 13:9–11;
R. S. 13:9–14;
R. S. 13:9–18;
R. S. 13:9–26 and 13:9–27;
R. S. 13:9–30;
R. S. 13:9–36;
R. S. 13:9–43;
R. S. 13:9–45 through 13:9–51, inclusive.

35. This act shall take effect immediately.

Approved December 30, 1981.

CHAPTER 370

AN ACT concerning the Police and Firemen's Retirement System and amending and supplementing P. L. 1964, c. 241.

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

1. Section 18 of P. L. 1964, c. 241 (C. 43:16A–16.1) is amended to read as follows:

C. 43:16A-16.1 Loans from retirement system.

18. Any member who has at least 3 years of service to his credit for which he has contributed as a member may borrow from the retirement system, an amount equal to not more than 50% of the amount of his aggregate contributions, but not less than $50.00; provided that the amount so borrowed, together with interest thereon, can be repaid by additional deductions from salary, not in excess of 25% of the member's salary, made at the time the salary is paid to the member. The amount so borrowed, together with interest at the rate of 4% per annum on any unpaid balance thereof, shall be repaid to the retirement system in equal installments by deductions from the salary of the member at the time the salary is paid or in such lump sum amount to repay the balance of the loan but such installments shall be at least equal to the member's

rate of contribution to the retirement system and at least sufficient to repay the amount borrowed with interest thereon. Not more than two loans may be granted to any member in any calendar year. Notwithstanding any other law affecting the salary or compensation of any person or persons to whom this act applies or shall apply, the additional deductions required to repay the loan shall be made.

Loans shall be made to a member from his aggregate contributions. The interest earned on such loans shall be treated in the same manner as interest earned from investments of the retirement system.

C. 43:16A-16.2 Retirement before repayment.

2. (New section) In the case of any member who retires without repaying the full amount so borrowed, the Division of Pensions shall retain the retirement benefit payments, excluding authorized deductions of such member as repayment of the loan until the aggregate amount of such retirement benefit payments is equal to the outstanding balance of the loan, together with the interest at the rate of 4% per annum on the amount so borrowed, at which time the retired member shall receive his retirement benefit payments. In the case of a pensioner who dies before the outstanding balance of the loan and interest thereon has been recovered, the remaining balance shall be repaid from the proceeds of any other benefits payable on the account of the pensioner either in the form of monthly payments due to his beneficiaries or in the form of lump sum payments payable for pension or group life insurance.

3. This act shall take effect immediately.

Approved December 30, 1981.

CHAPTER 371

AN ACT concerning school board elections and amending N. J. S. 18A:13-10.

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

1. N. J. S. 18A:13-10 is amended to read as follows:

Annual school elections for regional districts.

18A:13–10. The board of education of each regional district shall provide for the holding of an annual school election for the regional district on the first Tuesday in April.

At such election there shall be elected for terms of 3 years, beginning on any day of the first week following such election, the members of the regional boards of education to succeed those members of the board whose terms shall expire in that year, except as is in this chapter provided for the election of the first elected members of the board.

2. This act shall take effect immediately.

Approved December 30, 1981.

CHAPTER 372

AN ACT to amend "The Banking Act of 1948," approved April 29, 1948 (P. L. 1948, c. 67).

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

1. Section 187 of P. L. 1948, c. 67 (C. 17:9A–187) is amended to read as follows:

C. 17:9A-187 Reserve balances.

187. Reserve balances.

A. Every savings bank shall maintain reserve balances on deposits and on such other liabilities of the savings bank in amounts as prescribed by the Federal Reserve Board pursuant to the "Depository Institutions Deregulation and Monetary Control Act of 1980," P. L. 96–221, and in such additional amounts as the Commissioner of Banking may prescribe from time to time by regulation if he deems those additional amounts necessary for the safety and soundness of the institution. The reserve balances may consist of (1) lawful currency of the United States, (2) demand deposits made (a) in a reserve depositary as defined in section 49, or (b) in a federal home loan bank of which the savings bank is a member, or (c) subject to the approval of the commissioner, in any bank, savings bank or trust company incorporated under the laws of any state of the United States or the District of Columbia, whether or

not such bank, savings bank or trust company is a member of the Federal Reserve System, (3) immediately available funds which are transferred or sold by such savings bank to a member or nonmember bank of the Federal Reserve System for a period not to exceed the opening of business on the next succeeding banking day for such savings bank or (4) such other assets as the Commissioner of Banking may from time to time prescribe by regulation.

Any additional reserve amounts prescribed by the commissioner pursuant to this subsection shall not exceed the amounts established for like institutions by the Federal Reserve Board.

B. The Commissioner of Banking may by regulation prescribe the method to be used in computing the required reserve.

2. This act shall take effect immediately.

Approved December 30, 1981.

CHAPTER 373

AN ACT to amend "The Banking Act of 1948," approved April 29, 1948 (P. L. 1948, c. 67).

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

1. Section 48 of P. L. 1948, c. 67 (C. 17:9A–48) is amended to read as follows:

C. 17:9A-48 Nonmembers of Federal Reserve System.

48. Nonmembers of Federal Reserve System.

A. A bank which is not a member of the Federal Reserve System shall, subject to the provision of subsection B of this section, at all times have in available funds consisting of (1) lawful currency of the United States, or (2) balances due on demand from reserve depositaries, or (3) direct obligations of the United States which have a maturity of not more than 18 months, or (4) such other assets as the Commissioner of Banking may from time to time prescribe by regulation, reserve balances on deposits and such other liabilities in amounts as prescribed by the Federal Reserve Board pursuant to the "Depository Institutions Deregulation and Monetary Control Act of 1980," P. L. 96-221, and in such additional amounts as the Commissioner of Banking may prescribe by regu-

lation, if he deems those additional amounts necessary for the safety and soundness of the institution. Any additional reserve amounts prescribed by the commissioner pursuant to this subsection shall not exceed the amount established for like institutions by the Federal Reserve Board. Not more than 50% of the additional reserve balances required by the commissioner under this subsection may be made up of obligations of the United States or of instrumentalities of the United States maturing within 1 year.

B. The Commissioner of Banking may by regulation prescribe the method to be used in computing the required reserve.

2. Section 49 of P. L. 1948, c. 67 (C. 17:9A–49) is amended to read as follows:

C. 17:9A-49 Definitions.

49. Definitions. For the purposes of this article.

"Reserve depositary" includes

(a) A Federal Reserve bank,

(b) A member of a Federal Reserve bank organized in a Federal Reserve district which includes all or any part of this State, which shall be approved by the commissioner as a reserve depositary,

(c) A bank which is not a member of the Federal Reserve System, but which shall be approved by the commissioner as a reserve depositary, and

(d) A member of a Federal Reserve bank organized in a Federal reserve district which does not include all or any part of this State; provided, such member is approved by the commissioner as a reserve depositary.

3. This act shall take effect immediately.

Approved December 30, 1981.

CHAPTER 374

AN ACT to amend the "emergency transportation tax act," approved May 29, 1961 (P. L. 1961, c. 32) and amending P. L. 1970, c. 304 and P. L. 1978, c. 131.

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

1. Section 9 of P. L. 1961, c. 32 (C. 54:8A–9) is amended to read as follows:

C. 54:8A-9 Standard deduction.

9. (a) Any taxpayer may elect to deduct 10% of his gross income, or $1,000.00, whichever is less, in lieu of all deductions otherwise permitted under this act. The deduction provided for by this section shall become known as the "standard deduction."

For taxable years beginning in 1971, the standard deduction shall be 13% of gross income or $1,500.00, whichever is less; for taxable years beginning in 1972, the standard deduction shall be 14% or $2,000.00, whichever is less; for taxable years beginning in 1973 the standard deduction shall be 15% or $2,000.00, whichever is less; for taxable years beginning in 1978 the standard deduction shall be 16% or $2,400.00, whichever is less; and for taxable years beginning in 1981 and thereafter the standard deduction shall be 17% or $2,500.00, whichever is less.

A husband and wife shall not be entitled to a standard deduction in an amount greater than one computed on their aggregate gross income, whether they file separate or joint returns. If they file separate returns, neither may elect the standard deduction unless the other also so elects. If both so elect, either may take such deduction, or they may divide it; except that for taxable years beginning in 1971 the standard deduction shall be 13% of gross income or $1,500.00, whichever is less: for taxable years beginning in 1972 the standard deduction shall be 14% or $2,000.00, whichever is less; for taxable years beginning in 1973 the standard deduction shall be 15% or $2,000.00, whichever is less; for taxable years beginning in 1978 the standard deduction shall be 16% or $2,400.00, whichever is less; and for taxable years beginning in 1981 and thereafter the standard deduction shall be 17% or $2,500.00, whichever is less.

Such election may be changed for a taxable year after the filing of the return, subject to regulations issued under this act. If a taxpayer wishing to make such change has a spouse who filed a separate return, the change shall not be allowed unless (1) such spouse also makes a change consistent with the change desired by the taxpayer and (2) both consent in writing to the assessment of any additional tax resulting from such change without regard to time limits otherwise preventing such assessment.

(b) Minimum New Jersey standard deduction. For taxable years beginning in 1978 and thereafter:

(1) The New Jersey standard deduction of an individual who is not married nor the head of the household nor a surviving spouse

shall be the amount determined under subsection (a) of this section or $1,400.00, whichever is greater, except that for taxable years beginning in 1981 and thereafter the minimum amount shall be $1,500.00;

(2) The New Jersey standard deduction of a husband and wife whose New Jersey taxable income is determined jointly, or of the head of a household, or of a surviving spouse, shall be the amount determined under subsection (a) of this section or $1,900.00, whichever is greater, except that for taxable years beginning in 1981 and thereafter the minimum amount shall be $2,000.00; and

(3) The aggregate New Jersey standard deductions of a husband and wife whose New Jersey taxable incomes are determined separately shall be the amount determined under subsection (a) of this section or $1,900.00, whichever is greater, except that for taxable years beginning in 1981 and thereafter the minimum amount shall be $2,000.00 and such standard deductions may be taken by either or divided between them as they may elect.

2. Section 10 of P. L. 1961, c. 32 (C. 54:8A–10) is amended to read as follows:

C. 54:8A-10 Exemptions.

10. (a) Each taxpayer is allowed the following exemptions with respect to net income:

For each taxpayer, $650.00; for the taxpayer's spouse, if taxpayer does not file a joint return and if such spouse has no gross income for the eligibility year and is not a dependent of another taxpayer, an additional $650.00; for each taxpayer who is at least 65 years of age or over at the close of his taxable year, an additional $650.00, and for taxpayer's spouse under the same conditions and if the initial $650.00 exemption is allowable, an additional $650.00; for each taxpayer who is blind at the close of his taxable year, an additional $650.00, and for taxpayer's spouse under the same conditions and if the initial $650.00 exemption is allowable, an additional $650.00. Blindness shall be deemed to exist when central visual acuity in the better eye does not exceed 20/200 with correcting lenses, or when the widest diameter of the visual field subtends an angle of not more than 20 degrees;

For each dependent whose entire gross income for the eligibility year is less than $750.00, or who is taxpayer's child or stepchild and has not attained age 19 at the close of the eligibility year or is a student: $650.00.

For taxable years beginning in 1979, such exemption shall be $700.00, for taxable years beginning in 1980 such exemption shall be $750.00, and for taxable years beginning in 1982 and thereafter such exemption shall be $800.00.

With respect to all taxable years beginning on or after January 1, 1973, if (1) the taxpayer's gross income as defined in section 7 of P. L. 1961, c. 32 (C. 54:8A–7), is exceeded by (2) his entire gross income by more than $100.00, his exemptions allowed in this section shall be limited by the percentage which (1) is of (2). The manner for determining a taxpayer's entire gross income shall be provided by regulation. Such regulations may authorize the use of federal adjusted gross income for this purpose.

(b) Husband and wife. For a husband and wife who have elected to file separate New Jersey returns on a single form pursuant to section 44 (b) of P. L. 1961, c. 32 (C. 54:8A–44 (b)), the limitation under subsection (a) of this section shall be determined by reference to (1) their total New Jersey gross incomes and (2) the combined entire gross income of the husband and wife.

3. Section 36 of P. L. 1961, c. 32 (C. 54:8A–36) is amended to read as follows:

C. 54:8A-36 Computation from federal adjusted gross income.

36. (a) The Legislature hereby finds and determines that to permit taxpayers under this act to compute their gross income for tax purposes from the federal adjusted gross income figure used in their tax returns to the Federal Government will reduce the cost and simplify the administration of this act, and will simplify the preparation of State income tax returns by taxpayers. The Legislature further finds and determines that such method of computing gross income will not materially reduce and may increase the amount of revenue derived with respect to this act; and, therefore, directs that each taxpayer be permitted, as an alternative to the method prescribed by section 32 of this act, to compute his gross income as provided in subsection (b) of this section.

(b) A taxpayer computing his gross income under the provisions of this subsection shall:

(1) Determine the net amount of income, gain, loss and deduction entering into his federal adjusted gross income for the taxable year which is derived from sources within his source state, including:

(A) His distributive share of partnership income, gain, loss and deduction derived from sources within his source state, and

(B) His share of estate and trust income, gain, loss and deduction derived from sources within his source state.

(2) Add to such amount the following types of income and gain derived from the sources of income and gain listed below:

(A) Interest income from the obligations of any state or political subdivision thereof except where, by the laws of such state, its own taxpayers are exempted from taxation with respect to such interest income, subject to the provisions of section 33;

(B) Interest or dividend income from the obligations or securities of any authority, commission or instrumentality of the United States, which the laws of the United States exempt from federal income taxation, but not from State income taxation, subject to the provisions of section 33;

(C) Amounts deductible with respect to income taxes imposed by this State or any other taxing jurisdiction in determining federal adjusted gross income unless such amounts are credited against federal income tax; and

(D) Amounts deductible with respect to interest on indebtedness which is incurred or continued in order to purchase or retain securities or obligations the income from which is exempt from tax under this act, subject to the provisions of section 33;

(E) In the case of a taxpayer who has deducted a percentage of a net capital gain pursuant to section 1202 of the Internal Revenue Code, the excess (if any) of the amount so deducted over 60% of such net capital gain.

(3) Subtract from such net amount the following types of income and gain derived from the sources of income and gain listed below:

(A) Interest income from obligations of the United States and its possessions to the extent that such interest is includible in gross income for federal income tax purposes;

(B) Interest or dividend income from the obligations or securities of any authority, commission or instrumentality of the United States, to the extent that such amounts of income are includible in gross income for federal income tax purposes, and exempt from State income taxation under the laws of the United States;

(C) Interest or dividend income from obligations or securities to the extent that such income is exempted from taxation by the laws of this State authorizing the issuance of the under-

lying obligations and securities and includible in gross income for federal income tax purposes;

(D) The amount of any refund or credit for overpayment of income taxes imposed by this State or any other taxing jurisdiction, to the extent that such refund is includible in gross income for federal income tax purposes.

(4) There may be provided by regulation such modifications as shall be necessary to insure that only that portion of the taxpayer's federal adjusted gross income which is derived from sources within his source state shall be included in his gross income for purposes of this act.

(c) A taxpayer who computes his gross income in accordance with the provisions of this section shall not be entitled to the deductions set forth by section 35 (a) but, in lieu of the standard deduction, shall be permitted the deductions in sections 35 (b) and 37 of this act.

(d) The amount of the gross income of a taxpayer computed in accordance with the provisions of this section shall be conclusively presumed by the Division of Taxation to be the same as such taxpayer's gross income would have been if computed in accordance with the provisions of section 32; except that if the amount of a taxpayer's federal adjusted gross income or federal items of tax preference is changed or corrected by the taxpayer or the United States Internal Revenue Service or other competent authority, or as the result of a renegotiation of a contract or subcontract with the United States, the taxpayer shall report such change or correction in federal taxable income or federal items of tax preference within 90 days after the final determination of such change, correction, or renegotiation, or as otherwise required by regulation, and shall concede the accuracy of such determination or state wherein it is erroneous. Any taxpayer filing an amended federal income tax return shall also file within 90 days thereafter an amended return under this act, and shall give such information as the Division of Taxation may require. There may be provided by regulation such exceptions to the requirements of this section as may be necessary to carry out the purposes of this section.

4. Section 39 of P. L. 1961, c. 32 (C. 54:8A–39) is amended to read as follows:

C. 54:8A-39 Net capital gain or loss.

39. (a) The net capital gain or loss of a taxpayer shall be computed by totaling the gains from sales or other dispositions during

the taxable year of capital assets having an actual situs within the source state and subtracting therefrom the losses from sales or other dispositions of capital assets having an actual situs in the source state.

(b) (1) In any taxable year in which a taxpayer has a net capital loss such loss shall be allowed as a deduction from gross income only to the extent of $1,000.00 or the taxpayer's net income whichever is lower; provided, however, that with respect to taxable years beginning after 1978 a loss shall be allowed as a deduction from gross income only to the extent of $3,000.00 or the taxpayer's net income, whichever is lower.

(2) Subject to the limitation of paragraph (1) hereof, if for any taxable year the taxpayer has a net capital loss, the amount thereof shall be treated as a capital loss and deductible from gross income in each of the succeeding taxable years to the extent that such amount exceeds the total of any net capital gains of any taxable years intervening between the taxable year in which the net capital loss arose and such succeeding taxable year. For purposes of this section, a net capital gain shall be computed without regard to such net capital loss or to any net capital losses arising in any such intervening taxable years.

(c) In any taxable year in which net capital gain exceeds the net capital loss, 40% of the amount of excess shall be a deduction from gross income; provided, however, that in any taxable year commencing on and after January 1, 1982 in which net capital gain exceeds the net capital loss, 60% of the amount of such excess shall be a deduction from gross income.

5. Section 10 of P. L. 1970, c. 304 (C. 54:8A–6.2) is amended to read as follows:

C. 54:8A-6.2 Minimum taxable income; items of tax preference; specific deduction.

(a) The minimum taxable income shall be the sum of the items of tax preference, as described in subsection (b) of this section, reduced (but not below zero) by the aggregate of the following:

(1) The applicable specific deduction described in subsection (c) of this section;

(2) The tax determined under subsection (c) of section 6 of P. L. 1961, c. 32 (C. 54:8A–6) for the taxable year, reduced by the sum of the credits allowable under subsection b. of section 7 of P. L. 1978, c. 131 (C. 54:8A–15.1); and

(3) To the extent that the sum of the items of tax preference exceeds the applicable specific deduction described in subsection

(c) of this section plus the tax described in paragraph 2 above, the amount of any net operating loss of the taxpayer, determined as provided in subsection (b) (5) of section 35 (C. 54:8A–35), which remains as a net operating loss carryover to a succeeding taxable year. In such case, however, the amount of such net operating loss used to reduce the sum of the items of tax preference shall be treated as an item of tax preference in the next succeeding taxable years, in order of time, to the extent that such net operating loss carryover reduces taxable income.

(b) For purposes of this act, the term "items of tax preference" shall mean the federal items of tax preference, as defined in the laws of the United States, derived from or connected with New Jersey sources, for the taxable year, with the modifications as may be prescribed by regulations of the Division of Taxation which relate to income derived from or connected with New Jersey sources.

(1) The federal items of tax preference for amortization of certified pollution control facilities shall be excluded from the computation of items of tax preference with respect to industrial waste treatment facilities and air pollution control facilities which qualify.

(2) The federal items of tax preference with respect to depletion shall be excluded from the computation of items of tax preference.

(3) The federal item of tax preference for capital gains shall be computed by subtracting from such tax preference item an amount sufficient (if necessary) to reduce such tax preference item to 60% of net capital gains.

(4) The federal item of tax preference for adjusted itemized deductions shall be computed as if the required reduction of federal adjusted gross income by the amount of the taxpayer's federal deduction for state and local taxes did not include any amount includible as a modification reducing federal itemized deductions pursuant to subparagraph (A) of paragraph (2) of subsection (b) of section 37 of P. L. 1961, c. 32 (C. 54:8A–37).

(c) Specific deduction. An amount which bears the same ratio to $5,000.00, or $2,500.00 in the case of a married individual filing a separate return, as his items of tax preference computed under subsection (b) of this section bear to his total federal items of tax preference.

(d) (Deleted by amendment; P. L. 1972, c. 12, section 3.)

6. Section 6 of P. L. 1978, c. 131 (C. 54:8A–6.4) is amended to read as follows:

C. 54:8A-6.4 Maximum tax rate on personal service income.

6. Maximum tax rate on personal service income. (a) If for any taxable year beginning in 1978 and thereafter an individual has personal service entire net income which exceeds the amount of entire net income specified in paragraph (1) of this subsection, the tax determined pursuant to subsection 6(c) of P. L. 1961, c. 32 (C. 54:8A–6(c)) for such year shall be the sum of:

(1) The tax determined by subsection 6(c) of P. L. 1961, c. 32 (C. 54:8A–6(c)) on the highest amount of entire net income on which the rate of tax does not exceed 10%, provided, however, that for taxable years beginning on or after January 1, 1978 and before January 1, 1980, it shall be the tax determined by subsection 6(c) of P. L. 1961, c. 32 (C. 54:8A–6(c)) on the highest amount of entire net income on which the rate of tax does not exceed 12%, and provided further that for taxable years beginning on or after January 1, 1980 and on or before January 1, 1981, it shall be the tax determined on the highest amount of entire net income on which the rate of tax does not exceed 11%,

(2) 10% of the amount by which his personal service entire net income exceeds the amount of entire net income specified in paragraph (1) of this subsection, provided, however, that for taxable years beginning on or after January 1, 1978 and before January 1, 1980, the rate in this paragraph shall be 12% and that for taxable years beginning on or after January 1, 1980 and before January 1, 1981, the rate in this paragraph shall be 11%, and

(3) The excess of the tax determined under section 6(c) of P. L. 1961, c. 32 (C. 54:8A–6(c)), without regard to this section, over the tax so determined with reference solely to his personal service entire net income.

(b) For purposes of this section the term "personal service income" means items of income includible as personal service income for purposes of section 1348 of the Internal Revenue Code; provided, however, that notwithstanding the provisions of such section of the Internal Revenue Code to the contrary with respect to the filing of returns by married individuals, the provisions of this section of this act shall be applicable in the case of a husband and wife who file separate New Jersey tax returns (whether or not on a single form).

(c) The personal service entire net income of an individual is the excess of:

(1) The amount which bears the same ratio (but not in excess of 100%) to his entire net income as his personal service gross income bears to his entire gross income, over

(2) The sum of his items of tax preference, as defined in this act, other than the item of tax preference for capital gains, for the taxable year.

For purposes of paragraph (1) of this subsection, the term "personal service gross income" means personal service income reduced by any deductions allowable under section 62 of the Internal Revenue Code which are properly allocable to or chargeable against such personal service income.

7. Section 7 of P. L. 1978, c. 131 (C. 54:8A–15.1) is amended to read as follows:

C. 54:8A-15.1 Household credit; credit for household and dependent care services.

7. a. Household credit. (1) For taxable years beginning on and after January 1, 1978, a credit shall be allowed against the tax imposed by subsection 6(c) of P. L. 1961, c. 32 (C. 54:8A–6 (c)). The credit, computed as described in paragraph (2) of this subsection, shall not exceed the tax imposed by subsection 6(c) of P. L. 1961, c. 32 (C. 54:8A–6(c)) for the taxable year, reduced by the credits permitted under subsection (b) of this section and section 16 of P. L. 1961, c. 32 (C. 54:8A–16).

(2) The amount of the credit allowed pursuant to this subsection for taxable years beginning prior to January 1, 1982, shall be determined in accordance with the following table:

If household gross income is	The credit shall be
Less than $5,000.00	$65.00
$5,000.00 but less than $6,000.00	$50.00
$6,000.00 but less than $7,000.00	$40.00
$7,000.00 but less than $25,000.00	$35.00

The amount of the credit allowed pursuant to this subsection for taxable years beginning in 1982 and thereafter shall be determined in accordance with the following table:

If household gross income is	The credit shall be
Less than $5,000.00	$70.00
$5,000.00 but less than $6,000.00	55.00
$6,000.00 but less than $7,000.00	45.00
$7,000.00 but less than $25,000.00	40.00

(3) For the purposes of this subsection:

(A) "Household gross income" shall mean the aggregate entire gross income of a household, as the term household is defined in subparagraph (B) of this paragraph, for the taxable year, plus the aggregate entire minimum taxable income of that household.

(B) "Household" means a husband and wife, a head of a household, a surviving spouse, or an individual who is not married nor the head of a household nor a surviving spouse nor a taxpayer with respect to whom a deduction under subsection (e) of section 151 of the Internal Revenue Code is allowable to another taxpayer for the taxable year.

(C) "Household gross income of a husband and wife" shall be the aggregate of their entire gross incomes for the taxable year plus the aggregate of their entire minimum taxable incomes irrespective of whether joint or separate tax returns are filed; provided, however, that a husband or wife filing a separate New Jersey tax return shall be permitted one-half of the credit otherwise allowed his or her household, except as limited by paragraph (1) of this subsection.

(D) "Household gross income" shall be computed in all cases to reflect the entire gross income from all sources of each member of the household for the entire taxable year.

(E) If a taxpayer changes his status during his taxable year from resident to nonresident, or from nonresident to resident, the household credit shall be prorated to reflect the period that the taxpayer was subject to tax under this act. In the case of a husband and wife, if either or both change his or her status from resident to nonresident or from nonresident to resident and separate returns are filed, the credit computed for the entire year shall be divided first as provided in subparagraph (C) of this paragraph and then prorated according to each period that the taxpayer was subject to tax under this act.

b. Credit for certain household and dependent care services necessary for gainful employment.

(1) For taxable years beginning on and after January 1, 1977, a taxpayer shall be allowed a credit, to be computed as hereinafter provided, against the tax imposed by subsection 6(b) or 6(c) of P. L. 1961, c. 32 (C. 54:8A–6(b) or 6(c)) of this act. Except as provided below, the amount of the credit shall be 20% of the credit allowed such taxpayer pursuant to the provisions of section 44A of the Internal Revenue Code for the same taxable year. The amount

of such credit shall not exceed the tax imposed by subsection 6(b) or 6(c) of P. L. 1961, c. 32 (C. 54:8A–6(b) or 6(c)), as may apply, of this act, for the taxable year, reduced by the credit permitted under section 16 of P. L. 1961, c. 32 (C. 54:8A–16).

(2) In the case of a husband and wife who file a joint federal return, but who elect to determine their New Jersey taxes separately, the credit allowed pursuant to this subsection may only be applied against the tax imposed on the spouse with the lower entire net income computed without regard to such credit.

(3) Any taxpayer who is otherwise eligible to take the credit permitted by this subsection shall be permitted to take the full amount of such credit except that if (a) his gross income, as defined in section 7 of P. L. 1961, c. 32 (C. 54:8A–7), is exceeded by (b) his entire gross income by more than $100.00, his credit shall be limited to the amount which represents the same percentage of the total allowable credit which (a) is of (b).

For a husband and wife whose federal taxable income is determined on a joint return but whose New Jersey entire net incomes are determined separately on a single form, the limitation contained in this subparagraph shall be determined by reference to (a) the total of their gross incomes as defined in section 7 of P. L. 1961, c. 32 (C. 54:8A–7) and (b) the joint entire gross income they would be required to report if both were determining their tax on their joint entire gross income.

8. This act shall take effect immediately.

Approved December 30, 1981.

CHAPTER 375

AN ACT concerning the compensation of undersheriffs and amending N. J. S. 40A:9–117.

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

1. N. J. S. 40A:9–117 is amended to read as follows:

Compensation of sheriff's personnel.

40A:9–117. The sheriff shall select and employ the necessary deputies, chief clerks and other personnel. They shall receive such

compensation as shall be recommended by the sheriff and approved by the governing body. The annual compensation of the undersheriff shall not exceed 90% of the annual compensation of the sheriff. The compensation of the personnel in the office of sheriff shall be paid at the same time and in the same manner as the county officers and employees are paid. The limitations of the salaries set herein shall not be construed to restrict any of said employees from participating in or benefiting from any cost of living bonus or longevity program provided for or established in the county.

2. This act shall take effect immediately.

Approved December 31, 1981.

CHAPTER 376

AN ACT to amend and supplement the "Savings and Loan Act (1963)" approved August 30, 1963 (P. L. 1963, c. 144), repealing sections 25, 26, 27, 42, 43, and 44 thereof and amending P. L. 1965, c. 127.

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

1. Section 8 of P. L. 1963, c. 144 (C. 17:12B–8) is amended to read as follows:

C. 17:12B-8 Definitions.

8. (a) "Principal office" shall mean the legally established office of an association for the transaction of its business, other than a branch office, auxiliary office, agency, or a remote service unit of the association.

(b) "Branch office" shall mean a legally established office of an association, other than the principal office, an auxiliary office, agency, or a remote service unit of the association, at which such operations as may be authorized by the board not inconsistent with the limitations of this act may be conducted.

(c) "Auxiliary office" shall mean a place of business other than the principal office, a branch office, agency, or a remote service unit of an association wherein operations of an association may be conducted within the limitations set forth in this act relating to auxiliary offices.

(d) (Deleted by amendment.)

(e) "Remote service unit" shall mean an information processing device, including associated equipment, structures and systems, by which information relating to financial services rendered to the public is stored and transmitted to a financial institution. The term includes, without limitation, both "on-line" computer terminals and "off-line" cash dispensing machines. It excludes automated teller machines or devices on the premises of an association, unless shared with other financial institutions.

2. Section 9 of P. L. 1963, c. 144 (C. 17:12B–9) is amended to read as follows:

C. 17:12B-9 "Agency" defined.

9. "Agency" shall mean a place of business other than the principal office, a branch office, auxiliary office, or a remote service unit of an association, at which an agent or agents of the association may receive payments on savings accounts, payments on loans or any obligations to the association for the purpose of transmission thereof to the principal office or to a branch office of the association. At such agency, an agent or agents may perform such other duties not inconsistent with the limitations of this act as may be authorized from time to time by the board.

3. Section 24 of P. L. 1963, c. 144 (C. 17:12B–24) is amended to read as follows:

C. 17:12B-24 Branch offices.

24. A. Branch offices. No State association shall hereafter establish or operate a branch office or offices, other than as provided by the conditions and limitations of sections 24 through 27 of this act without the prior written approval of the commissioner; provided, however, that any association operating an authorized branch office at the effective date of this act may continue to do so.

(1) An association operating a branch office approved prior to the effective date of this act with conditions or restrictions imposed on its operation may upgrade such office by notifying the commissioner at least 30 days before such upgrading. A branch office is considered upgraded if the association is relieved of any of the conditions or restrictions imposed on operation of the office when it opened. If within 30 days of receipt of the notice, the commissioner does not notify the association of his objection which would require the association to submit an application or additional information before upgrading, the association may upgrade the office.

(2) An approved, but unopened branch office as of the effective date of this amendatory act may open and operate in the same manner as a branch office approved subsequent to the effective date of this amendatory act.

(3) Any application which deals with offices of a State association filed with the commissioner prior to the effective date of this amendatory act shall continue to be processed as any application filed subsequent to the effective date of this amendatory act; however, the commissioner may request such additional information as may be necessary to comply with the requirements of this amendatory act.

B. An association may apply for a branch office regardless of the number of branch applications it has pending before the commissioner. Within 15 days after submission of any branch application to the commissioner, the applying State association shall give notice of such application by publication of a notice of such application in a newspaper published within the municipality in which it is proposed to locate the branch office if there be one or, if there be no such newspaper, in a newspaper published in the county and having a substantial circulation in the municipality. The notice shall be in a form approved by the commissioner, and shall include the name of the applying association and the location, as precisely as possible, in the municipality where such branch office is to be located. For good cause, the commissioner may dispense with the notice requirements of this section.

No less than 30 days after filing with the commissioner the proof of publication of the aforementioned notice within 90 days thereafter, the commissioner shall announce his decision upon such application and file in his office a written memorandum stating the reasons therefor, which shall be open to public inspection; and he shall forthwith thereafter give written notice thereof to the applicant.

C. The commissioner shall approve an application only if, in his opinion, the branch can be established without undue injury to properly conducted existing local thrift and home financing institutions; the policies, condition and operation of the applying State association afford no basis for supervisory objection, and the proposed branch will open within 12 months of approval unless otherwise allowed by the commissioner. In addition, in considering whether to approve an application, the commissioner shall take into account the State association's record of helping to meet the credit

needs of its entire community, including low-to-moderate income neighborhoods pursuant to Part 563e of the regulations promulgated by the Federal Savings and Loan Insurance Corporation. Assessment of a State association's record of performance may be the basis for denying an application.

D. Persons may submit communications and answers to protests only as provided in this subsection or as requested by the commissioner.

(1) Within 10 days of the last day of publication of notice of application, or 30 days after that day if an extension is requested in writing within the 10-day period, any person may file a communication in favor or protest of the application by furnishing 4 copies to the commissioner.

(2) Within 10 days after filing a protest, the commissioner shall advise the protestant and the State association, in writing, whether the protest is considered substantial.

(3) A protest is substantial only if it is in writing, filed on time, and contains at least the following:

(a) A summary of the reasons for protest;

(b) The specific matters in the application to which the protestant objects, and the reasons for each objection;

(c) Facts supporting the protest, including relevant economic or financial data;

(d) Any adverse effects on the protestant which may result from the approval of the application.

(4) The commissioner shall determine whether a protest is substantial and shall not consider protests which are not considered substantial in his assessment of the merits of the application.

(5) The applying State association may file an answer to any protest until 15 days after receipt of written notice from the commissioner that such protest is considered substantial by furnishing 4 copies of the answer to the commissioner.

E. The commissioner shall conduct such investigation or hearing, or both, as he may deem advisable. The commissioner may adopt, amend, alter or rescind regulations prescribing the form of protest to applications and the procedures to be followed in the event that the commissioner elects to hold a hearing in connection with an application for a branch office, and such other regulations as he may deem necessary with respect to the provisions of this section. Such regulations shall be in substantial conformity with similar

rules and regulations promulgated by the Federal Home Loan Bank Board.

4. Section 4 of P. L. 1965, c. 127 (C. 17:12B–27.1) is amended to read as follows:

C. 17:12B-27.1 Removal of branch offices.

4. Removal of branch offices. A State association may change the location of a branch office to a location, in the same municipality, which is 1,500 feet or less in distance from the existing location of the branch office to be relocated, provided it files a certificate of such change of location with the commissioner within 1 week from the date such change is made. Otherwise a State association may change the location of a branch office upon written application to and approval by the commissioner.

(1) If the distance between the proposed new location is more than 1,500 feet, but is in the same municipality as the existing branch office, the applying State association shall, within 10 days after the submission of any such application to the commissioner, give notice of such application by publication of a notice of such application in a newspaper published within the municipality in which it is proposed to locate such branch office, if there be one, or, if there be no such newspaper, in a newspaper published in the county and having a substantial circulation in the municipality. Notice shall be in a form approved by the commissioner and shall include the name of the applying association and the location, as precisely as possible, in the municipality where such branch office is to be located.

(2) If the proposed new location is in another municipality than that in which the existing branch office is located, the State association shall comply with the notice requirements set forth in section 24 of this act.

(3) For the purposes of this section, distances shall be measured in a straight line drawn from the center point of the main entrance of the nearest location of the branch office to the center point of the main entrance of the proposed location.

(4) (Deleted by amendment.)

5. Section 5 of P. L. 1965, c. 127 (C. 17:12B–27.2) is amended to read as follows:

C. 17:12B-27.2 Time limit for opening branch office; discontinuance of branch office.

5. Time limit for opening branch office; discontinuance of branch office.

The failure of a State association to open and operate a branch office within 12 months after the commissioner approves the application therefor, shall automatically terminate the right of the State association to open a branch office, except that, for good cause shown, the commissioner may, in his discretion, on application of the State association extend for additional periods, not in excess of 12 months each, the time within which such branch office may be opened, provided the initial application shall be made before the expiration of 12 months from the date that the commissioner approves the application and any subsequent application for extension shall be made before the expiration of any subsequent period for which permission to extend is granted by the commissioner. A State association may discontinue a branch office upon resolution of its board. Upon adoption of such a resolution, the State association shall file a certificate with the commissioner specifying the location of the branch office to be discontinued, and the date upon which the discontinuance shall be effective.

6. Section 28 of P. L. 1963, c. 144 (C. 17:12B–28) is amended to read as follows:

C. 17:12B-28 Interchange of principal and branch offices.

28. Interchange of principal and branch offices. A State association may change the location of its principal office to a location then occupied by a branch office operated by it, subject to the requirements herein set forth:

(1) If the interchange results in the new location of the principal office remaining in the same municipality as the previous location, the State association shall file a certificate of such change with the commissioner within 1 week from the date such change is made.

The State association may, in such case, operate its principal office at the location previously occupied by its branch office and may operate a branch office at the location previously occupied by its principal office without further requirement.

(2) If the interchange results in the principal office being removed from one municipality to another, the State association shall apply to the commissioner for written approval of such change of location in accordance with the provisions of section 40 of this act. Upon approval of the commissioner, in accordance with section 40 of this act, the association may operate its principal office at the previous location of its branch office and may operate a branch office at the previous location of its principal office without further requirement.

The failure of a State association to complete such interchange within 12 months after filing the certificate or after approval by the commissioner, as the case may be, shall automatically terminate the rights of the State association to effect such interchange, except that, for good cause shown, the commissioner may in his discretion on application of the State association, extend for additional periods, not in excess of 12 months each, the time within which such interchange may be effected, provided the initial application shall be made before the expiration of 12 months from the date that the commissioner approves the application and any subsequent application for extension shall be made before the expiration of any subsequent period for which permission to extend is granted by the commissioner.

7. Section 33 of P. L. 1963, c. 144 (C. 17:12B–33) is amended to read as follows:

C. 17:12B-33 Purchase or lease of real property.

33. An association may, for the purpose of establishing an auxiliary office or offices, purchase or lease real property, or it may use real property heretofore purchased or leased by it. As an incident to the conduct of its business at an auxiliary office, an association may provide motor vehicle parking facilities for its customers.

8. Section 37 of P. L. 1963, c. 144 (C. 17:12B–37) is amended to read as follows:

C. 17:12B-37 Agencies.

37. Agencies. a. Any State association shall have the right to make written application to the commissioner for permission to establish and operate an agency or agencies as defined in section 9 of this act subject to the following requirements:

(1) The State association may, pursuant to resolution of its board, establish and operate an agency or agencies on written application to the commissioner.

(2) The commissioner shall determine the conditions under which he shall permit the establishment of the agency or agencies.

(3) No agency shall be established in a municipality whose population at the time of the establishment of such agency exceeds 3,500.

(4) No agency shall be established in a municipality wherein there is located the principal or branch office of an insured association.

(5) No business shall be transacted at an agency other than the following:

(a) The receipt of payments on savings accounts,

(b) The receipt of payments on loans, and

(c) The receipt of payments on other obligations to the State association.

(6) An agency shall not be deemed a branch office or an auxiliary office within the meaning of sections 24 and 29 of this act.

b. Notwithstanding the provisions of subsection a. of this section, any State association may, without approval of the commissioner, to the extent authorized by its board of directors, establish or maintain, within the same state as the principal office of the association, agencies which only service and originate, but do not approve, loans and contracts or which manage or sell real estate owned by the association, or both. Except for payment of savings accounts and loan approval services, offering of any services not listed in this subsection may be approved by the commissioner.

9. Section 40 of P. L. 1963, c. 144 (C. 17:12B–40) is amended to read as follows:

C. 17:12B-40 Change of office location.

40. Change of office location. A State association may change the location of its principal office to a new location subject to the following requirements:

(1) If the new location of its principal office is in the same municipality, the State association shall file a certificate of such change with the commissioner within 1 week from the date such change is made.

(2) Where the principal office is to be removed from one municipality to another, such change or removal shall take place only after receipt of written approval of the commissioner in accordance with the procedures established in section 24 of this act, except that the State association shall publish the required notice of application in the State association's home office municipality, the municipality to be served by the new office, and the municipality where the office is to be closed or the principal office is to be designated as a branch. In addition, the State association shall post notice of the application for 17 days from the date of first publication in a prominent location in the office to be closed.

C. 17:12B-40.1 Failure to open and operate relocated principal office; effect.

10. (New section) Failure to open and operate relocated principal office; effect.

The failure of a State association to open and operate a relocated principal office within 12 months after the commissioner approves the application therefor, shall automatically terminate the right of the State association to open such relocated principal office, except that, for good cause shown, the commissioner may, in his discretion, on application of the State association, extend for additional periods, not in excess of 12 months each, the time within which such relocated principal office may be opened, provided that the initial application shall be made before the expiration of 12 months from the date authority is granted to relocate such principal office and any subsequent application shall be made before the expiration of any subsequent period for which permission to extend has been granted by the commissioner.

C. 17:12B-37.1 Remote service units.

11. (New section) A State association may establish or use remote service units as defined in section 8 of P. L. 1963, c. 144 (C. 17:12B–8). The commissioner may require the sharing of such remote service units with other financial institutions. The commissioner may adopt, amend, alter, or rescind regulations governing the establishment and operation of remote service units. Such regulations shall be in substantial conformity with similar rules and regulations promulgated by the Federal Home Loan Bank Board.

Repealer.

12. Sections 25 (C. 17:12B–25), 26 (C. 17:12B–26), 27 (C. 17:12B–27), 42 (C. 17:12B–42), 43 (C. 17:12B–43), 44 (C. 17:12B–44) of P. L. 1963, c. 144 are repealed.

13. This act shall take effect immediately.

Approved December 31, 1981.

CHAPTER 377

AN ACT concerning gifts to minors, amending and supplementing P. L. 1963, c. 177, and repealing section 19 thereof.

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

1. Section 2 of P. L. 1963, c. 177 (C. 46:38–14) is amended to read as follows:

C. 46:38-14 Definitions.

2. As used in this act:

(a) "Adult" means a person 21 years of age or more.

(b) "Bank" means a bank, trust company, national banking association, savings bank or other banking institution, deposits in which are insured by the Federal Deposit Insurance Corporation or other like government instrumentality, or a State or Federal savings and loan association whose deposits or shares are insured by the Federal Savings and Loan Insurance Corporation or other like government instrumentality.

(c) "Broker" means a person lawfully engaged in the business of effecting transactions in securities for the accounts of others. The term includes a bank which effects such transactions. The term also includes a person lawfully engaged in buying and selling securities for his own account, through a broker or otherwise, as part of a regular business.

(d) "Court" means the Superior Court.

(e) "Custodial property" includes:

(1) all securities, life insurance or endowment policies, annuity contracts, tangible personal property, interests in partnerships and limited partnerships and money under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor under this act;

(2) the income from the custodial property; and

(3) the proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment, surrender or other disposition of such securities, money, life insurance or endowment policies, annuity contracts, tangible personal property, interests in partnerships and limited partnerships and income.

(4) (Deleted by amendment.)

(f) "Custodian" means a person so designated in accordance with this act. The term includes a successor custodian.

(g) "Guardian" of a minor means a guardian of his estate or person.

(h) "Issuer" means a person who places or authorizes the placing of his name on a security (other than as a transfer agent) to evidence that it represents a share, participation or other interest in property or in an enterprise or to evidence his duty or undertaking to perform an obligation evidenced by the security, or who becomes responsible for or in place of any such person.

(i) A "legal representative" of a person means his executor, administrator or guardian of his person or estate.

(j) A "member" of a "minor's family" means any of the minor's parents, grandparents, brothers, sisters, uncles and aunts, whether of the whole blood or the half blood, or through adoption.

(k) "Minor" means a person under 21 years of age even though that person has attained or shall attain the age of majority under the laws of this State.

(l) "Security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas or mining title or lease or in payment out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing. The term does not include a security of which the donor is the issuer. A security is in "registered form" when it specifies the person entitled to it or to the rights it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer.

(m) "Transfer agent" means a person who acts as authenticating trustee, transfer agent, registrar or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrendered securities.

(n) "Trust company" means a bank which is authorized to exercise trust powers.

(o) A "life insurance or endowment policy or annuity contract" means a life insurance or endowment policy or annuity contract issued by an insurance company on the life of a minor to whom a gift of the policy or contract is made in the manner prescribed in this act or on the life of any other person.

2. Section 3 of P. L. 1963, c. 177 (C. 46:38–15) is amended to read as follows:

C. 46:38-15 Delivery of gifts to minors.

3. An adult may, during his lifetime, make a gift of a security, a life insurance or endowment policy, annuity contract, tangible personal property, interest in a partnership or limited partnership or money to a minor under this act:

(a) If the subject of the gift is a security in registered form, by registering it in the name of a person eligible to be custodian, fol-

lowed by substantially the following language: "as custodian for ..... under the New Jersey Uniform
(name of minor)
Gifts to Minors Act";

(b) If the subject of the gift is a security not in registered form, by delivering it to a person eligible to be custodian, other than the donor, accompanied by a statement of gift in substantially the following language, signed by the donor and the custodian:

"GIFT UNDER THE NEW JERSEY UNIFORM GIFTS TO MINORS ACT

I, ... hereby deliver to .....,
(name of donor) (name of custodian)
as custodian under the New Jersey Uniform Gifts to Minors Act, for ....., the following security:
(name of minor)

.....
(description of security)

Dated: ....
(signature of donor)

....., as custodian for said .....
(name of custodian) (name of minor)
hereby acknowledges receipt of the above described security under the New Jersey Uniform Gifts to Minors Act.

Dated: ....
(signature of custodian)"

(c) If the subject of the gift is money, by paying or delivering it to a broker or a bank for credit to an account in the name of a person eligible to be custodian, followed by substantially the following language: "as custodian for .....
(name of minor)
under the New Jersey Uniform Gifts to Minors Act."

(d) If the subject of the gift is a life insurance or endowment policy or an annuity contract, by causing the ownership of the policy or contract to be registered with the issuing insurance company in the name of the custodian or in the name of an adult member of the minor's family or in the name of a guardian of the minor or any bank or trust company, followed by the words "custodian for ..... under the New Jersey Uniform Gifts to
(name of minor)
Minors Act," and such policy of life insurance or endowment policy or annuity contract shall be delivered to the person in whose name

it is thus registered as custodian. If the policy or contract is registered in the name of the donor, as custodian, such registration shall of itself constitute the delivery required by this act.

(e) If the subject of the gift is an interest in tangible personal property, by causing the ownership of the property to be transferred by any appropriate written document to the custodian in his own name, followed by substantially the following language: "as custodian for ..... under the New Jersey
(name of minor)
Uniform Gift to Minors Act."

(f) If the subject of the gift is an interest in a partnership or a limited partnership, by delivering an assignment of the interest to the custodian in his own name, followed by substantially the following language: "as custodian for ..... under
(name of minor)
the New Jersey Uniform Gift to Minors Act," and by notifying in writing the other partner or partners in the case of a partnership or the other general partner or partners in the case of a limited partnership and the donee of the gift. In the case in which the assignment is made to the donor in his own name, notification to the other partner or partners in the case of a partnership or to the other general partner or partners in the case of a limited partnership shall constitute the delivery required by this subsection.

3. Section 5 of P. L. 1963, c. 177 (C. 46:38–17) is amended to read as follows:

C. 46:38-17 Gifts irrevocable.

5. A gift made in the manner prescribed in this act is irrevocable and conveys to the minor an indefeasible vested legal title to the security, life insurance or endowment policy, annuity contract, money, tangible personal property, interest in a partnership or general partnership.

4. Section 6 of P. L. 1963, c. 177 (C. 46:38–18) is amended to read as follows:

C. 46:38-18 Acceptance of custodianship.

6. (a) If a custodial gift includes a security not in registered form, the execution by the custodian designee of the acknowledgment of receipt described in section 3(b) of this act constitutes acceptance of the custodianship.

(b) If a custodial gift does not include a security not in registered form, the custodian designee shall be deemed to have accepted

the custodianship upon the execution by him and delivery to the donor of a notice in writing of his acceptance of the custodianship. Such written notice of acceptance, when given to the donor upon opening an account with a bank or broker in the custodian's name shall be deemed written acceptance of all subsequent gifts made through such account until the custodian delivers written notification to the donor to the contrary. If the custodian designee does not deliver such a notice of acceptance to the donor within 10 days of the making of the gift, the donor shall promptly deliver to the custodian designee a notice in writing requesting an acceptance or renunciation. If the custodian designee fails to deliver to the donor a written notice of acceptance or renunciation within 10 days after delivery to him of the request, he shall be deemed to have renounced. In that event the donor shall make a written recital of the failure to respond and the consequent renunciation. The donor shall promptly cause a copy of each writing sent, received or made by him to be delivered to each successor custodian and to the minor if he is then 14 years of age or more.

5. Section 7 of P. L. 1963, c. 177 (C. 46:38–19) is amended to read as follows:

C. 46:38-19 Designation of successor custodians.

7. A donor may, at the time of making a custodial gift, designate one or more eligible persons as successor custodians to act as such upon the renunciation, death, resignation or removal of the first custodian or of the preceding successor custodian by a statement of designation in substantially the following language:

"Designation of Successor Custodian

I, ..., having this day made a cus-
(name of donor)
todial gift under the New Jersey Uniform Gifts to Minors Act to
..... consisting of .....
(name of minor) (description of securities, if any, and
.....
identification of credits created pursuant to section 3(c) of this act)
and having designated ..... custodian for
(name of first custodian)
said ....., hereby designate .....
(name of minor) (name of successor custodian)
successor custodian for said ....., to succeed
(name of minor)

to the duties of custodian upon the renunciation, death, resignation or removal of said .....
(name of first custodian)
Dated: ....
(signature of donor)"

If more than one successor custodian be named the statement of description shall be altered appropriately.

Executed counterparts of the statement of designation shall be delivered promptly upon execution to the custodian and to each successor custodian, to each broker or bank with whom the donor creates a credit under section 3(c) of this act, and to the minor if he is then 14 years of age or more.

C. 46:38-19.1 Designation by custodian or donor; absence of effective designation.

6. (New section) a. A custodian may, before he renounces, dies, resigns or is removed from office, designate a successor custodian if the donor has failed to designate a successor. The custodian may designate his successor by executing and dating an instrument of designation before a subscribing witness other than the successor. The instrument of designation may but need not contain the resignation of the custodian.

b. In the absence of an effective designation of a successor custodian by the custodian, the donor may designate a successor by executing and dating an instrument of designation before a subscribing witness other than the successor.

c. In the absence of an effective designation of a successor custodian by either the custodian or donor, the guardian of the minor shall become successor custodian; in the absence of a guardian, the minor, if he has attained the age of 14 years, may designate a successor custodian by executing an instrument of designation before a subscribing witness other than the successor.

d. If the minor has no guardian and if no successor custodian who is eligible and has not died or become legally incapacitated has been designated as a successor custodian, the legal representative of the donor, the legal representative of the custodian or an adult member of the minor's family may apply to the court for the designation of a successor custodian.

e. A successor custodian has all the rights, powers, duties and immunities of a custodian designated in a manner prescribed by this act.

C. 46:38-20.1 How designation of successor takes effect.

7. (New section) The designation of a successor custodian takes effect as to each item of the custodial property when the custodian resigns, dies or becomes legally incapacitated and the custodian or his legal representative:

a. Causes the item, if it is a security in registered form or a life insurance or endowment policy or annuity contract, to be registered, with the issuing insurance company in the case of a life insurance policy or annuity contract, in the name of the successor custodian followed, in substance, by the words: "as custodian for ..... under the New Jersey Uniform Gifts
(name of minor)
to Minors Act"; and

b. Delivers or causes to be delivered to the successor custodian any other item of the custodial property, together with the instrument of designation of the successor custodian or a true copy thereof and any additional instruments required for the transfer thereof to the successor custodian.

8. Section 9 of P. L. 1963, c. 177 (C. 46:38–21) is amended to read as follows:

C. 46:38-21 Eligibility for custodianship.

9. Only the following persons are eligible to be custodians: the donor of the custodial property, an adult, a guardian of the minor and a trust company. There may not be more than one custodian of the same custodial property at the same time.

9. Section 10 of P. L. 1963, c. 177 (C. 46:38–22) is amended to read as follows:

C. 46:38-22 Gift by trustee or executor.

10. An adult may authorize or direct his trustee or executor to make a gift to a minor under this act. If a gift is so made, the trustee or executor shall be deemed the donor of the gift for the purpose of this act.

10. Section 11 of P. L. 1963, c. 177 (C. 46:38–23) is amended to read as follows:

C. 46:38-23 Any gift to only one minor.

11. Any gift made under this act may be made to only one minor and only one person may be the custodian.

11. Section 12 of P. L. 1963, c. 177 (C. 46:38–24) is amended to read as follows:

C. 46:38-24 Consummation of gift unaffected by noncompliance.

12. A donor of a custodial gift shall promptly do all things within his power to put the subject of the gift in the possession and control of the custodian, but neither the donor's failure to comply with this section, nor his designation of an ineligible person as custodian, nor renunciation by the person designated as custodian affects the consummation of the gift.

C. 46:38-24.1 Property to successor.

12. (New section) A custodian who executes an instrument of designation of his successor containing the custodian's resignation shall promptly do all things within his power to put each item of the custodial property in the possession and control of the successor custodian named in the instrument. The legal representative of a custodian who dies or becomes legally incapacitated shall promptly do all things within his power to put each item of the custodial property in the possession and control of the successor custodian named in an instrument of designation executed by the custodian or, if none, by the minor if he has no guardian and has attained the age of 14 years, or in the possession and control of the guardian of the minor if he has a guardian. If the custodian has executed more than one instrument of designation, his legal representative shall treat the instrument dated on an earlier date as having been revoked by the instrument dated on a later date.

13. Section 15 of P. L. 1963, c. 177 (C. 46:38–27) is amended to read as follows:

C. 46:38-27 Duties of custodian.

15. (a) The custodian shall collect, hold, manage, invest and reinvest the custodial property.

(b) The custodian shall pay over to the minor for expenditure by him, or expend on behalf of the minor, so much of or all the custodial property as the custodian deems advisable for the support, maintenance, education, general use and benefit of the minor in the manner, at the time or times, and to the extent that the custodian in his absolute discretion deems suitable and proper, with or without court order, with or without regard to the duty or ability of himself or of any other person to support the minor, and with or without regard to any other funds, income or property of the minor which may be available for any such purpose.

(c) The court, on the application of a parent or guardian of the minor, or on the application of the minor if he has attained the age of 14 years, may order the custodian to pay over to the minor for

expenditure by him, or to expend on behalf of the minor, so much of or all the custodial property as is necessary for the minor's support, maintenance, education, general use and benefit.

(d) To the extent that the custodial property is not so expended, the custodian shall deliver or pay it over to the minor when he attains 21 years of age or, if the minor dies before attaining 21 years of age, the custodian shall thereupon deliver or pay it over to the estate of the minor. The donor at the time the gift is made may expressly direct that the custodianship be terminated and the custodial property be paid over and transferred to the minor at any time after the minor attains the age of 18 years.

(e) The custodian in investing and reinvesting the custodial property, shall act as would a prudent man of discretion and intelligence who is seeking a reasonable income and the preservation of his capital, except that he may, in his discretion and without liability to the minor or his estate, retain a security given to the minor in a manner prescribed in this act or hold money so given in an account in the bank to which it was paid or delivered by the donor.

(f) (Deleted by amendment.)

(g) The custodian may sell, exchange, convert or otherwise dispose of custodial property in the manner, at the time or times, for the price or prices and upon the terms he deems advisable. He may vote a security which is custodial property in person or by general or limited proxy. He may consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution or liquidation of an issuer of a security which is custodial property, and to the sale, lease, pledge or mortgage of any property by or to such an issuer, and to any other action by such an issuer. He may execute and deliver written instruments which he deems advisable to carry out any of his powers as custodian.

(h) The custodian shall keep all custodial property separate and distinct from his own property in such a manner as to identify it clearly as custodial property. He shall register each security which is custodial property and in registered form in his name, followed by substantially the following language: "as custodian for ..... under the New Jersey Uniform Gifts to
(name of minor)
Minors Act." He shall hold all money which is custodial property in an account with a broker or in a bank in his name followed by substantially the following language: "as custodian for

..... under the New Jersey Uniform Gifts to
(name of minor)
Minors Act."

(i) The custodian shall keep records of all transactions with respect to the custodial property and make them available for inspection at reasonable intervals by a parent, guardian or legal representative of the minor, or by the minor if he is 14 years of age or more.

(j) In addition to the powers given in this act, a custodian has all the powers with respect to the custodial property which a guardian of the estate would have with respect to property not held as custodial property.

(k) If the subject of the gift is a life insurance or endowment policy or annuity contract, the custodian:

(1) in his capacity as custodian, has all the incidents of ownership in the policy or contract to the same extent as if he were the owner, except that the designated beneficiary of any policy or contract on the life of the minor shall be the minor's estate and the designated beneficiary of any policy or contract on the life of a person other than the minor shall be the custodian as custodian for the minor for whom he is acting; and

(2) may pay premiums on the policy or contract out of the custodial property.

(l) The custodian may, in his discretion, terminate the custodianship at any time after the minor has attained the age of 18 years, but the power shall not be exercised by the custodian prior to a termination age fixed by the donor as provided in subsection (c) of this section.

14. Section 16 of P. L. 1963, c. 177 (C. 46:38–28) is amended to read as follows:

C. 46:38-28 Compensation of custodian; nonliability for losses.

16. (a) A custodian is entitled to reimbursement from the custodial property for his reasonable expenses incurred in the performance of his duties.

(b) A custodian may act without compensation for his services.

(c) Unless he is a donor, a custodian may receive from the custodial property reasonable compensation for his services determined by:

(1) A direction by the donor when the gift is made; or

(2) In the absence of a direction by the donor, such com-

pensation as provided by the law of this State governing compensation of a guardian of the estate of a minor.

(d) A custodian need not give a bond concerning the performance of his duties unless required to do so by this act or by court order.

(e) A custodian not compensated for his services is not liable for losses to the custodial property unless they result from his bad faith, intentional wrongdoing or gross negligence or from his failure to maintain the standard of prudence in investing the custodial property provided in this act.

15. Section 17 of P. L. 1963, c. 177 (C. 46:38–29) is amended to read as follows:

C. 46:38-29 Issuer not obliged to inquire into validity.

17. An issuer, transfer agent, bank, life insurance company, broker or other person acting on the instructions of or otherwise dealing with any person purporting to act as a donor or custodian (a) is not responsible for determining whether the person designated by the purported donor or by the custodian purporting to act as custodian has been duly designated or whether any purchase, sale or transfer to or by, or any other act of, any person purporting to act as custodian is in accordance with or authorized by this act; (b) is not obliged to inquire into the validity or propriety under this act of any instrument or instructions executed or given by a person purporting to be a donor or custodian; and (c) is not bound to see to the application, by any person purporting to be a custodian, of any money or other property paid or delivered to him. An issuer, transfer agent, bank, life insurance company, broker or other person acting on any instrument of designation of a successor custodian, executed as provided in this act by a minor to whom a gift has been made in the manner prescribed in this act and who has attained the age of 14 years, is not responsible for determining whether the person designated by the minor as successor custodian has been duly designated, nor obliged to inquire into the validity or propriety under this act of the instrument of designation.

16. Section 18 of P. L. 1963, c. 177 (C. 46:38–30) is amended to read as follows:

C. 46:38-20 Resignation of custodian.

18. (a) If a successor custodian who is then in being has been designated, the custodian may resign by (1) executing an instru-

ment of resignation, (2) causing each security which is custodial property and in registered form or a life insurance or endowment policy or annuity contract to be registered, and each account with a broker or in a bank to be carried, in the name of the successor custodian followed by substantially the following language: "as custodian for ..... under the New Jersey
(name of minor)
Uniform Gifts to Minors Act," and (3) delivering to the successor custodian the instrument of resignation, each security registered in the name of the successor custodian and all other custodial property, together with any additional instruments required for the transfer thereof, or

(b) If a successor custodian who is then in being has not been designated, the custodian may resign by executing an instrument of resignation designating a successor custodian and taking the steps described in subsection (a) (2) and (a) (3) of this section, or otherwise in accordance with the order of the court, upon application to the court by the custodian for permission to resign and for the designation of a successor custodian.

An ineligible person who has accepted a designation as custodian shall be deemed a lawful custodian for the purpose of the application of the resignation procedure and the powers provided in this section.

Repealer.

17. Section 19 of P. L. 1963, c. 177 (C. 46:38–31) is repealed.

18. This act shall take effect on the first day of the third calendar month following its enactment.

Approved December 31, 1981.

CHAPTER 378

AN ACT concerning exemptions or abatements from taxation in certain cases, and amending P. L. 1979, c. 233.

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

1. Section 4 of P. L. 1979, c. 233 (C. 54:4–3.124) is amended to read as follows:

C. 54:4-3.124 Exemptions and abatements for improvements to multiple dwellings.

4. a. Any municipality making a determination as set forth in section 3 of this act may enact an ordinance providing for exemptions from taxation of improvements to multiple dwellings or for other buildings or structures converted to multiple dwelling use, or both. In granting such exemptions, the municipality may, in determining the value of real property for the purposes of taxation, regard up to the assessor's full and true value of such improvements or conversion alterations as not increasing the value of such property for a period of 5 years, notwithstanding that the value of the property to which such improvements or conversion alterations are made is increased thereby; provided, however, that during said period, the assessment on such property shall in no case, except that of an abatement as provided in subsection b. of this section, or damage through action of the elements sufficient to warrant a reduction, be less than the assessments thereon existing immediately prior to such improvements or conversion alterations.

b. Any such ordinance granting such exemptions may also provide for the abatement of some portion of the assessed value of property receiving such an exemption as it existed immediately prior to the improvement or conversion alteration. Any such abatement for any single such property may be granted with respect to any such property for a total of up to 5 years, but the total amount of abatements granted to any single such property shall not exceed the total cost of the improvement or conversion alteration. The amount of abatement to be granted in each year of the abatement period shall be specified in the adopting ordinance and shall not exceed the following:

(1) For the first year for which an abatement is granted, up to 30% of the cost of the improvement or conversion alteration;

(2) For the second year for which an abatement is granted, up to 25% of the cost of the improvement or conversion alteration;

(3) For the third year for which an abatement is granted, up to 20% of the cost of the improvement or conversion alteration;

(4) For the fourth year for which an abatement is granted, up to 15% of the cost of the improvement or conversion alteration; and

(5) For the fifth year for which an abatement is granted, up to 10% of the cost of the improvement or conversion alteration.

2. Section 9 of P. L. 1979, c. 233 (C. 54:4–3.129) is amended to read as follows:

C. 54:4-3.129 Written application; recording.

9. No exemption or abatement shall be granted pursuant to this act except upon written application therefor filed with and approved by the assessor of the taxing district wherein such improvement or conversion alteration is made. Every such application 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 body of the municipality constituting the taxing district, and shall be filed with the assessor within 30 days, including Saturdays and Sundays, following the completion of the improvement or conversion alteration. Every such application for exemption, or exemption and abatement, within a municipality adopting the provisions of this act which is filed within the time specified, shall be approved and allowed by the assessor to the degree that such application is consistent with the provisions of such adopting ordinance, provided that the improvement or conversion alteration for which such application is made qualifies as an improvement or a conversion alteration pursuant to the provisions of this act. The granting of any such exemption, or exemption and abatement, shall be recorded and made a permanent part of the official tax records of the taxing district, which record shall contain a notice of the termination date of the exemption.

3. This act shall take effect immediately.

Approved December 31, 1981.

CHAPTER 379

AN ACT providing for a uniform method of holding nonpartisan elections, supplementing Title 40 of the Revised Statutes and revising and repealing parts of the statutory law pertaining thereto.

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

C. 40:45-5 Short title.

1. (New section) This act shall be known and may be cited as the "Uniform Nonpartisan Elections Law."

C. 40:45-6 Governs all May municipal elections.

2. (New section) 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, 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" (R. S. 40:79–1 et seq.), 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.

C. 40:45-7 Election day second Tuesday in May.

3. (New section) 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 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.

C. 40:45-8 Filing of petitions with municipal clerk; individual certificates; oaths of candidates and managers.

4. (New section) At least 47 days 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 ..... 19...., 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 ....."

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. 40:45-9 Certificates of nomination; defects; amendments.

5. (New section) a. The municipal clerk shall furnish, upon request, a reasonable number of forms of individual certificates of nomination.

b. Each certificate shall contain the name of one candidate, and no more. Each signer must not, at the time of signing the certificate, have signed more certificates for candidates for that office than there are places to be filled for the office. Where ward councilmen are to be elected, no petitioner shall sign more than one certificate for ward council, and the candidate named in the petition shall reside in the same ward as the signer. All certificates not complying substantially with this act shall be rejected.

c. When a petition of nomination is presented for filing to the municipal clerk, he shall examine it and ascertain whether or not it conforms to the provisions of this act and, where applicable,

the provisions of the general election laws. If it does not conform, he shall retain the petition and notify the person nominated of the defect, by written notice delivered to him personally or by certified mail to his place of residence stated in the petition.

d. Where the nominating petition, or any affidavit or affidavits thereto is found defective, the candidate named therein may file such amendment or amendments as may be necessary to eliminate the defect, whether of matters of substance or form, and when so amended the effect shall be as if the petition had been originally filed in the amended form. After the last day for the filing of the original petition, no amendment may be made for the purpose of adding the name of any person who did not sign the original petition, nor shall any amendment be made at any time for the purpose of changing the name of the candidate or the office for which he was to be nominated. No amendment to a nominating petition shall be made and filed less than 34 days before the election.

C. 40:45-10 Printing of designations on ballots; grouping.

6. (New section) Any candidate whose name is to be printed on the ballot may petition the municipal clerk to print, opposite his name on the ballot, such designation, in not more than six words, as requested by him in the petition, for the purpose of indicating either an official act or policy to which he is pledged or committed. The designation shall not indicate political party affiliation. On the filing of the petition the clerk shall cause the designation to be printed opposite the name of the candidate upon the ballot. If several candidates for the same office shall petition that their names be grouped together and that the one designation named by them shall be printed opposite their names, the clerk shall group their names in a bracket, and opposite the bracket shall print the designation. Petitions requesting a designation or grouping of candidates shall be filed with the clerk on or before the last day fixed for filing the petition for nomination. If two candidates or groups select the same designation, the clerk shall notify the candidate or group whose petition was last filed, and that candidate or group shall select a new designation.

C. 40:45-11 Nomination for only one office.

7. (New section) No person shall accept nomination for more than one municipal office to be voted for at a regular municipal election to be held under this act.

C. 40:45-12 Order of names on ballots; drawing of lots.

8. (New section) The municipal clerk shall draw lots to determine the order in which the names of the candidates or groups of

candidates shall appear upon the ballots. The name of the person or group of candidates first drawn shall occupy first place on the ballot, or voting machine, and the name of the person or group of candidates next drawn shall occupy second place, and so forth. For the purpose of conducting the drawing by lot paper cards with the name of each candidate or group of candidates written thereon shall be placed in a covered box with an aperture in the top large enough to allow the cards to be withdrawn. The municipal clerk in the presence of any candidate shall draw from the box each card without knowledge on his part as to which card he is drawing. The municipal clerk shall at least 2 days prior to the drawing notify each candidate by registered mail of the time and place of the drawing. The candidate or his representative shall have the right to examine the cards prior to their being placed in the covered box.

C. 40:45-13 Newspaper publication.

9. (New section) Within 10 days after the expiration of the time for filing certificates, statements and petitions for candidates, and the drawing for position, the municipal clerk shall cause the names of the candidates as they are to appear upon the ballots to be published in proper form once in each of two newspapers having circulation in the municipality and published in this State.

C. 40:45-14 Persons bearing same name.

10. (New section) When persons bearing the same name are nominated for the same office, either person may file with the municipal clerk a statement in writing containing not more than six words as a means of identification. The statement or designation shall be printed upon the official ballot to be used at the election.

C. 40:45-15 Printing of ballots; form; number.

11. (New section) The municipal clerk shall cause the ballots to be printed and authenticated by his 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 (×) 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.

C. 40:45-16 Counting of the ballots; canvass by municipal clerk.

12. (New section) The district boards of registry and election shall, immediately upon the closing of the polls, count the ballots and ascertain the number of votes cast in the election district for each of the candidates in the manner provided by law for the general election, and return the numbers to the municipal clerk immediately upon the completion of the count, upon proper blanks to be furnished by the clerk. In counties having a superintendent of elections one of the returns shall be made available immediately to the superintendent of elections. The superintendent may arrange to accept the statement of returns in each municipality within the county at the office of the clerk of the municipality or some other convenient place. On the day following the municipal election, the municipal clerk shall canvass all returns received from the election districts and the absentee ballots, and immediately make and file in his office the result thereof. The canvass by the municipal clerk shall be publicly made.

C. 40:45-17 Candidates receiving greatest number of votes elected.

13. (New section) 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. The term of office of any officer elected pursuant to this act shall begin on July 1 next following election.

C. 40:45-18 Run-off elections; majority required; exceptions.

14. (New section) Notwithstanding the provisions of section 13 of this act, if the voters of any municipality shall adopt the proposition of holding run-off elections in the municipality, at the regular municipal election held in that municipality the candidates receiv-

ing the greatest number and a majority of votes cast shall be elected to the respective offices, except that if:

a. Nine councilmen-at-large (or commissioners, or village trustees) are to be elected and four or more candidates for that office receive a majority of the votes cast, the nine candidates receiving the greatest number of votes shall be elected; or

b. Eight councilmen-at-large (or commissioners, or village trustees) are to be elected and four or more candidates for that office receive a majority of the votes cast, the eight candidates receiving the greatest number of votes shall be elected; or

c. Seven councilmen-at-large (or commissioners, or village trustees) are to be elected and three or more candidates for that office receive a majority of the votes cast, the seven candidates receiving the greatest number of votes shall be elected; or

d. Six councilmen-at-large (or commissioners, or village trustees) are to be elected and three or more candidates for that office receive a majority of the votes cast, the six candidates receiving the greatest number of votes shall be elected; or

e. Five councilmen-at-large (or commissioners, or village trustees) are to be elected and two or more candidates for that office receive a majority of the votes cast, the five candidates receiving the greatest number of votes shall be elected; or

f. Four councilmen-at-large (or commissioners, or village trustees) are to be elected and two or more candidates for that office receive a majority of the votes cast, the four candidates receiving the greatest number of votes shall be elected; or

g. Three councilmen-at-large (or commissioners, or village trustees) are to be elected and one or more candidates for that office receive a majority of the votes cast, the three candidates receiving the greatest number of votes shall be elected; or

h. Two councilmen-at-large (or commissioners, or village trustees) are to be elected and one or more candidates for that office receive a majority of the votes cast, the two candidates receiving the greatest number of votes shall be elected.

For the purpose of this section, the number constituting a majority of the votes cast shall be computed by dividing by two the number of voters who cast a vote for at least one candidate for councilman-at-large (or commissioner, or village trustee) and then adding one. Voting machines to be used in the election shall be equipped, as soon as practicable, with one or more counters so connected as to keep a tally of the number of voters who cast votes

for one or more of the candidates for councilman-at-large (or commissioner, or village trustee). Until suitable counters have been provided, or whenever the tally of the number of voters cannot be determined for any reason, then the number constituting the majority of the votes cast shall be computed by adding all the votes cast for each candidate for that office, dividing that total by twice the number of councilmen-at-large (or commissioners, or village trustees) to be elected and then adding one.

C. 40:45-19 Candidates in run-off elections; greatest number of votes; death of candidates.

15. (New section) In any regular municipal election held under section 14 of this act, 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.

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 7 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.

C. 40:45-20 Run-off elections to be required.

16. (New section) Any municipality in which, immediately prior to the effective date of this act, run-off elections were required to be held pursuant to the plan or form of government, or charter, of the municipality, shall, on and after the effective date of this act, be governed by the provisions of sections 14 and 15 of this act for so long as it continues to be governed by that plan or form of government, or that charter, except as provided in section 17 of this act.

C. 40:45-21 Referenda on run-off elections; ordinance or petition of voters; form of question.

17. (New section) a. Any municipality governed by the provisions of this act, but not by the provisions of sections 14 and 15 of this act, may, by referendum, adopt the provisions of those sections. Any municipality governed by the provisions of this act and by the provisions of sections 14 and 15 may, by referendum, abandon the provisions of those sections and continue to be governed by the provisions of this act. The question of adopting, or of abandoning, those provisions may be submitted to the voters either by ordinance of the governing body or by petition of the registered voters. Any ordinance adopted, or each petition paper submitted, for the purpose shall state the proposition that run-off elections be held in the municipality; or, in the case of abandonment, that run-off elections not be held in the municipality.

b. Upon adoption by the governing body of an ordinance conforming with the provisions of this section, the municipal clerk shall provide for the submission of the question at the next general election or regular municipal election occurring in the municipality not less than 60 days after the date of the adoption of the ordinance.

c. Any petition submitted by the registered voters pursuant to this section shall be signed by the registered voters of the municipality in a number at least equal to 10% of the total votes cast in the municipality at the last preceding general election at which members of the General Assembly were elected. The petition shall be filed with the clerk of the municipality who shall, upon filing, ascertain and certify the number and validity of the signatures affixed thereto. If the petition is determined to be insufficient, the person designated in the petition for the purpose shall have 10 days from the notification of insufficiency to file a supplementary

petition designed to rectify the insufficiency, which shall be in the same form and shall be filed in the same manner as the original petition. If no supplementary petition is filed within 10 days after notification, or if the clerk shall examine the supplementary petition and determine that an insufficiency still exists, the clerk shall file a certificate of insufficiency in his office and notify the designated person of the insufficiency. A finding of insufficiency shall not prejudice the filing of a new petition for the same purpose.

If the petition is determined to be sufficient, the clerk shall so certify, shall transmit a certified copy to the governing body of the municipality, and shall provide for the submission of the question at the next general election or regular municipal election occurring in the municipality not less than 60 days after the date of certification.

d. At the election, the question shall be submitted in the appropriate form as follows:

(1) If the ordinance or petition proposes the holding of run-off elections in the municipality, the question shall be posed: "Shall run-off elections be held in (insert name of municipality) as permitted by the 'Uniform Nonpartisan Elections Law'?"

(2) If the ordinance or petition proposes the abandonment of run-off elections in the municipality, the question shall be posed: "Shall (insert name of municipality) abandon the holding of run-off elections as permitted by the 'Uniform Nonpartisan Elections Law'?"

e. The question submitted pursuant to subsection d. of this section shall be approved if a majority of those voting on the question shall vote in favor of the question, and shall take effect for the next regular municipal election held in the municipality and thereafter.

f. No ordinance may be adopted and no petition may be filed proposing the adoption of the provisions of sections 14 and 15 of this act, or the abandonment of the provisions of those sections, within 4 years after the date on which the municipality initially adopted a plan or form of government, or charter, requiring the holding of run-off elections in the municipality, or within 4 years after the date on which a question was last submitted to the voters pursuant to subsection d. of this section.

18. R. S. 40:75–1 is amended to read as follows:

Term of office.

40:75–1. The members of the first commission shall be elected, at an election to be held on the fifth Tuesday following the adoption of chapters 70 to 76 of this title (R. S. 40:70–1 et seq.), by the duly authorized voters of the municipality and shall serve as commissioners from twelve o'clock noon on the first Tuesday following their election until twelve o'clock noon on July 1 in the fourth year following such election and until their successors are elected and shall have duly qualified. The election shall be conducted pursuant to the "Uniform Nonpartisan Elections Law," P. L. 1981, c. 379 (C. 40:45–5 et al.).

19. R. S. 40:75–2 is amended to read as follows:

Four-year 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 al.), 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 July 1 next ensuing their election.

20. (New section) The terms of all commissioners currently serving in a municipality governed by the "commission form of government law" (R. S. 40:70–1 et seq.) on the effective date of this act are extended until twelve o'clock noon on July 1 next following the next regular municipal election held in the municipality.

21. R. S. 40:81–4 is amended to read as follows:

Election after adoption of subtitle.

40:81–4. The members of the first municipal council shall be elected at the municipal election held on the fourth Tuesday after the adoption of this subtitle and shall serve as members of the council from twelve o'clock noon of the fourth Tuesday following such election until twelve o'clock noon of July 1 in the fourth year thereafter, save in those cases in which the terms of some of the members of the council shall expire at twelve o'clock noon on July 1 in each year in accordance with the provisions of article 3 of chapter 84 of this title (R. S. 40:84–9 et seq.), and until their successors shall have been elected and duly qualified, unless their places shall have become vacant. The election shall be conducted pursuant to the "Uniform Nonpartisan Elections Law," P. L. 1981, c. 379 (C. 40:45–5 et al.).

22. R. S. 40:81–5 is amended to read as follows:

Municipal council elections.

40:81–5. 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 twelve 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.).

23. (New section) The final year of the terms of all councilmen currently serving on the effective date of this act in a municipality governed by the "municipal manager form of government law" (R. S. 40:79–1 et seq.), are extended until twelve o'clock noon on July 1 of that year.

24. R. S. 40:81–7 is amended to read as follows:

Election of mayor.

40:81–7. Four weeks after their election in the case of the first municipal council elected, and on July 1 following all subsequent municipal elections, the members-elect of the municipal council shall assemble at the usual place of meeting of the governing body of the municipality and organize and elect one of their number as mayor. The mayor shall be chosen by ballot by majority vote of all members of the municipal council. If the members shall be unable, within five ballots to be taken within 2 days of said organization meeting, to elect a mayor, then the member who in the election for members of the municipal council received the highest vote, in accord with the manner of canvassing the ballots as herein set forth, shall be the mayor. Should such person decline to accept the office, then the person receiving the next highest vote shall be the mayor, and so on, until the office is filled.

25. R. S. 40:84–2 is amended to read as follows:

First municipal election.

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 in the fourth succeeding year and in each fourth year thereafter. Elec-

tions shall be conducted pursuant to the "Uniform Nonpartisan Elections Law," P. L. 1981, c. 379 (C. 40:45–5 et al.).

26. R. S. 40:84–11 is amended to read as follows:

3-year terms.

40:84–11. In cases provided for in this article the municipal elections to be held in accordance with the "Uniform Nonpartisan Elections Law," P. L. 1981, c. 379 (C. 40:45–5 et al.), shall be held on the second Tuesday in May 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.

27. R. S. 40:161–5 is amended to read as follows:

Village elections.

40:161–5. If the result of such election shall be in favor of such change the local municipal or charter elections in such village shall thereafter be held on the second Tuesday in May in each year. The annual meeting of the board of trustees shall be held on July 1 next following such annual election and the terms of all elective officers shall begin on July 1 next following the annual election. The terms of all elective officers in office at the time of the special election provided for in sections 40:161–1 to 40:161–4 of this Title whose terms would have expired prior to July 1 next succeeding such special election shall be extended from the date when such terms would have expired to July 1 next following said first annual election in such village. Nothing herein contained shall be construed to affect the election of any member of any board of education.

28. R. S. 40:161–6 is amended to read as follows:

Uniform law governs.

40:161–6. Local municipal or charter elections held by any village which has heretofore voted or shall hereafter vote to change to the second Tuesday in May the time for holding the local municipal or charter elections therein, shall be regulated by and held in accordance with the "Uniform Nonpartisan Elections Law," P. L. 1981, c. 379 (C. 40:45–5 et al.).

29. (New section) The terms of all village trustees currently serving in a municipality governed by the village form of government (R. S. 40:157–16 et seq.) on the effective date of this act are

extended until July 1 next following the next regular municipal election held in the municipality.

30. Section 17–1 of P. L. 1950, c. 210 (C. 40:69A–150) is amended to read as follows:

C. 40:69A-150 Regular municipal elections.

17–1. Regular municipal elections shall be held in each municipality on the second Tuesday in May 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 al.).

Repealer.

31. The following are repealed:

R. S. 40:75–3 through 40:75–12, inclusive;

R. S. 40:75–14 through 40:75–24, inclusive;

R. S. 40:84–1;

R. S. 40:84–3 through 40:84–8, inclusive;

P. L. 1940, c. 44 (C. 40:75–12.1);

P. L. 1945, c. 28 (C. 40:84–11.1);

P. L. 1945, c. 29 (C. 40:75–11.1);

Section 17–2 of P. L. 1950, c. 210 (C. 40:69A–151);

Sections 17–4 through 17–12, inclusive, of P. L. 1950, c. 210 (C. 40:69A–153 through 40:69A–161);

Sections 2 through 21, inclusive, of P. L. 1953, c. 317 (C. 40:161–7 through 40:161–26);

P. L. 1955, c. 237 (C. 40:75–8.1); and

P. L. 1959, c. 118 (C. 40:69A–159.1).

32. This act shall take effect January 1 following enactment.

Approved December 31, 1981.

CHAPTER 380

AN ACT concerning qualifications of county purchasing agents and supplementing chapter 9 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:9-30.1 Definitions.

1. As used in this act:

a. "Director" means the Director of the Division of Local Government Services;

b. "Purchasing agent" or "director of purchasing" means the county official charged with the duty and responsibility of purchasing materials and services on behalf of the county.

C. 40A:9-30.2 Certified county purchasing officials; applications; qualifications.

2. Commencing on the effective date of this act, the director shall accept applications for certification as "certified county purchasing official." An applicant shall present to the director a verified application in writing on forms provided by the Division of Local Government Services setting forth that the applicant is a citizen of the United States, has obtained a certificate or diploma issued after at least 4 years of study in approved secondary school or has received an academic education considered and accepted by the Commissioner of Education as fully equivalent, and has graduated from a 4-year course at a college of recognized standing, with a major course of study in business administration, public administration or some related subject. An applicant who does not meet the college education requirement may substitute, on a year-for-year basis, experience in a position as purchasing agent or director of purchasing for any county of this State or as the primary administrator of a centralized purchasing system maintained by any such county.

Each applicant substituting experience in one or more of said positions must have been employed in said position or positions on a full-time basis for a period in the aggregate of not less than 4 years. Proof of this service shall be verified by resolution of the board of chosen freeholders of the county or with respect to counties operating under the "Optional County Charter Law" (P. L. 1972, c. 154, C. 40:41A–1 et seq.) by certification by the officer charged with exercising the executive power of the county. Every applicant shall also furnish proof that he has received certificates indicating satisfactory completion of, or has been the instructor of, principles of public purchasing courses No. 1, No. 2 and No. 3 as offered by Rutgers, The State University, or such other training courses as are certified as their equivalent by Rutgers and approved by the Division of Local Government Services.

C. 40A:9-30.3 Issuance of certificates.

3. Upon finding by the director that the applicant has met the qualifications as set forth in section 2 of this act, a certificate shall be issued to the applicant, upon the payment of a fee of $25.00 to the order of the State Treasurer.

C. 40A:9-30.4 Revocation or suspension.

4. Any certified county purchasing official certificate may be revoked or suspended by the director for dishonest practices, or willful or intentional failure, neglect or refusal to comply with the Constitution of the State of New Jersey or laws relating to the purchase of materials or services, or other good cause. The board of chosen freeholders or the officer charged with exercising the executive power of the county, as the case may be, may request a review by the director of the behavior or practices of a certified county purchasing official. No certificate shall be revoked or suspended except upon a prior hearing before the director or his designee after due notice.

5. This act shall take effect immediately.

Approved December 31, 1981.

CHAPTER 381

AN ACT to amend "An act temporarily suspending the statutory maximum rate of interest limitations applicable to borrowings by counties, municipalities, school, and other districts, State agencies and other public authorities and agencies," approved July 3, 1969 (P. L. 1969, c. 137), as said title was amended by P. L. 1970, c. 49.

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

1. Section 1 of P. L. 1969, c. 137 (C. 31:1-7) is amended to read as follows:

C. 31:1-7 Interest rate limitation suspended.

1. Notwithstanding the provisions of any other law, statute or regulation applicable to or constituting any limitation on the maximum rate of interest per annum payable on bonds, notes or

other obligations, or as to annual interest cost to maturity of money borrowed or received upon issuance of bonds, notes or other obligations, every school district, body corporate and politic, district or public authority, agency, commission or other public institution heretofore or hereafter created by the State, any county, or municipality or by one or more counties or municipalities, is hereby authorized and empowered to contract to pay interest on or an interest cost per annum for money borrowed and evidenced by bonds, notes or other obligations without limit as to the rate of interest per annum payable thereon or as to the annual interest cost to maturity of the money borrowed.

2. This act shall take effect immediately.

Approved December 31, 1981.

CHAPTER 382

AN ACT increasing the fees charged for the issuance of a marriage license, and providing for the use of such additional fees by the Department of Human Services in establishing and maintaining shelters for the victims of domestic violence.

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

C. 37:1-12.1 Additional fee.

1. In addition to the fee for issuing a marriage license authorized pursuant to R. S. 37:1–12, each licensing officer shall collect a fee of $5.00 from the applicants which shall be forwarded on a quarterly basis to the Department of Human Services.

C. 37:1-12.2 Shelters for victims of domestic violence.

2. The Department of Human Services shall establish a trust fund for the deposit of the fees received pursuant to section 1 of this act. The moneys from the trust fund shall be used for the specific purpose of establishing and maintaining shelters for the victims of domestic violence, or for providing grants-in-aid to such shelters established by local governments or private nonprofit organizations.

C. 37:1-12.3 Rules and regulations.

3. The Commissioner of the Department of Human Services shall adopt and promulgate such rules and regulations as are necessary to implement this act.

4. This act shall take effect 30 days following its enactment.

Approved December 31, 1981.

CHAPTER 383

AN ACT concerning tenure of office for certain municipal superintendents of public works and supplementing chapter 9 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:9-154.5 Job title.

1. As used in this act, "municipal superintendent of public works" means the officer or employee of a municipality whose duties include supervising the care and maintenance of streets, roads, avenues, public buildings, public places, sewers and motor vehicles of the municipality, notwithstanding the job title given the office or position.

C. 40A:9-154.6 Tenure of office.

2. A person holding office, position or employment as full-time municipal superintendent of public works who has held the office, position or employment continuously for 5 years or more shall continue to hold the office, position or employment, notwithstanding he is serving for a fixed term, during good behavior and efficiency and shall not be removed therefrom for political or other reasons except for good cause, upon written charges filed with the municipal clerk and after a public, fair and impartial hearing; except that the governing body of the municipality shall first pass an ordinance authorizing the tenure of office herein provided. The person may be retired when he shall have attained 70 years of age.

3. This act shall take effect immediately.

Approved January 4, 1982.

CHAPTER 384

AN ACT concerning certain weapons and amending N. J. S. 2C:11–1.

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

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

Definitions.

2C:11–1. Definitions. In chapters 11 through 15, unless a different meaning plainly is required:

a. "Bodily injury" means physical pain, illness or any impairment of physical condition;

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

c. "Deadly weapon" means any firearm or other weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner it is used or is intended to be used, is known to be capable of producing death or serious bodily injury or which in the manner it is fashioned would lead the victim reasonably to believe it to be capable of producing death or serious bodily injury.

2. This act shall take effect immediately.

Approved January 4, 1982.

CHAPTER 385

AN ACT authorizing the State Treasurer to deposit pay checks of certain State employees in specific banking institutions under certain circumstances and supplementing chapter 14 of Title 52 of the Revised Statutes.

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

C. 52:14-15a Direct deposit of pay.

1. Whenever any person holding public office, position or employment, whose compensation is paid by this State or by any

board, body, agency, authority or commission thereof, hereinafter referred to as "employee," shall indicate in writing to the proper disbursing officer his desire to have his net pay deposited in a specific banking institution in a designated checking account, savings account, or share account for such employee, the State Treasurer shall make the deposit in the respective banking institution on behalf of the employee.

C. 52:14-15b Total amount for all employees.

2. If more than one employee designates the same banking institution as the depository for his net pay, the State Treasurer may make the deposits by sending to the banking institution an electronic fund transfer, a computer tape or a check that is drawn in favor of the banking institution for the total amount designated by those employees and by specifying the amount to be credited to the account of each of those employees.

C. 52:14-15c Definitions.

3. For purposes of this act:

"Net pay" means the net amount of wages or compensation owed by the State to an employee in any pay period after withholding of various federal and State taxes and all other deductions authorized by law including deductions construed as voluntary payments;

"Banking institution" means a State or federally chartered bank, savings bank, savings and loan association, or credit union.

C. 52:14-15d Notice of withdrawal.

4. Any written designation may be withdrawn by an employee at any time by filing the notice of withdrawal with his respective disbursing officer. The filing of notice of withdrawal shall be effective to halt deposits as of the thirtieth day next succeeding the date on which it is filed.

C. 52:14-15e Rules and regulations.

5. Subect to the "Administrative Procedure Act" (P. L. 1968, c. 410, C. 52:14B–1 et seq.), the State Treasurer shall adopt all rules and regulations necessary to effectuate this act.

6. This act shall take effect January 1 next following enactment.

Approved January 4, 1982.

CHAPTER 386

AN ACT appropriating funds from the Natural Resources Bond Fund, for the purposes of planning, designing, acquiring and constructing sewerage treatment facilities; and providing for procedures relating to the expenditure of these funds; and funds heretofore appropriated from the Water Conservation Bond Fund for a pretreatment grant.

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

1. There is appropriated to the Department of Environmental Protection from the "Natural Resources Fund" created pursuant to the "Natural Resources Bond Act of 1980" (P. L. 1980, c. 70) the sum of $9,760,268.00 for the purpose of providing grants to the following authorities and municipalities in the amount of 8% of approved local sewerage project costs which qualify for Federal assistance, pursuant to the provisions of sections 11 through 20 of P. L. 1979, c. 321 (C. 58:25–1 et seq.):

Federal I.D. No.	Municipality or Authority	Amount of State Grant
453-01	Warren County M.U.A. (Paulins Kill)	$ 6,393
459-02	Pequannock River S.A.	48,329
684-03	Northeast Monmouth Co. Regional S.A.	159,848
393-03	Wayne Township	1,620,045
663-01	North Wildwood City	10,339
299-03	Linden-Roselle S.A.	30,572
380-03	Western-Monmouth U.A.	24,837
386-02	Bergen County U.A.	62,622
399-03	Hudson County U.A.	166,000
399-04	Hudson County U.A.	328,000
406-04	Sussex County M.U.A.	445,000
418-01	Oakland Borough	19,053
423-01	Monroe Township M.U.A.	731,480
433-02	Woodbridge Township	126,829
434-01	Wanaque Borough M.U.A.	487,466
451-02	Carteret Borough	41,344
456-01	Branchburg Township	106,207
478-03	Rockaway Township	15,424

Federal I.D. No.	Municipality or Authority	Amount of State Grant
486-02	North Haledon Borough	$65,948
494-01	Clinton Township S.A.	120,726
511-03	Franklin Borough	468,452
527-03	Lambertville S.A.	363,367
575-01	Hillsborough Township M.U.A.	165,356
578-02	Manville Borough	72,997
584-02	Old Tappan Borough	30,994
585-03	Stafford M.U.A.	552,076
603-02	Farmingdale Borough	164,302
628-01	Woodstown S.A.	4,560
636-01	Pompton Lakes M.U.A.	22,380
638-02	Bridgewater Township	991,429
661-01	Cape May County M.U.A.	28,272
681-02	Rahway Valley S.A.	20,967
747-01	Jefferson Township	21,501
785-01	Willingboro Township	34,942
788-01	Monmouth Co. Board of Chosen Freeholders	24,354
789-01	East Brunswick S.A.	17,524
399-02	Hudson County S.A.	710,800
720-01	Middle Township	2,920
464-01	Warren Township	347,922
583-01	Keansburg M.U.A.	28,402
371-02	Ocean County U.A.	3,851
610-03	Landis S.A.	8,522
794-01	Delran S.A.	26,927
682-02	Linden-Roselle S.A.	2,747
703-01	Florham Park S.A.	4,322
354-01	Pequannock, Lincoln Park and Fairfield S.A.	8,959
399-01	Hudson County U.A.	62,383
365-01	Wayne Township	6,379
680-01	Middlesex County S.A.	5,518
529-02	Somerset-Raritan Valley S.A.	5,226
708-02	Camden County U.A.	500,132
681-03	Rahway Valley S.A.	193,666
451-01	Carteret Borough	431
299-02	Linden-Roselle S.A.	2,150
391-03	Ewing-Lawrence S.A.	3,352
398-01	Manasquan River Reg. S.A.	1,840

Federal I.D. No.	Municipality or Authority	Amount of State Grant
460-01	Totowa-W. Paterson S.A.	$5,997
462-01	Bayshore Regional S.A.	2,016
466-01	Denville Township	2,134
467-01	Montville Twp. M.U.A.	4,752
478-03	Rockaway Township	4,685
524-01	Camden County M.U.A.	87,143
547-01	Rahway Valley S.A.	1,200
587-02	Parsippany-Troy Hills Twp.	109,175
596-01	Berkeley Township	3,987
634-01	Bloomingdale Borough	1,392
682-01	Linden-Roselle S.A.	6,647
700-01	Northwest Bergen County S.A.	4,696
		$9,760,268

2. The Department of Environmental Protection is authorized and directed to utilize from amounts received as repayment of loans made to local governmental units from the "Water Conservation Bond Act," P. L. 1969, c. 127, and thereafter appropriated pursuant to section 5 of P. L. 1975, c. 158, the sum of $2,000,000.00 for a pretreatment grant.

3. In order to provide flexibility in administering this act appropriating moneys from the "Natural Resources Fund," the Commissioner of the Department of Environmental Protection may apply to the Director of the Division of Budget and Accounting for permission to transfer a part of any item to any other item in the appropriation. Upon approval of an application by the director and by the Legislative Budget Officer, in writing, the director shall make the transfer.

4. The funds directed to be utilized pursuant to this act are subject to the provisions and conditions of P. L. 1979, c. 321 and P. L. 1980, c. 70.

5. This act shall take effect immediately.

Approved January 4, 1982.

CHAPTER 387

AN ACT concerning the forfeiture of conveyances used in the willful discharge of harmful or destructive substances and supplementing Title 13 of the Revised Statutes.

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

C. 13:1K-1 Conveyances subject to forfeiture.

1. All conveyances which are used or intended for use in the willful discharge of harmful or destructive substances shall be subject to forfeiture to the State, except that:

a. No conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under this act unless it appears that the owner or person in charge of such conveyance was a consenting party or privy to a violation of this act. The term conveyance shall mean aircraft, vessels, vehicles, other equipment or containers;

b. No conveyance shall be forfeited by reason of any act or omission, established by the owner thereof, to have been committed or omitted without his knowledge by any person other than such owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal law of the United States or of any state;

c. The forfeiture of any conveyance encumbered by a bona fide security interest shall remain subject to the interest of the secured party if he had no knowledge of the act or omission.

C. 13:1K-2 Seizure, with and without process.

2. When in the presence of a law enforcement officer, a department official shall seize and secure any such conveyance upon process issued pursuant to a summary hearing and upon a determination that such conveyance was used in violation of this act by any court having jurisdiction over the property, or having final jurisdiction over a related criminal proceeding under this act except that seizure without such process may be made when:

a. It is not inconsistent with the Constitution of this State and the United States;

b. The property subject to seizure has been the subject of a prior judgment in favor of the State in a criminal injunctive relief or forfeiture proceeding under this act;

c. The department or any person charged with enforcement of this act has probable cause to believe that the property has been used or intended to be used in violation of this act. In the event of seizure pursuant to this subsection proceedings shall be promptly instituted.

C. 13:1K-3 Property deemed in custody of State.

3. Property confiscated or detained pursuant to this act shall be deemed to be in the custody of the State and subject only to the judgments and orders of the court. Whenever property is seized under this provision the State may:

a. Detain such conveyance by affixing thereto a statement or other appropriate marking, giving notice that it is being confiscated.

b. Require that the department take custody of the property and remove it to an appropriate location for disposition in accordance with law.

C. 13:1K-4 Disposition of forfeited property.

4. Whenever any property is forfeited under this act, its disposition shall be determined at the discretion of the commissioner including official use by the department, or referral to the Director of the Division of Purchase and Property for disposal in the following manner:

a. Any public entity or political subdivision may make application to the Director of the Division of Budget and Accounting in the State Department of Treasury, to take title to such property by demonstrating the need to do so and the use to which it will be put.

b. The Director, Division of Budget and Accounting shall review applications submitted pursuant to this section, make determinations regarding final disposition, and notify the applicant and the Director of Purchase and Property accordingly.

c. In the event that no disposition is made under a. or b. above, the director of Purchase and Property shall dispose of the property in the manner authorized by law for disposal of surplus property.

C. 13:1K-5 Burden of proof.

5. a. The burden of proof required for in rem forfeiture proceedings under this act is by a preponderance of the evidence.

b. It shall not be necessary for the State to negate any exemption or exception set forth in any proceeding under this act, and the burden of proof for any such exemption or exception shall be upon the person claiming its benefit.

6. This act shall take effect immediately.

Approved January 6, 1982.

CHAPTER 388

AN ACT concerning judgments in the Superior Court, Chancery Division, amending N. J. S. 2A:16–1, N. J. S. 2A:16–11 and N. J. S. 2A:16–18 and repealing N. J. S. 2A:16–19 and N. J. S. 2A:16–20.

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

1. N. J. S. 2A:16–1 is amended to read as follows:

Effective from time of entry.

2A:16–1. No judgment of the Superior Court shall affect or bind any real estate, but from the time of the actual entry of such judgment on the minutes or records of the court.

2. N. J. S. 2A:16–11 is amended to read as follows:

Civil judgment and order docket.

2A:16–11. The clerk of the Superior Court shall keep a book known as a civil judgment and order docket in which shall be entered, without any request, an abstract of each judgment or order for the payment of money entered from, or made in, the Superior Court. A judgment or order for the payment of money is one which has been reduced to a fixed dollar amount.

The entry required by this section shall constitute the record of the judgment, order or decree and a transcript thereof duly certified by the clerk of the court shall be a plenary evidence of such judgment, order or decree.

The clerk shall also make an entry upon the civil docket indicating the nature of every judgment or order and an entry on return showing execution of process and the date when such judgment or order was entered.

3. N. J. S. 2A:16–18 is amended to read as follows:

Chancery Division judgments.

2A:16–18. Every judgment, or order for the payment of money, entered in the Superior Court, Chancery Division, from the time of its entry upon the civil docket, and every decree or order for the payment of money, of the former court of chancery, from the time it was signed, shall have the force, operation and effect of a

judgment of the Superior Court, Law Division, and execution may issue thereon as in other cases.

Repealer.

4. N. J. S. 2A:16–19 and N. J. S. 2A:16–20 are repealed.

5. This act shall take effect on the first day of the sixth month following enactment and shall apply only to judgments or orders for the payment of money entered by notation thereof upon the civil docket subsequent to the effective date of this act.

Approved January 6, 1982.

CHAPTER 389

AN ACT concerning the acquisition of small water companies and supplementing Title 58 of the Revised Statutes.

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

C. 58:11-63 Differential rate.

1. Whenever the Department of Environmental Protection and the Board of Public Utilities order the acquisition of a small water company by the most suitable public or private entity pursuant to law, the board may, in its discretion, allow the acquiring company to charge and collect a differential rate from the customers of the small water company for the use or service of the acquiring company's water supply system or facilities.

2. This act shall take effect upon enactment of P. L. 1981, c. 347.

Approved January 6, 1982.

CHAPTER 390

AN ACT concerning absentee voting, amending and supplementing the "Absentee Voting Law (1953)," approved July 1, 1953 (P. L. 1953, c. 211), and repealing R. S. 19:34–58 through R. S. 19:34–61.

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

1. Section 2 of P. L. 1953, c. 211 (C. 19:57–2) is amended to read as follows:

C. 19:57-2 Definitions.

2. Whenever used in this act, the following terms shall, unless the context indicates otherwise, be construed to have the following meanings:

"Absentee ballot" means any military service ballot or civilian absentee ballot as herein defined.

"Absentee voter" means any person qualified to vote a military service ballot or a civilian absentee ballot under the provisions of this act.

"Armed Forces of the United States" means any branch or department of the United States Army, Navy, Air Force, Coast Guard or Marine Corps.

"Civilian absentee ballot" means a ballot for use by a civilian absentee voter as prescribed by this act.

"Civilian absentee voter" means any qualified and registered voter of the State who expects to be absent from the State on the day of any election and any qualified and registered voter who will be within the State on the day of any election but because of illness or physical disability, including blindness or pregnancy, or because of the observance of a religious holiday pursuant to the tenets of his religion, or because of resident attendance at a school, college or university, or because of the nature and hours of his employment, will be unable to cast his ballot at the polling place in his election district on the day of the election.

"Election," "general election," "primary election for the general election," "municipal election," and "special election" shall mean, respectively, such elections as defined in the Title to which this is a supplement (R. S. 19:1–1 et seq.).

''Family member'' means an adult who is a spouse, parent, child, grandparent, grandchild or sibling of a voter, whether by adoption or natural relationship. It shall also include any adult occupant regularly living with a voter in any residential building or part of a building intended for the use of no more than one family.

''Incapacitated absentee voter'' means a voter who, due to incapacity, is unable to complete his ballot.

"Military service" means active service by any person, as a member of any branch or department of the United States Army,

Navy, Air Force, Coast Guard or Marine Corps, or as a reservist absent from his place of residence and undergoing training under Army, Navy, Air Force, Coast Guard or Marine Corps direction, at a place other than that of such person's residence.

"Military service voter" means a qualified elector under the Constitution and the laws of this State who comes within one of the following categories:

(a) Persons in the military service and their spouses and dependents.

(b) Patients in a veterans' hospital located in any place other than the place of their residences who have been in the military service in any war in which the United States has been engaged and have been discharged or released from such service.

(c) Civilians attached to or serving with the Armed Forces of the United States without this State and their spouses and dependents when residing with or accompanying them.

"Military service ballot" means a ballot for use by a military service voter as prescribed by this act.

2. Section 4 of P. L. 1953, c. 211 (C. 19:57–4) is amended to read as follows:

C. 19:57-4 Applications for absentee ballots; authorized messengers; permanent and total disability.

4. At any time not less than 7 days prior to an election in which he desires to vote by mail, a civilian absentee voter may apply to the person designated in section 6 of this act, for a civilian absentee ballot. Such application or request shall be made in writing, shall be signed by the applicant and shall state his or her place of voting residence and the address to which said ballot shall be sent, and the reason for which the ballot is requested.

Any military service voter desiring to vote in any election or any relative or friend of a military service voter who believes that such voter will desire to vote in any election, may apply to the person designated in section 6 of this act for a military service ballot to be sent to such voter.

Any civilian absentee voter who fails to apply within the 7-day time prescribed above may apply in person to the county clerk for an absentee ballot on any day up to 3 p.m. of the day before the election.

In the event of sickness or confinement, the qualified voter may apply in writing for and obtain an absentee ballot by authorized

messenger, who shall be so designated over the signature of the voter and whose printed name and address shall appear on the application in the space provided. The authorized messenger shall be a family member or a registered voter of the county in which the application is made and shall place his signature on the application in the space so provided in the presence of the county clerk or his designee. The county clerk or his designee shall authenticate the signature of the authorized messenger, in the event such a messenger is other than a family member, by comparing it with the signature of the said person appearing on a State of New Jersey driver's license, or other identification issued or recognized as official by the Federal Government, the State, or any of its political subdivisions, which identification carries the full address and signature of said person. After the signature of the application and, when appropriate, authentication, the county clerk or his designee is authorized to deliver to the authorized messenger a ballot to be delivered to the qualified voter. The Secretary of State shall cause to be prepared a standard authorized messenger application form, which may be included with the standard civilian absentee ballot application forms.

A voter who is permanently and totally disabled, and who states the reason for such disability in a request for an absentee ballot, shall be furnished an application for an absentee ballot by the county clerk for all future elections in which the voter shall be eligible to vote, without further request on the part of the voter.

3. Section 11 of P. L. 1953, c. 211 (C. 19:57–11) is amended to read as follows:

C. 19:57-11 Forwarding of ballots; first-class mail or hand delivery.

11. Each county clerk shall forward a military service ballot or a civilian absentee ballot, as the case may be, for use under this act by first-class mail or hand delivery to each military service voter who applies therefor or on whose behalf application is made therefor, and whose application is approved in any case where approval is required under section 10 of this act, and to each civilian absentee voter whose request therefor has been approved. Hand delivery of an absentee ballot shall be made by the county clerk or his designee only to the voter or his authorized messenger, who must appear in person. Ballots that have not been hand delivered shall be addressed to the voter at the forwarding address given in the application. All ballots to be forwarded to persons at an address located within the limits of the states of Alaska and

Hawaii or anywhere else without the limits of the other 48 states and the District of Columbia shall be forwarded by air mail.

Such ballots shall be so forwarded as soon as practicable after the twenty-fifth day preceding the day upon which any election is to be held.

4. Section 13 of P. L. 1953, c. 211 (C. 19:57–13) is amended to read as follows:

C. 19:57-13 Form of ballot; assistance of others.

13. Each absentee ballot to be used at any election shall conform generally to the ballot to be used at said election in the absentee voter's district but the ballots shall be plainly marked "Military Service Ballot" or "Civilian Absentee Ballot," as the case may be.

At the top of every absentee ballot there shall be printed or stamped in a prominent size the following:

To protect your vote:

IT IS AGAINST THE LAW FOR ANYONE EXCEPT YOU THE VOTER TO MARK OR INSPECT THIS BALLOT.

However, a family member may assist you in doing so. If you are an incapacitated absentee voter, a person other than a family member may also assist you in doing so.

5. Section 16 of P. L. 1953, c. 211 (C. 19:57–16) is amended to read as follows:

C. 19:57-16 Directions; envelopes; penalty for fraudulent voting.

16. Each county clerk shall send, with each absentee ballot, printed directions for the preparation and transmitting of absentee ballots as required by this act, which shall be printed in such manner and form as the Secretary of State shall require, together with two envelopes of such sizes that one will contain the other.

The outer envelope shall be addressed to the county board of elections of the county in which is located the home address of the person to whom the absentee ballot is sent, as certified by the county clerk. On the outside and front of each outer envelope, there shall be printed or stamped the following:

To protect your vote:

IT IS AGAINST THE LAW FOR ANYONE EXCEPT YOU THE VOTER TO MAIL OR TRANSPORT THIS BALLOT UNLESS THE ENVELOPE IS SEALED AND THE FOLLOWING IS COMPLETED:

Ballot mailed or transported by

.....

(signature of bearer)

.....

(print name of bearer)

.....

(address of bearer)

The inner envelope shall be so designed that it can be sealed after the absentee ballot has been placed therein and the flap thereof shall be of such length and size as to leave sufficient margin, after sealing, for the printing thereon of the certificate hereinafter described. The flap shall be so arranged that, after the inner envelope has been sealed, the certificate can be contained, with the said inner envelope, in the outer envelope, and that the margin containing the certificate can be detached without unsealing the inner envelope.

On the outside of each envelope in which an absentee ballot is sent to an absentee voter by the county clerk, there shall be printed or stamped the words "Official Military Service Ballot" or "Official Civilian Absentee Ballot" as the case may be. In addition, there shall be printed or stamped the following:

To protect your vote:

IT IS AGAINST THE LAW FOR ANYONE EXCEPT YOU THE VOTER TO OPEN, MARK, INSPECT OR SEAL THIS BALLOT.

However, a family member may assist you in doing so. If you are an incapacitated absentee voter, a person other than a family member may also assist you in doing so.

The reverse side of each inner envelope shall contain the following statement:

ANY PERSON MAY BE FINED AND IMPRISONED AND MAY ALSO LOSE THE RIGHT TO VOTE UNTIL RESTORED BY LAW if he attempts to vote fraudulently by absentee ballot, prevents the voting of a legal voter, certifies falsely any information, interferes with a person's secrecy of voting, tampers with ballots or election documents or helps another person to do so.

6. Section 17 of P. L. 1953, c. 211 (C. 19:57–17) is amended to read as follows:

C. 19:57-17 Certificates of absentee voters.

17. Upon the said margin of said flap on the envelopes to be sent to military service voters there shall be printed a certificate in the following form:

CERTIFICATE OF MILITARY ABSENTEE VOTER

I, ..., whose
(print your name clearly)
home address is .....
(street address or R.D. number)
....., DO HEREBY CERTIFY,
(municipality)

subject to the penalties for fraudulent voting, that I am voting this ballot pursuant to application previously filed. I MARKED AND SEALED THIS BALLOT AND CERTIFICATE IN SECRET. However, a family member may assist you in doing so. If you are an incapacitated absentee voter, a person other than a family member may also assist you in doing so.

.....
(signature of voter)

Any person providing assistance shall complete the following:

I do hereby certify that I am the person who provided assistance to this voter and declare that I will maintain the secrecy of this ballot.

.....
(signature of person providing assistance)

.....
(printed name of person providing assistance)

.....

.....
(address of person providing assistance)

(NOTE: MILITARY SERVICE VOTER CLAIMING MILITARY STATION AS HOME ADDRESS FOR VOTING PURPOSES MAY NOT USE MILITARY ABSENTEE BALLOT UNLESS REGISTERED TO VOTE IN THE MUNICIPALITY WHERE SUCH STATION IS LOCATED.)

Upon said margin of said flap on the inner envelopes to be sent to civilian absentee voters there shall be printed a certificate in the following form:

CERTIFICATE OF CIVILIAN ABSENTEE VOTER

I, ..., whose
(print your name clearly)
home address is .....
(street address or R.D. number)
....., DO HEREBY CERTIFY,
(municipality)
subject to the penalties for fraudulent voting, that I am the person who applied for the enclosed ballot. I MARKED AND SEALED THIS BALLOT AND CERTIFICATE IN SECRET. However, a family member may assist you in doing so. If you are an incapacitated absentee voter, a person other than a family member may also assist you in doing so.

.....
(signature of voter)

Any person providing assistance shall complete the following:

I do hereby certify that I am the person who provided assistance to this voter and declare that I will maintain the secrecy of this ballot.

.....
(signature of person providing assistance)

.....
(printed name of person providing assistance)

.....

.....
(address of person providing assistance)

7. Section 19 of P. L. 1953, c. 211 (C. 19:57–19) is amended to read as follows:

C. 19:57-19 Primary election absentee ballots.

19. Upon the margin of the flap on the inner envelope forwarded with any military absentee ballot intended to be voted in any primary election for the general election, there shall be printed a certificate in the following form:

CERTIFICATE OF MILITARY ABSENTEE VOTER

I, ..., whose
(print your name clearly)

home address is .....
(street address or R.D. number)
....., DO HEREBY CERTIFY,
(municipality)
subject to the penalties for fraudulent voting, that I marked this ballot for the primary election of the .....
(name of party)
political party.

I am voting this ballot pursuant to application previously filed. I MARKED AND SEALED THIS BALLOT AND CERTIFICATE IN SECRET. However, a family member may assist you in doing so. If you are an incapacitated absentee voter, a person other than a family member may also assist you in doing so.

.....
(signature of voter)

Any person providing assistance shall complete the following:

I do hereby certify that I am the person who provided assistance to this voter and declare that I will maintain the secrecy of this ballot.

.....
(signature of person providing assistance)

.....
(printed name of person providing assistance)

.....

.....
(address of person providing assistance)

Upon the margin of the flap on the inner envelope forwarded with any civilian absentee ballot intended to be voted in any primary election for the general election, there shall be printed a certificate in the following form:

CERTIFICATE OF CIVILIAN ABSENTEE VOTER

I, ..., whose
(print your name clearly)
home address is .....
(street address or R.D. number)

. . . . . , DO HEREBY CERTIFY
(municipality)
subject to the penalties for fraudulent voting, that I marked this ballot for the primary election of the . . . . . .
(name of party)
political party.

I am the person who applied for the enclosed ballot. I MARKED AND SEALED THIS BALLOT AND CERTIFICATE IN SECRET. However, a family member may assist you in doing so. If you are an incapacitated absentee voter, a person other than a family member may also assist you in doing so.

. . . . . .
(signature of voter)

Any person providing assistance shall complete the following:

I do hereby certify that I am the person who provided assistance to this voter and declare that I will maintain the secrecy of this ballot.

. . . . . .
(signature of person providing assistance)

. . . . . .
(printed name of person providing assistance)

. . . . . .
. . . . . .
(address of person providing assistance)

8. Section 23 of P. L. 1953, c. 211 (C. 19:57–23) is amended to read as follows:

C. 19:57-23 Marking of ballot; secrecy; assistance; mail or personal delivery.

23. Any absentee voter shall be entitled to mark any absentee ballot, so forwarded to him, for voting at any election by indicating his choice of candidates for the offices named, and as to public questions, if any, stated thereon, in accordance with the election laws of this State, except that in such ballots to be voted in any primary election for the general election his choice shall be limited to the candidates of his political party or to any person or persons whose names are written thereon by him. When so marked, such ballot shall be placed in said inner envelope, which shall then be

sealed, and the voter shall then fill in the form of certificate attached to said inner envelope, at the end of which he shall sign and print his name in his own handwriting. The inner envelope with the certificate shall then be placed in said outer envelope, which shall then be sealed.

No absentee voter shall permit any person in any way, except as provided hereafter, to unseal, mark or inspect his ballot, interfere with the secrecy of his absentee ballot vote, complete or sign the certificate, or seal the inner or outer envelope, nor shall any person do so.

An absentee voter shall be entitled to assistance from a family member in performing any of the actions above. An incapacitated absentee voter shall also be entitled to assistance from a person other than a family member in performing any of such actions. The family member or other person providing such assistance shall certify that he did assist the voter and will maintain the secrecy of the vote by both printing and signing his name in the space provided on the certificate. In no event may a candidate for election provide such assistance, nor may any person, at the time of providing such assistance, campaign or electioneer on behalf of any candidate.

Said sealed outer envelope with the inner envelope and the ballot enclosed therein shall then either be mailed with sufficient postage to the county board of elections to which it is addressed or delivered personally by the voter or a bearer designated by him to such board or its designee. Such ballot must be received by such board or its designee before 8 p.m. on the day of election.

At the time any person delivers a ballot to the county board, he shall sign a record which the county shall maintain of all absentee ballots personally delivered to it.

9. Section 24 of P. L. 1953, c. 211 (C. 19:57–24) is amended to read as follows:

C. 19:57-24 Comparison of signatures; rejection of ballots; disputes referred to Superior Court.

24. The county board of elections shall, promptly after receiving each civilian absentee ballot, remove the inner envelope, containing the ballot, from the outer envelope and shall compare the signature and the information contained on the flap of the inner envelope with the signature and information contained in the respective requests for civilian absentee ballots. In addition, as to civilian absentee

ballots issued less than 7 days prior to an election, the county board of elections shall also check to establish that the absentee voter did not vote in person. The county board shall reject any such ballot unless the board is satisfied as a result of such comparison or by reference to the permanent registration books that the voter is legally entitled to vote and that the ballot conforms with the requirements of this act.

The county board of elections shall, promptly after receiving each military service ballot, remove the inner envelope, containing the ballot, from the outer envelope and ascertain through the commissioner of registration whether or not the name of the person, whose name appears following the certificate on the flap of said inner envelope, has been certified by the county clerk to the commissioner of registration of the county as a person to whom a military service ballot, to be voted at the election at which it is intended to be voted, has been forwarded pursuant to this act.

The county board shall investigate the qualifications of a military service voter under this act by comparison of the contents of said certificate with the information appearing upon the application for said military service ballot, including the signatures thereon when the military service voter's signature appears upon said application, and by comparison with the military records of the State when deemed desirable.

In the case of a military service or civilian absentee ballot to be voted at a primary election for the general election, whether or not the military service or civilian absentee voter has indicated in said certificate his intention to vote it in the primary election of any political party in which he is not entitled to vote it according to the registration records of the county, and if it shall appear from said record that he is not entitled to vote said ballot in the primary election of the political party which has been so indicated, such ballot shall be rejected.

Any absentee ballot which is received by a county board of elections shall be rejected if both the inner and outer envelopes are unsealed or if either envelope has a seal that has been tampered with.

Disputes as to the qualifications of military service or civilian absentee voters to vote or as to whether or not or how any such military or civilian absentee ballot shall be counted in such election shall be referred to the Superior Court for determination.

After such investigation the county board of elections shall detach or separate the certificate from the inner envelope containing the military service or civilian absentee ballot, unless it has been rejected by it or by the Superior Court, marking the envelope so as to identify the election district in which the ballot contained therein is to be voted as indicated by the absentee voter's home address appearing on the certificate attached to or accompanying said inner envelope and, in the case of ballots to be voted at a primary election for a general election, so as to identify the political party in the primary election of which it is to be voted.

10. Section 37 of P. L. 1953, c. 211 (C. 19:57–37) is amended to read as follows:

C. 19:57-37 Violations of act.

37. Any person who knowingly violates any of the provisions of this act, or who, not being entitled to vote thereunder, fraudulently votes or attempts to vote thereunder or enables or attempts to enable another person, not entitled to vote thereunder, to vote fraudulently thereunder or who prevents or attempts to prevent by fraud the voting of any person legally entitled to vote under this act, or who shall knowingly certify falsely in any paper required under this act, or who, at any time, tampers with any ballot or document used in an election or interferes with the secrecy of the voting of any person shall be guilty of a crime of the fourth degree, and upon conviction thereof shall be subject, in addition to such other penalties as are authorized by law, to disenfranchisement unless and until pardoned or restored by law to the right of suffrage.

Any person who aids and abets another in violating any of the provisions of this section shall be guilty of a crime of the fourth degree and upon conviction thereof shall be subject, in addition to such other penalties as are authorized by law, to disenfranchisement unless and until pardoned or restored by law to the right of suffrage.

C. 19:57-37.1 Delivery by others.

11. (New section) No person shall take an absentee ballot from a voter or other person having custody of it for the purpose of delivering it to the county board of elections or a postal box or post office, nor shall any voter permit any person to do so, unless the ballot is sealed in the outer envelope and the person who shall transport or deliver it first signs and prints his name on the outer envelope. No other person shall attempt to do any of the foregoing.

C. 19:57-24.1 Location considered election district.

12. (New section) The location at which a county board of elections determines whether an absentee ballot shall be accepted or rejected shall be considered an election district for the purposes of appointment of challengers.

Repealer.

13. R. S. 19:34–58 through R. S. 19:34–61 are repealed.

14. This act shall take effect immediately.

Approved January 6, 1982.

CHAPTER 391

AN ACT to amend "An act concerning the civil rights and responsibilities of certain persons owning dogs and supplementing the 'Law Against Discrimination,' approved April 16, 1945 (P. L. 1945, c. 169) and Title 10 of the Revised Statutes," approved May 6, 1971 (P. L. 1971, c. 130).

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

1. Section 1 of P. L. 1971, c. 130 (C. 10:5–29) is amended to read as follows:

C. 10:5-29 Blind or deaf person accompanied by a guide dog.

1. Any blind or deaf person accompanied by a guide dog trained by a recognized training agency or school is entitled, with his dog, to the full and equal enjoyment, advantages, facilities and privileges of all public facilities, subject only to the following conditions:

a. A blind or deaf person, if accompanied by a guide dog, shall keep such dog in his immediate custody at all times;

b. A blind or deaf person accompanied by a guide dog shall not be charged any extra fee or payment for admission to or use of any public facility;

c. A blind or deaf person who has a guide dog in his possession shall be liable for any damages done to the premises of a public facility by such dog.

d. (Deleted by amendment.)

2. This act shall take effect immediately.

Approved January 6, 1982.

CHAPTER 392

AN ACT to provide for additional tax enforcement authority, supplementing the "state tax uniform procedure law," subtitle 9 of Title 54 of the Revised Statutes.

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

C. 54:49-13a Levy and sale of property of person liable for any State tax.

1. As an additional or alternate remedy, the director may issue a warrant, directed to the sheriff of any county commanding him to levy upon and sell the real and personal property of any person liable for any State tax, which may be found within his county, for the payment of the amount thereof, with any penalties and interest, and the cost of executing the warrant, and to return such warrant to the director and to pay to him the money collected by virtue thereof within 60 days after the receipt of such warrant. The sheriff shall within 5 days after the receipt of the warrant file with the county clerk a copy thereof, and thereupon such clerk shall enter in the judgment docket the name of the person mentioned in the warrant and the amount of the tax, penalties and interest for which the warrant is issued and the date when such copy is filed. Thereupon the amount of such warrant so docketed shall become a lien upon the title to and interest in real and personal property of the person against whom the warrant is issued. The sheriff shall then proceed upon the warrant, in the same manner, and with like effect, as that provided by law in respect to executions issued against property upon judgments of a court of record and for services in executing the warrant he shall be entitled to the same fees, which he may collect in the same manner. In the discretion of the Director of the Division of Taxation, Department of the Treasury, a warrant of like terms, force and effect may be issued and directed to any officer or employee of the Division of Taxation, and in the execution thereof such officer or employee shall have all the powers conferred by law upon sheriffs, but shall be entitled to no fee or compensation in excess of the actual expenses paid in the performance of such duty. Except in the case of an arbitrary assessment, any warrant issued and directed to any officer or employee of the Division of Taxation prior to the time for filing an appeal to the tax court has expired, or after an appeal has been filed, shall not be executed upon unless a notice of intention to pro-

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ceed upon the warrant shall have been directed to the person named in the warrant, which notice shall state the amount of taxes, penalties and interest claimed to be owing and shall specify the right of the taxpayer to contest the execution upon the warrant in the tax court or in the Superior Court, within 3 days following receipt by the taxpayer of that notice. The court shall restrain the execution upon the warrant upon a showing that the State's taxes, penalties and interest claimed to be owing will be adequately protected by bond or other security. If the warrant is returned not satisfied in full, the director may from time to time issue new warrants and shall also have the same remedies to enforce the amount due thereunder as if the State had recovered judgment therefor and execution thereon had been returned unsatisfied.

2. This act shall take effect immediately.

Approved January 6, 1982.

CHAPTER 393

AN ACT prescribing the method of appointment, term and powers and duties of municipal tax assessors, providing for the elimination of boards of assessors and revising parts of the statutory law pertaining thereto.

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

1. N. J. S. 40A:9–146 is amended to read as follows:

Appointment of tax assessors and deputies.

40A:9–146. The governing body or chief executive, as shall be appropriate to the form of government of the municipality shall provide for the appointment of a tax assessor and such deputy tax assessors as it may determine necessary. The governing body, by ordinance, shall determine the amount of compensation of such assessors.

2. N. J. S. 40A:9–148 is amended to read as follows:

4-year term.

40A:9–148. Every municipal tax assessor and deputy assessor shall hold his office for a term of 4 years from the first day of July next following his appointment.

Vacancies other than due to expiration of term shall be filled by appointment for the unexpired term.

C. 40A:9-148.1 Certification required.

3. (New section) A municipal tax assessor shall hold a tax assessor certificate provided for in P. L. 1967, c. 44 (C. 54:1–35.25 et seq.) and shall have the duty of assessing property for the purpose of general taxation. A deputy tax assessor shall hold a tax assessor certificate and shall act under the direct supervision of and assist the tax assessor.

C. 40A:9-146.4 Multiple appointments.

4. (New section) A municipal tax assessor may be appointed in more than one municipality; provided that the holding of additional appointments does not interfere with the proper discharge of statutory duties, nor conflict with obligations to the respective municipalities in which the assessor serves.

The compensation of a tax assessor appointed in more than one municipality shall not be reduced, nor shall any increases in compensation be denied, because of the multiple service.

5. Section 3–13 of P. L. 1950, c. 210 (C. 40:69A–43) is amended to read as follows:

C. 40:69A-43 Departments; clerks and assessors; boards of alcoholic beverage control.

3–13. (a) The municipality shall have a department of administration and such other departments, not exceeding nine in number, as council may establish by ordinance. All of the administrative functions, powers and duties of the municipality, other than those vested in the offices of the municipal clerk and the municipal tax assessor, shall be allocated and assigned among and within such departments.

The offices of the municipal clerk and the municipal tax assessor shall be subject to such general administrative procedures and requirements as are departments of the municipal government, including, but not limited to, the preparation and submission of an annual budget and of such periodic budget reports as are generally required of departments, and such accounting controls, central purchasing practices, personnel procedures and regulations, and central data processing services as are generally required of departments.

(b) Each department shall be headed by a director, who shall be appointed by the mayor with the advice and consent of the coun-

cil. Each department head shall serve during the term of office of the mayor appointing him, and until the appointment and qualification of his successor.

(c) The mayor may in his discretion remove any department head after notice and an opportunity to be heard. Prior to removing a department head the mayor shall first file written notice of his intention with the council, and such removal shall become effective on the twentieth day after the filing of such notice unless the council shall prior thereto have adopted a resolution by a ⅔ vote of the whole number of the council, disapproving the removal.

(d) Department heads shall appoint subordinate officers and employees within their respective departments and may, with approval of the mayor, remove such officers and employees subject to the provisions of the Revised Statutes, Title 11, Civil Service, where that Title is effective in the municipality, or other general law; provided, however, that council may provide by ordinance for the appointment and removal of specific boards or commissions by the mayor.

(e) Notwithstanding the foregoing provisions of this section in any city of the first class having a population of more than 250,000, there shall be, and in any municipality having a population of 15,000 or more, there may be, a board of alcoholic beverage control which shall exercise the powers conferred upon municipal boards of alcoholic beverage control under Title 33 of the Revised Statutes. Such board shall be comprised of three members, no more than two of whom shall be of the same political party, who shall be appointed by the mayor, with the advice and consent of the council, each to serve for a term of 3 years, provided that of those first appointed, one shall be appointed to serve for a term of 1 year, one for 2 years, and one for 3 years. Any vacancy in such office shall be filled in the same manner as the original appointment for the balance of the unexpired term. Except in cities of the first class having a population of more than 250,000 the members of such board shall serve without compensation but may be reimbursed for necessary expenses incurred in the performance of their duty; in cities of the first class having a population of more than 250,000, the members of such board shall receive such compensation as shall be established by ordinance of the municipality. They shall be removable by the mayor for cause. Any person appointed hereunder shall not be subject to the provisions of Title 11 of the Revised Statutes, Civil Service, and no such person shall be a member of the city council.

Nothing in this subsection shall be construed to limit the general power of the municipal council under this act to establish, alter and abolish offices, boards and commissions in any municipality other than a city of the first class having a population of more than 250,000.

(f) Whenever in any city of the first class having a population of more than 250,000 the governing body is authorized by any provision of general law to appoint the members of any board, authority or commission, such power of appointment shall be deemed to vest in the mayor with the advice and consent of the council.

6. Section 9–15 of P. L. 1950, c. 210 (C. 40:69A–95) is amended to read as follows:

C. 40:69A-95 Powers and duties of municipal manager.

9–15. The municipal manager shall:

(a) Be the chief executive and administrative official of the municipality;

(b) Execute all laws and ordinances of the municipality;

(c) Appoint and remove a deputy manager if one be authorized by the council, all department heads and all other officers, subordinates, and assistants, except a municipal tax assessor, for whose selection or removal no other method is provided in this article, except that he may authorize the head of a department to appoint and remove subordinates in such department, supervise and control his appointees, and report all appointments or removals at the next meeting thereafter of the municipal council;

(d) Negotiate contracts for the municipality subject to the approval of the municipal council, make recommendations concerning the nature and location of municipal improvements, and execute municipal improvements as determined by the municipal council;

(e) See that all terms and conditions imposed in favor of the municipality or its inhabitants in any statute, public utility franchise or other contract are faithfully kept and performed, and upon knowledge of any violation call the same to the attention of the municipal council;

(f) Attend all meetings of the municipal council with the right to take part in the discussions, but without the right to vote;

(g) Recommend to the municipal council for adoption such measures as he may deem necessary or expedient, keep the council advised of the financial condition of the municipality, make reports to the council as requested by it, and at least once a year make an

annual report of his work for the benefit of the council and the public;

(h) Investigate at any time the affairs of any officer or department of the municipality;

(i) Perform such other duties as may be required of the municipal manager by ordinance or resolution of the municipal council.

The municipal manager shall be responsible to the council for carrying out all policies established by it and for the proper administration of all affairs of the municipality within the jurisdiction of the council.

7. R. S. 40:81–11 is amended to read as follows:

Municipal officers.

40:81–11. The municipal council shall appoint a municipal manager, an assessor, an auditor, a treasurer, a clerk, and an attorney. One person may be appointed to two or more such offices, except that the offices of municipal manager and auditor or assessor shall not be held by the same person. In municipalities containing more than 10,000 inhabitants the municipal attorney must have been admitted in the State of New Jersey to practice as an attorney-at-law for a period of 5 years or more. All such officers appointed by the council shall hold office during the pleasure of the council, except the clerk and the assessor who serve for terms as provided in chapter 9 of Title 40A of the New Jersey Statutes.

8. R. S. 40:87–1 is amended to read as follows:

Elective officers.

40:87–1. The elective officers of every borough shall be a mayor and 6 councilmen.

9. Section 18 of P. L. 1963, c. 149 (C. 40:103–5(88)) is amended to read as follows:

C. 40:103-5(88) City officers; certain offices specified; designation as city officers; provisions governing offices.

18. City Officers; Certain Offices Specified; Designation as City Officers; Provisions Governing Offices.

(a) The following offices shall exist in any city under this act and shall not be subject to abolition by ordinance or referendum: mayor, members of the city council, city clerk, tax collector and tax assessor.

(b) The following offices once created by referendum can only be merged or abolished by referendum: police chief, fire chief, members of the board of police commissioners, members of the

board of fire commissioners, members of the board of water commissioners.

(c) The following offices shall exist in any city under this act unless otherwise provided by ordinance: city counsel, city comptroller, city treasurer and city engineer.

(d) Each member of each board or commission entrusted with powers of government and each head of a department, whether or not expressly recited herein, shall be considered a city officer.

(e) The city council shall by ordinance prescribe the powers and duties for each office in the city unless otherwise provided by law; fix the salaries and compensation for each office to the extent permitted thereby; and establish other offices as needed from time to time.

10. Section 7 of P. L. 1897, c. 30 (R. S. 40:108–1(7)) is amended to read as follows:

R. S. 40:108-1(7) City council, membership; appointments.

7. The city council of any such city shall be composed of three members from each ward, when said city is divided into two wards, who shall be elected for and hold office as follows: one in each ward at the first election, for a term of 1 year, one for a term of 2 years, and one for a term of 3 years; and thereafter one shall be elected annually in each ward for a term of 3 years; when such city is divided into more than two wards, the city council shall be composed of but one member from each ward, who shall be elected for and hold office as follows: one-half the members, when the membership is even, and the minority when it is odd, shall hold office for a term of 2 years, and the others for a term of 3 years, the length of terms of the respective members to be determined by lot immediately after the organization of the city council and thereafter one-half of said board, or the majority thereof, as the case may be, shall be elected for a term of 3 years; there shall also be elected, in every such city, one councilman-at-large, who shall hold office for the term of 2 years. Said city council shall also appoint one overseer of the poor who shall hold office for the term of 5 years, and a city clerk, a tax assessor and a tax collector to serve for terms as provided in chapter 9 of Title 40A of the New Jersey Statutes. Other city and ward officers as are now or hereafter may be provided by law shall be elected at large. At the annual meeting of the city council a city treasurer shall be appointed by the said city council, who shall hold

office for the term of 3 years, except in cities where such treasurer is under tenure of office.

Each member of the city council shall receive such annual compensation for his services as the city council shall, by ordinance, fix and determine, to be paid in equal semimonthly installments, but shall receive no fee or other compensation whatever.

11. Section 11 of P. L. 1897, c. 30 (R. S. 40:108–1(11)) is amended to read as follows:

R. S. 40:108-1(11) Removal from office.

11. Any city or ward officer, except mayor or councilmen, may be removed from office by resolution, for disability, or other good cause shown, upon complaint in writing to the city council, setting forth such cause, supported by one or more affidavits of the truth of the facts therein alleged; provided, however, that no such removal shall take place until the person sought to be removed has had an opportunity to be heard in his defense, nor unless two-thirds of all the members of the city council shall vote for such removal; vacancies occurring in such office shall be filled for the unexpired term by the city council.

12. Section 66 of P. L. 1897, c. 30 (R. S. 40:108–1(66)) is amended to read as follows:

R. S. 40:108-1(66) Assessor deemed not competent.

66. Whenever any public improvements shall be made or ordered to be made and the expenses thereof ordered to be assessed by the city assessor, and the assessor shall be interested in said improvements, either as an owner of property to be taken or to be assessed, or in any other way, except merely as a taxpayer in such city, such assessor shall not be deemed competent in making the assessment connected with such improvement.

13. Section 7 of P. L. 1899, c. 52 (R. S. 40:109–3(7)) is amended to read as follows:

R. S. 40:109-3(7) Council, membership; appointments.

7. The council of any such city shall be composed of three members from each ward, when said city is divided into two wards, who shall be elected for and hold office as follows: one in each ward at the first election, for a term of 1 year, one for a term of 2 years, and one for a term of 3 years; and thereafter one shall be elected annually in each ward for a term of 3 years; when such city is divided into more than two wards the city council shall be com-

posed of but one member from each ward, who shall be elected for and hold office as follows: one-half the members, when the membership is even, and the minority when it is odd, shall hold office for a term of 2 years, and the others for a term of 3 years, the length of terms of the respective members to be determined by lot immediately after the organization of the city council on July 1 next after the election, and thereafter one-half of said board, or the majority thereof, as the case may be, shall be elected for a term of 3 years; there shall also be elected at such annual election, to be held on the second Tuesday in May, in every such city, one councilman-at-large, who shall hold office for the term of 2 years; when such city is divided into two wards, three commissioners of appeal in cases of taxation, who shall hold their office for 1 year; (when such city is divided into more than two wards, one commissioner of appeal in cases of taxation shall be elected from each ward, who shall hold office for a term of 1 year), and such other city and ward officers as are now or hereafter may be provided by law; a city treasurer, an assessor, a city clerk and a tax collector shall be appointed by the city council, who shall hold office for such terms as provided in chapter 9 of Title 40A of the New Jersey Statutes.

14. Section 11 of P. L. 1899, c. 52 (R. S. 40:109–3(11)) is amended to read as follows:

R. S. 40:109-3(11) Removal from office.

11. Any city or ward officer, except assessor, mayor or councilmen, may be removed from office by resolution, for disability, or other good cause shown, upon complaint in writing to the city council, setting forth such cause, supported by one or more affidavits of the truth of the facts therein alleged; provided, however, that no such removal shall take place until the person sought to be removed has had an opportunity to be heard in his defense, nor unless two-thirds of all of the members of the city council shall vote for such removal; vacancies occurring in such office shall be filled for the unexpired term by the city council.

15. Section 66 of P. L. 1899, c. 52 (R. S. 40:109–3(66)) is amended to read as follows:

R. S. 40:109-3(66) Assessor deemed not competent.

66. Whenever any public improvements shall be made or ordered to be made and the expenses thereof ordered to be assessed by the assessor, and the assessor shall be interested in said improvements, either as an owner of property to be taken or to be assessed, or in any other way, except merely as a taxpayer in such city, such

assessor shall not be deemed competent to assist in making the assessment connected with such improvement.

16. R. S. 40:125–2 is amended to read as follows:

Annual town election.

40:125–2. The councilmen from each ward, and the councilman at large or mayor, shall be elected at the annual town election. The term of office of any elected officer not otherwise provided for may be fixed by the council by ordinance.

17. R. S. 40:125–3 is amended to read as follows:

Appointments.

40:125–3. The treasurer, attorney, chief of police, chief engineer of the fire department, surveyor and pound-keepers shall be appointed by the council in the manner and for the terms hereinafter provided. The clerk, collector and assessor shall be appointed by a majority vote of the mayor and council for terms as provided in chapter 9 of Title 40A of the New Jersey Statutes. The term of office of any appointed officer not otherwise provided for may be fixed by the council by ordinance. The council may by ordinance appoint such other subordinate officers as it may deem necessary, fix their terms of office and compensation, and define their duties.

18. R. S. 40:132–3 is amended to read as follows:

Incorporated towns, appointments.

40:132–3. In all incorporated towns the town clerk, collector and assessor shall be appointed by the mayor and council by a majority vote of said mayor and council, and the appointments of town clerk, collector and assessor respectively shall be for such respective terms as provided in chapter 9 of Title 40A of the New Jersey Statutes.

19. R. S. 54:1–19 is amended to read as follows:

Examination of assessors.

54:1–19. In making the investigation upon such written complaint the Director of the Division of Taxation may examine any assessor, under oath, as to his assessments, both as the valuation as a whole and as to any particular piece of property or as to any property omitted from assessment, and inquire by the testimony of witnesses concerning the same. If he shall deem it proper, he may make a personal examination of any property in a taxing district or county, for the purpose of equalizing assessments between districts or between counties bearing a common burden of taxation.

20. R. S. 54:1–27 is amended to read as follows:

Reassessment.

54:1–27. The Director of the Division of Taxation may, if necessary, direct an assessor or other taxing officer to make a reassessment of any or all of the property, according to rules which he shall prescribe. If the assessor or other taxing officer fails to comply forthwith with the order so given, the director may appoint or designate some other person to make the new assessment under his direction. The assessment so made and affirmed by the director when certified by him to the taxing district shall be the assessment of such property for the year.

21. Section 5 of P. L. 1973, c. 123 (C. 54:1–35b) is amended to read as follows:

C. 54:1-35b Average ratio; common level range.

5. a. On or before April 1 in each year the Director of the Division of Taxation shall determine the average ratio and the common level range.

b. On or before such date, the director shall mail to the secretary of each county board of taxation and to the assessor, and the municipal clerk of each municipality, a certified list setting forth such average ratio and the common level range determined by him for each taxing district.

22. R. S. 54:2–40 is amended to read as follows:

Copies of complaints and judgments.

54:2–40. A copy of the complaint shall be served by the plaintiff upon the county board of taxation whose judgment is the subject of such review, or its secretary, and upon the assessor and the clerk of the taxing district who shall forthwith notify the collector, and such other municipal officials as the governing body shall direct of the content thereof. Service of such copies shall be evidenced by affidavit upon the original complaint filed with the tax court or service thereon acknowledged. A copy of each judgment of the tax court whether of affirmance, reversal, modification or otherwise shall be sent to the taxpayer and, at the same time, to the assessor and the clerk of the taxing district who shall forthwith notify the collector and the county tax administrator of the county in which said taxing district is situated. The tax court shall also give prompt notice to the taxpayer and, at the same time, to the assessor and the clerk of the taxing district who shall forthwith notify the collector and the county tax administrator of the county in which

the taxing district is situated, of the withdrawal or dismissal of complaints filed with the tax court.

23. Section 1 of P. L. 1968, c. 184 (C. 54:4–63.31) is amended to read as follows:

C. 54:4-63.31 Assessment of property omitted from list.

1. In any tax year or in the next succeeding tax year the assessor of any taxing district, may in accordance with the provisions of this act, assess any taxable property omitted from the assessment list for particular tax year. The taxable value of such property shall be determined as of October 1 of the preceding year.

24. Section 2 of P. L. 1968, c. 184 (C. 54:4–63.32) is amended to read as follows:

C. 54:4-63.32 "Assessor's Omitted Property Assessment Duplicate."

2. On October 1 in any year in which prior thereto, the assessor has assessed omitted property, the assessor shall file an assessor's omitted list and a true copy thereof, to be called the "Assessor's Omitted Property Assessment Duplicate" with the county board of taxation. The county board of taxation shall examine, revise and correct the omitted assessment lists and duplicates, if any be filed, and, on or before October 10 in each year, cause the corrected, revised and completed duplicates, if any, certified by it to be a true record of the omitted taxes assessed, to be delivered to the assessors and the collectors of the taxing districts in the county, affected by such omitted assessments and the omitted assessment lists shall remain in the office of the board a a public record.

25. Section 5 of P. L. 1968, c. 184 (C. 54:4–63.35) is amended to read as follows:

C. 54:4-63.35 Notices to owners.

5. As soon as the certified copy of the omitted assessment list is received by the assessor from the county board, the assessor shall cause a notice to be sent by certified mail to the owner of each of the properties affected stating that an omitted tax assessment has been made as to the taxpayer's property and that the tax payable as a result thereof may be ascertained from the collector of taxes of the taxing district.

26. R. S. 40:139–7 is amended to read as follows:

Removal from office.

40:139–7. Except for those offices for which removal procedures are specifically provided by law, any town officer may be removed

from office by resolution of the council, but no such removal shall be made until the officer sought to be removed has had an opportunity to be heard in his defense, nor unless two-thirds of all the members of the council vote therefor. Whenever any such removal shall be made the cause therefor together with the yeas and nays upon the vote taken shall be entered at large on the minutes of the council.

27. N. J. S. 40A:9–161 is amended to read as follows:

Tenured officers.

40A:9–161. In any municipality wherein Title 11 (Civil Service) of the Revised Statutes is not operative and unless otherwise provided by law, no officer or employee of such municipality who has tenure in office shall be removed from his office or position except upon written charges, signed by the person making such charges. The complaint shall be filed with the governing body of such municipality and a copy thereof shall be served upon the officer or employee so charged, with notice of a designated time and place for the hearing thereon which shall be not less than 10 days nor later than 30 days from the service of the complaint.

The officer or employee so charged and the governing body shall have the right to be represented by counsel and the power to subpena witnesses and documentary evidence. The governing body shall prescribe rules and regulations for the conduct of the hearing.

No such officer or employee shall be removed from his office or position for political reasons or except as otherwise provided by law, because of a change in the form of government.

The Superior Court shall have jurisdiction to review the determination of the governing body, which court shall hear the cause de novo on the record below and affirm, modify or set aside the determination.

Either party may supplement the record with additional testimony subject to the rules of evidence.

The removal procedures set forth in this section shall not apply to officers for which specific removal procedures are elsewhere provided by law.

28. N. J. S. 40A:9–165 is amended to read as follows:

Salaries, wages or compensation.

40A:9–165. The governing body of a municipality, by ordinance, shall fix and determine the salaries, wages or compen-

sation to be paid to the officers and employees of the municipality, including the members of the governing body and the mayor or other chief executive, who by law are entitled to salaries, wages, or compensation. Such salaries, wages or compensation may be, from time to time, by ordinance, increased, decreased or altered. No such ordinance shall reduce the salary of, or deny without good cause an increase in salary given to all other municipal officers and employees to, any tax assessor, tax collector or municipal clerk during the term for which he shall have been appointed. Except with respect to an ordinance or a portion thereof fixing salaries, wages or compensation of elective officials or any managerial, executive or confidential employee as defined in section 3 of the New Jersey Employer-Employee Relations Act, P. L. 1941, c. 100 (C. 34:13A–3) as amended, the ordinance shall take effect as provided therein. In municipalities wherein the provisions of Title 11 (Civil Service) of the Revised Statutes are in operation, this section shall be subject thereto.

Where any such ordinance shall provide for increases in salaries, wages or compensation of elective officials or any managerial, executive or confidential employee, the ordinance or that portion thereof which provides an increase for such elective or appointive officials, shall become operative in 20 days after the publication thereof, after final passage, unless within said 20 days, a petition, signed by voters of such municipality, equal in number to at least 5% of the registered voters of the municipality, protesting against the passage of such ordinance, be presented to the governing body, in which case such ordinance shall remain inoperative unless and until a proposition for the ratification thereof shall be adopted at an election by a majority of the voters voting on said proposition. The question shall be submitted at the next general election, occurring not less than 40 days from the date of the certification of the petition. The submission of the question to the voters shall be governed by the provisions of Title 19 (Elections) of the Revised Statutes, as in the case of public questions to be voted upon in a single municipality.

29. Section 7 of P. L. 1967, c. 44 (C. 54:1–35.31) is amended to read as follows:

C. 54:1-35.31 Tenure for assessors.

7. Notwithstanding the provisions of any other law to the contrary, every person

(1) who, upon reappointment or re-election subsequent to having received a tax assessor certificate and having served as tax assessor or performed the duties of assessor for not less than 4 consecutive years immediately prior to such reappointment or re-election, or

(2) who, on or before June 30, 1969, shall have received a tax assessor certificate while actually in office as assessor or performing the duties of an assessor, and who, on or before June 30, 1969, shall have served as assessor or performed the duties of assessor for not less than 4 consecutive years,

shall hold his position during good behavior and efficiency notwithstanding that such reappointment or re-election was for a fixed term of years, and he shall not be removed therefrom for political reasons but only for good cause shown and after a proper hearing before the director or his designee after due notice. A person who was formerly an assessor, a secretary of a board of assessors or a member of a board of assessors who shall have become by virtue of this amendatory and supplementary act, P. L. 1981, c. 393, a deputy tax assessor or an assessor, and who has not met the requirements of (1) or (2) above shall not be removed during his term from office for political reason, but only for good cause shown and after a proper hearing before the director or his designee after due notice. In municipalities operating under forms of government where the assessor served at the pleasure of the appointing authority for an unlimited term of office, receipt of a tax assessor certificate and continuance in service as assessor after completion of 4 consecutive years of service shall be deemed the equivalent of reappointment. The provisions of this section shall apply to every person actually in office as assessor or performing the duties of an assessor whether in the classified service under Title 11, Civil Service, or in a municipality which has not adopted Title 11, Civil Service.

C. 40A:9-146.3 Act governs.

30. (New section) The provisions of any other law to the contrary notwithstanding, municipal tax assessors shall be appointed pursuant to the provisions of this act and their terms of office, powers and duties shall be as provided in this act.

C. 40A:9-146.5 Hours of assessors.

31. (New section) This act shall not affect any agreement entered into prior to the effective date of this act between a municipal tax assessor and the municipality with respect to the hours during

which a municipal tax assessor is required to perform the duties of his office. Any change in hours from those previously agreed to shall be subject to further agreement.

C. 40A:9-146.1 Boards of assessors abolished.

32. (New section) a. Boards of assessors created prior to the effective date of this act are abolished.

b. The secretary of, or in the event there is no secretary then the individual having primary responsibility for the discharge of the duties of assessor for, any board of assessors constituted on the effective date of this act shall be the municipal tax assessor and any other members of the board shall be deputy municipal tax assessors.

c. Nothing in this act shall affect adversely the salary or tenure rights acquired pursuant to section 7 of P. L. 1967, c. 44 (C. 54:1–35.31), or any other law, whether now or previously enacted or in effect of any secretary or other member of a board of assessors who becomes the municipal tax assessor or a deputy municipal tax assessor.

C. 40A:9-146.2 References to board considered references to assessors.

33. Whenever in any law, rule, regulation, order, contract, document, judicial or administrative proceeding, or otherwise, reference is made to the board of assessors or assessment of a municipality, the same shall be considered to mean and refer to the municipal tax assessor.

Repealer.

34. The following are repealed:

R. S. 40:77–1 through R. S. 40:77–4;

R. S. 40:87–10;

R. S. 40:87–17 through R. S. 40:87–28;

R. S. 40:87–59;

P. L. 1897, c. 30, s. 35 (R. S. 40:108–1(35));

P. L. 1897, c. 30, s. 36 (R. S. 40:108–1(36));

P. L. 1897, c. 30, s. 37 (R. S. 40:108–1(37));

P. L. 1897, c. 30, ss. 40 through 42 (R. S. 40:108–1(40) through R. S. 40:108–1(42));

P. L. 1897, c. 30, ss. 52 through 55 (R. S. 40:108–1(52) through R. S. 40:108–1(55));

P. L. 1897, c. 30, s. 57 (R. S. 40:108–1(57));

P. L. 1897, c. 30, s. 65 (R. S. 40:108–1(65));

P. L. 1899, c. 52, s. 35 (R. S. 40:109–3(35));

P. L. 1899, c. 52, s. 36 (R. S. 40:109–3(36));

P. L. 1899, c. 52, s. 37 (R. S. 40:109–3(37));

P. L. 1899, c. 52, ss. 40 through 42 (R. S. 40:109–3(40) through R. S. 40:109–3(42));
P. L. 1899, c. 52, ss. 52 through 55 (R. S. 40:109–3(52) through R. S. 40:109–3(55));
P. L. 1899, c. 52, s. 57 (R. S. 40:109–3(57));
R. S. 40:125–9;
R. S. 40:125–25 through R. S. 40:125–29;
R. S. 40:132–2;
R. S. 40:132–4 through R. S. 40:132–9;
R. S. 40:145–23 through R. S. 40:145–28;
N. J. S. 40A:9–151;
P. L. 1963, c. 13 (C. 40:132–3.3);
P. L. 1966, c. 211 (C. 40:46–6.13a);
P. L. 1968, c. 205 (C. 40:46–6.2c).

35. This act shall take effect immediately.

Approved January 6, 1982.

CHAPTER 394

AN ACT concerning the professionalization of various administrative offices of municipalities, supplementing chapter 9 of Title 40A of the New Jersey Statutes and revising and repealing parts of the statutory law.

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

C. 40A:9-133.1 Appointment of municipal clerks.

1. (New section) a. The provisions of any other law to the contrary notwithstanding, commencing on the effective date of this act, all municipal clerks shall hold office by virtue of appointment pursuant to the provisions of N. J. S. 40A:9–133, except as otherwise provided in this section.

b. All municipal clerks holding office on the effective date of this act shall continue in office until their successors are appointed in the manner provided by N. J. S. 40A:9–133.

c. Nothing contained in this act or in any other statute shall prevent any municipal clerk who, upon the effective date of this act, holds office by virtue of his election thereto, from acquiring

tenure upon being appointed thereto after the effective date of this act, if he otherwise qualifies for tenure pursuant to N. J. S. 40A:9–134.

2. N. J. S. 40A:9–133 is amended to read as follows:

3-year term of office.

40A:9–133. In every municipality there shall be a municipal clerk appointed by the governing body of the municipality. His term of office shall be 3 years, which shall run from January 1 in the year in which he was appointed.

3. N. J. S. 40A:9–134 is amended to read as follows:

Tenure after 5 years.

40A:9–134. Any person holding the office of municipal clerk in any municipality and having held such office continuously for 5 years from the date of his original appointment shall have tenure in such office and shall not be removed therefrom except for good cause shown after a fair and impartial hearing.

4. N. J. S. 40A:9–156 is amended to read as follows:

Terms of office.

40A:9–156. Except as otherwise provided by law, the terms of office of all elective officers in any municipality shall commence at 12 o'clock noon on January 1 next succeeding their election and continue for the terms prescribed by law.

The terms of office of all officers appointed by the mayor or other chief executive officer or by the governing body of any municipality, except to fill vacancies, shall commence on January 1 of the year in which they are appointed and continue for the terms prescribed by law, except that the term of office of the assessor shall commence on July 1 next following appointment and continue for the prescribed number of years.

No appointment of any officer shall be made by the mayor or other chief executive officer or by the governing body of any municipality where the term of the office is to commence after the expiration of the term of the officer making the appointment or of any member of the governing body.

5. N. J. S. 40A:9–165 is amended to read as follows:

Salaries, wages or compensation.

40A:9–165. The governing body of a municipality, by ordinance, shall fix and determine the salaries, wages or compensation to be

paid to the officers and employees of the municipality, including the members of the governing body and the mayor or other chief executive, who by law are entitled to salaries, wages, or compensation. Such salaries, wages or compensation may be from time to time, by ordinance, increased, decreased or altered. No such ordinance shall reduce the salary of, or deny without good cause an increase in salary given to all other municipal officers and employees to, any tax assessor, tax collector or municipal clerk during the term for which he shall have been appointed. Except with respect to an ordinance or a portion thereof fixing salaries, wages or compensation of elective officials or any managerial, executive or confidential employee as defined in section 3 of the New Jersey Employer-Employee Relations Act, P. L. 1941, c. 100 (C. 34:13A–3) as amended, the ordinance shall take effect as provided therein. In municipalities wherein the provisions of Title 11 (Civil Service) of the Revised Statutes are in operation, this section shall be subject thereto.

Where any such ordinance shall provide for increases in salaries, wages or compensation of elective officials or any managerial, executive or confidential employee, the ordinance or that portion thereof which provides an increase for such elective or appointive officials, shall become operative in 20 days after the publication thereof, after final passage, unless within said 20 days, a petition, signed by voters of such municipality, equal in number to at least 5% of the registered voters of the municipality, protesting against the passage of such ordinance, be presented to the governing body, in which case such ordinance shall remain inoperative unless and until a proposition for the ratification thereof shall be adopted at an election by a majority of the voters voting on said proposition. The question shall be submitted at the next general election, occurring not less than 40 days from the date of the certification of the petition. The submission of the question to the voters shall be governed by the provisions of Title 19 (Elections) of the Revised Statutes, as in the case of public questions to be voted upon in a single municipality.

6. R. S. 40:81–11 is amended to read as follows:

Appointments by council.

40:81–11. The municipal council shall appoint a municipal manager, an assessor, an auditor, a treasurer, a clerk, and an attorney. One person may be appointed to two or more such offices, except that the offices of municipal manager and auditor or assessor

shall not be held by the same person. In municipalities containing more than 10,000 inhabitants the municipal attorney must have been admitted in the State of New Jersey to practice as an attorney-at-law for a period of 5 years or more. All such officers appointed by the council shall hold office during the pleasure of the council, except the clerk and the assessor, who serve for terms as provided in chapter 9 of Title 40A of the New Jersey Statutes.

7. R. S. 40:87–1 is amended to read as follows:

Borough elective officers.

40:87–1. The elective officers of every borough shall be a mayor and six councilmen.

8. R. S. 40:87–8 is amended to read as follows:

Terms of office, beginning.

40:87–8. The term of office of all elective officers, other than those first elected in newly created boroughs, shall begin at noon on January first, next after their election.

9. R. S. 40:87–15 is amended to read as follows:

Appointed officials.

40:87–15. In addition to the officers to be elected there shall be appointed a clerk. In boroughs, with a population of less than 10,000, the tax collector may also be appointed the clerk. There may be appointed a borough treasurer, a borough attorney, a borough engineer, a borough building inspector, one or more marshals, a poundkeeper, a superintendent of highways, and such other officers as the council may deem necessary. They shall perform the duties required by law and the ordinances of the council. All of these officers, except the borough attorney, borough engineer, borough building inspector, borough poundkeeper and, in boroughs with a population of less than 2,500, the clerk and the borough treasurer, where such officeholders do not at the same time occupy a second office for which residency is required, shall be residents of the borough, and all of them shall hold office during the pleasure of the council, except the clerk, tax collector, and tax assessor who shall serve for terms as provided in chapter 9 of Title 40A of the New Jersey Statutes; however, all exemptions from residency requirements shall only be made pursuant to the adoption of a municipal ordinance to that effect. No officer shall be removed without being afforded an opportunity to be heard. Unless sooner removed, however, they shall hold office for 1 year, and until their successors shall have qualified, except the clerk, tax collector, and

tax assessor who shall serve for terms as provided in chapter 9 of Title 40A of the New Jersey Statutes.

10. R. S. 40:125–2 is amended to read as follows:

Annual town election.

40:125–2. The councilmen from each ward, and the councilman at large or mayor, shall be elected at the annual town election. The term of office of any elected officer not otherwise provided for may be fixed by the council by ordinance.

11. R. S. 40:125–3 is amended to read as follows:

Council appointments.

40:125–3. The treasurer, attorney, chief of police, chief engineer of the fire department, surveyor and poundkeepers shall be appointed by the council in the manner and for the terms hereinafter provided. The clerk, collector and assessor shall be appointed by a majority vote of the mayor and council for terms as provided in chapter 9 of Title 40A of the New Jersey Statutes. The term of office of any appointed officer not otherwise provided for may be fixed by the council by ordinance. The council may by ordinance appoint such other subordinate officers as it may deem necessary, fix their terms of office and compensation, and define their duties. The clerk, tax collector, and tax assessor shall serve for terms as provided in chapter 9 of Title 40A of the New Jersey Statutes.

12. R. S. 40:125–22 is amended to read as follows:

Comptroller.

40:125–22. If a majority of the votes cast on such proposition shall be in favor of establishing the office of comptroller, the comptroller shall be appointed in the same manner as are the clerk and collector. He shall be a resident of the town, and shall hold office for 3 years and until his successor shall have qualified.

13. R. S. 40:132–3 is amended to read as follows:

Incorporated towns.

40:132–3. In all incorporated towns the town clerk, collector, and assessor shall be appointed by the mayor and council by a majority vote of said mayor and council, and the appointments of town clerk, collector and assessor respectively shall be for such respective terms as provided in chapter 9 of Title 40A of the New Jersey Statutes.

14. R. S. 40:132–12 is amended to read as follows:

Salary of treasurer.

40:132–12. The salary of the treasurer shall not be increased or diminished during the term for which he shall have been appointed.

15. R. S. 40:145–2 is amended to read as follows:

Township committee.

40:145–2. The elective officers of every township shall be the members of the township committee as hereinafter prescribed.

All said officers shall be residents of the township, and except where otherwise provided, shall hold office for 1 year, the term of which shall begin on January 1 next succeeding their election. No township officer whether elected or appointed shall hold over in his office after the expiration of the term for which he was elected or appointed. A plurality of votes shall be sufficient to elect any township officer.

16. R. S. 40:145–10 is amended to read as follows:

Road supervisor.

40:145–10. The road supervisor in townships having a population of more than 4,500 shall hold office for 3 years, and, under the general direction of the township committee, shall have complete charge and supervision of the opening, making and repairing of the roads and streets controlled by the township committee in such township. He shall receive such compensation as the township committee shall fix and determine. The township committee in every such township where a road supervisor shall have been established may, by ordinance, abolish the office of road supervisor.

17. R. S. 40:145–12 is amended to read as follows:

Residency requirement.

40:145–12. The township committee may appoint and employ a township attorney, a township engineer, a township building inspector, a township physician, a treasurer, an assessor, a township clerk, a collector of taxes, so many poundkeepers as shall be deemed necessary, and such other officers as may be authorized by law. All such officers except the township attorney, engineer and building inspector shall be residents of the township.

18. R. S. 40:158–4 is amended to read as follows:

Treasurer and clerk.

40:158–4. The board of trustees shall appoint at its annual meeting or as soon thereafter as possible a treasurer and a clerk.

The treasurer shall hold office for 1 year from the date of the annual meeting, and until his successor is appointed; the clerk shall serve for a term as provided in chapter 9 of Title 40A of the New Jersey Statutes. The treasurer and the clerk shall receive such compensation as the trustees shall fix and determine. The board may appoint a resident and voter of the village or one of its own members as clerk and one as treasurer, but no trustee shall serve as treasurer after the expiration of his term as trustee.

19. Section 6 of P. L. 1967, c. 44 (C. 54:1–35.30) is amended to read as follows:

Tax assessor, certificate.

6. Except as herein otherwise provided, no person shall on and after July 1, 1971, be appointed or reappointed as tax assessor in any municipality in this State unless he shall hold a tax assessor certificate. The foregoing limitation shall not apply to an assessor who shall have served continuously in office from July 1, 1967 to the date of reappointment.

Repealer.

20. The following are repealed:
R. S. 40:87–12;
R. S. 40:132–2;
R. S. 40:132–7;
R. S. 40:132–11:
R. S. 40:139–7;
R. S. 40:145–8:
R. S. 40:145–11; and
R. S. 40:158–3.

21. This act shall take effect immediately.

Approved January 6, 1982.

CHAPTER 395

AN ACT concerning commissioners of deeds, and revising parts of the statutory law pertaining thereto.

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

1. R. S. 52:6–12 is amended to read as follows:

Foreign commissioners of deeds.

52:6–12. a. The Secretary of State may appoint such number of commissioners resident in each of the States and territories of the United States and the District of Columbia as he may deem expedient, except where the appointments are incompatible with the laws of the jurisdiction wherein the commissioners reside. Persons thus appointed shall be commissioned by the Governor.

b. Each commissioner so appointed shall be designated a "foreign commissioner of deeds for New Jersey," and may be so described in his appointment and commission or as a "commissioner for taking the acknowledgment or proof of deeds for New Jersey in (such State, territory or district)." He may use either of these designations in his certificates.

c. A person desiring to be appointed and commissioned a foreign commissioner of deeds shall make application to the Secretary of State on a form prescribed by him and endorsed by a member of the Legislature or the Secretary of State or the Assistant Secretary of State. Renewals shall be made in the same manner as the original application. The fees required to be paid for the issuance of any commission to a person appointed as foreign commissioner of deeds for New Jersey shall be paid to the Secretary of State, who shall account to the State Treasurer for the same.

2. R. S. 52:6–15 is amended to read as follows:

Adjoining states.

52:6–15. No person shall be denied appointment as a foreign commissioner of deeds of an adjoining state on account of residence outside of that state, provided such person resides in this State. The official acts of such a commissioner resident in this State and performed in an adjoining state shall be as valid and effectual as if he had resided in the adjoining state.

3. R. S. 52:6–17 is amended to read as follows:

Oath of office.

52:6–17. Each foreign commissioner of deeds shall, before he enters upon the duties of his office, take and subscribe an oath to perform well and faithfully the duties of his office in accordance with the laws of this State. The oath may be administered by any person authorized to do so under R. S. 41:2–1 or R. S. 41:2–17.

4. R. S. 52:6–21 is amended to read as follows:

Manual; powers and duties.

52:6–21. The Secretary of State shall provide to each applicant a manual prescribing the powers and duties of a foreign commissioner of deeds.

5. R. S. 52:6–22 is amended to read as follows:

List; dates of appointment and expiration.

52:6–22. The Secretary of State shall maintain a list of all foreign commissioners of deeds including the dates of their appointment and the expiration of their terms.

Repealer.

6. R. S. 52:6–1 through R. S. 52:6–11 and R. S. 52:6–19 are repealed.

7. This act shall take effect immediately.

Approved January 6, 1982.

CHAPTER 396

AN ACT to amend and supplement the "Criminal Injuries Compensation Act of 1971," approved October 4, 1971 (P. L. 1971, c. 317).

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

1. Section 3 of P. L. 1971, c. 317 (C. 52:4B–3) is amended as read as follows:

C. 52:4B-3 Violent Crimes Compensation Board.

3. There is hereby established in the Executive Branch of the State Government a Violent Crimes Compensation Board which shall be composed of 5 citizens, to be appointed by the Governor, with the advice and consent of the Senate, one of whom shall be designated chairman by, and serve as such at the pleasure of, the Governor. Not more than three of the members of the board shall be members of the same political party. At least three members of the board shall be attorneys admitted to the practice of law in the State of New Jersey. For the purposes of complying with the Constitution (Article V, Section IV, paragraph 1) the board is allocated to the Department of Law and Public Safety but, notwithstanding said allocation, the board shall be independent of

any supervision or control by the department or the Attorney General or any other officer of the department.

2. (New section) The initial term of one of the additional members to be appointed pursuant to this amendatory and supplementary act shall expire on December 6, 1984 and the initial term of the second member shall expire December 6, 1985. Each member, however, shall serve until his successor is duly appointed and qualified.

C. 52:4B-24 Senior citizens' program.

3. (New section) The board shall undertake a special senior citizens' public awareness program to make brochures and applications for claim forms available to senior citizens.

C. 52:4B-4.1 Tenure in office.

4. (New section) Any member of the board who shall have served for 10 years successively and shall be in his third term, shall have tenure in office during good behavior.

5. This act shall take effect immediately.

Approved January 6, 1982.

CHAPTER 397

AN ACT concerning the taxation of certain business personal property and amending and supplementing P. L. 1977, c. 4.

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

1. Section 1 of P. L. 1977, c. 4 (C. 54:11A–3.1) is amended to read as follows:

C. 54:11A-3.1 Exemption from taxation.

1. Any machinery or equipment acquired on or after the effective date of this act, or brought into this State on or after January 1, 1977, shall not be subject to assessment and taxation.

2. (New section) Any person who has paid business personal property taxes on business personal property acquired outside of New Jersey prior to January 1, 1977, but brought into New Jersey after that date, which items are now exempt under the provisions

of this act, may file a claim for refund of those taxes paid no later than 90 days after the effective date of this act.

3. This act shall take effect immediately and shall be retroactive to January 1, 1977.

Approved January 6, 1982.

CHAPTER 398

AN ACT authorizing the sale of surplus real property owned by the Department of Defense.

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

1. The Department of Defense is authorized to sell and convey all of the State's interest in 2.48 acres of surplus real property, city of Camden, Camden county. The property is designated as Block 329, Lot 7, on the city of Camden tax map.

2. The sale shall be upon terms and conditions as approved by the State House Commission.

3. This act shall take effect immediately.

Approved January 6, 1982.

CHAPTER 399

A SUPPLEMENT to "An act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1982 and regulating the disbursement thereof," approved June 30, 1981 (P. L. 1981, c. 190).

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

1. There is appropriated out of the General Fund for the purposes specified:

STATE AID

DEPARTMENT OF COMMUNITY AFFAIRS

41. Community Development Management–State Aid

State assistance to the City of Camden $420,000

The amount appropriated hereinabove to provide funds for State assistance to the city of Camden shall be paid through the Director of Local Government Services only in such amounts and at such times as the Local Finance Board determines are necessary to meet the current budget needs of the city in the absence of other reasonable and feasible revenue raising and spending reduction alternatives; and provided further, that no such funds shall be paid unless the following conditions are satisfied: (1) the city is subject to Article 4 of the "Local Government Supervision Act (1947)," P. L. 1947, c. 151 (C. 52:27BB–54 et seq.), and (2) the Commissioner of the Department of Corrections certifies to the Director of the Division of Local Government Services that he has determined that all conditions necessary for an adequate State institution to be built in the city of Camden have been satisfied. All funds paid to the city of Camden pursuant to this appropriation shall be an advance payment by the State to the city for the State's liability, pursuant to P. L. 1977, c. 272 (C. 54:4–2.2a et seq.) for in lieu of tax payment on behalf of a new State institution to be constructed in the city.

2. Notwithstanding any law to the contrary, any funds appropriated as State aid in P. L. 1981, c. 190 or in this act, and payable to any municipality in which the provisions of Article 4 of the "Local Government Supervision Act (1947)," P. L. 1947, c. 151 (C. 52:27BB–54 et seq.) are in effect, may be pledged as a guarantee for payment of principal of and interest on any "bond anticipation notes" issued pursuant to N. J. S. 40A:2–8 and any "tax anticipation notes" issued pursuant to N. J. S. 40A:4–64 by such municipality. Such funds, if so pledged, shall be made available by the State Treasurer upon receipt of a written notification by the Director of the Division of Local Government Services that the municipality does not have sufficient funds available for prompt payment of principal of and interest on such notes, and shall be paid by the State Treasurer directly to the holders of such notes at such time and in such amounts as specified by the director, notwithstanding that payment of such funds does not coincide with any date for payment otherwise fixed by law. Any such notes issued by the municipality after the effective date of this act may bear

the recital that the provisions of this section are applicable to such notes.

3. This act shall take effect immediately.

Approved January 6, 1982.

CHAPTER 400

AN ACT to amend "An act revising penalties for the violation of the statutes concerning condemned shellfish and shellfish beds, transferring certain water pollution control statutes from Titles 13, 24, and 26 to Title 58, supplementing Title 58 of the Revised Statutes and repealing parts of the statutory law," approved January 18, 1980 (P. L. 1979, c. 321); and making an appropriation.

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

1. Section 19 of P. L. 1979, c. 321 (C. 58:25–9) is amended to read as follows:

C. 58:25-9 Reimbursement for interest and debt service costs.

19. Whenever any local governmental unit, pursuant to an order of the Department of Environmental Protection and in compliance therewith, has completed installation of a sanitary sewerage collector system and issued bonds or bond anticipation notes to finance such system, and such system is inoperable because the sewerage authority charged with the duty of providing an interceptor system has not yet so provided and therefore no interceptor system is ready to receive the effluent from such municipal collector system through no fault of the local governmental unit, the State shall reimburse such governmental unit for annual interest and debt service costs for the collector system. Such payments shall be made for such period that the collector system remains inoperative and should the system become operable for any portion of a year, payment shall be made for the entire year. That portion of the reimbursement representing principal received at any time on or after July 1, 1982, shall be treated as a loan to be repaid by the local governmental unit to the State over a period of years equal to the

number of years during which those loan payments were received by the local governmental unit and in the same amount per year and same order each year as those loan payments were received, but the repayments shall not commence until the first full calendar year after the collector system becomes operative and after all principal and interest on the outstanding obligations of the local governmental unit for the collector system have been repaid. Upon receipt of a written request from a local governmental unit, the Local Finance Board, if compelling reasons are demonstrated, may modify the repayment schedule, provided all repayments are made within the same number of years as required hereinabove.

2. There is appropriated the sum of $85,000.00 for reimbursement to the boroughs of Pennington and Hopewell for principal and interest costs pursuant to section 19 of P. L. 1979, c. 321 (C. 58:25-9).

3. This act shall take effect immediately.

Approved January 6, 1982.

CHAPTER 401

AN ACT providing special motor vehicle registration plates for freeholders, surrogates, county clerks, sheriffs, county registers of deeds and mortgages, elected county executives and other county officers, and supplementing chapter 3 of Title 39 of the Revised Statutes.

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

C. 39:3-27.29 Special registration plates.

1. Upon the application of any person who is a member of the board of chosen freeholders in, or surrogate, county clerk, county register of deeds and mortgages, elected county executive, sheriff, or any other officer of any county, the Director of the Division of Motor Vehicles shall issue for the motor vehicle owned by such person special registration plates bearing the word "freeholder, surrogate, county clerk, county register of deeds and mortgages, elected county executive, or sheriff," or such other title designation as may be appropriate, in addition to the registration number and other markings or identification otherwise prescribed by law.

Said registration plates shall be imprinted with three letters and a numeral.

C. 39:3-27.30 Proof required; fee.

2. The motor vehicle registration plates authorized by this act shall be issued upon proof, satisfactory to the director, that the applicant therefor is a freeholder, surrogate, county clerk, county register of deeds and mortgages, elected county executive, sheriff or other county officer. The fee for such plates shall be $15.00 in addition to the fees otherwise prescribed by law for the registration of motor vehicles.

C. 39:3-27.31 Surrender.

3. Said special registration shall be surrendered to the Division of Motor Vehicles within 60 days after leaving said office.

C. 39:3-27.32 Appropriation of fees.

4. The fees established hereinabove are appropriated to the Division of Motor Vehicles to fund the additional costs incurred in making such plates available.

5. This act shall take effect immediately.

Approved January 6, 1982.

CHAPTER 402

AN ACT to amend "An act providing for the escheat of unclaimed bank deposits," approved April 20, 1945 (P. L. 1945, c. 199).

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

1. Section 4 of P. L. 1945, c. 199 (C. 17:9–21) is amended to read as follows:

C. 17:9-21 Unclaimed bank deposits, escheat after 9 years; notices to owners; newspaper publication.

4. a. For the purposes of this section, an unclaimed bank deposit shall be deemed to be one in which as of August 1 of a particular year no transaction has occurred during the preceding 9 consecutive years.

b. Every bank having any such unclaimed deposits shall, prior to August 15 of the year in which it becomes an unclaimed deposit, mail a "notice of unclaimed deposit" to the owner or owners of

each such account as the name and address of the owner or owners appear on the records of the bank, provided, however, that the bank need not mail the notice to an owner or owners if any mailings by the bank to that owner or owners within the prior year were returned to the bank as undeliverable. The notice of unclaimed deposit shall be in such form as shall be approved by the State Treasurer and shall set forth the name of the bank and where the name of the bank has been changed by merger, reorganization, consolidation or otherwise, shall also set forth the original name and address of the bank in which the deposit originated, the name of the owner or owners and a statement that the balance of the account will be paid over to the State on the following January unless the bank is contacted in writing by the owner or representative of the owner. If such a wirtten response is received by the bank, the response shall be deemed to be a transaction with respect to the account and the account thereafter shall not be deemed to continue to be an unclaimed bank deposit for the purposes of advertising as set forth in subsection c. of this section.

c. Every bank having any such unclaimed bank deposits shall cause to be advertised on 1 day during the second week of the month of October and on 1 day during the second week of the month of November, printed in 8-point size type in a newspaper published in New Jersey which circulates in the county in which the bank has its principal office, and if it has offices in more than one county then in such a newspaper published or circulating in each county in which the bank has an office, a notice entitled "notice of the names of persons appearing as the owners of unclaimed amounts held by (name of bank)." Such notice shall be in such form as shall be approved by the State Treasurer and shall set forth the name and address of the bank and where the name of the bank has been changed by merger, reorganization, consolidation or otherwise, shall also set forth the original name and address of the bank in which the deposit originated, and shall list in alphabetical order the name of each person to whose credit an unclaimed bank deposit stands, but not the amount to the credit of each account, but no account shall be advertised in which the unpaid balance is less than $50.00. Any amount paid to a newspaper for such publication shall be charged by the bank equally against the unclaimed bank deposits so advertised.

2. This act shall take effect immediately.

Approved January 6, 1982.

CHAPTER 403

AN ACT concerning county adjusters amending R. S. 30:4–34 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:*

1. R. S. 30:4–34 is amended to read as follows:

County adjuster for commitment of mentally ill or mentally retarded.

30:4–34. In each county where county counsel, county solicitor, county clerk, county physician or county probation officer, or any of their assistants is in charge and supervision of the preparation of papers relating to the commitment of the mentally ill or mentally retarded, such person shall be known as "county adjuster" and such duties shall, except as otherwise provided in section 2 of this amendatory and supplementary act, continue to pertain to the office of such county counsel, county solicitor, county clerk, county physician or county probation officer or their successors in office, but, notwithstanding the foregoing, in case any other county official or employee shall be at the time of the adoption of this act, in charge and supervision of the preparation of papers relating to the commitment of the mentally ill or mentally retarded, the governing body of the county may designate that county official or employee as county adjuster. In all other counties the judge of the Superior Court, with the consent of the county governing body, shall designate some county official or employee as county adjuster.

The county adjuster shall have charge and supervision of the preparation of papers relating to the commitment of the mentally ill or mentally retarded in such county, and in cases arising in other counties in which the legal settlement appears to be in his county. Classification under civil service rules shall not be affected by reason of such designation or additional duties, and additional compensation, if any, for such services may be fixed by the county governing body and paid in the same manner as other county employees are paid. Each county governing body shall notify the various institutions for the mentally ill or mentally retarded, of the name and address of the county adjuster.

The judge of the Superior Court within the county may appoint the county adjuster to act as referee for the purpose of taking

testimony bearing solely on the question of legal settlement and the financial ability of the patient or his legally responsible relatives to pay the cost of maintenance and shall make return to the court of his findings, conclusions and recommendations. Such findings, conclusions and recommendations shall be subject to the approval of the court and shall not be effective until incorporated in an appropriate order or judgment of the court. The county adjuster, acting as such referee, may subpena witnesses and compel their attendance on forms approved by the court.

C. 30:4-34.1 Tenure after 5 years.

2. (New section) A person who holds the position of county adjuster by virtue of holding one of the offices under R. S. 30:4–34 and who has held the position of county adjuster continuously for 5 years or more shall continue to hold the position of county adjuster, notwithstanding he is serving in one of the offices under R. S. 30:4–34 for a fixed term or at the pleasure of the governing body of the county, during good behavior and efficiency and shall not be removed therefrom except for good cause.

3. This act shall take effect immediately.

Approved January 6, 1982.

CHAPTER 404

A SUPPLEMENT to "An act for the establishment of a police and firemen's retirement system for police, firemen and certain other law enforcement officers," approved May 23, 1944 (P. L. 1944, c. 255; C. 43:16A–1 et seq.), as said title was amended by P. L. 1976, c. 139.

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

1. Notwithstanding the provisions to the contrary of any law, the governing body of any municipality which has a population of at least 20,000 and not more than 40,000 according to the latest Federal decennial census, and which has adopted the mayor-council Plan E of the "Optional Municipal Charter Law" (P. L. 1950, c. 210; C. 40:69A–1 et seq.), may by ordinance adopt the act to which this act is a supplement. If the governing body enacts

such an ordinance, the act to which this act is a supplement (P. L. 1945, c. 255; C. 43:16A–1 et seq.) shall take effect in the municipality on January 1 following the date of that enactment. Upon the enactment of such an ordinance, the clerk of the municipality shall immediately notify the board of trustees of the Police and Firemen's Retirement System of New Jersey of the enactment.

2. This act shall take effect immediately and shall expire on December 31, 1982.

Approved January 6, 1982.

CHAPTER 405

AN ACT concerning the administration of estates of decedents and others, revising parts of the statutory law and enacting a new title to be known as Title 3B, Administration of Estates—Decedents and Others, of the New Jersey Statutes.

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

Section 1.

TITLE 3B

ADMINISTRATION OF ESTATES—DECEDENTS AND OTHERS

TABLE OF CONTENTS

Chapter
1. General provisions, ss. 3B:1–1 to 3B:1–9.
2. General jurisdiction of Superior Court and surrogates' Courts, ss. 3B:2–1 to 3B:2–8.
3. Wills, ss. 3B:3–1 to 3B:3–49.
   Article
   1. Requisites, execution and contents, ss. 3B:3–1 to 3B:3–12.
   2. Revocation, revival and alteration, ss. 3B:3–13 to 3B:3–16.
   3. Probate and record, ss. 3B:3–17 to 3B:3–31.
   4. Construction, ss. 3B:3–32 to 3B:3–49.
4. Testamentary additions to trusts, ss. 3B:4–1 to 3B:4–6.
5. Intestacy, ss. 3B:5–1 to 3B:5–16.

Chapter

Article

1. Intestate succession, ss. 3B:5-1 to 3B:5-14.
2. Inheritance by spouse or children not provided for in will, ss. 3B:5-15 and 3B:5-16.

6. Uniform Simultaneous Death Law, ss. 3B:6-1 to 3B:6-7.

7. Effect of decedent's intentional death, ss. 3B:7-1 to 3B:7-7.

8. Surviving spouse's right to an elective share, ss. 3B:8-1 to 3B:8-19.

9. Disclaimers of transfers by will, intestate succession or under powers of testamentary appointment, ss. 3B:9-1 to 3B:9-13.

10. Personal representatives, ss. 3B:10-1 to 3B:10-32.

Article

1. Administration, ss. 3B:10-1 to 3B:10-13.
2. Executors, s. 3B:10-14.
3. Substituted administrators, ss. 3B:10-15 to 3B:10-18.
4. Duties and powers of personal representatives, ss. 3B:10-19 to 3B:10-32.

11. Trusts and trustees, ss. 3B:11-1 to 3B:11-15.

Article

1. Generally, ss. 3B:11-1 to 3B:11-4.
2. Additional or substituted trustees, ss. 3B:11-5 to 3B:11-7.
3. Charitable trusts, ss. 3B:11-8 to 3B:11-15.

12. Minors and mental incompetents, ss. 3B:12-1 to 3B:12-66.

Article

1. Protective arrangements, ss. 3B:12-1 to 3B:12-5.
2. When appointment of guardian for minor's estate unnecessary, ss. 3B:12-6 to 3B:12-11.
3. Appointment of guardians for minors, ss. 3B:12-12 to 3B:12-23.
4. Mental incompetents, ss. 3B:12-24 to 3B:12-35.
5. Powers of court and guardians, ss. 3B:12-36 to 3B:12-64.
6. Substituted guardian, ss. 3B:12-65 and 3B:12-66.

13. Guardianship of veterans, ss. 3B:13-1 to 3B:13-31.

Chapter

Article

1. Generally, ss. 3B:13–1 to 3B:13–5.
2. Appointment of guardians, ss. 3B:13–6 to 3B:13–8.
3. Guardians' accounts, ss. 3B:13–9 to 3B:13–14.
4. Management of estates and property received from sources other than the United States Government, ss. 3B:13–15 to 3B:13–20.
5. Public guardian of incompetent veterans, ss. 3B:13–21 to 3B:13–31.

14. Fiduciaries, ss. 3B:14–1 to 3B:14–65.

Article

1. Generally, ss. 3B:14–1 to 3B:14–7.
2. Substitute for fiduciary in war service, ss. 3B:14–8 to 3B:14–17.
3. Discharge and removal of fiduciaries, ss. 3B:14–18 to 3B:14–22.
4. Powers of fiduciaries, ss. 3B:14–23 to 3B:14–30.
5. Liability of fiduciaries and protection of persons assisting or dealing with fiduciaries, ss. 3B:14–31 to 3B:14–37.
6. Actions by or against fiduciaries, ss. 3B:14–38 to 3B:14–51.
7. Uniform fiduciaries law, ss. 3B:14–52 to 3B:14–61.
8. Abandonment of real property, ss. 3B:14–62 to 3B:14–65.

15. Bonds and sureties, ss. 3B:15–1 to 3B:15–33.

Article

1. Generally, ss. 3B:15–1 to 3B:15–8.
2. Additional and separate security, ss. 3B:15–9 and 3B:15–10.
3. Deposit in lieu of full security of bond, ss. 3B:15–11 to 3B:15–17.
4. Discharge of surety and reduction of bonds, ss. 3B:15–18 to 3B:15–23.
5. Prosecution of bonds, ss. 3B:15–24 to 3B:15–33.

16. Inventories, ss. 3B:16–1 to 3B:16–8.

17. Accounting, ss. 3B:17–1 to 3B:17–12.

Chapter

Article

1. When unnecessary, s. 3B:17–1.
2. Requirements and actions, ss. 3B:17–2 to 3B:17–8.
3. Nontestamentary trustees, ss. 3B:17–9 to 3B:17–11.
4. Certain expenditures authorized, s. 3B:17–12.

18. Commissions, ss. 3B:18–1 to 3B:18–33.
    1. Generally, ss. 3B:18–1 to 3B:18–7.
    2. Additional compensation to certain fiduciaries, ss. 3B:18–8 to 3B:18–11.
    3. Commissions of executors, administrators, and certain fiduciaries, ss. 3B:18–12 to 3B:18–22.
    4. Commissions of trustees under a will and guardians, ss. 3B:18–23 to 3B:18–33.

19. Principal and income, ss. 3B:19–1 to 3B:19–19.

    Article

    1. Generally, ss. 3B:19–1 to 3B:19–15.
    2. United States Savings Bonds, Savings Certificates and Treasury Bills, ss. 3B:19–16 to 3B:19–19.

20. Investments, ss. 3B:20–1 to 3B:20–35.

    Article

    1. Generally, ss. 3B:20–1 to 3B:20–11.
    2. Prudent investment law, ss. 3B:20–12 to 3B:20–17.
    3. Exchange or conversion of securities upon recapitalization, reorganization, merger or consolidation of issuing corporation, ss. 3B:20–18 to 3B:20–20.
    4. Exchange and conversion of bank shares for shares of bank holding company, ss. 3B:20–21 to 3B:20–25.
    5. Deposit of securities in clearing corporations, ss. 3B:20–26 to 3B:20–35.

21. Transfer of property out of State, ss. 3B:21–1 to 3B:21–5.

22. Creditors of decedents; their rights and remedies, ss. 3B:22–1 to 3B:22–44.

    Article

    1. Generally, ss. 3B:22–1 to 3B:22–3.
    2. Presentation and bar of claims, ss. 3B:22–4 to 3B:22–9.
    3. Remedies of creditors who fail to file their claims within the time limited, ss. 3B:22–10 to 3B:22–18.

Chapter

Article

4. Administration of estate in more than one state, ss. 3B:22–19 to 3B:22–21.
5. Liability of real property for debts, ss. 3B:22–22 to 3B:22–24.
6. Sale of property subject to escheat to pay debts, ss. 3B:22–25 to 3B:22–31.
7. Insolvent estates, ss. 3B:22–32 to 3B:22–38.
8. Liability of heirs and devisees, ss. 3B:22–39 to 3B:22–44.

23. Devises and distributive shares, ss. 3B:23–1 to 3B:23–43.

Article

1. Distribution in kind, ss. 3B:23–1 to 3B:23–10.
2. Distribution under will, ss. 3B:23–11 to 3B:23–16.
3. Distribution of intestate estate, ss. 3B:23–17 to 3B:23–20.
4. Distribution of devises, distributive shares, trusts, etc., ss. 3B:23–21 to 3B:23–23.
5. Bonds of devisees and distributees, ss. 3B:23–24 to 3B:23–30.
6. Actions for devises and distributive shares, ss. 3B:23–31 to 3B:23–36.
7. Contingent devises charged on real estate, ss. 3B:23–37 to 3B:23–40.
8. Miscellaneous, ss. 3B:23–41 to 3B:23–43.

24. Apportionment of Federal and New Jersey Estate Taxes, ss. 3B:24–1 to 3B:24–8.

25. Exoneration of property subject to mortgage or security interest, s. 3B:25–1.

26. Absentees, ss. 3B:26–1 to 3B:26–4.

27. Five years' absence, ss. 3B:27–1 to 3B:27–6.

Article

1. Presumption of death, ss. 3B:27–1 to 3B:27–3.
2. Sale or other disposition of real estate, ss. 3B:27–4 and 3B:27–5.
3. Declaration of death, s. 3B:27–6.

28. Dower and curtesy, ss. 3B:28–1 to 3B:28–19.

Article

1. Generally, ss. 3B:28–1 to 3B:28–3.1.
2. Acts saved from repeal, ss. 3B:28–4 to 3B:28–19.

29. Repealer, s. 3B:29–1.

Chapter 1

General Provisions

3B:1–1. Definitions: A to H.
3B:1–2. Definitions: I to Z.
3B:1–3. Devolution of property upon death.
3B:1–4. Contractual arrangements relating to death.
3B:1–5. Effect upon vested rights and remedies.
3B:1–6. Law governing rights, duties and powers of fiduciaries.
3B:1–7. Exclusion of property passing to a testamentary trustee other than by devise from rights of personal representative or creditors of decedent.
3B:1–8. Application of title to wills.
3B:1–9. Effect of fraud and evasion.

Definitions: A to H.

3B:1–1. Definitions: A to H. As used in this title, unless otherwise defined:

"Administrator" includes general administrators of an intestate and unless restricted by the subject or context, administrators with the will annexed, substituted administrators, substituted administrators with the will annexed, temporary administrators and administrators pendente lite.

"Beneficiary," as it relates to trust beneficiaries, includes a person who has any present or future interest, vested or contingent, and also includes the owner of an interest by assignment or other transfer and as it relates to a charitable trust, includes any person entitled to enforce the trust.

"Child" means any individual, including a natural or adopted child, entitled to take by intestate succession from the parent whose relationship is involved and excludes any person who is only a stepchild, a foster child, a grandchild or any more remote descendant.

"Claims" include liabilities whether arising in contract, or in tort or otherwise, and liabilities of the estate which arise at or after the death of the decedent, including funeral expenses and expenses of administration, but does not include estate or inheritance taxes, demands or disputes regarding title to specific assets alleged to be included in the estate.

"Cofiduciary" means each of two or more fiduciaries jointly serving in a fiduciary capacity.

"Devise," when used as a noun, means a testamentary disposition of real or personal property and when used as a verb, means to dispose of real or personal property by will.

"Devisee" means any person designated in a will to receive a devise. In the case of a devise to an existing trust or trustee, or to a trustee of trust described by will, trust or trustee is the devisee and the beneficiaries are not devisees.

"Distributee" means any person who has received property of a decedent from his personal representative other than as a creditor or purchaser. A trustee is a distributee only to the extent of a distributed asset or increment thereto remaining in his hands. A beneficiary of a trust to whom the trustee has distributed property received from a personal representative is a distributee of the personal representative.

"Domiciliary foreign fiduciary" means any fiduciary who has received letters, or has been appointed, or is authorized to act as a fiduciary, in the jurisdiction in which the decedent was domiciled at the time of his death, in which the ward is domiciled or in which is located the principal place of the administration of a trust.

"Estate" means all of the property of a decedent, minor or mental incompetent, trust or other person whose affairs are subject to this title as the property is originally constituted and as it exists from time to time during administration.

"Fiduciary" includes executors, general administrators of an intestate, administrators with the will annexed, substituted administrators, substituted administrators with the will annexed, guardians, substituted guardians, trustees, substituted trustees and, unless restricted by the subject or context, temporary administrators, administrators pendente lite, administrators ad prosequendum, administrators ad litem and other limited fiduciaries.

"Guardian" means a person who has qualified as a guardian of the person or estate of a minor or mental incompetent pursuant to testamentary or court appointment, but excludes one who is merely a guardian ad litem.

"Heirs" means those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent.

Source: C. 3A:2A–1 (1977, c. 412, s. 1); C. 3A:6–16.1 (1968, c. 270, s. 1; amended 1979, c. 489, s. 1); C. 3A:6–16.10 (1979, c. 482, s. 1).

Definitions: I to Z.

3B:1–2. Definitions: I to Z. "Issue" of a person includes all of his lineal descendants, natural or adopted, of all generations, with the relationship of parent and child at each generation being determined by the definition of child and parent.

"Local administration" means administration by a personal representative appointed in this State.

"Local fiduciary" means any fiduciary who has received letters in this State and excludes foreign fiduciaries who acquire the power of local fiduciary pursuant to this title.

"Mental incompetent" means a person who is impaired by reason of mental illness or mental deficiency to the extent that he lacks sufficient capacity to govern himself and manage his affairs.

The term "mental incompetent" is also used to designate a person who is impaired by reason of physical illness or disability, chronic use of drugs, chronic alcoholism or other cause (except minority) to the extent that he lacks sufficient capacity to govern himself and manage his affairs.

The terms "mental incompetency" and "mental incompetent" refer to the state or condition of a "mental incompetent" as hereinbefore defined.

"Minor" means a person who is under 18 years of age.

"Nonresident decedent" means a decedent who was domiciled in another jurisdiction at the time of his death.

"Parent" means any person entitled to take or would be entitled to take if the child, natural or adopted, died without a will, by intestate succession from the child whose relationship is in question and excludes any person who is a stepparent, foster parent or grandparent.

"Personal representative" includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status. "General personal representative" excludes special administrator.

"Resident creditor" means a person domiciled in, or doing business in this State, who is, or could be, a claimant against an estate.

"Security" includes any note, stock, treasury stock, bond, mortgage, financing statement, debenture, evidence of indebtedness,

certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under the title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security or as a security interest or any certificate of interest or participation, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing.

"Successor personal representative" means a personal representative, other than a special administrator, who is appointed to succeed a previously appointed personal representative.

"Successors" means those persons, other than creditors, who are entitled to real and personal property of a decedent under his will or the laws governing intestate succession.

"Testamentary trustee" means a trustee designated by will or appointed to exercise a trust created by will.

"Trust" includes any express trust, private or charitable, with additions thereto, wherever and however created. It also includes a trust created by judgment under which the trust is to be administered in the manner of an express trust. "Trust" excludes other constructive trusts, and it excludes resulting trusts, guardianships, personal representatives, trust accounts created under the "Multiple-party Deposit Account Act," P. L. 1979, c. 491 (C. 17:161–1 et seq.), gifts to minors under the "New Jersey Uniform Gifts to Minors Act," P. L. 1963, c. 177 (C. 46:38–13 et seq.), business trusts providing for certificates to be issued to beneficiaries, common trusts, security arrangements, liquidation trusts, and trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions or employee benefits of any kind, and any arrangement under which a person is nominee or escrowee for another.

"Ward" means a person for whom a guardian is appointed or a person under the protection of the court.

"Will" means the last will and testament of a testator or testatrix and includes any codicil.

Source: C. 3A:2A–1 (1977, c. 412, s. 1); C. 3A:6–16.1 (1968, c. 270, s. 1; amended 1979, c. 489, s. 1); C. 3A:6–16.10 (1979, c. 482, s. 1).

Devolution of property upon death.

3B:1–3. Devolution of property upon death. Upon the death of a person, his real and personal property devolves to the persons

to whom it is devised by his will or to those indicated as substitutes for them in cases involving lapse, renunciation, or other circumstances affecting the devolution of testate estates, or in the absence of testamentary disposition, to his heirs, or to those indicated as substitutes for them in cases involving renunciation or other circumstances affecting devolution of intestate estates, subject to rights of creditors and to administration.

Source: C. 3A:2A–2 (1977, c. 412, s. 2).

Contractual arrangements relating to death.

3B:1–4. Contractual arrangements relating to death. A contract to make a will or devise, or not to revoke a will or devise, or to die intestate, if executed after September 1, 1978, can be established only by (1) provisions of a will stating material provisions of the contract; (2) an express reference in a will to a contract and extrinsic evidence proving the terms of the contract; or (3) a writing signed by the decedent evidencing the contract. The execution of a joint will or mutual wills does not create a presumption of a contract not to revoke the will or wills.

Source: C. 3A:2A–19 (1977, c. 412, s. 22).

Effect upon vested rights and remedies.

3B:1–5. Effect upon vested rights and remedies. The repeal of any sections, acts or parts of acts by the enactment of this title shall not affect any right now vested in any person pursuant to any sections, acts or parts of acts so repealed, nor any remedy where an action or proceeding thereunder has been instituted and is pending on the effective date of this title.

Source: R. S. 1:1–11; 1:1–14.

Law governing rights, duties and powers of fiduciaries.

3B:1–6. Law governing rights, duties and powers of fiduciaries. The provisions of this title shall govern the rights, duties and powers of successors and fiduciaries relating to the administration of all estates except that the validity and propriety of all acts done by a fiduciary and all rights established in successors prior to September 1, 1978, shall be determined under the law as then in effect.

Source: C. 3A:2A–86 (1979, c. 221, s. 14).

Exclusion of property passing to a testamentary trustee other than by devise from rights of personal representative or creditors of decedent.

3B:1–7. Exclusion of property passing to a testamentary trustee other than by devise from rights of personal representative or creditors of decedent. Property passing to a testamentary trustee

other than by devise shall not be subject to rights of, powers of or to administration by a personal representative or to rights of creditors to any extent beyond that to which it would otherwise be if the testamentary trust was an inter vivos trust.

Source: C. 3A:2A–87 (1980, c. 51).

Application of title to wills.

3B:1–8. Application of title to wills. The provisions of this title shall apply to any wills of decedents dying on or after September 1, 1978.

Source: C. 3A:2A–85 (1979, c. 221, s. 13).

Effect of fraud and evasion.

3B:1–9. Effect of fraud and evasion. Whenever fraud has been perpetrated in connection with any proceeding or in any statement filed under this title or if fraud is used to avoid or circumvent the provisions or purposes of this title, any person injured thereby may obtain appropriate relief against the perpetrator of the fraud or restitution from any person (other than a bona fide purchaser or lender) benefitting from the fraud, whether innocent or not. Any proceeding must be commenced within 2 years after the discovery of the fraud, but no proceeding may be brought against one not a perpetrator of the fraud later than 5 years after the time of commission of the fraud. This section has no bearing on remedies relating to fraud practiced on a decedent during his lifetime which affects the succession of his estate.

Source: New.

CHAPTER 2

GENERAL JURISDICTION OF SUPERIOR AND SURROGATES' COURTS

3B:2–1. Jurisdiction of Superior Court not affected.
3B:2–2. General authority of Superior Court as to probate matters.
3B:2–3. Jurisdiction of Superior Court over surrogate's proceedings.
3B:2–4. Proceedings in Superior Court on order to show cause.
3B:2–5. Disputes or doubts in proceedings before the surrogate.
3B:2–6. Oath; affidavit; deposition or proof.
3B:2–7. Issuance of subpenas by surrogate.
3B:2–8. Penalty for failure to obey subpena.

Jurisdiction of Superior Court not affected.

3B:2–1. Jurisdiction of Superior Court not affected. The provisions of this title are not intended and shall not be so construed as in any way to affect, impair or limit the original general jurisdiction of the Superior Court given to it by the Constitution.

Source: N. J. S. 3A:2–1.

General authority of Superior Court as to probate matters.

3B:2–2. General authority of Superior Court as to probate matters. The Superior Court shall have full authority to hear and determine all controversies respecting wills, trusts and estates, and full authority over the accounts of fiduciaries, and also authority over all other matters and things as are submitted to its determination under this title.

Source: N. J. S. 3A:2–2.

Jurisdiction of Superior Court over surrogate's proceedings.

3B:2–3. Jurisdiction of Superior Court over surrogate's proceedings. The Superior Court shall have jurisdiction to hear and determine disputes or doubts arising before the surrogate or in the surrogate's court of a county, to review any order, determination or judgment of the surrogate or the surrogate's court of a county and upon the review to hear and determine the matter, and to grant relief from or to direct the entry of, as of a former time, any order, determination or judgment of the surrogate or the surrogate's court of a county.

Source: N. J. S. 3A:2–3.

Proceedings in Superior Court on order to show cause.

3B:2–4. Proceedings in Superior Court on order to show cause. The Superior Court, in any proceeding by or against fiduciaries or other persons, may proceed in a summary manner.

Source: N. J. S. 3A:2–4.

Disputes or doubts in proceedings before the surrogate.

3B:2–5. Disputes or doubts in proceedings before the surrogate. In the event of any dispute or doubt arising before the surrogate or in the surrogate's court, neither he nor the court shall take any further action therein, except in accordance with the order of the Superior Court.

Source: N. J. S. 3A:2–5.

Oath; affidavit; deposition or proof.

3B:2–6. Oath; affidavit; deposition or proof. Any oath, affidavit, deposition or proof required to be made or taken in any

proceeding before a surrogate, his court or in the Superior Court, or necessary or proper to be used before the surrogate or the court, may be made and taken before the surrogate or before any person authorized by law to administer oaths. Qualifications of executors and administrators and acceptances of trusteeships and guardianships may be taken as provided by the rules of the Supreme Court.

Source: N. J. S. 3A:2–6.

Issuance of subpenas by surrogate.

3B:2–7. Issuance of subpenas by surrogate. A surrogate may issue process of subpenas to any person within the State to appear and give evidence in any matter pending before the surrogate's court.

Source: N. J. S. 3A:2–7.

Penalty for failure to obey subpena.

3B:2–8. Penalty for failure to obey subpena. Any person subpenaed as a witness by a surrogate, who does not appear pursuant thereto, or appearing refuses to be sworn or give evidence, without reasonable cause assigned, shall, for every such default or refusal, be subject to a fine of not more than $50.00, as the surrogate's court issuing the subpena shall by judgment determine proper to impose. The fine, when collected, shall be paid to the county.

In default of the payment of a fine so imposed, the surrogate's court by its judgment may commit the witness to the county jail of the county until it is paid or he is sooner discharged.

The judgment of the surrogate's court imposing a fine or committing a witness to jail shall be reviewable by the Superior Court in the same manner as other judgments of the court are reviewed.

Source: N. J. S. 3A:2–8.

CHAPTER 3

WILLS

Article 1. Requisites, Execution and Contents

3B:3–1. Persons competent to make a will and appoint a testamentary guardian.
3B:3–2. Formal execution of will.
3B:3–3. Holographic will.
3B:3–4. Making will self-proved at time of execution.
3B:3–5. Making will self-proved subsequent to time of execution.
3B:3–6. Validating acknowledgment.
3B:3–7. Who may witness a will.

3B:3-8. Will not invalidated if signed by interested witness.
3B:3-9. Laws determining valid execution of will.
3B:3-10. Incorporation by reference.
3B:3-11. Identifying devise of tangible personal property by separate writing.
3B:3-12. Acts and events of independent significance.

Article 2. Revocation, Revival and Alterations

3B:3-13. Revocation by acts of testator.
3B:3-14. Revocation by divorce or annulment; revival by remarriage to former spouse.
3B:3-15. Revival of revoked will.
3B:3-16. Methods of altering will.

Article 3. Probate and Record

3B:3-17. Probate of will and grant of letters.
3B:3-18. Necessity to probate will to transfer property or nominate executor.
3B:3-19. Proof required to probate will.
3B:3-20. Probate of will of testator who died in military service or within 2 years of discharge.
3B:3-21. Probate of will where witnesses are in service in time of war.
3B:3-22. Time for probate of will; preliminary filing.
3B:3-23. Proof of execution required in contested probate action.
3B:3-24. Where a will of a resident is to be probated; effect of failure to probate.
3B:3-25. Filing probate record with surrogate of any county.
3B:3-26. Probate of will of nonresident probated in another state or country.
3B:3-27. Recording of will of nonresident probated in another state or country.
3B:3-28. Probate of will of nonresident decedent where property situated in New Jersey.
3B:3-28.1. Probate of will of nonresident where laws of decedent's domicile are discriminatory.
3B:3-29. Order to compel production of purported will.
3B:3-30. Allowances by Superior Court to spouse or children pending contest over probate of will.
3B:3-31. Judgment for probate; conclusive effect on title to real property after 7 years.

Article 4. Construction

3B:3–32. Requirement that devisee survive testator by 120 hours; exceptions.
3B:3–33. Choice of law as to meaning and effect of wills; testator's intention; rules of construction.
3B:3–34. Will construed to pass all property of testator including after-acquired property.
3B:3–35. Anti-lapse; deceased devisee; class gifts.
3B:3–36. Failure of testamentary provision.
3B:3–37. Residuary devise to two or more residuary devisees; death of one or more before testator.
3B:3–38. Construction of words "die without issue."
3B:3–39. Construction when "heirs and assigns" omitted from devise; fee passed.
3B:3–40. Words importing estate in fee not to prevent further devise.
3B:3–41. Issue to take per stirpes.
3B:3–42. Specific devise of securities; change; accessions; nonademption.
3B:3–43. Specific devise; sale by or payment of condemnation award or insurance proceeds to guardian of testator.
3B:3–44. Specific devise; right of devisee after sale, condemnation, casualty loss or foreclosure.
3B:3–45. Exercise of power of appointment.
3B:3–46. Ademption by satisfaction.
3B:3–47. Penalty clause for contesting will.
3B:3–48. Construction of generic terms included in class gift terminology.
3B:3–49. Effect of final order of court of another state admitting will to probate or determining validity or construction.

Article 1. Requisites, Execution and Contents

Persons competent to make a will and appoint a testamentary guardian.

3B:3–1. Persons competent to make a will and appoint a testamentary guardian. Any person 18 or more years of age who is of sound mind may make a will and may appoint a testamentary guardian.

Source: C. 3A:2A–3 (1977, c. 412, s. 3).

Formal execution of will.

3B:3–2. Formal execution of will. Except as provided in N. J. S. 3B:3–3, every will shall be in writing, signed by the testator or in

his name by some other person in his presence and at his direction, and shall be signed by at least two persons each of whom witnessed either the signing or the testator's acknowledgment of the signature or of the will.

Source: C. 3A:2A–4 (1977, c. 412, s. 4).

Holographic will.

3B:3–3. Holographic will. A will which does not comply with N. J. S. 3B:3–2 is valid as a holographic will, whether or not witnessed, if the signature and material provisions are in the handwriting of the testator.

Source: C. 3A:2A–5 (1977, c. 412, s. 5).

Making will self-proved at time of execution.

3B:3–4. Making will self-proved at time of execution. A will executed in compliance with N. J. S. 3B:3–2 may be simultaneously executed, attested, and made self-proved, by acknowledgment thereof by the testator and affidavits of the witnesses, each made before an officer authorized pursuant to R. S. 46:14–6, R. S. 46:14–7 or R. S. 46:14–8 to take acknowledgments and proofs of instruments entitled to be recorded under the laws of this State, in substantially the following form:

I, ..., the testator, sign my name to this instrument this ..... day of ....., 19...., and being duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my last will and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am 18 years of age or older, of sound mind, and under no constraint or undue influence.

.....
Testator

We, ..., the witnesses, sign our names to this instrument, and, being duly sworn, do hereby declare to the undersigned authority that the testator signs and executes this instrument as his last will and that he signs it willingly (or willingly directs another to sign for him), and that each of us, in the presence and hearing of the testator, hereby signs this will as witness to the testator's signing, and that to the best of our knowledge the testator is 18 years of age or older, of sound mind, and under no constraint or undue influence.

.....
Witness

.....
Witness

The State of .....

County of .....

Subscribed, sworn to and acknowledged before me by ...., the testator and subscribed and sworn to before me by ..... and ....., witnesses, this ..... day of .....

(Signed) .....

.....
(Official capacity of officer)

Source: C. 3A:2A-6 (1977, c. 412, s. 6; amended 1979, c. 221, s. 1).

Making will self-proved subsequent to time of execution.

3B:3-5. Making will self-proved subsequent to time of execution. A will executed in compliance with N. J. S. 3B:3-2 may at any time subsequent to its execution be made self-proved by the acknowledgment thereof by the testator and the affidavits of the witnesses, each made before an officer authorized pursuant to R. S. 46:14-6, R. S. 46:14-7 or R. S. 46:14-8 to take acknowledgments and proofs of instruments entitled to be recorded under the laws of this State, attached or annexed to the will in substantially the following form:

The State of .....

County of .....

We, ..., ... and ....., the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being duly sworn, do hereby declare to the undersigned authority that the testator signed and executed the instrument as his last will and that he had signed willingly (or willingly directed another to sign for him), and that he executed it as his free and voluntary act for the purposes therein expressed, and that each of the witnesses, in the presence and hearing of the testator, signed the will as witness and that to the best of his knowledge the testator was at that time 18 years of age or older, of sound mind and under no constraint or undue influence.

.....
Testator

.....
Witness

.....
Witness

Subscribed, sworn to and acknowledged before me by ...., the testator, and subscribed and sworn to before me by ..... and ....., witnesses, this ..... day of .....

(Signed) .....

.....
(Official capacity of officer)

Source: C. 3A:2A–6 (1977, c. 412, s. 6; amended 1979, c. 221, s. 1).

Validating acknowledgment.

3B:3–6. Validating acknowledgment. An acknowledgment to make a will self-proved taken on or after September 1, 1978, but before October 11, 1979, pursuant to R. S. 46:14–6, R. S. 46:14–7 or R. S. 46:14–8 to make a will self-proved under N. J. S. 3B:3–4 or N. J. S. 3B:3–5 is a valid acknowledgment, notwithstanding that the certificate of acknowledgment does not have the officer's official seal affixed thereto.

Source: C. 3A:2A–6.1 (1979, c. 221, s. 15).

Who may witness a will.

3B:3–7. Who may witness a will. Any person generally competent to be a witness may act as a witness to a will and to testify concerning the execution thereof.

Source: C. 3A:2A–7 (1977, c. 412, s. 7).

Will not invalidated if signed by interested witness.

3B:3–8. Will not invalidated if signed by interested witness. A will or any provision thereof is not invalid because the will is signed by an interested witness.

Source: C. 3A:2A–7 (1977, c. 412, s. 7).

Laws determining valid execution of will.

3B:3–9. Laws determining valid execution of will. A written will is validly executed if executed in compliance with N. J. S. 3B:3–2 or N. J. S. 3B:3–3 or its execution was in compliance with the law of the place where it was executed, or with the law of the

place where at the time of execution or at the time of death the testator was domiciled, had a place of abode or was a national.

Source: C. 3A:2A–8 (1977, c. 412, s. 8).

Incorporation by reference.

3B:3–10. Incorporation by reference. Any writing in existence when a will is executed may be incorporated by reference if the language of the will manifests this intent and describes the writing sufficiently to permit its identification.

Source: C. 3A:2A–9 (1977, c. 412, s. 9).

Identifying devise of tangible personal property by separate writing.

3B:3–11. Identifying devise of tangible personal property by separate writing. A will may refer to a written statement or list to dispose of items of tangible personal property not otherwise specifically disposed of by the will, other than money, evidences of indebtedness, documents of title, and securities and property used in trade or business. To be admissible under this section as evidence of the intended disposition, the writing must be either in the handwriting of the testator or be signed by him and must describe the items and the devisees with reasonable certainty. The writing may be referred to as one to be in existence at the time of the testator's death; it may be prepared before or after the execution of the will; it may be altered by the testator after its preparation; and it may be a writing which has no significance apart from its effect upon the dispositions made by the will.

Source: C. 3A:2A–10 (1977, c. 412, s. 10).

Acts and events of independent significance.

3B:3–12. Acts and events of independent significance. A will may dispose of property by reference to acts and events which have significance apart from their effect upon the dispositions made by the will, whether they occur before or after the execution of the will or before or after the testator's death. The execution or revocation of a will of another person is such an event.

Source: C. 3A:2A–11 (1977, c. 412, s. 11).

Article 2. Revocation, Revival and Alterations

Revocation by acts of testator.

3B:3–13. Revocation by acts of testator. A will or any part thereof is revoked:

a. By a subsequent will which revokes the former will or part expressly or by inconsistency; or

b. By being burned, torn, canceled, obliterated, or destroyed with the intent and for the purpose of revoking by the testator or by another person in his presence and by his direction.

Source: C. 3A:2A–12 (1977, c. 412, s. 12).

Revocation by divorce or annulment; revival by remarriage to former spouse.

3B:3–14. Revocation by divorce or annulment; revival by remarriage to former spouse. If after having executed a will the testator is divorced or his marriage annulled, the divorce or annulment revokes any dispositions or appointment of property made by the will to the former spouse, any provision conferring a general or special power of appointment on the former spouse, and any nomination of the former spouse as executor, trustee, or guardian, unless the will expressly provides otherwise. Property prevented from passing to a former spouse because of revocation by divorce or annulment passes as if the former spouse failed to survive the decedent, and other provisions conferring some power or office on the former spouse are interpreted as if the spouse failed to survive the decedent. A judgment from bed and board is a divorce for the purpose of this section. If provisions are revoked solely by this section, they are revived by testator's remarriage to the former spouse or by the revocation or suspension of a judgment of divorce from bed and board. No change of circumstances other than as described in this section revokes a will.

Source: C. 3A:2A–13 (1977, c. 412, s. 13).

Revival of revoked will.

3B:3–15. Revival of revoked will. Except as provided in N. J. S. 3B:3–14, a revoked will or codicil shall not be revived except by reexecution or by a duly executed codicil expressing an intention to revive it.

Source: C. 3A:2A–14 (1977, c. 412, s. 14).

Methods of altering will.

3B:3–16. Methods of altering will. No devise in, or clause of a will may be altered, except by another will or codicil or other writing declaring the alteration executed in the manner in which wills are required by law to be executed.

Source: N. J. S. 3A:3–4.

Article 3. Probate and Record

Probate of will and grant of letters.

3B:3–17. Probate of will and grant of letters. The surrogates of the several counties or the Superior Court may take depositions to wills and the surrogates' courts and Superior Court admit the same to probate, and grant thereon letters testamentary or letters of administration with the will annexed.

Source: N. J. S. 3A:3–17.

Necessity to probate will to transfer property or nominate executor.

3B:3–18. Necessity to probate will to transfer property or nominate executor. To be effective to prove the transfer of any property or to nominate an executor, a will must be admitted to probate.

Source: C. 3A:2A–16 (1977, c. 412, s. 16).

Proof required to probate will.

3B:3–19. Proof required to probate will. A will executed as provided in N. J. S. 3B:3–2 may be admitted to probate in common form upon the proof of one of the attesting witnesses or by some other person having knowledge of the facts relating to the proper execution of the will by the testator and its attestation by one of the witnesses.

A will executed and acknowledged in the manner provided in N. J. S. 3B:3–4 or N. J. S. 3B:3–5 may be admitted to probate in common form without further affidavit, deposition or proof.

A holographic will may be admitted to probate only in solemn form in the manner provided by the Rules Governing the Courts of the State of New Jersey.

Source: C. 3A:2A–15 (1977, c. 412, s. 15).

Probate of will of testator who died in military service or within 2 years of discharge.

3B:3–20. Probate of will of testator who died in military service or within 2 years of discharge. When a resident of this State dies while a member of the armed forces of the United States or within 2 years from the date of his discharge from the armed forces and no witness to his will is available in this State to prove the will, either because of death, incapacity, nonresidence, absence, or for any other reason, the will shall be admitted to probate upon proof of the signature of the testator by any two persons, provided the will was validly executed as provided in N. J. S. 3B:3–9, and the

will would have been admitted to probate if the witnesses were dead.

Source: N. J. S. 3A:3–20.

Probate of will where witnesses are in service in time of war.

3B:3–21. Probate of will where witnesses are in service in time of war. When the only living subscribing witness or witnesses, to the will of a resident of this State, is not or are not available in this State to prove the will, because of absence from the State while in the armed forces of the United States or of any ally of the United States, or while in the merchant marine, in time of war or national emergency, the will shall be admitted to probate upon proof of the signatures of the witnesses to the will, provided the will would then have been admitted to probate if the witnesses were dead.

Source: N. J. S. 3A:3–21.

Time for probate of will; preliminary filing.

3B:3–22. Time for probate of will; preliminary filing. No will shall be admitted to probate until after 10 days from the death of the testator; but the complaint and other papers in any action for the probate of a will may be filed, and the depositions of the witnesses thereto and the qualification of the executor or administrator with the will annexed may be taken at any time subsequent to the death of the testator and before the will is admitted to probate.

Source: N. J. S. 3A:3–19.

Proof of execution required in contested probate action.

3B:3–23. Proof of execution required in contested probate action. If an issue as to the execution of a will arises in a contested probate action, the testimony of at least one of the attesting witnesses, if within the State, competent and able to testify, is required. Other evidence is admissible as to the due execution of a will.

Source: C. 3A:2A–17 (1977, c. 412, s. 20).

Where a will of a resident is to be probated; effect of failure to probate.

3B:3–24. Where a will of a resident is to be probated; effect of failure to probate. The will of any person resident within any county of this State at his death may be admitted to probate in the surrogate's court of the county or in the Superior Court. If the will of any person resident within the State at his death is probated without the State, it shall be without effect unless or until probate is granted within the State.

Source: N. J. S. 3A:3–18; amended 1977, c. 412, s. 17.

Filing probate record with surrogate of any county.

3B:3–25. Filing probate record with surrogate of any county. When a will devising real estate has been duly admitted to probate by the Superior Court, any person interested therein may file with the surrogate of any county a certified copy of the will, the complaint or application for probate, the proofs, the judgment or order for probate and the letters testamentary issued thereon. The surrogate shall thereupon record them, which record, or a certified copy thereof, shall be received in evidence in any cause involving the title to real estate in that county as if the will had been originally admitted to probate before the surrogate.

Source: N. J. S. 3A:3–26.

Probate of will of nonresident probated in another state or country.

3B:3–26. Probate of will of nonresident probated in another state or country. When the will of any person not resident in this State at his death shall have been admitted to probate in any state of the United States or other jurisdiction or country, the surrogate's court of any county may admit it to probate for any purpose and issue letters thereon, provided the will is valid under the laws of this State.

Source: N. J. S. 3A:3–27; amended 1977, c. 412, s. 18.

Recording of will of nonresident probated in another state or country.

3B:3–27. Recording of will of nonresident probated in another state or country. A copy of any will or of the record of any will of a decedent not resident in this State at his death, admitted to probate in any state of the United States or other jurisdiction or country, and of the certificate or judgment for probate, and if title to real estate of the decedent depends on the conveyance by an executor, administrator with the will annexed, substituted administrator with the will annexed, trustee or substituted trustee, of the record of the grant of letters testamentary thereon, or of administration, or substitutionary administration, with the will annexed, or of a copy of the letters, attested and certified pursuant to the rules of the Supreme Court or, if it be a record of any state of the United States, exemplified and authenticated according to the act of Congress, heretofore or hereafter filed and recorded in the office of the surrogate of any county in this State, shall have the same force and effect in respect to all real estate whereof the testator died seized, as if the will had been admitted to probate and the letters aforesaid had been issued in this State, provided it appears either from the deposition in the record or the attestation clause, or by a deposition

taken under a commission or otherwise, that the will is valid under the laws of this State.

All conveyances of the real estate heretofore or hereafter made by any executor, administrator with the will annexed, substituted administrator with the will annexed, trustee, substituted trustee, or the survivor or survivors of them, or by any devisee or persons claiming under the devisee shall be as valid as if the will had been admitted to probate and letters aforesaid had been issued in this State.

Certified copies of the will, deposition, judgment for probate and letters, or of the record thereof, shall be received in evidence in all the courts of this State.

Source: N. J. S. 3A:3–28; amended 1977, c. 412, s. 19.

Probate of will of nonresident decedent where property situated in New Jersey.

3B:3–28. Probate of will of nonresident decedent where property situated in New Jersey. Where the will of any person not resident in this State at his death has not been admitted to probate in the state, jurisdiction or country in which he then resided and no proceeding is there pending for the probate of the will, and he died owning real estate situate in any county of this State or personal property, or evidence of the ownership thereof, situate therein at the time of probate, the Superior Court may admit the will to probate and grant letters thereon.

Source: N. J. S. 3A:3–29.

Probate of will of nonresident where laws of decedent's domicile are discriminatory.

3B:3–28.1. Probate of will of nonresident where laws of decedent's domicile are discriminatory. Where the will of any person who is not resident in this State at the time of his death has not been admitted to probate in the state in which he resided and no proceeding is there pending for the probate of the will, the Superior Court may admit the will to probate and grant letters thereon if the laws of that state discriminate against residents of New Jersey either as a beneficiary or as a fiduciary.

Source: New.

Order to compel production of purported will.

3B:3–29. Order to compel production of purported will. The Superior Court shall have jurisdiction to compel discovery as to the existence or whereabouts of any paper purporting to be a will of any decedent who died a resident of the county, which has not

been offered for probate, and to require the paper to be lodged with the surrogate of the county for probate.

Source: N. J. S. 3A:3–23.

Allowances by Superior Court to spouse or children pending contest over probate of will.

3B:3–30. Allowances by Superior Court to spouse or children pending contest over probate of will. If a contest is pending over the probate of any paper purporting to be a will, the Superior Court may, on application by the widow or widower of the decedent, by any of decedent's children, or by any children of any of decedent's deceased children, order the person having the custody of the decedent's estate to pay out of the income of the estate, pending the contest, an allowance for the support and maintenance of the widow, widower, child or children as the court may deem just; and any further allowance out of the income, or, if need be, out of the corpus, of the estate as may be necessary to meet the expenses incurred or to be incurred in conducting the contest.

To entitle a widow or widower to the benefit of this section the applicant must have been ceremonially married to the decedent and been living with him or her as his or her spouse at decedent's death.

Source: N. J. S. 3A:3–24; amended 1964, c. 115.

Judgment for probate; conclusive effect on title to real property after 7 years.

3B:3–31. Judgment for probate; conclusive effect on title to real property after 7 years. Where judgment has been or shall be entered by any surrogate's court in this State or the Superior Court of the State, admitting to probate the will of any person whether or not a resident of the State at his death and 7 years have elapsed after the judgment, the judgment unless set aside, shall, as to all matters adjudicated thereby, be conclusive upon the title to real estate.

Source: N. J. S. 3A:3–25.

Article 4. Construction

Requirement that devisee survive testator by 120 hours; exceptions.

3B:3–32. Requirement that devisee survive testator by 120 hours; exceptions. A devisee who does not survive the testator by 120 hours is treated as if he predeceased the testator, unless the will of decedent contains some language dealing explicitly with simultaneous deaths or deaths in a common disaster, or requiring that the devisee survive the testator or survive the testator for a stated period in order to take under the will. To the extent this section is

inconsistent with the "Uniform Simultaneous Death Law" (N. J. S. 3B:6–1 et seq.), the provision of this section shall apply.

Source: C. 3A:2A–20 (1977, c. 412, s. 23).

Choice of law as to meaning and effect of wills; testator's intention; rules of construction.

3B:3–33. Choice of law as to meaning and effect of wills; testator's intention; rules of construction. The meaning and legal effect of a disposition in a will shall be determined by the local law of a particular state selected by the testator in his instrument unless the application of that law is contrary to the public policy of this State otherwise applicable to the disposition. The intention of a testator as expressed in his will controls the legal effect of his dispositions, and the rules of construction expressed in N. J. S. 3B:3–33 through N. J. S. 3B:3–48 apply, unless the probable intention of the testator, as indicated by the will and relevant circumstances, is contrary.

Source: C. 3A:2A–21 (1977, c. 412, s. 24).

Will construed to pass all property of testator including after-acquired property.

3B:3–34. Will construed to pass all property of testator including after-acquired property. A will is construed to pass all property which the testator owns at his death including property acquired after the execution of the will.

Source: C. 3A:2A–22 (1977, c. 412, s. 25).

Anti-lapse; deceased devisee; class gifts.

3B:3–35. Anti-lapse; deceased devisee; class gifts. If a devisee who is a grandparent or a lineal descendant of a grandparent of the testator is dead at the time of the execution of the will, or fails to survive the testator, or is treated as if he predeceased the testator, the issue of the deceased devisee who survive the testator by 120 hours take in place of the deceased devisee and if they are all of the same degree of kinship to the devisee they take equally, but if of unequal degree then those of more remote degree take by representation. One who would have been a devisee under a class gift if he had survived the testator is treated as a devisee for purposes of this section whether his death occurred before or after the execution of the will.

Source: C. 3A:2A–23 (1977, c. 412, s. 26).

Failure of testamentary provision.

3B:3–36. Failure of testamentary provision. Except as provided in N. J. S. 3B:3–35 if a devise other than a residuary devise fails for any reason, it becomes a part of the residue.

Source: C. 3A:2A–24 (1977, c. 412, s. 27).

Residuary devise to two or more residuary devisees; death of one or more before testator.

3B:3–37. Residuary devise to two or more residuary devisees; death of one or more before testator. When a residuary devise shall be made to two or more persons by the will of any testator, unless a contrary intention shall appear by the will, the share of any residuary devisees dying before the testator and not saved from the lapse by N. J. S. 3B:3–35, or not capable of taking effect because of any other circumstance or cause, shall go to and be vested in the remaining residuary devisees, if any there be, and if more than one, then to the remaining residuary devisees in proportion to their respective shares in the residue.

Source: C. 3A:2A–25 (1977, c. 412, s. 28).

Construction of words "die without issue."

3B:3–38. Construction of words "die without issue." In a devise of real or personal property the words "die without issue" or "die without lawful issue" or "have no issue" or other words which may import a want or failure of issue of a person in his lifetime, or at his death, or an indefinite failure of his issue, shall be construed to mean a failure of issue at the death of the person, unless a contrary intention shall otherwise appear by the will.

Source: N. J. S. 3A:3–12.

Construction when "heirs and assigns" omitted from devise; fee passed.

3B:3–39. Construction when "heirs and assigns" omitted from devise; fee passed. When a devise of real estate within this State to any devisee omits the words "heirs and assigns" and the will contains no expressions indicating an intent to devise only an estate for life, or the real estate is not further devised after the death of the devisee, the devise shall be deemed to pass an estate in fee simple to the devisee as if the real estate had been devised to the devisee and to his heirs and assigns forever.

Source: N. J. S. 3A:3–15.

Words importing estate in fee not to prevent further devise.

3B:3–40. Words importing estate in fee not to prevent further devise. In any devise of real or personal property set forth in a will, the giving to one person of an indeterminate or other interest in the property or an estate in fee therein or absolute ownership thereof, together with a power, absolute or otherwise, to dispose of the property, shall not be construed to render void a limitation over of the property to another person which is to take effect in the event that the first named devisee shall not have disposed of the

property during his lifetime. In all those cases, the testator's intent shall be given effect.

Source: N. J. S. 3A:3–16.

Issue to take per stirpes.

3B:3–41. Issue to take per stirpes. Where under any will or trust provision is made for the benefit of issue and no contrary intention is expressed, the issue shall take per stirpes.

Source: C. 3A:3A–1 (1952, c. 221, s. 1).

Specific devise of securities; change; accessions; nonademption.

3B:3–42. Specific devise of securities; change; accessions; nonademption. a. If the testator intended a specific devise of certain securities rather than the equivalent value thereof, the specific devisee is entitled only to:

(1) As much of the devised securities as is a part of the estate at time of the testator's death;

(2) Any additional or other securities of the same entity owned by the testator by reason of action initiated by the entity and attributable to the securities devised excluding any acquired by exercise of purchase options;

(3) Securities of another entity owned by the testator as a result of a merger, consolidation, reorganization or other similar action initiated by either entity and attributable to the specific devise; and

(4) Any additional securities of the entity owned by the testator as a result of a plan of reinvestment if it is a regulated investment company and attributable to the specific devise.

b. Distributions prior to death with respect to a specifically devised security not provided for in subsection a. are not part of the specific devise.

Source: C. 3A:2A–26 (1977, c. 412, s. 29).

Specific devise; sale by or payment of condemnation award or insurance proceeds to guardian of testator.

3B:3–43. Specific devise; sale by or payment of condemnation award or insurance proceeds to guardian of testator. If specifically devised property is sold by a guardian for a testator, or if a condemnation award or insurance proceeds are paid to a guardian for a testator as a result of condemnation, fire or casualty, the specific devisee has the right to a general pecuniary devise equal to the net sale price, the condemnation award, or the insurance proceeds. This section does not apply if subsequent to the sale, condemnation or casualty, the guardianship is terminated and the testator sur-

vives by 1 year the judgment terminating the guardianship. The right of the specific devisee under this section is reduced by any right he has under N. J. S. 3B:3–44.

Source: C. 3A:2A–27 (1977, c. 412, s. 30).

Specific devise; right of devisee after sale, condemnation, casualty loss or foreclosure.

3B:3–44. Specific devise; right of devisee after sale, condemnation, casualty loss or foreclosure. A specific devisee has the right to the remaining specifically devised property and:

a. Any balance of the purchase price (together with any security interest) owing from a purchaser to the testator at death by reason of sale of the property;

b. Any amount of a condemnation award for the taking of the property unpaid at death;

c. Any proceeds unpaid at death on fire or casualty insurance on the property; and

d. Property owned by testator at his death as a result of foreclosure, or obtained in lieu of foreclosure, of the security for a specifically devised obligation.

Source: C. 3A:2A–28 (1977, c. 412, s. 31).

Exercise of power of appointment.

3B:3–45. Exercise of power of appointment. A general residuary clause in a will, or a will making general disposition of all of the testator's property, does not exercise a power of appointment held by the testator unless specific reference is made to the power or there is some other indication of intention to include the property subject to the power.

Source: C. 3A:2A–29 (1977, c. 412, s. 32).

Ademption by satisfaction.

3B:3–46. Ademption by satisfaction. Property which a testator gave in his lifetime to a person is treated as a satisfaction of a devise to that person in whole or in part, only if the will provides for deduction of the lifetime gift, or the testator declares in a contemporaneous writing that the gift is to be deducted from the devise or is in satisfaction of the devise, or the devisee acknowledges in writing that the gift is in satisfaction. For purpose of partial satisfaction, property given during lifetime is valued as of the time the devisee came into possession or enjoyment of the property or as of the time of death of the testator, whichever occurs first.

Source: C. 3A:2A–31 (1977, c. 412, s. 34).

Penalty clause for contesting will.

3B:3-47. Penalty clause for contesting will. A provision in a will purporting to penalize any interested person for contesting the will or instituting other proceedings relating to the estate is unenforceable if probable cause exists for instituting proceedings.

Source: C. 3A:2A-32 (1977, c. 412, s. 35).

Construction of generic terms included in class gift terminology.

3B:3-48. Construction of generic terms included in class gift terminology. Halfbloods, adopted persons and persons born out of wedlock are included in class gift terminology and terms of relationship in accordance with rules for determining relationships for purposes of intestate succession.

Source: C. 3A:2A-30 (1977, c. 412, s. 33).

Effect of final order of court of another state admitting will to probate or determining validity or construction.

3B:3-49. Effect of final order of court of another state admitting will to probate or determining validity or construction. A final order of a court of another state admitting a will to probate or determining the validity or construction of a will made in a proceeding involving notice to and an opportunity for contest by all interested persons must be accepted as determinative by the courts of this State if it includes, or is based upon, a finding that the decedent was domiciled at his death in the state where the order was made.

Source: C. 3A:2A-18 (1977, c. 412, s. 21).

CHAPTER 4

TESTAMENTARY ADDITIONS TO TRUSTS

3B:4-1. Short title.
3B:4-2. Devise to trustee of trust created other than by testator's will.
3B:4-3. Devise not invalidated because trust is amendable or revocable.
3B:4-4. Administration of trust.
3B:4-5. Lapse of devise.
3B:4-6. Chapter not to be construed as exclusive method for making devises to trustees.

Short title.

3B:4-1. Short title. This chapter shall be known and may be cited as the "New Jersey Testamentary Additions to Trusts Law."

Source: C. 3A:3-16.5 (1962, c. 241, s. 5).

Devise to trustee of trust created other than by testator's will.

3B:4–2. Devise to trustee of trust created other than by testator's will. A devise may be made by a will to the trustee or trustees of a trust established by a testator, or by a testator and some other person or persons, or by some other person or persons, if the trust is identified in the testator's will, and its terms are set forth in a written instrument, other than a will, executed before or concurrently with the execution of the testator's will, or in the valid last will and testament of a person who has predeceased the testator. A devise so made shall be valid and enforceable to the same extent as if the trust had been created by the testator by his will, and as if the terms of the trust, as contained in the will or other instrument creating or evidencing it, had been set out in full in the will of the testator. The existence, size or character of the trust property shall not affect the validity of the devise, nor shall any devise be invalid because the trust is a funded or unfunded life insurance trust, although the creator of the trust has reserved any or all rights of ownership of the insurance contracts.

Source: C. 3A:3–16.1 (1962, c. 241, s. 1).

Devise not invalidated because trust is amendable or revocable.

3B:4–3. Devise not invalidated because trust is amendable or revocable. A devise made as provided in N. J. S. 3B:4–2 shall not be invalid because the trust is amendable or revocable, or both, or because the trust was amended after the execution of the will or after the death of the testator.

Source: C. 3A:3–16.2 (1962, c. 241, s. 2).

Administration of trust.

3B:4–4. Administration of trust. Unless the testator's will provides otherwise, the property devised as provided in N. J. S. 3B:4–2 shall not be deemed to be held under a testamentary trust of the testator but shall become a part of the trust to which it is given and shall be administered and disposed of in accordance with the provisions of the will or other instrument setting forth the terms of the trust, including any amendments thereto made before the death of the testator, whether made before or after the execution of the testator's will, and, if the testator's will so provides, including any amendments of the trust made after the death of the testator.

Source: C. 3A:3–16.2 (1962, c. 241, s. 2).

Lapse of devise.

3B:4–5. Lapse of devise. A revocation or termination of the trust before the death of the testator shall cause the devise to lapse.

Source: C. 3A:3–16.2 (1962, c. 241, s. 2).

Chapter not to be construed as exclusive method for making devises to trustees.

3B:4–6. Chapter not to be construed as exclusive method for making devises to trustees. This chapter shall not be construed as providing an exclusive method for making devises to trustees of trusts created otherwise than by the will of the testator making the devise.

Source: C. 3A:3–16.4 (1962, c. 241, s. 4).

Chapter 5. Intestacy

Article 1. Intestate Succession

3B:5–1. Requirement that heir survive decedent by 120 hours.
3B:5–2. Intestate estate.
3B:5–3. Intestate share of surviving spouse.
3B:5–4. Intestate shares of heirs other than surviving spouse.
3B:5–5. Escheat to State.
3B:5–6. Determining representation.
3B:5–7. Relatives of the half blood.
3B:5–8. After born heirs.
3B:5–9. Adopted child.
3B:5–10. Child born out of wedlock.
3B:5–11. Debt owed by heir to decedent.
3B:5–12. Aliens not disqualified.
3B:5–13. Advancement to heir.
3B:5–14. Tenancy in common; marriage settlements.

Article 2. Inheritance by Spouse or Children Not Provided for in Will

3B:5–15. Inheritance by spouse not provided for in will.
3B:5–16. Inheritance by children not provided for in will.

Article 1. Intestate Succession

Requirement that heir survive decedent by 120 hours.

3B:5–1. Requirement that heir survive decedent by 120 hours. Any person who fails to survive the decedent by 120 hours is deemed to have predeceased the decedent for purposes of intestate succession, and the decedent's heirs are determined accordingly. If the time of death of the decedent or of the person who would

otherwise be an heir, or the times of death of both, cannot be determined, and it cannot be established that the person who would otherwise be an heir has survived the decedent by 120 hours, it is deemed that the person failed to survive for the required period. This section is not to be applied where its application would result in a taking of intestate estate by the State under N. J. S. 3B:5-6.

Source: C. 3A:2A-36 (1977, c. 412, s. 39).

Intestate estate.

3B:5-2. Intestate estate. Any part of the estate of a decedent not effectively disposed of by his will passes to his heirs as prescribed in N. J. S. 3B:5-3 through N. J. S. 3B:5-14.

Source: C. 3A:2A-33 (1977, c. 412, s. 36).

Intestate share of surviving spouse.

3B:5-3. Intestate share of surviving spouse. The intestate share of the surviving spouse is:

a. If there is no surviving issue or parent of the decedent, the entire intestate estate;

b. If there is no surviving issue but the decedent is survived by a parent or parents, the first $50,000.00, plus one-half of the balance of the intestate estate;

c. If there are surviving issue all of whom are issue of the surviving spouse also, the first $50,000.00, plus one-half of the balance of the intestate estate;

d. If there are surviving issue one or more of whom are not issue of the surviving spouse, one-half of the intestate estate.

Source: C. 3A:2A-34 (1977, c. 412, s. 37).

Intestate shares of heirs other than surviving spouse.

3B:5-4. Intestate shares of heirs other than surviving spouse. The part of the intestate estate not passing to the surviving spouse under N. J. S. 3B:5-3, or the entire intestate estate if there is no surviving spouse, passes as follows:

a. To the issue of the decedent; if they are all of the same degree of kinship to the decedent they take equally, but if of unequal degree, then those of more remote degree take by representation;

b. If there is no surviving issue, to his parent or parents equally;

c. If there is no surviving issue or parent, to the issue of the parents or either of them by representation;

d. If there is no surviving issue, parent or issue of a parent, but the decedent is survived by one or more grandparents:

(1) Half of the estate passes to the paternal grandparents equally if both survive, or to the surviving paternal grandparent; or if both are deceased and the decedent is survived by maternal grandparents or grandparent, then to the issue of the paternal grandparents, the issue taking equally if they are all of the same degree of kinship to the decedent, but if of unequal degree those of more remote degree take by representation;

(2) The other half passes to the maternal grandparents equally if both survive, or to the surviving maternal grandparent; or if both are deceased and the decedent is survived by paternal grandparents or grandparent, then to the issue of the maternal grandparents, the issue taking equally if they are all of the same degree of kinship to the decedent, but if of unequal degree, those more remote take by representation;

(3) If the decedent is survived by a grandparent or grandparents only on the paternal side or only on the maternal side and by no issue of the grandparents on the other side, the entire estate passes to the surviving grandparent or grandparents equally;

e. If there is no surviving issue, parent, issue of a parent or no surviving grandparent, but the decedent is survived by the issue of grandparents, the issue taking equally if they are all of the same degree of kinship to the decedent, but if of unequal degree those of more remote degree take by representation.

Source: C. 3A:2A–35 (1977, c. 412, s. 38).

Escheat to State.

3B:5–5. Escheat to State. If there are none who may inherit an intestate estate that estate shall escheat to the State.

Source: C. 3A:2A–37 (1977, c. 412, s. 40).

Determining representation.

3B:5–6. Determining representation. When representation is required to effect disposition of an estate, the estate is divided into as many shares as there are surviving heirs in the nearest degree of kinship and deceased persons in the same degree who left issue who survive the decedent, each surviving heir in the nearest degree receiving one share and the share of each deceased person in the same degree being divided among his issue in the same manner.

Source: C. 3A:2A–38 (1977, c. 412, s. 41).

Relatives of the half blood.

3B:5–7. Relatives of the half blood. Relatives of the half blood inherit the same share they would inherit if they were of the whole blood.

Source: C. 3A:2A–39 (1977, c. 412, s. 42).

After born heirs.

3B:5–8. After born heirs. Relatives of the decedent conceived before his death but born thereafter inherit as if they had been born in the lifetime of the decedent.

Source: C. 3A:2A–40 (1977, c. 412, s. 43).

Adopted child.

3B:5–9. Adopted child. If, for the purposes of intestate succession, a relationship of parent and child must be established to determine succession by, through or from a person, the relationships and rights of a minor adopted child shall be those as provided in section 14 of P. L. 1977, c. 367 (C. 9:3–50), and the relationships and rights of an adopted adult shall be as provided in N. J. S. 2A:22–3.

Source: C. 3A:2A–41 (1977, c. 412, s. 44; amended 1979, c. 221, s. 2).

Child born out of wedlock.

3B:5–10. Child born out of wedlock. If, for the purposes of intestate succession, a relationship of parent and child must be established to determine succession by, through or from a person, a child born out of wedlock is a child of the mother. That child is also a child of the father, if:

a. The natural parents, before or after the birth of the child, participated in a ceremonial marriage or shall have consummated a common-law marriage where the marriage is recognized as valid in the manner authorized by the law of the place where the marriage took place, even though the attempted marriage is void; or

b. The paternity is established by an adjudication before the death of the father or is established thereafter by clear and convincing proof, except that the paternity established under this subsection is ineffective to qualify the father or his kindred to inherit from or through the child unless the father has openly treated the child as his, and has not refused to support the child.

Source: C. 3A:2A–41 (1977, c. 412, s. 44; amended 1979, c. 221, s. 2).

Debt owed by heir to decedent.

3B:5–11. Debt owed by heir to decedent. A debt owed to the decedent by an heir is not charged against the intestate share of any person except that heir. If the debtor fails to survive the decedent, the debt is not taken into account in computing the intestate share of the debtor's issue.

Source: C. 3A:2A–42 (1977, c. 412, s. 45).

Aliens not disqualified.

3B:5–12. Aliens not disqualified. A person is not disqualified to take as an heir because he or a person through whom he claims is or has been an alien.

Source: C. 3A:2A–43 (1977, c. 412, s. 46).

Advancement to heir.

3B:5–13. Advancement to heir. Property given by a decedent during his lifetime to a person entitled under this article to the property as an heir of the decedent shall be treated as an advancement against that person's share of the estate only if so declared in a contemporaneous writing by the decedent or acknowledged in in writing as such by the recipient. The property advanced shall be valued as of the time the recipient came into possession or enjoyment of the property or as of the time of the death of the decedent, whichever occurs first. If the recipient fails to survive the decedent the value of the property shall not be taken into account in computing the intestate share to be received by his issue unless the declaration or acknowledgment provides otherwise.

Source: N. J. S. 3A:4–8; amended 1971, c. 374.

Tenancy in common; marriage settlements.

3B:5–14. Tenancy in common; marriage settlements. Property descending and distributable under this article to two or more persons shall devolve upon them as tenants in common. Nothing in this article shall be construed or taken to make void or in any way to affect any marriage settlement.

Source: N. J. S. 3A:4–12.

Article 2. Inheritance by Spouse or Children Not Provided for in Will

Inheritance by spouse not provided for in will.

3B:5–15. Inheritance by spouse not provided for in will. a. If a testator fails to provide by will for his surviving spouse who married the testator after the execution of the will, the omitted spouse shall receive the same share of the estate he would have received

if the decedent left no will unless it appears from the will that the omission was intentional or the testator provided for the spouse by transfer outside the will and the intent that the transfer be in lieu of a testamentary provision is shown by statements of the testator or from the amount of the transfer or other evidence.

b. The share of the spouse shall be taken from devisees under the will ratably in proportion to their respective interests therein.

c. Notwithstanding any other provision of law to the contrary, this section shall apply only to wills executed on or after September 1, 1978.

Source: C. 3A:2A–44 (1977, c. 412, s. 47; amended 1979, c. 221, s. 3).

Inheritance by children not provided for in will.

3B:5–16. Inheritance by children not provided for in will. a. If a testator fails to provide in his will for any of his children born or adopted after the execution of his will, the omitted child receives a share in the estate equal in value to that which he would have received if the testator had died intestate unless:

(1) It appears from the will that the omission was intentional;

(2) When the will was executed the testator had one or more children and devised substantially all his estate to the other parent of the omitted child; or

(3) The testator provided for the child by transfer outside the will and the intent that the transfer be in lieu of a testamentary provision is shown by statements of the testator or from the amount of the transfer or other evidence.

b. If at the time of execution of the will the testator fails to provide in his will for a living child solely because he believes the child to be dead, the child receives a share in the estate equal in value to that which he would have received if the testator had died intestate.

c. The share of the child shall be taken from devisees under the will ratably and in proportion to their respective interests therein.

Source: C. 3A:2A–45 (1977, c. 412, s. 48).

Chapter 6. Uniform Simultaneous Death Law

3B:6–1. Short title.
3B:6–2. Disposition of property of persons dying simultaneously.
3B:6–3. Division of property, two or more beneficiaries.
3B:6–4. Division of property, joint tenants or tenants by the entirety.

3B:6–5. Distribution of proceeds of life or accident policies.
3B:6–6. Chapter not to apply in certain cases.
3B:6–7. Construction and interpretation.

Short title.

3B:6–1. Short title. This chapter shall be known and may be cited as the "Uniform Simultaneous Death Law."

Source: N. J. S. 3A:5–8.

Disposition of property of persons dying simultaneously.

3B:6–2. Disposition of property of persons dying simultaneously. Where the title to property or the devolution thereof depends upon priority of death and there is no sufficient evidence that the persons have died otherwise than simultaneously, the property of each person shall be disposed of as if he had survived, except as provided otherwise in this chapter.

Source: N. J. S. 3A:5–1.

Division of property, two or more beneficiaries.

3B:6–3. Division of property, two or more beneficiaries. Where two or more beneficiaries are designated to take successively by reason of survivorship under another person's disposition of property and there is no sufficient evidence that these beneficiaries have died otherwise than simultaneously, the property thus disposed of shall be divided into as many equal portions as there are successive beneficiaries and these portions shall be distributed respectively to those who would have taken in the event that each designated beneficiary had survived.

Source: N. J. S. 3A:5–2.

Division of property, joint tenants or tenants by the entirety.

3B:6–4. Division of property, joint tenants or tenants by the entirety. Where there is no sufficient evidence that two joint tenants or tenants by the entirety have died otherwise than simultaneously, the property so held shall be distributed one-half as if one had survived and one-half as if the other had survived. If there are more than two joint tenants and all of them have so died, the property thus distributed shall be in the proportion that one bears to the whole number of joint tenants.

Source: N. J. S. 3A:5–3.

Distribution of proceeds of life or accident policies.

3B:6–5. Distribution of proceeds of life or accident policies. Where the insured and the beneficiary in a policy of life or accident insurance have died and there is no sufficient evidence that they

have died otherwise than simultaneously, the proceeds of the policy shall be distributed as if the insured had survived the beneficiary.
Source: N. J. S. 3A:5–4.

Chapter not to apply in certain cases.

3B:6–6. Chapter not to apply in certain cases. This chapter shall not apply to a devolution of property of a decedent under a will or upon intestacy, where the law provides that in order to take on the devolution, a person shall survive the decedent by 120 hours, living trusts, deeds, or contracts of insurance, wherein provision has been made for distribution of property different from the provisions of this chapter.
Source: N. J. S. 3A:5–6; amended 1977, c. 412, s. 87.

Construction and interpretation.

3B:6–7. Construction and interpretation. This chapter shall be so construed and interpreted as to effectuate its general purpose to make uniform the law in those states which enact it.
Source: N. J. S. 3A:5–7.

Chapter 7

Effect of Decedent's Intentional Death

3B:7–1. Intentional killing of decedent by spouse, heir or devisee.
3B:7–2. Intentional killing of decedent by joint tenant or tenant by the entirety; interests affected.
3B:7–3. Intentional killing of decedent by beneficiary of bond, life insurance policy or other contractual arrangement.
3B:7–4. Intentional killing of decedent by spouse; effect on right to an elective share.
3B:7–5. Other acquisitions of property by decedent's killer.
3B:7–6. Effect of final judgment of conviction.
3B:7–7. Rights of purchasers; payments made by insurance company, bank or other obligor.

Intentional killing of decedent by spouse, heir or devisee.

3B:7–1. Intentional killing of decedent by spouse, heir or devisee. A surviving spouse, heir or devisee who criminally and intentionally kills the decedent is not entitled to any benefits under a testate or intestate estate and the estate of decedent passes as if the killer had predeceased the decedent. Property appointed by the will of the decedent to or for the benefit of the killer passes as if the killer had predeceased the decedent.
Source: C. 3A:2A–83 (1977, c. 412, s. 86).

Intentional killing of decedent by joint tenant or tenant by the entirety; interests affected.

3B:7–2. Intentional killing of decedent by joint tenant or tenant by the entirety; interests affected. Any joint tenant who criminally and intentionally kills another joint tenant thereby effects a severance of the interest of the decedent so that the share of the decedent passes as his property and the killer has no rights by survivorship. This provision applies to joint tenancies and tenancies by the entirety, joint accounts in banks, savings and loan associations, credit unions and other institutions, and any other form of coownership with survivorship incidents.

Source: C. 3A:2A–83 (1977, c. 412, s. 86).

Intentional killing of decedent by beneficiary of bond, life insurance policy or other contractual arrangement.

3B:7–3. Intentional killing of decedent by beneficiary of bond, life insurance policy or other contractual arrangement. A named beneficiary of a bond, life insurance policy, or other contractual arrangement who criminally and intentionally kills the principal obligee or the person upon whose life the policy is issued is not entitled to any benefit under the bond, policy or other contractual arrangement, and it becomes payable as though the killer had predeceased the decedent.

Source: C. 3A:2A–83 (1977, c. 412, s. 86).

Intentional killing of decedent by spouse; effect on right to an elective share.

3B:7–4. Intentional killing of decedent by spouse; effect on right to an elective share. A surviving spouse who criminally and intentionally kills the decedent is not entitled to an elective share under the provisions of chapter 8 of this title.

Source: C. 3A:38A–8 (1979, c. 483, s. 8).

Other acquisitions of property by decedent's killer.

3B:7–5. Other acquisitions of property by decedent's killer. Any other acquisition of property or interest by the decedent's killer shall be treated in accordance with the principles of this chapter.

Source: C. 3A:2A–83 (1977, c. 412, s. 86).

Effect of final judgment of conviction.

3B:7–6. Effect of final judgment of conviction. A final judgment of conviction of intentional killing is conclusive for purposes of this chapter. In the absence of a conviction of intentional killing the

court may determine by a preponderance of evidence whether the killing was intentional for purposes of this chapter.

Source: C. 3A:2A–83 (1977, c. 412, s. 86); C. 3A:38A–8 (1979, c. 483, s. 8).

Rights of purchasers; payments made by insurance company, bank or other obligor.

3B:7–7. Rights of purchasers; payments made by insurance company, bank or other obligor. This chapter does not affect the rights of any person who, before rights under this chapter have been adjudicated, purchases from the killer for value and without notice property which the killer would have acquired except for this chapter, but the killer is liable for the amount of the proceeds or the value of the property. Any insurance company, bank, or other obligor making payment according to the terms of its policy or obligation is not liable by reason of this chapter unless prior to payment it has received at its home office or principal address written notice of a claim under this chapter.

Source: C. 3A:2A–83 (1977, c. 412, s. 86).

CHAPTER 8

SURVIVING SPOUSE'S RIGHT TO AN ELECTIVE SHARE

3B:8–1. Elective share of surviving spouse of person dying domiciled in this State; conditions.
3B:8–2. Elective share of surviving spouse of person dying not domiciled in this State.
3B:8–3. Meaning of "augmented estate."
3B:8–4. Valuing property transferred.
3B:8–5. Transfers excluded.
3B:8–6. Other property to be included in augmented estate.
3B:8–7. Property derived from decedent.
3B:8–8. Valuation of property derived from decedent.
3B:8–9. Presumption as to property owned or previously transferred by spouse at decedent's death.
3B:8–10. Waiving right to an elective share.
3B:8–11. Who may exercise the right to take an elective share.
3B:8–12. Filing complaint for elective share; extension of time.
3B:8–13. Notice of hearing.
3B:8–14. Withdrawal of demand for an elective share.
3B:8–15. Fixing amount of elective share; payment of elective share.
3B:8–16. Enforcing judgment.

3B:8–17. Value of surviving spouse's interest in any life estate.
3B:8–18. Satisfaction of elective share.
3B:8–19. Persons subject to contribution.

Elective share of surviving spouse of person dying domiciled in this State; conditions.

3B:8–1. Elective share of surviving spouse of person dying domiciled in this State; conditions. If a married person dies domiciled in this State, on or after May 28, 1980, the surviving spouse has a right of election to take an elective share of one-third of the augmented estate under the limitations and conditions hereinafter stated, provided that at the time of death the decedent and the surviving spouse had not been living separate and apart in different habitations or had not ceased to cohabit as man and wife, either as the result of judgment of divorce from bed and board or under circumstances which would have given rise to a cause of action for divorce or nullity of marriage to a decedent prior to his death under the laws of this State.

Source: C. 3A:38A–1 (1979, c. 483, s. 1).

Elective share of surviving spouse of person dying not domiciled in this State.

3B:8–2. Elective share of surviving spouse of person dying not domiciled in this State. If a married person not domiciled in this State dies, the right, if any, of the surviving spouse to take an elective share in property in this State is governed by the law of the decedent's domicile at death.

Source: C. 3A:38A–1 (1979, c. 483, s. 1).

Meaning of "augmented estate."

3B:8–3. Meaning of "augmented estate." The "augmented estate" means the estate reduced by funeral and administration expenses, and enforceable claims, to which is added the value of property transferred by the decedent at any time during marriage, to or for the benefit of any person other than the surviving spouse, to the extent that the decedent did not receive adequate and full consideration in money or money's worth for the transfer, if the transfer is of any of the following types:

a. Any transfer made after May 28, 1980, under which the decedent retained at the time of his death the possession or enjoyment of, or right to income from, the property;

b. Any transfer made after May 28, 1980, to the extent that the decedent retained at the time of his death a power, either alone or in conjunction with any other person, to revoke or to consume, invade or dispose of the principal for his own benefit;

c. Any transfer made after May 28, 1980, whereby property is held at the time of decedent's death by decedent and another with right of survivorship;

d. Any transfer made, after May 28, 1980, if made within 2 years of death of the decedent, to the extent that the aggregate transfers to any one donee in either of the years exceed $3,000.00.

Source: C. 3A:38A–2 (1979, c. 483, s. 2).

Valuing property transferred.

3B:8–4. Valuing property transferred. Property transferred in the manner set forth in N. J. S. 3B:8–3 is valued as of the decedent's death except that property given irrevocably to a donee during the lifetime of the decedent is valued as of the date the donee came into possession or enjoyment of the property if that occurs first.

Source: C. 3A:38A–2 (1979, c. 483, s. 2).

Transfers excluded.

3B:8–5. Transfers excluded. Any transfer of property shall be excluded from the augmented estate under N. J. S. 3B:8–3, if made with the written consent or joinder of the surviving spouse. There shall also be excluded from the augmented estate any life insurance, accident insurance, joint annuity or pension payable to a person other than the surviving spouse.

Source: C. 3A:38A–2 (1979, c. 483, s. 2).

Other property to be included in augmented estate.

3B:8–6. Other property to be included in augmented estate. There shall also be included in the augmented estate:

a. The value of property owned by the surviving spouse at the time of, or as a result of, the decedent's death to the extent that the property is derived from the decedent by means other than by testate or intestate succession without a full consideration in money or money's worth; and

b. The value of the property described in subsection a. hereof which has been transferred by the surviving spouse at any time during marriage without a full consideration in money or money's worth to any person other than the decedent which would have been includable in the spouse's augmented estate if the surviving spouse had predeceased the decedent.

Income earned by included property prior to the decedent's death is not treated as property derived from the decedent.

Source: C. 3A:38A–2 (1979, c. 483, s. 2).

Property derived from decedent.

3B:8–7. Property derived from decedent. For the purposes of N. J. S. 3B:8–6, property derived from the decedent includes, but is not limited to, any beneficial interest of the surviving spouse in a trust created by the decedent during his lifetime, any property appointed to the spouse by the decedent's exercise of a general or special power of appointment also exercisable in favor of others than the spouse, any proceeds of insurance, including accidental death benefits on the life of the decedent attributable to premiums paid by him, any lump sum immediately payable and the commuted value of the proceeds of annuity contracts under which the decedent was the primary annuitant attributable to premiums paid by him, the commuted value of amounts payable after the decedent's death under any public or private pension, disability compensation, death benefit or retirement plan, exclusive of the Federal Social Security system, by reason of service performed or disabilities incurred by the decedent, the value of the share of the surviving spouse resulting from rights in community property acquired in any other state formerly owned with the decedent and the value of any rights of dower and curtesy. Premiums paid by the decedent's employer, his partner, a partnership of which he was a member, or his creditors, are deemed to have been paid by the decedent.

Source: C. 3A:38A–2 (1979, c. 483, s. 2).

Valuation of property derived from decedent.

3B:8–8. Valuation of property derived from decedent. For the purposes of valuing property derived from the decedent as provided in N. J. S. 3B:8–6:

a. Property owned by the spouse at the decedent's death is valued as of the date of decedent's death; and

b. Property transferred by the spouse is valued at the time the transfer became irrevocable, or at the decedent's death, whichever occurs first.

Source: C. 3A:38A–2 (1979, c. 483, s. 2).

Presumption as to property owned or previously transferred by spouse at decedent's death.

3B:8–9. Presumption as to property owned or previously transferred by spouse at decedent's death. Property owned by the surviving spouse as of the decedent's death, or previously transferred by the surviving spouse, is presumed to have been derived from the decedent except to the extent that any party in interest establishes that it was derived from another source.

Source: C. 3A:38A–2 (1979, c. 483, s. 2).

Waiving right to an elective share.

3B:8–10. Waiving right to an elective share. The right of election of a surviving spouse and the rights of the surviving spouse may be waived, wholly or partially, before or after marriage before, on or after May 28, 1980, by a written contract, agreement or waiver, signed by the party waiving after fair disclosure. Unless it provides to the contrary, a waiver of "all rights" (or equivalent language) in the property or estate of a present or prospective spouse or a complete property settlement entered into after or in anticipation of separation or divorce is a waiver of all rights to an elective share by each spouse in the property of the other and a renunciation by each of all benefits which would otherwise pass to him from the other by intestate succession or by virtue of the provisions of any will executed before the waiver or property settlement.

Source: C. 3A:38A–4 (1979, c. 483, s. 4).

Who may exercise the right to take an elective share.

3B:8–11. Who may exercise the right to take an elective share. The right of election to take an elective share by a surviving spouse may be exercised only during his lifetime. In the case of a surviving spouse for whom the court has appointed a guardian to manage his estate, the right of election may be exercised only by order of the court making the appointment after finding that the election is necessary to provide adequate support of the surviving spouse during his probable life expectancy.

Source: C. 3A:38A–3 (1979, c. 483, s. 3).

Filing complaint for elective share; extension of time.

3B:8–12. Filing complaint for elective share; extension of time. The surviving spouse may elect to take his elective share in the augumented estate by filing a complaint in the Superior Court within 6 months after the appointment of a personal representative of the decedent's estate. The court may, before the time for election has expired and upon good cause shown by the surviving spouse, extend the time for election upon notice to persons interested in the estate and to distributees and recipients of portions of the augmented estate whose interests will be adversely affected by the taking of the elective share.

Source: C. 3A:38A–5 (1979, c. 483, s. 5).

Notice of hearing.

3B:8–13. Notice of hearing. The surviving spouse shall give notice of the time and place set for hearing to persons interested

in the estate and to the distributees and recipients of portions of the augmented estate whose interests will be adversely affected by the taking of the elective share.

Source: C. 3A:38A–5 (1979, c. 483, s. 5).

Withdrawal of demand for an elective share.

3B:8–14. Withdrawal of demand for an elective share. The surviving spouse may withdraw his demand for an elective share at any time before entry of a final judgment by the court.

Source: C. 3A:38A–5 (1979, c. 483, s. 5).

Fixing amount of elective share; payment of elective share.

3B:8–15. Fixing amount of elective share; payment of elective share. The court shall determine the amount of the elective share and shall order its payment from the assets of the augmented estate or by contribution as appears appropriate in the manner as hereinafter set forth in this chapter. If it appears that a fund or property included in the augmented estate has not come into the possession of the personal representative, or has been distributed by the personal representative, the court nevertheless shall fix the liability of any person who has any interest in the fund or property or who has possession thereof, whether as trustee or otherwise. The proceeding may be maintained against fewer than all persons against whom relief could be sought, but no person is subject to contribution in any greater amount than he would have been if relief had been secured against all persons subject to contribution.

Source: C. 3A:38A–5 (1979, c. 483, s. 5).

Enforcing judgment.

3B:8–16. Enforcing judgment. The judgment of the court made pursuant to N. J. S. 3B:8–15 may be enforced as other judgments are enforced by law.

Source: C. 3A:38A–5 (1979, c. 483, s. 5).

Value of surviving spouse's interest in any life estate.

3B:8–17. Value of surviving spouse's interest in any life estate. In an action for an elective share, the electing spouse's total or proportional beneficial interest in any life estate in real or personal property or in any trust shall be valued at one-half of the total value of the property or trust or of the portion of the property or trust subject to the life estate.

Source: C. 3A:38A–6 (1979, c. 483, s. 6).

Satisfaction of elective share.

3B:8–18. Satisfaction of elective share. The amount of the surviving spouse's elective share shall be satisfied by applying:

a. The value of all property, estate or interest therein, owned by the surviving spouse in his own right at the time of the decedent's death from whatever source acquired, or succeeded to by the surviving spouse as a result of decedent's death notwithstanding that the property, estate or interest or part thereof, succeeded to by the surviving spouse as the result of decedent's death has been renounced by the surviving spouse;

b. The value of the property described in subsection b. of N. J. S. 3B:8–6; and

c. The remaining property of the augmented estate is so applied that liability for the balance of the elective share of the surviving spouse is equitably apportioned among the recipients of the augmented estate in proportion to the value of their interests therein.

Source: C. 3A:38A–7 (1979, c. 483, s. 7).

Persons subject to contribution.

3B:8–19. Persons subject to contribution. Only original transferees from, or appointees of, the decedent and their donees, to the extent the donees have the property or its proceeds, are subject to the contribution to make up the elective share of the surviving spouse. A person liable to contribution may choose to give up the property transferred to him or to pay its value as fixed in the manner provided in N. J. S. 3B:8–4.

Source: C. 3A:38A–7 (1979, c. 483, s. 7).

CHAPTER 9

DISCLAIMERS OF TRANSFERS BY WILL, INTESTATE SUCCESSION OR UNDER POWERS OF TESTAMENTARY APPOINTMENT

3B:9–1. Definitions.
3B:9–2. Right to disclaim.
3B:9–3. Form and contents of instrument disclaiming.
3B:9–4. Disclaimer on behalf of decedent, minor or mentally incompetent person.
3B:9–5. Time for filing disclaimer.
3B:9–6. Filing disclaimer; service of copy.
3B:9–7. Additional filing of disclaimer where real property or interest therein is disclaimed.
3B:9–8. Manner in which property or interest disclaimed devolves.

3B:9-9. When right to disclaim is barred.
3B:9-10. Binding effect of disclaimer or waiver.
3B:9-11. Spendthrift provision not to affect right to disclaim.
3B:9-12. Right to disclaim, etc.; under other law not abridged.
3B:9-13. Extension of time to disclaim interest existing on February 28, 1980.

Definitions.

3B:9-1. Definitions. As used in this chapter:

a. A "present interest" is one to take effect in immediate possession, use or enjoyment without the intervention of a preceding estate or interest or without being dependent upon the happening of any event or thing;

b. A "future interest" is one to take effect in possession, use or enjoyment dependent upon the termination of an intervening estate or interest or the happening of any event or thing;

c. A "devisee" means any person designated in a will to receive a devise, but does not mean a trustee or trust designated in a will to receive a devise.

Source: C. 3A:25-39 (1979, c. 484, s. 1).

Right to disclaim.

3B:9-2. Right to disclaim. Any person who is a devisee or beneficiary under a testamentary instrument, or appointee under a power of appointment exercised by a testamentary instrument, including a person succeeding to a disclaimed interest, or an heir may disclaim in whole or in part the right of succession to any property or interest therein, including a future interest, by filing a disclaimer under this chapter. A disclaimer may be of a fractional share, expressed as either a percentage or dollar amount, or any limited interest or estate.

Source: C. 3A:25-40 (1979, c. 484, s. 2).

Form and contents of instrument disclaiming.

3B:9-3. Form and contents of instrument disclaiming. The instrument disclaiming shall be in writing, signed and acknowledged by the person disclaiming, and shall:

a. Describe the property or interest disclaimed;

b. If the property or interest disclaimed is real property, the municipality and county in which the real property is situated;

c. Declare the disclaimer and extent thereof.

Source: C. 3A:25-41 (1979, c. 484, s. 3).

Disclaimer on behalf of decedent, minor or mentally incompetent person.

3B:9–4. Disclaimer on behalf of decedent, minor or mentally incompetent person. A disclaimer on behalf of a decedent, minor or mentally incompetent person may be made by the personal representative of the decedent or the guardian of the estate of the minor or mentally incompetent person. The disclaimer shall not be effective unless, prior thereto, the personal representative or guardian has been authorized to disclaim by the court having jurisdiction of the estate of the decedent, minor or mentally incompetent person, after finding that it is advisable and will not materially prejudice the rights of creditors, devisees, heirs or beneficiaries of the decedent, the minor or mentally incompetent person or his creditors, as the case may be.

Source: C. 3A:25–42 (1979, c. 484, s. 4).

Time for filing disclaimer.

3B:9–5. Time for filing disclaimer. The time for filing a disclaimer shall be as follows:

a. The instrument disclaiming a present interest shall be filed not later than 9 months after the death of the decedent or of the donee of the power;

b. The instrument disclaiming a future interest shall be filed not later than 9 months after the happening of the event which determines the taker's right to possession, use or enjoyment of the property or interest;

c. The time within which a disclaimer shall be filed may be extended by the court for reasonable cause, and on notice to the persons and in a manner as the court may direct.

Source: C. 3A:25–43 (1979, c. 484, s. 5).

Filing disclaimer; service of copy.

3B:9–6. Filing disclaimer; service of copy. The disclaimer shall be filed in the office of the surrogate or Superior Court in which proceedings have been commenced or will be commenced for the administration of the estate of the decedent or deceased donee of the power. A copy of the disclaimer shall also be delivered in person or mailed by registered or certified mail to any personal representative, other fiduciary of the decedent or donee of the power or to the holder of the legal title to which the interest relates.

Source: C. 3A:25–44 (1979, c. 484, s. 6).

Additional filing of disclaimer where real property or interest therein is disclaimed.

3B:9–7. Additional filing of disclaimer where real property or interest therein is disclaimed. If real property or any interest

therein is disclaimed, the surrogate or clerk of the Superior Court, as the case may be, shall forthwith forward a copy of the disclaimer for filing in the office of the clerk or register of deeds and mortgages of the county in which the real property is situated. Each county clerk or register of deeds and mortgages shall provide a book to be entitled "Disclaimers," so arranged that he may record therein:

a. The name of the disclaimant;

b. The name of the decedent or the name of the donee of the power of appointment;

c. The location of the property;

d. The file number of the county clerk's office or the office of register of deeds and mortgages indorsed upon each disclaimer filed;

e. The date of filing the disclaimer.

The county clerk or the register of deeds and mortgages shall maintain in the record an alphabetical index of the names of all disclaimants stated in any disclaimer file, and also keep in his office for public inspection, all disclaimers so filed therein.

Source: C. 3A:25-44 (1979, c. 484, s. 6).

Manner in which property or interest disclaimed devolves.

3B:9-8. Manner in which property or interest disclaimed devolves. Unless the decedent or donee of the power has otherwise provided, the property or interest disclaimed devolves:

a. As to a present interest, as if the disclaimant had predeceased the decedent or, if the disclaimant is designated to take under a power of appointment exercised by a testamentary instrument, as if the disclaimant had predeceased the donee of the power;

b. As to a future interest as if the disclaimant had died before the event determining that the taker of the property or interest is finally ascertained and his interest is indefeasibly vested; and

c. A disclaimer relates back for all purposes to the date of death of the decedent or the donee of the power.

Source: C. 3A:25-45 (1979, c. 484, s. 7).

When right to disclaim is barred.

3B:9-9. When right to disclaim is barred. The right of a person to disclaim property or any interest therein is barred, if before the expiration of the period of time in which he is permitted to disclaim:

a. The property or interest is seized under judicial process issued against him; or

b. He accepts or exercises control as beneficial owner over all or any part of the property or interest; or

c. He voluntarily transfers or encumbers or contracts to transfer or encumber all or any part of the property or interest; or

d. He disclaims or attempts to disclaim all or any part of the property or interest in fraud of his creditors as set forth in the "Uniform Fraudulent Conveyance Law" (R. S. 25:2–7 et seq.); or

e. He executes a written waiver of his right to disclaim.

Source: C. 3A:25–46 (1979, c. 484, s. 8).

Binding effect of disclaimer or waiver.

3B:9–10. Binding effect of disclaimer or waiver. The disclaimer or the written waiver of the right to disclaim shall be binding upon the disclaimant or person waiving and all persons claiming by, through or under him.

Source: C. 3A:25–47 (1979, c. 484, s. 9).

Spendthrift provision not to affect right to disclaim.

3B:9–11. Spendthrift provision not to affect right to disclaim. The right to disclaim exists notwithstanding any limitation on the interest of the disclaimant in the nature of a spendthrift provision or similar restriction.

Source: C. 3A:25–48 (1979, c. 484, s. 10).

Right to disclaim, etc.; under other law not abridged.

3B:9–12. Right to disclaim, etc.; under other law not abridged. This chapter does not abridge the right of a person to waive, release, disclaim or renounce property or an interest therein under any other statute.

Source: C. 3A:25–49 (1979, c. 484, s. 11).

Extension of time to disclaim interest existing on February 28, 1980.

3B:9–13. Extension of time to disclaim interest existing on February 28, 1980. An interest in property existing on February 28, 1980, as to which, if a present interest, the time for filing a disclaimer under this chapter has not expired, or if a future interest, the interest has not become indefeasibly vested or the taker finally ascertained, may be disclaimed within 9 months after February 28, 1980.

Source: C. 3A:25–50 (1979, c. 484, s. 12).

CHAPTER 10
PERSONAL REPRESENTATIVES

Article 1. Administration

3B:10–1. Grant of letters of administration.
3B:10–2. To whom letters of administration granted.
3B:10–3. When spouse entitled to assets without administration.
3B:10–4. When heirs entitled to assets without administration.
3B:10–5. Discharge of corporations or persons making payments or delivering assets under N. J. S. 3B:10–3 or N. J. S. 3B:10–4.
3B:10–6. Acts of administrator before notice of will.
3B:10–7. Ancillary administration on estate of nonresident intestate.
3B:10–8. Administration by creditor of nonresident decedent.
3B:10–9. Record of appointment of personal representative; evidentiary effect.
3B:10–10. Executor de son tort.
3B:10–11. Administration ad prosequendum on death by wrongful act.
3B:10–12. Temporary administration.
3B:10–13. Duty to apply in this State for original letters of administration.

Article 2. Executors

3B:10–14. Appointment of debtor as executor; debt not discharged.

Article 3. Substituted Administrators

3B:10–15. Appointment of substituted administrators.
3B:10–16. Decedent's will to be observed.
3B:10–17. Manner in which appointment shall be made.
3B:10–18. When appointment unnecessary.

Article 4. Duties and Powers of Personal Representatives

3B:10–19. Commencement of duties and powers of a personal representative.
3B:10–20. Ratification of prior acts.
3B:10–21. Carrying out decedent's written funeral instructions.
3B:10–22. Priority among letters.
3B:10–23. Duty of personal representative to settle and distribute estate.
3B:10–24. Liability for acts of administration or distribution.
3B:10–25. Standing to sue or be sued.

3B:10–26. Standards of care to be observed.
3B:10–27. Right to possession of property transferred in fraud of creditors.
3B:10–28. Expeditious settlement and distribution.
3B:10–29. Possession and control of estate.
3B:10–30. Power over title to property.
3B:10–31. Powers and duties of successor representative.
3B:10–32. Powers of surviving copersonal representative.

Article 1. Administration

Grant of letters of administration.

3B:10–1. Grant of letters of administration. The surrogate's court of the county in which a decedent resided at the time of his death, or the Superior Court, may grant letters of general administration on the estate of the decedent.

Source: N. J. S. 3A:6–3.

To whom letters of administration granted.

3B:10–2. To whom letters of administration granted. If any person dies intestate, administration of the intestate's estate shall be granted to the surviving spouse of the intestate, if he or she will accept the administration, and, if not, or if there be no surviving spouse, then to the remaining heirs of the intestate, or some of them, if they or any of them will accept the administration, and, if none of them will accept the administration, then to any other person as will accept the administration.

If the intestate leaves no heirs justly entitled to the administration of his estate, or if his heirs shall not claim the administration within 40 days after the death of the intestate, the Superior Court or surrogate's court may grant letters of administration to any fit person applying therefor.

Source: N. J. S. 3A:6–4.

When spouse entitled to assets without administration.

3B:10–3. When spouse entitled to assets without administration. Where the total value of the real and personal assets of the estate of an intestate will not exceed $10,000.00, the surviving spouse upon the execution of an affidavit before the surrogate of the county where the intestate resided at his death, or, if then nonresident in this State, where any of the assets are located, or before the Superior Court, shall be entitled absolutely to all the real and personal assets without administration, and the assets of the estate up to $5,000.00 shall be free from all debts of the intestate. Upon the execution and filing of the affidavit as provided in this section,

the surviving spouse shall have all of the rights, powers and duties of an administrator duly appointed for the estate. The surviving spouse may be sued and required to account as if he had been appointed administrator by the surrogate or the Superior Court. The affidavit shall state that the affiant is the surviving spouse of the intestate and that the value of the intestate's real and personal assets will not exceed $10,000.00, and shall set forth the residence of the intestate at his death, and specifically the nature, location and value of the intestate's real and personal assets. The affidavit shall be filed and recorded in the office of such surrogate or, if the proceeding is before the Superior Court, then in the office of the clerk of that court.

Source: N. J. S. 3A:6–5; amended 1955, c. 114, s. 1; 1959, c. 100, s. 1; 1965, c. 135, s. 1; 1971, c. 295; 1979, c. 316, s. 1.

When heirs entitled to assets without administration.

3B:10–4. When heirs entitled to assets without administration. Where the total value of the real and personal assets of the estate of an intestate will not exceed $5,000.00 and the intestate leaves no surviving spouse, and one of his heirs shall have obtained the consent in writing of the remaining heirs, if any, and shall have executed before the surrogate of the county where the intestate resided at his death, or, if then nonresident in this State, where any of the intestate's assets are located, or before the Superior Court, the affidavit herein provided for, shall be entitled to receive the assets of the intestate for the benefit of all the heirs and creditors without administration or entering into a bond. Upon executing the affidavit, and upon filing it and the consent, he shall have all the rights, powers and duties of an administrator duly appointed for the estate and may be sued and required to account as if he had been appointed administrator by the surrogate or the Superior Court.

The affidavit shall set forth the residence of the intestate at his death, the names, residences and relationships of all of the heirs and specifically the nature, location and value of the real and personal assets and also a statement that the value of the intestate's real and personal assets will not exceed $5,000.00.

The consent and the affidavit shall be filed and recorded, in the office of the surrogate or, if the proceeding is before the Superior Court, then in the office of the clerk of that court.

Source: N. J. S. 3A:6–6; amended 1955, c. 114, s. 2; 1959, c. 100, s. 2; 1965, c. 135, s. 2; 1979, c. 316, s. 2.

Discharge of corporations or persons making payments or delivering assets under N. J. S. 3B:10-3 or N. J. S. 3B:10-4.

3B:10–5. Discharge of corporations or persons making payments or delivering assets under N. J. S. 3B:10–3 or N. J. S. 3B:10–4. Any bank, building and loan association, association, as defined in section 5 of the "Savings and Loan Act (1963)," P. L. 1963, c. 144 (C. 17:12B–5), or any other corporation or any person, association or society, which pays or delivers any assets of the intestate to the person executing an affidavit under N. J. S. 3B:10–3 or N. J. S. 3B:10–4, upon presentation of a copy of the affidavit marked a true copy by the surrogate or the clerk of the Superior Court, shall be forever discharged from all claims by any administrator of the intestate who may be appointed or by any other person, as to the assets so paid or delivered, and this, notwithstanding that the total value of the real and personal assets does in fact exceed the amount limited by N. J. S. 3B:10–3 or N. J. S. 3B:10–4 or that the statements in the affidavit are erroneous or that the consent required by N. J. S. 3B:10–4 has not been obtained.

Source: N. J. S. 3A:6–7; amended 1955, c. 114, s. 3; 1959, c. 100, s. 3; 1968, c. 203.

Acts of administrator before notice of will.

3B:10–6. Acts of administrator before notice of will. Lawful acts performed in good faith by an administrator before notice of a will and purchases or transfers made by him in good faith before notice shall remain valid and shall not be impeached or altered by an executor upon probate of the will.

Nothing in this section shall be construed to relieve the administrator of any liability to the executor under the will for property unadministered or maladministered.

Source: N. J. S. 3A:6–8.

Ancillary administration on estate of nonresident intestate.

3B:10–7. Ancillary administration on estate of nonresident intestate. Where a nonresident dies intestate seized of real property or possessed of personal property in this State, or where the evidence of his personal property shall be in the hands of any resident of this State, the surrogate's court of the county wherein any of the real or personal property or evidence thereof, is situate, or the Superior Court, shall, in an action upon satisfactory proof of intestacy, issue letters of administration upon the estate of the nonresident to the administrator of his estate or, on notice to the administrator as the court shall require, to any person who would

be entitled to administration if the intestate had been a resident at his death.

Source: N. J. S. 3A:6–9.

Administration by creditor of nonresident decedent.

3B:10–8. Administration by creditor of nonresident decedent. If a personal representative of a nonresident decedent fails to apply in this State for letters testamentary or of administration within 60 days next after the death of the decedent and there is real or personal property of the decedent within this State, or the evidence thereof in the hands of a resident of this State, the surrogate's court of a county wherein the real property, or personal property or evidence, is situate, or the Superior Court, may, in an action by any person resident or nonresident, alleging himself to have a debt or legal claim against the decedent which by the law of this State survives against his representatives, issue letters of administration, with the will annexed or otherwise as the case may require, to some fit person to be designated by the court.

Prior to an appointment pursuant to this section, notice shall be given the foreign personal representative as the court shall prescribe.

Source: N. J. S. 3A:6–10.

Record of appointment of personal representative; evidentiary effect.

3B:10–9. Record of appointment of personal representative; evidentiary effect. If any person shall desire to have the appointment of a personal representative appointed in another state recorded in this State for the purpose of manifesting the authority of the personal representative to release or discharge real estate in this State from any mortgage, judgment, other lien or encumbrance which was held by his decedent the surrogate of the county wherein the real estate is situate, or the clerk of the Superior Court, may, upon the presentation to him of an exemplified copy of the record of the appointment of the personal representative, record and file the exemplified copy in his office, and the record or certified copies thereof shall be received as evidence in all courts of this State.

Source: N. J. S. 3A:6–11.

Executor de son tort.

3B:10–10. Executor de son tort. Whereas it is sometimes practiced to the defrauding of creditors, that persons who are entitled to the administration of the estate of an intestate will not accept administration, but suffer or procure the administration to be granted

to others of indigent circumstances, from whom they, or others, by their means, by deeds of gifts, or by letters of attorney, obtain the estate of the intestate into their hands, and are not subject to the payment of the debts of the intestate, and so the creditors cannot have or recover their just debts and demands; therefore, if any person shall obtain, receive and have, any property or debts of an intestate, or a release or other discharge of any debt or duty due the intestate, upon any fraud as herein provided, without valuable consideration as shall amount to the value of the property or debts, or near thereabouts except it be in or towards satisfaction of some just debt, of the value of the same property or debts, to him owing by the intestate at the time of his decease, the person shall be charged and chargeable as executor of his own wrong so far only, as all the property and debts coming to his hands, or whereof he is released or discharged by the administrator, will satisfy. However he shall not be charged for those just debts, contracted without fraud and upon a good consideration, which are owing to him by the intestate at the time of his decease, nor for payments made by him which lawful executors or administrators ought to pay.

Source: N. J. S. 3A:6–12.

Administration ad prosequendum on death by wrongful act.

3B:10–11. Administration ad prosequendum on death by wrongful act. The surrogate's court of the county wherein an intestate resided at his death, or, if the intestate resided outside the State, the surrogate's court of the county wherein the accident resulting in death occurred, or the Superior Court, may grant letters of administration ad prosequendum to the person entitled by law to general administration. An administrator ad prosequendum shall not be required to give bond.

Source: N. J. S. 3A:6–13.

Temporary administration.

3B:10–12. Temporary administration. The Superior Court may grant administration ad litem, temporary administration, administration pendente lite, or any form of limited administration.

Source: N. J. S. 3A:6–14.

Duty to apply in this State for original letters of administration.

3B:10–13. Duty to apply in this State for original letters of administration. When an intestate is resident in any county of New Jersey at his death, it shall be the duty of the heir or any other person desiring original letters of administration upon his estate

to make application therefor to the surrogate of that county or to the Superior Court of this State.

Any person having knowledge of the grant in a foreign jurisdiction of original letters of administration upon the estate of a person dying resident in any county of New Jersey, shall give information thereof to the Superior Court.

The court may direct the clerk of the court to issue and have served subpenas or an order to show cause requiring the appearance before it, at a specified time, of any persons having any interest in the estate, and commanding them to abide the order of the court. The matter of the grant of letters of adminstration shall be wholly within the jurisdiction of the court.

Source: N. J. S. 3A:6–15.

Article 2. Executors

Appointment of debtor as executor; debt not discharged.

3B:10–14. Appointment of debtor as executor; debt not discharged. The appointment of a debtor as executor shall not, unless otherwise expressed in the will, be construed to discharge the executor from payment of the debt, but the debt shall be considered an asset in the hands of the executor and shall be accounted for in the same manner as any other part of the decedent's estate.

Source: N. J. S. 3A:6–2.

Article 3. Substituted Administrators

Appointment of substituted administrators.

3B:10–15. Appointment of substituted administrators. When a sole or sole surviving or remaining executor or administrator, with or without the will annexed, dies or is removed or discharged by the court after qualifying and entering upon the duties of his office but before the completion thereof, the vacancy so created shall, except as hereinafter provided, be filled by the appointment of a fit person to exercise the vacated office. The person so appointed shall be nominated substituted administrator with the will annexed or substituted administrator, as the case may be.

Source: N. J. S. 3A:6–45.

Decedent's will to be observed.

3B:10–16. Decedent's will to be observed. Where administration is granted with the will annexed, the will of the decedent therein expressed shall be observed and performed.

Source: N. J. S. 3A:6–1.

Manner in which appointment shall be made.

3B:10–17. Manner in which appointment shall be made. The appointment shall be made by the issuance of letters of substitutionary administration, with or without the will annexed as the case may be, by the surrogate's court or the Superior Court in the manner and upon the conditions prescribed for granting letters of administration to the first administrators in other cases.

Source: N. J. S. 3A:6–45.

When appointment unnecessary.

3B:10–18. When appointment unnecessary. The appointment of a substituted administrator shall not be required if the unadministered assets of the intestate or testator consist of money on deposit in a bank, trust company or savings and loan association not exceeding $1,000.00, in which event it shall be lawful for the Superior Court, in an action brought by any party in interest, to authorize the bank, trust company or savings and loan association to distribute to the persons entitled by law to receive the assets. Payments made pursuant to the authority of this section shall release the bank, trust company or savings and loan association from any claim of, or liability to, any person interested in the estate.

Source: N. J. S. 3A:6–45.

Article 4. Duties and Powers of Personal Representatives

Commencement of duties and powers of personal representative.

3B:10–19. Commencement of duties and powers of personal representative. The duties and powers of a personal representative commence upon his appointment. The powers of a personal representative relate back in time to give acts by the person appointed which are beneficial to the estate occurring prior to appointment the same effect as those occurring thereafter.

Source: C. 3A:2A–49 (1977, c. 412, s. 52).

Ratification of prior acts.

3B:10–20. Ratification of prior acts. A personal representative may ratify and accept acts on behalf of the estate done by others where the acts would have been proper for a personal representative.

Source: C. 3A:2A–49 (1977, c. 412, s. 52).

Carrying out decedent's written funeral instructions.

3B:10–21. Carrying out decedent's written funeral instructions. Prior to appointment, a person named executor in a will may carry

out written instructions of the decedent relating to his body, funeral and burial arrangements.

Source: C. 3A:2A–49 (1977, c. 412, s. 52).

Priority among letters.

3B:10–22. Priority among letters. A person to whom general letters of appointment are issued first has exclusive authority under the letters until his appointment is terminated or modified. If, through error, general letters of appointment are afterwards issued to another, the first appointed personal representative may recover any property of the estate in the hands of the personal representative subsequently appointed, but the acts of the latter done in good faith before notice of the first letters are not void for want of validity of appointment.

Source: C. 3A:2A–50 (1977, c. 412, s. 53).

Duty of personal representative to settle and distribute estate.

3B:10–23. Duty of personal representative to settle and distribute estate. A personal representative is under a duty to settle and distribute the estate of the decedent in accordance with the terms of any probated and effective will and applicable law, and as expeditiously and efficiently as is consistent with the best interests of the estate. He shall use the authority conferred upon him by law, the terms of the will, if any, and any order in proceedings to which he is a party for the best interests of successors to the estate.

Source: C. 3A:2A–51 (1977, c. 412, s. 54; amended 1979, c. 221, s. 4).

Liability for acts of administration or distribution.

3B:10–24. Liability for acts of administration or distribution. A personal representative shall not be surcharged for acts of administration or distribution if the conduct in question was authorized at the time. Subject to other obligations of administration, a probated will is authority to administer and distribute the estate according to its terms. An order of appointment of a personal representative is authority to distribute apparently intestate assets to the heirs of the decedent if, at the time of distribution, the personal representative is not aware of a pending proceeding to probate a will or to determine heirs, a proceeding to vacate an order entered in an earlier proceeding to probate a will, a formal proceeding questioning his appointment or fitness to continue. Nothing in this section affects the duty of the personal representative to administer and distribute the estate in accordance with the rights of claimants and others interested in the estate.

Source: C. 3A:2A–51 (1977, c. 412, s. 54; amended 1979, c. 221, s. 4).

Standing to sue and be sued.

3B:10–25. Standing to sue and be sued. Except as to proceedings which do not survive the death of the decedent, a personal representative of a decedent domiciled in this State at his death has the same standing to sue and be sued in the courts of this State and the courts of any other jurisdiction as his decedent had immediately prior to death.

Source: C. 3A:2A–51 (1977, c. 412, s. 54; amended 1979, c. 221, s. 4).

Standards of care to be observed.

3B:10–26. Standards of care to be observed. Except as otherwise provided by the terms of a decedent's will, the personal representative shall observe the standards in dealing with the estate assets that would be observed by a prudent man dealing with the property of another, and if the personal representative has special skills or is named personal representative on the basis of representations of special skills or expertise, he is under a duty to use those skills.

Source: C. 3A:2A–51 (1977, c. 412, s. 54; amended 1979, c. 221, s. 4).

Right to possession of property transferred in fraud of creditors.

3B:10–27. Right to possession of property transferred in fraud of creditors. The right to possession of property transferred in fraud of creditors recovered for the benefit of creditors is exclusively in the personal representative.

Source: C. 3A:2A–52 (1977, c. 412, s. 55).

Expeditious settlement and distribution.

3B:10–28. Expeditious settlement and distribution. A personal representative shall proceed expeditiously with the settlement and distribution of a decedent's estate and do so without adjudication, order, or direction of a court, but he may invoke the jurisdiction of a court, in proceedings authorized by law to resolve questions concerning the estate or its administration.

Source: C. 3A:2A–53 (1977, c. 412, s. 56).

Possession and control of estate.

3B:10–29. Possession and control of estate. Except as otherwise provided by a decedent's will, every personal representative has a right to, and shall take possession or control of, the decedent's property, except that any tangible personal property may be left with or surrendered to the person presumptively entitled thereto unless or until, in the judgment of the personal representative, possession of the property by him will be necessary for purposes of administration. The request by a personal representative for

delivery of any property possessed by an heir or devisee is conclusive evidence, in any action against the heir or devisee for possession thereof, that the possession of the property by the personal representative is necessary for purposes of administration. The personal representative shall pay taxes on, and take all steps reasonably necessary for the management, protection and preservation of, the estate in his possession. He may maintain an action to recover possession of property or to determine the title thereto.

Source: C. 3A:2A–54 (1977, c. 412, s. 57; amended 1979, c. 221, s. 5).

Power over title to property.

3B:10–30. Power over title to property. Until termination of his appointment a personal representative has the same power over the title to property of the estate that an absolute owner would have, in trust however, for the benefit of the creditors and others interested in the estate. This power may be exercised without notice, hearing, or order of court.

Source: C. 3A:2A–55 (1977, c. 412, s. 58).

Powers and duties of successor representative.

3B:10–31. Powers and duties of successor representative. A successor personal representative has the same power and duty as the original personal representative to complete the administration and distribution of the estate, as expeditiously as possible, but he shall not exercise any power expressly made personal to the executor named in the will.

Source: C. 3A:2A–56 (1977, c. 412, s. 59).

Powers of surviving copersonal representative.

3B:10–32. Powers of surviving copersonal representative. Unless the terms of the will otherwise provide, every power exercisable by copersonal representatives may be exercised by the one or more remaining after the appointment of one or more is terminated, and if one of two or more nominated as copersonal representatives is not appointed, those appointed may exercise all the powers incident to the office.

Source: C. 3A:2A–57 (1977, c. 412, s. 60).

CHAPTER 11

TRUSTS AND TRUSTEES

Article 1. Generally

3B:11-1. Creator's reserved interest in trust alienable subject to creditors' claims.
3B:11-2. Letters of trusteeship under a will.
3B:11-3. Trustees construed to be joint tenants.
3B:11-4. Effect to be given consent by holders of general powers of appointment upon beneficiaries.

Article 2. Additional or Substituted Trustees

3B:11-5. Trustee's death or failure to act; appointment of new trustee by court; powers.
3B:11-6. Vacancy in trusteeship upon discharge or removal.
3B:11-7. Powers of new, substituted or additional trustees.

Article 3. Charitable Trusts

3B:11-8. Short title.
3B:11-9. Definitions.
3B:11-10. Provision included in trust instruments governing non-profit corporations administering private foundation trusts.
3B:11—11. Provision included in trust instruments governing split-interest trusts or private foundation trusts.
3B:11-12. Execution of instrument stating certain provisions not applicable to trust; filing.
3B:11-13. Construction of article.
3B:11-14. Power of courts or Attorney General not impaired by article.
3B:11-15. Application of article.

Article 1. Generally

Creator's reserved interest in trust alienable subject to creditors' claims.

3B:11-1. Creator's reserved interest in trust alienable subject to creditors' claims. The right of any creator of a trust to receive either the income or the principal of the trust or any part of either thereof, presently or in the future, shall be freely alienable and shall be subject to the claims of his creditors, notwithstanding any provision to the contrary in the terms of the trust.

Source: N. J. S. 3A:42-1.

Letters of trusteeship under a will.

3B:11–2. Letters of trusteeship under a will. A testamentary trustee or substituted testamentary trustee, before exercising the authority vested in him by virtue of any will admitted to probate by the Superior Court, or any surrogate's court of this State, shall obtain letters of trusteeship from that court.

Source: N. J. S. 3A:6–16.

Trustees construed to be joint tenants.

3B:11–3. Trustees construed to be joint tenants. All estates heretofore or hereafter granted or devised to trustees shall be construed to have vested and to vest an estate of joint tenancy in the trustees.

When a trustee is removed a conveyance or devise from the removed trustee to the old and new trustees or to the new trustees shall vest in the old and new trustees or the new trustees an estate in joint tenancy, notwithstanding any want of unity.

When a trustee dies or resigns or his office becomes vacant for any cause, and a new trustee is appointed, the surviving trustees, if any there be, and the new trustees shall hold the trust estate as joint tenants, and a conveyance of a right and interest in the trust estate from the surviving trustees, to the new trustee shall vest in all the trustees an estate in joint tenancy, notwithstanding any want of unity.

When a new, additional or substituted trustee is appointed by a court of competent jurisdiction or becomes such by operation of the terms of a will or other instrument or by operation of law, title to the trust assets shall forthwith vest in all the trustees in office including the new, additional or substituted trustee as joint tenants.

Source: N. J. S. 3A:6–48.

Effect to be given consent by holders of general powers of appointment upon beneficiaries.

3B:11–4. Effect to be given consent by holders of general powers of appointment upon beneficiaries. For the purpose of granting consent or approval with regard to the acts or accounts of a fiduciary or trustee, including relief from liability or penalty for failure to post bond, or to perform other duties, and for purposes of consenting to modification or termination of a trust or to deviation from its terms, the sole holder or all coholders of a presently exercisable general power of appointment, including one in the form of a power of amendment or revocation, are deemed to act

for beneficiaries to the extent that the interests of the beneficiaries as objects, takers in default, or otherwise are subject to the power. As used in this section, a presently exercisable general power of appointment is one which enables the power holder to presently draw absolute ownership to himself.

Source: C. 3A:2A–29.1 (1979, c. 219).

Article 2. Additional or Substituted Trustees

Trustee's death or failure to act; appointment of new trustee by court; powers.

3B:11–5. Trustee's death or failure to act; appointment of new trustee by court; powers. When a trustee appointed by a will probated in the surrogate's court of any county or a trustee appointed under a trust inter vivos as to real or personal property situate in any county fails or refuses to act or dies before the execution or completion of the trust committed to him, or absconds or removes from this State, is adjudicated a mental incompetent or becomes in any manner legally incapable of executing the trust, the Superior Court may remove the trustee, if he be alive, and appoint a suitable person or persons to execute the trust, and the trustee or trustees so appointed shall be entitled to the trust estate as fully and in the same manner as the original trustee was and shall have all the power and discretion of the original trustee.

Source: N. J. S. 3A:6–49.

Vacancy in trusteeship upon discharge or removal.

3B:11–6. Vacancy in trusteeship upon discharge or removal. When a trustee is removed or discharged by the Superior Court before the completion of the trust, the court may appoint a fit person or persons to fill the vacated office.

Source: N. J. S. 3A:6–50.

Powers of new, substituted or additional trustees.

3B:11–7. Powers of new, substituted or additional trustees. A duly appointed new, substituted or additional trustee shall have the same power and discretion with respect to the investment, management, conversion, sale or other disposition of the trust estate, whether real or personal, as was given to or vested in the original trustee or trustees named in or appointed by the will or other instrument creating or continuing the trust, notwithstanding the power or discretion may be directed by the will or other instrument to be exercised at the discretion of the original trustee or trustees unless the power or discretion of the original trustee or

trustees is expressly prohibited by the will or other instrument to any new, substituted or additional trustee.
Source: N. J. S. 3A:6–51.

Article 3. Charitable Trusts

Short title.

3B:11–8. Short title. This article shall be known and may be cited as the "Charitable Trust Law of 1971."
Source: C. 3A:43–1 (1971, c. 338, s. 1).

Definitions.

3B:11–9. Definitions. As used in this article:

a. "Code" means the Internal Revenue Code of 1954 as amended;

b. "Private foundation trust" means a charitable trust which is a private foundation described in section 509 (a) of the code, including each nonexempt charitable trust described in section 4947 (a) (1) of the code which is treated as a private foundation;

c. "Split-interest trust" means a nonexempt split-interest trust described in section 4947 (a) (2) of the code, but only to the extent that section 508 (e) of the code is applicable to the nonexempt split-interest trust under section 4947 (a) (2) of the code;

d. "Trust instrument" means a will, deed, agreement, court order, or other instrument pursuant to which money or other property is entrusted to a fiduciary, and also means the certificate of incorporation of a nonprofit corporation administering a charitable foundation trust;

e. "Trustee" means every fiduciary administering a trust instrument, and includes a corporation which is a private charitable foundation administering a private foundation trust;

f. "Trust" means private foundation trusts and split-interest trusts.
Source: C. 3A:43–2 (1971, c. 338, s. 2).

Provision included in trust instruments governing nonprofit corporations administering private foundation trusts.

3B:11–10. Provision included in trust instruments governing nonprofit corporations administering private foundation trusts. Notwithstanding any provision to the contrary contained in any law of this State or in any trust instrument, and except as otherwise provided in N. J. S. 3B:11–12, each trust instrument governing a nonprofit corporation administering a private foundation trust shall, by virtue of this article, and without any further act by any person or persons, be deemed to include the following:

"This corporation shall make distributions at times and in a manner as not to subject it to tax under section 4942 of the Internal Revenue Code of 1954 as amended, and shall not engage in any act of self-dealing as defined in section 4941 of the code, and shall not retain any excess business holdings as defined in section 4943 of the code, and shall not make any investments as defined in section 4944 of the code, and shall not make any taxable expenditure which would subject it to tax under section 4945 of the code."
Source: C. 3A:43–3 (1971, c. 338, s. 3).

Provision included in trust instruments governing split-interest trusts or private foundation trusts.

3B:11–11. Provision included in trust instruments governing split-interest trusts or private foundation trusts. Notwithstanding any provision to the contrary contained in any law of this State or in any trust instrument, and except as otherwise provided in N. J. S. 3B:11–12, each trust instrument governing a split-interest trust or a private foundation trust other than one as described in N. J. S. 3B:11–10, shall, by virtue of this article and without any further act by any person or persons, be deemed to include the following:

"Distributions of this trust shall be made at times and in a manner as not to subject the trust to tax under section 4942 of the Internal Revenue Code of 1954, as amended, and shall not engage in any act of self-dealing as defined in section 4941 of the code, and shall not retain any excess business holdings as defined in section 4943 of the code, and shall not make any investment as defined in section 4944 of the code, and shall not make any taxable expenditure which would subject it to tax under section 4945 of the code."
Source: C. 3A:43–4 (1971, c. 338, s. 4).

Execution of instrument stating certain provisions not applicable to trust; filing.

3B:11–12. Execution of instrument stating certain provisions not applicable to trust; filing. The trustee or trustees of any trust may, without judicial proceedings, execute an instrument stating that the provisions of N. J. S. 3B:11–10 or N. J. S. 3B:11–11, as the case may be, shall not be applicable to the trust, and upon filing a copy thereof in the office of the Secretary of State of this State, the provisions of N. J. S. 3B:11–10 or N. J. S. 3B:11–11, as the case may be, shall not apply to the trust.
Source: C. 3A:43–5 (1971, c. 338, s. 5).

Construction of article.

3B:11–13. Construction of article. This article shall be so construed as to enable split-interest trusts and private foundation trusts to qualify for the maximum tax exemptions available to those trusts under the Internal Revenue Code of 1954 as amended.

Source: C. 3A:43–6 (1971, c. 338, s. 6).

Power of courts or Attorney General not impaired by article.

3B:11–14. Power of courts or Attorney General not impaired by article. Nothing in this article shall impair the power conferred by law upon the courts or the Attorney General of this State with respect to any trust subject to the provisions of this article.

Source: C. 3A:43–7 (1971, c. 338, s. 7).

Application of article.

3B:11–15. Application of article. This article shall apply to all trusts, as defined herein, whether created before or after December 13, 1971.

Source: C. 3A:43–8 (1971, c. 338, s. 8).

Chapter 12

Minors and Mental Incompetents

Article 1. Protective Arrangements

3B:12–1. Power of the court to order a protective arrangement.
3B:12–2. Matters within a protective arrangement.
3B:12–3. Factors to be considered before approving a protective arrangement.
3B:12–4. Appointment of special guardian.
3B:12–5. Right of alleged mental incompetent to trial on issue of mental incompetency.

Article 2. When Appointment of Guardian for Minor's Estate Unnecessary

3B:12–6. Circumstances under which money may be paid or personal property delivered.
3B:12–7. When payment of money or delivery of property prohibited.
3B:12–8. Application of money and property; reimbursement for out-of-pocket expenses.
3B:12–9. Preservation of excess sums; payment and delivery to minor upon attaining 18 years of age.

3B:12–10. Persons paying money or delivering property not liable for application.
3B:12–11. Affidavit of receipt; contents; filing.

Article 3. Appointment of Guardians for Minors
A. Jurisdiction of Surrogate

3B:12–12. Jurisdiction of surrogate to appoint guardians for minors.

B. Testamentary Guardians

3B:12–13. Power to designate testamentary guardian.
3B:12–14. Consent of surviving parent; formal requisites.
3B:12–15. Appointment of testamentary guardian by surviving parent.
3B:12–16. Bond of testamentary guardian.
3B:12–17. Determination into fitness of a testamentary guardian of a minor's person.
3B:12–18. Effect of a testamentary appointment.

C. Special and Limited Guardianship

3B:12–19. Guardian for property of nonresident minor.
3B:12–20. Special guardian for consent to enlist; bond; fees.

D. Guardians, Other than Testamentary, Special or Limited Guardians

3B:12–21. Persons entitled to appointment.
3B:12–22. Appointment when heirs are nonresidents.
3B:12–23. Guardian for child of absconding or absent parent.

Article 4. Mental Incompetents
A. Generally

3B:12–24. Issue of mental incompetency triable without jury unless jury is demanded.
3B:12–25. Appointment of guardian other than testamentary guardian.
3B:12–26. Action against mental incompetent when guardian newly appointed; leave of court required.
3B:12–27. Distribution of mental incompetent's property as intestate property.
3B:12–28. Return to competency; restoration of estate.
3B:12–29. Appointment of guardian for nonresident mental incompetent.

B. Testamentary Guardian

3B:12–30. Appointment of guardian by parents or spouse; judgment confirming appointment.
3B:12–31. Consent by surviving parent to guardian's appointment.
3B:12–32. Temporary appointment of guardian if person not adjudicated mentally incompetent.
3B:12–33. Bond of testamentary guardian.
3B:12–34. Determination into fitness of a testamentary guardian of the person of a mental incompetent.
3B:12–35. Effect of a testamentary appointment.

Article 5. Powers of Court and Guardians

A. Generally

3B:12–36. Authority of court with respect to ward's person and estate.
3B:12–37. Authority of court to limit or relieve limitations placed upon powers of guardian; letters of guardianship.
3B:12–38. Title to ward's property vested in guardian as trustee.
3B:12–39. Delegation of parent's or guardian's powers regarding ward's care, custody or property; limitations.
3B:12–40. Duty of guardian of ward's person to account to guardian of his estate.
3B:12–41. Guardian of ward's person entitled to reimbursement for expenses; payments to third persons.
3B:12–42. Reporting condition of ward's person and property to court.
3B:12–43. Expenditures to be made by guardian out of ward's estate.
3B:12–44. Recommendations to be considered by guardian of ward's estate in making expenditures.
3B:12–45. Other factors to be considered by guardian of ward's estate in making expenditures.
3B:12–46. Persons for whose benefit expenditures may be made by guardian of ward's estate.
3B:12–47. Persons to whom funds may be paid.
3B:12–48. Powers conferred upon a guardian.
3B:12–49. Powers conferred upon the court.
3B:12–50. Additional powers which may be exercised by the court.

B. Guardians of Minors

3B:12–51. Powers and responsibilities of a guardian of the person of a minor generally.

3B:12–52. Powers and duties of a guardian of the person of a minor.
3B:12–53. Powers and duties of a guardian of the estate of an unmarried minor as guardian of the minor's person.
3B:12–54. Duty of guardian to deliver property when minor attains 18 years of age.
3B:12–55. When authority and responsibility of guardian terminate.

C. Guardians of Mental Incompetents

3B:12–56. Powers, rights and duties of a guardian of the person of a mental incompetent generally.
3B:12–57. Powers and duties of a guardian of the person of a mental incompetent.
3B:12–58. Gifts to charities and other objects.
3B:12–59. Purchase of real property for use of mental incompetent and his dependents.
3B:12–60. Guardian's duty with respect to will of deceased mental incompetent.
3B:12–61. Power of guardian to act as personal representative of the estate of a deceased mental incompetent.
3B:12–62. Factors to be considered by the court or guardian in exercising certain powers.
3B:12–63. Guardian's final account and delivery of property upon restoration of competency.
3B:12–64. When authority and responsibility of guardian terminate.

Article 6. Substituted Guardian

3B:12–65. Vacancy in guardianship.
3B:12–66. Filling vacancy in guardianship.

Article 1. Protective Arrangements

Power of the court to order a protective arrangement.

3B:12–1. Power of the court to order a protective arrangement. If it is established that a minor, mental incompetent or a person not in being has property or an interest therein which may be wasted or dissipated or that a basis exists for affecting the property or interest and affairs of a minor, mental incompetent or person not in being, or that funds are needed for the support, care and welfare of the minor or mental incompetent or those entitled to be supported by him, the court may, subject to the appointment

of a guardian ad litem and upon notice to the guardian ad litem, without appointing a guardian of his estate, authorize, direct or ratify any single or more than one transaction necessary or desirable to achieve any security, service, care or protective arrangement meeting the foreseeable needs of the minor or mental incompetent or those dependent upon him.

Source: C. 3A:20–12 (1979, c. 486, s. 1).

Matters within a protective arrangement.

3B:12–2. Matters within a protective arrangement. Protective arrangements include, but are not limited to, payment, delivery, deposit or retention of funds or property, sale, mortgage, lease or other transfer of property, entry into an annuity contract, a contract for life care, a deposit contract, a contract for training and education, or addition to, or establishment of suitable trust. The court may authorize, direct or ratify any contract, trust or other transaction relating to the minor's, mental incompetent's or person's not in being financial affairs or involving his estate if the court determines that the transaction is in the best interests of the minor, mental incompetent or person not in being or those dependent upon him.

Source: C. 3A:20–12 (1979, c. 486, s. 1).

Factors to be considered before approving a protective arrangement.

3B:12–3. Factors to be considered before approving a protective arrangement. Before approving a protective arrangement or other transaction the court shall consider the interests of creditors and dependents of the minor or mental incompetent and, in view of his disability, whether the minor or mental incompetent needs the continuing protection of a guardian.

Source: C. 3A:20–13 (1979, c. 486, s. 2).

Appointment of special guardian.

3B:12–4. Appointment of special guardian. The court may appoint a special guardian to assist in the accomplishment of any protective arrangement or other transaction authorized under this article who shall have authority conferred by the order and serve until discharged by order after report to the court of all matters done pursuant to the order of appointment.

Source: C. 3A:20–13 (1979, c. 486, s. 2).

Right of alleged mental incompetent to trial on issue of mental incompetency.

3B:12–5. Right of alleged mental incompetent to trial on issue of mental incompetency. Where application is made to the court

for proceedings to affect the property and affairs of a mental incompetent, and the alleged mental incompetent has not been adjudicated as such, the alleged mental incompetent or someone in his behalf may apply for a trial of the issue of mental incompetency in accordance with N. J. S. 3B:12–24 and the Rules Governing the Courts of the State of New Jersey.

Source: C. 30A:20–14 (1979, c. 486, s. 3).

Article 2. When Appointment of Guardian for Minor's Estate Unnecessary

Circumstances under which money may be paid or personal property delivered.

3B:12–6. Circumstances under which money may be paid or personal property delivered. Any person under a duty to pay or deliver money or personal property to a minor may perform this duty, in amounts not exceeding $5,000.00 per annum, by paying or delivering the money or property to:

a. The minor, if he is married; or

b. A parent or parents of the minor; or

c. Any person having the care and custody of the minor with whom the minor resides;

d. A guardian of the person of the minor; or

e. A financial institution incident to a deposit in a Federally-insured savings account in the sole name of the minor and giving written notice of the deposit to the minor.

Source: C. 3A:6–32.1 (1979, c. 494, s. 1; amended 1981, c. 3).

When payment of money or delivery of property prohibited.

3B:12–7. When payment of money or delivery of property prohibited. The payment of money or delivery of personal property under N. J. S. 3B:12–6 shall not be made if the person making payment or delivery has actual knowledge that a guardian of the estate of the minor has been appointed or that an action for the appointment of a guardian of the estate of the minor is pending.

Source: C. 3A:6–32.1 (1979, c. 494, s. 1; amended 1981, c. 3).

Application of money and property; reimbursement for out-of-pocket expenses.

3B:12–8. Application of money and property; reimbursement for out-of-pocket expenses. The persons, other than the minor or any financial institution under subsection e. of N. J. S. 3B:12–6, receiving money or property for a minor, are obligated to apply so much or all of the money or the income or proceeds of the property for the support, maintenance, education, general use and

benefit of the minor in the manner, at the time or times and to the extent that those persons, in an exercise of reasonable discretion, deem suitable and proper, with or without court order, with due regard to the duty and ability of themselves or of any other person to support the minor, and with or without regard to any other funds, income or property which may be available for that purpose. But those persons may not pay themselves except by way of reimbursement for out-of-pocket expenses for goods and services necessary for the minor's support.

Source: C. 3A:6–32.1 (1979, c. 494, s. 1; amended 1981, c. 3).

Preservation of excess sums; payment and delivery to minor upon attaining 18 years of age.

3B:12–9. Preservation of excess sums; payment and delivery to minor upon attaining 18 years of age. Any excess sums shall be preserved for future support of the minor and any balance not so used and any property received for the minor must be turned over to the minor when he attains 18 years of age.

Source: C. 3A:6–32.1 (1979, c. 494, s. 1; amended 1981, c. 3).

Persons paying money or delivering property not liable for application.

3B:12–10. Persons paying money or delivering property not liable for application. Persons who pay or deliver in accordance with provisions of this article are not responsible for the proper application thereof.

Source: C. 3A:6–32.1 (1979, c. 494, s. 1; amended 1981, c. 3).

Affidavit of receipt; contents; filing.

3B:12–11. Affidavit of receipt; contents; filing. The persons making payment of money or delivery of personal property as provided in this article shall obtain from the recipient thereof, if other than a financial institution or a married minor, an affidavit signed by the recipient acknowledging receipt of the money or personal property which shall set forth the recipient's status in relation to the minor and the purpose for which the money or personal property will be used. The affidavit shall be filed in the office of the surrogate of the county in which the minor resides.

Source: C. 3A:6–32.2 (1979, c. 494, s. 2).

Article 3. Appointment of Guardians for Minors

A. Jurisdiction of Surrogate

Jurisdiction of surrogate to appoint guardians for minors.

3B:12–12. Jurisdiction of surrogate to appoint guardians for minors. In the appointment of guardians for minors, the surrogate's court of the county in which the minor may reside or if he is nonresident, then the county in which he may have real or personal estate, shall have and exercise the same powers as the Superior Court.

Source: N. J. S. 3A:6–17; amended 1979, c. 482, s. 19.

B. Testamentary Guardians

Power to designate testamentary guardian.

3B:12–13. Power to designate testamentary guardian. Subject to the provisions of N. J. S. 3B:12–14, either parent may, by his will, appoint a guardian of the person and a guardian of the estate, or a guardian of the person and estate, of any of his children, including children en ventre sa mere, who are under the age of 18 years and unmarried at his death.

Source: N. J. S. 3A:6–18; amended 1979, c. 482, s. 20.

Consent of surviving parent; formal requisites.

3B:12–14. Consent of surviving parent; formal requisites. Where an appointment is made under N. J. S. 3B:12–13 and the other parent survives the appointing parent, the appointment shall be effective only when the surviving parent, at or before the issuance of the letters, consents thereto in writing and signs and acknowledges the consent in the presence of two witnesses present at the same time who subscribe their names as witnesses thereto in his presence.

Source: N. J. S. 3A:6–19.

Appointment of testamentary guardian by surviving parent.

3B:12–15. Appointment of testamentary guardian by surviving parent. If no guardian has been appointed pursuant to N. J. S. 3B:12–13 and N. J. S. 3B:12–14, or if the surviving parent was so appointed, the surviving parent may, by his will, appoint a guardian of the person and a guardian of the estate, or a guardian of the person and estate, of any of his children including children en ventre sa mere, who are under the age of 18 years and unmarried at his death.

Source: N. J. S. 3A:6–20; amended 1979, c. 482, s. 21.

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, unless he is relieved from doing so by direction of the will of the parent appointing the guardian. However, regardless of the direction, he 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.

Source: N. J. S. 3A:6–22; amended 1979, c. 482, s. 8.

Determination into fitness of a testamentary guardian of a minor's person.

3B:12–17. Determination into fitness of a testamentary guardian of a minor's person. If a will appointing a testamentary guardian of the person of a minor has been or is to be probated in the surrogate's court of any county or the Superior Court, the Superior Court may, in an action brought upon notice to the guardian named in the will, inquire into the present custody of the minor, and make an order touching the testamentary guardianship as may be for the best interest and welfare of the minor.

Source: N. J. S. 3A:6–23; amended 1979, c. 482, s. 9.

Effect of a testamentary appointment.

3B:12–18. Effect of a testamentary appointment. The appointment of a testamentary guardian of the person or estate of a minor or his estate shall be good and effectual against any other person claiming the guardianship over or custody of the minor or his estate, as the case may be.

Source: N. J. S. 3A:6–24; amended 1979, c. 482, s. 10.

C. Special and Limited Guardianship

Guardian for property of nonresident minor.

3B:12–19. Guardian for property of nonresident minor. Where a nonresident minor has property within this State, the Superior Court may appoint a guardian of the minor to administer his property. The surrogate's court shall have concurrent authority to appoint a guardian for the property within the county.

The Superior Court has, with respect to the property, the same authority and control over him which it would have over a guardian of the estate of a resident minor. In any case not provided for by statute, it shall take any action in the matter as it shall deem most for the advantage of the minor.

Source: N. J. S. 3A:6–25; amended 1979, c. 482, s. 22.

Special guardian for consent to enlist; bond; fees.

3B:12–20. Special guardian for consent to enlist; bond; fees. When any minor, who is of an age that the consent of his parent or guardian is necessary to enable him to enlist in the armed forces of the United States, desires to enlist in the armed forces of the United States and has no parent or guardian entitled to his custody and control available to sign the written consent required for the enlistment, letters of special guardianship may be granted by the surrogate's court of the county in which the minor resides, or the Superior Court, empowering the special guardian to give his written consent to the enlistment but limiting his authority and duty to that purpose. The guardian shall give consent only if he deems the enlistment advisable. A bond shall not be required from the guardian, and neither the clerk of the Superior Court nor the surrogate shall collect any fee or charge in connection with the action for the appointment of the guardian.

Source: N. J. S. 3A:6–26; amended 1956, c. 121.

D. Guardians, Other Than Testamentary, Special or Limited Guardians

Persons entitled to appointment.

3B:12–21. Persons entitled to appointment. In an action for the appointment of a guardian of the person, guardian of the estate, or a guardian of the person and estate of a minor, the surrogate's court of the county wherein he resides or, if he is a nonresident, where his real or personal estate may be, or the Superior Court, upon inquiry into the circumstances, may appoint the parents or either of them or the survivor of them as the guardian of the person, guardian of the estate or guardian of the person and estate of the minor. If neither parent or the survivor of them will accept the guardianship, then the heirs, or some of them, may be appointed as guardian. If none of the heirs will accept the guardianship, then some other person shall be appointed as the guardian of the person, guardian of the estate or as guardian of the person and estate of the minor. This section shall not be construed to restrict the power of the court to appoint a substitute guardian on the application of the minor or otherwise.

Source: N. J. S. 3A:6–28; amended 1979, c. 482, s. 23.

Appointment when heirs are nonresidents.

3B:12–22. Appointment when heirs are nonresidents. When it shall appear to the Superior Court, or surrogate's court that the heirs of a minor residing in this State do not reside within this

State, the court may take any action in respect to the appointment of a guardian of the person, guardian of the estate or as guardian of the person and estate for the minor as shall be to his advantage.

Source: N. J. S. 3A:6–29; amended 1979, c. 482, s. 24.

Guardian for child of absconding or absent parent.

3B:12–23. Guardian for child of absconding or absent parent. If a resident of this State has or shall abscond or absent himself from the State, leaving a child under the age of 18 without sufficient provision for his maintenance and education, the surrogate of the county wherein the child resides, or the Superior Court, may appoint a guardian for his person or estate or both. The Superior Court may revoke the appointment when it shall appear proper.

Source: N. J. S. 3A:6–33; amended 1979, c. 482, s. 25.

Article 4. Mental Incompetents
A. Generally

Issue of mental incompetency triable without jury unless jury is demanded.

3B:12–24. Issue of mental incompetency triable without jury unless jury is demanded. In civil actions or proceedings for the determination of mental incompetency or for the appointment of a guardian for an alleged mental incompetent, the trial of the issue of mental incompetency may be had without a jury pursuant to Rules Governing the Courts of the State of New Jersey, unless a trial by jury is demanded by the alleged mental incompetent or someone on his behalf.

Source: N. J. S. 3A:6–35.

Appointment of guardian other than a testamentary guardian.

3B:12–25. Appointment of guardian other than a testamentary guardian. The Superior Court may determine the mental incompetency of an alleged mental incompetent and appoint a guardian for his person, guardian for his estate or a guardian for his person and estate. Letters of guardianship shall be granted to the spouse, if the spouse is living with the incompetent as man and wife at the time the incompetency arose, or to his heirs, or if none of them will accept the letters or it is proven to the court that no appointment from among them will be to the best interest of the incompetent or his estate, then to any other proper person as will accept the same.

Source: N. J. S. 3A:6–36; amended 1968, c. 268; 1979, c. 482, s. 35.

Action against mental incompetent when guardian newly appointed; leave of court required.

3B:12–26. Action against mental incompetent when guardian newly appointed; leave of court required. No action shall be brought

or maintained against a mental incompetent within 1 month after appointment of a guardian except by leave of the court wherein the action is to be brought or maintained.

Source: N. J. S. 3A:6–38.

Distribution of mental incompetent's property as intestate property.

3B:12–27. Distribution of mental incompetent's property as intestate property. If a mental incompetent dies intestate or without any will except one which was executed after commencement of proceedings which ultimately resulted in a judgment of incompetency, and before a judgment has been entered adjudicating a return to competency, his property shall descend and be distributed as in the case of intestacy.

Source: N. J. S. 3A:6–39.

Return to competency; restoration of estate.

3B:12–28. Return to competency; restoration of estate. The Superior Court may adjudicate that the mental incompetent has returned to competency and restore to him his estate if the court is satisfied that he has recovered his sound reason and is fit to govern himself and manage his affairs, or, in the case of a mental incompetent determined to be mentally incompetent by reason of chronic alcoholism, that he has reformed and become habitually sober and has continued so for 1 year next preceding the commencement of the action, and in the case of a mental incompetent determined to be mentally incompetent by reason of chronic use of drugs that he has reformed and has not been a chronic user of drugs for 1 year next preceding the commencement of the action.

Source: N. J. S. 3A:6–43; amended 1979, c. 482, s. 36.

Appointment of guardian for nonresident mental incompetent.

3B:12–29. Appointment of guardian for nonresident mental incompetent. When a nonresident has been or shall be found to be a mental incompetent under the laws of the state or country wherein he resides, the Superior Court may appoint a guardian for his property in the State.

Source: N. J. S. 3A:6–44.

B. Testamentary Guardian

Appointment of guardian by parents or spouse; judgment confirming appointment.

3B:12–30. Appointment of guardian by parents or spouse; judgment confirming appointment. The parents of an unmarried mental incompetent or the spouse of a mental incompetent may by will appoint a testamentary guardian of the person, or a guardian of

the estate, or of both the person and estate of the mental incompetent. Before the appointment of a testamentary guardian becomes effective, the person designated as the testamentary guardian shall apply to the court in a summary manner, upon notice to the mental incompetent, any guardian who may have been appointed for him, to the person or institution having his care and to his heirs as the court may direct, for a judgment confirming his appointment under the will.

Source: C. 3A:6–16.30 (1979, c. 482, s. 32).

Consent by surviving parent to guardian's appointment.

3B:12–31. Consent by surviving parent to guardian's appointment. Where an appointment of a testamentary guardian is made by a parent under N. J. S. 3B:12–30 and the other parent survives the appointing parent, the appointment shall be effective only when the surviving parent, at or before the issuance of letters, consents to the appointment in writing and signs and acknowledges the consent in the presence of two witnesses present at the same time who subscribe their names as witnesses thereto in his presence, unless the surviving parent has been adjudged a mental incompetent.

Source: C. 3A:6–16.32 (1979, c. 482, s. 34).

Temporary appointment of guardian if person not adjudicated mentally incompetent.

3B:12–32. Temporary appointment of guardian if person not adjudicated mentally incompetent. If the person for whom a testamentary guardian has been appointed under the will of a parent or spouse has not been adjudicated as a mental incompetent in accordance with N. J. S. 3B:12–24 and the Rules Governing the Courts of New Jersey, the person named as the testamentary guardian may apply to the court in the manner provided in N. J. S. 3B:12–30 for a judgment designating that person as the temporary guardian of the person or of the estate, or of both the person and estate of the alleged mental incompetent until the issue of mental incompetency has been determined. Upon the determination of the issue of mental incompetency, the court shall either enter a judgment confirming the appointment of the testamentary guardian or vacating the appointment of the temporary guardian.

Source: C. 3A:6–16.31 (1979, c. 482, s. 33).

Bond of testamentary guardian.

3B:12–33. Bond of testamentary guardian. Before receiving his letters, a testamentary guardian of a mental incompetent shall give

bond in accordance with N. J. S. 3B:15–1 unless he is relieved from doing so by direction of the will of the parent or spouse appointing the guardian. However, regardless of any direction, he shall, with respect to property to which the ward is or shall be entitled from any source, other than the parent or spouse or other than any policy of life insurance upon the life of the parent or spouse, give bond in accordance with that section before exercising any authority or control over that property.

Source: N. J. S. 3A:6–22; amended 1979, c. 482, s. 8.

Determination into fitness of a testamentary guardian of the person of a mental incompetent.

3B:12–34. Determination into fitness of a testamentary guardian of the person of a mental incompetent. If a will appointing a testamentary guardian of the person of a mental incompetent has been or is to be probated in the surrogate's court of any county or the Superior Court, the Superior Court may, in an action brought upon notice to the guardian named in the will, inquire into the present custody of the mental incompetent, and make any order touching the testamentary guardianship as may be for the best interest and welfare of the mental incompetent.

Source: N. J. S. 3A:6–23; amended 1979, c. 482, s. 9.

Effect of a testamentary appointment.

3B:12–35. Effect of a testamentary appointment. The appointment of a testamentary guardian of the person of a mental incompetent or his estate shall be good and effectual against any other person claiming the guardianship over or custody of the mental incompetent or his estate, as the case may be.

Source: N. J. S. 3A:6–24; amended 1979, c. 482, s. 10.

Article 5. Powers of Court and Guardians

A. Generally

Authority of court with respect to ward's person and estate.

3B:12–36. Authority of court with respect to ward's person and estate. If a guardian has been appointed as to the person of a minor or mentally incompetent person, the court shall have a full authority over the ward's person and all matters relating thereto; and if a guardian has been appointed as to the estate of a minor or mentally incompetent person, the court shall have full authority over the ward's estate, and all matters relating thereto.

Source: C. 3A:6–16.11 (1979, c. 482, s. 2).

Authority of court to limit or relieve limitations placed upon powers of guardian; letters of guardianship.

3B:12–37. Authority of court to limit or relieve limitations placed upon powers of guardian; letters of guardianship. The court may, at the time of appointment or later, limit the powers conferred upon a guardian, or previously conferred by the court, and may at any time relieve him of any limitation. If the court limits any power conferred on the guardian, the limitation shall be stated in certificates of letters of guardianship thereafter issued.

Source: C. 3A:6–16.12 (1979, c. 482, s. 3).

Title to ward's property vested in guardian as trustee.

3B:12–38. Title to ward's property vested in guardian as trustee. The appointment of a guardian of the estate of a minor or mental incompetent vests in him title as trustee to all property of his ward, presently held or thereafter acquired, including title to any property theretofore held for the ward by attorneys in fact. The appointment of a guardian is not a transfer or alienation within the meaning of general provisions of any Federal or State statute or regulation, insurance policy, pension plan, contract, will or trust instrument, imposing restrictions upon or penalties for transfer or alienation by the ward of his rights or interest, but this section does not restrict the ability of persons to make specific provision by contract or dispositive instrument relating to a guardian.

Source: C. 3A:6–16.13 (1979, c. 482, s. 4).

Delegation of parent's or guardian's powers regarding ward's care, custody or property; limitations.

3B:12–39. Delegation of parent's or guardian's powers regarding ward's care, custody or property; limitations. A parent, other than where custody of a minor has been awarded by a court of competent jurisdiction, with the consent of the other parent, if the latter is living and not a mental incompetent or a guardian of the person of a minor or mental incompetent, by a properly executed power of attorney, may delegate to another person, for a period not exceeding 6 months, any of his powers regarding care, custody, or property of the minor child or ward, except his power to consent to marriage or adoption of a minor ward.

Source: C. 3A:6–16.15 (1979, c. 482, s. 7).

Duty of guardian of ward's person to account to guardian of his estate.

3B:12–40. Duty of guardian of ward's person to account to guardian of his estate. If another person has been appointed guardian of the estate, all of the ward's estate received by the

guardian of the person in excess of those funds expended to meet current expenses for support, care and education of the ward must be paid to the guardian of the estate, and the guardian of the person must account to the guardian of the estate for funds expended.

Source: C. 3A:6–16.16 (1979, c. 482, s. 11).

Guardian of ward's person entitled to reimbursement for expenses; payments to third persons.

3B:12–41. Guardian of ward's person entitled to reimbursement for expenses; payments to third persons. If another person has been appointed guardian of the ward's estate, the guardian of the ward's person is entitled to receive reasonable sums for his services and for room and board furnished to the ward, provided the same has been agreed upon between him and the guardian of the estate; and provided, further, that the amounts agreed upon are reasonable under the circumstances. The guardian of the person may request the guardian of the estate to expend the ward's estate by payment to third persons or institutions for the ward's care and maintenance.

Source: C. 3A:6–16.16 (1979, c. 482, s. 11).

Reporting condition of ward's person and property to court.

3B:12–42. Reporting condition of ward's person and property to court. A guardian shall report the condition of the ward and the condition of the ward's estate which has been subject to his possession or control as ordered by the court in an action brought by a person interested in the ward's welfare.

Source: C. 3A:6–16.17 (1979, c. 482, s. 12).

Expenditures to be made by guardian out of ward's estate.

3B:12–43. Expenditures to be made by guardian out of ward's estate. A guardian of the estate of a minor or mental incompetent may expend or distribute so much or all of the income or principal of his ward for the support, maintenance, education, general use and benefit of the ward and his dependents, in the manner, at the time or times and to the extent that the guardian, in an exercise of a reasonable discretion, deems suitable and proper, with or without court order, with due regard to the duty and ability of any person to support or provide for the ward if the ward is a minor, and without due regard to the duty and ability of any person to support or provide for the ward if the ward is a mental incompetent, and with or without regard to any other funds, income or property which may be available for that purpose.

Source: C. 3A:6–16.18 (1979, c. 482, s. 13).

Recommendations to be considered by guardian of ward's estate in making expenditures.

3B:12–44. Recommendations to be considered by guardian of ward's estate in making expenditures. In making expenditures under N. J. S. 3B:12–43, the guardian of the estate of a minor or mental incompetent shall consider recommendations relating to the appropriate standard of support, education and benefit for the ward made by a parent or guardian of the person, if any. He may not be surcharged for sums paid to persons or organizations actually furnishing support, education or care to the ward pursuant to the recommendations of a parent or guardian of the person unless he knows that the parent or the guardian is deriving personal financial benefit therefrom, or unless the recommendations are clearly not in the best interests of the ward.

Source: C. 3A:6–16.18 (1979, c. 482, s. 13).

Other factors to be considered by guardian of ward's estate in making expenditures.

3B:12–45. Other factors to be considered by guardian of ward's estate in making expenditures. In making expenditures under N. J. S. 3B:12–43, the guardian of the estate of a minor or mental incompetent shall expend or distribute sums reasonably necessary for the support, education, care or benefit of his ward with due regard to:

a. The size of the ward's estate;

b. The probable duration of the guardianship and the likelihood that the ward, at some future time, may be fully able to manage his affairs and the estate which has been conserved for him; and

c. The accustomed standard of living of the ward and members of his household.

Source: C. 3A:6–16.18 (1979, c. 482, s. 13).

Persons for whose benefit expenditures may be made by guardian of ward's estate.

3B:12–46. Persons for whose benefit expenditures may be made by guardian of ward's estate. The guardian of the estate of a minor or mental incompetent may expend funds of the ward's estate under N. J. S. 3B:12–43 for the support of persons legally dependent on the ward and others who are members of the ward's household who are unable to support themselves, and who are in need of support.

Source: C. 3A:6–16.18 (1979, c. 482, s. 13).

Persons to whom funds may be paid.

3B:12–47. Persons to whom funds may be paid. Funds expended by the guardian of the estate of a minor or mental incompetent under N. J. S. 3B:12–43 may be paid by the guardian

to any person, including the ward, to reimburse for expenditures which the guardian might have made, or in advance for services to be rendered to the ward when it is reasonable to expect that they will be performed and where advance payments are customary or reasonably necessary under the circumstances.

Source: C. 3A:6–16.18 (1979, c. 482, s. 13).

Powers conferred upon a guardian.

3B:12–48. Powers conferred upon a guardian. A guardian of the estate of a minor or mentally incompetent person has all of the powers conferred upon him by law and the provisions of this chapter.

Source: C. 3A:6–16.19 (1979, c. 482, s. 14).

Powers conferred upon the court.

3B:12–49. Powers conferred upon the court. The court has, for the benefit of the ward, his dependents and members of his household, all the powers over his estate and affairs which he could exercise, if present and not under a disability, except the power to make a will, and may confer those powers upon a guardian of his estate. These powers include, but are not limited to power to convey or release the ward's present and contingent and expectant interests in real and personal property, including dower and curtesy and any right of survivorship incident to joint tenancy or tenancy by the entirety, to exercise or release his powers as trustee, personal representative, custodian for minor, guardian, or donee of a power of appointment, to enter into contracts, to create revocable or irrevocable trusts of property of the estate which may extend beyond his disability or life, to exercise his options to purchase securities or other property, to exercise his rights to elect options and change beneficiaries under insurance annuity policies and to surrender the policies for their cash value, to exercise his right to an elective share in the estate of his deceased spouse to the extent permitted by law and to renounce any interest by testate or intestate succession or by inter vivos transfer.

Source: C. 3A:6–16.19 (1979, c. 482, s. 14).

Additional powers which may be exercised by the court.

3B:12–50. Additional powers which may be exercised by the court. The court may exercise, or direct the exercise of, or release the powers of appointment of which the ward is donee, to renounce interests, to make gifts in trust or otherwise, or to change beneficiaries under insurance and annuity policies, only if satisfied, after notice and hearing, that it is in the best interests of the ward.

Source: C. 3A:6–16.19 (1979, c. 482, s. 14).

B. Guardians of Minors

Powers and responsibilities of a guardian of the person of a minor generally.

3B:12–51. Powers and responsibilities of a guardian of the person of a minor generally. A guardian of the person of a minor has the powers and responsibilities of a parent who has not been deprived of custody of his minor and unemancipated child, except that a guardian is not legally obligated to provide for the ward from his own funds.

Source: C. 3A:6–16.20 (1979, c. 482, s. 15).

Powers and duties of a guardian of the person of a minor.

3B:12–52. Powers and duties of a guardian of the person of a minor. In particular, and without qualifying the provisions of N. J. S. 3B:12–51, a guardian of the person of a minor has the following powers and duties, except as modified by order of the court:

a. He must take reasonable care of his ward's personal effects and institute an action for the appointment of a guardian of his ward's estate if necessary to protect it;

b. He may receive periodically money payable for the support of the ward to the ward's parent, guardian or custodian under the terms of any statutory benefit or insurance system, or any private contract, devise, trust, conservatorship or custodianship. Any sums so received shall be applied to the ward's current needs for support, care and education in the exercise of a reasonable discretion, with or without court order, with due regard to the duty or ability of any person to support or provide for the ward and with or without regard to any other funds, income or property which may be available for that purpose. He must exercise due care to conserve any excess funds for the ward's future needs unless a guardian has been appointed for the estate of the ward, in which case the excess shall be paid over at least annually to that guardian. He may institute an action to compel the performance by any person of a duty to support the ward or to pay sums for the welfare of the ward;

c. He is empowered to facilitate the ward's education, social, or other activities and to authorize medical or other professional care, treatment, or advice. He is not liable by reason of this consent for injury to the ward resulting from the negligence or acts of third persons unless it would have been illegal for a parent to have consented. He may consent to the marriage or adoption of his ward or to his ward's military service.

Source: C. 3A:6–16.20 (1979, c. 482, s. 15).

Powers and duties of a guardian of the estate of an unmarried minor as guardian of the minor's person.

3B:12–53. Powers and duties of a guardian of the estate of an unmarried minor as guardian of the minor's person. A guardian of the estate of an unmarried minor, as to whom no one has parental rights, has the duties and powers of a guardian of the person of a minor described in this article until the minor attains the age of 18 or marries, but the parental rights so conferred on a guardian of an estate do not preclude appointment of a guardian of the person.

Source: C. 3A:6–16.21 (1979, c. 482, s. 16).

Duty of guardian to deliver property when minor attains 18 years of age.

3B:12–54. Duty of guardian to deliver property when minor attains 18 years of age. When a minor who has not been adjudged a mental incompetent attains 18 years of age, his guardian, after meeting all prior claims and expenses of administration, shall pay over and distribute all funds and properties to the former ward as soon as possible.

Source: C. 3A:6–16.22 (1979, c. 482, s. 17).

When authority and responsibility of guardian terminate.

3B:12–55. When authority and responsibility of guardian terminate. The authority and responsibility of a guardian of the person or estate of a minor terminate upon the death, resignation or removal of the guardian or upon the minor's death, adoption, marriage or attainment of 18 years of age, but termination does not affect the guardian's liability for prior acts, nor his obligation to account for funds and assets of his ward. Resignation of a guardian does not terminate the guardianship unless it has been approved by a judgment of the court.

Source: C. 3A:6–16.23 (1979, c. 482, s. 18).

C. Guardians of Mental Incompetents

Powers, rights and duties of a guardian of the person of a mental incompetent generally.

3B:12–56. Powers, rights and duties of a guardian of the person of a mental incompetent generally. A guardian of the person of a mental incompetent has the same powers, rights and duties respecting his ward that a parent has respecting his unemancipated minor child, except that he is not legally obligated to provide for the ward from his own funds.

Source: C. 3A:6–16.24 (1979, c. 482, s. 26).

Powers and duties of a guardian of the person of a mental incompetent.

3B:12–57. Powers and duties of a guardian of the person of a mental incompetent. In particular, and without qualifying the provisions of N. J. S. 3B:12–56, a guardian of the person of a mentally incompetent person has the following powers and duties, except as modified by order of the court:

a. To the extent that it is consistent with the terms of any order by a court of competent jurisdiction relating to detention or commitment of the ward, he is entitled to custody of the person of his ward and may establish the ward's place of abode within or without this State;

b. If entitled to custody of his ward, he shall make provision for the care, comfort and maintenance of his ward and, whenever appropriate, arrange for his training and education. Whether or not he has custodial rights over the ward's person, he shall take reasonable care of his ward's clothing, furniture, vehicles and other personal effects and institute an action for the appointment of a guardian of the ward's estate, if necessary to protect it;

c. He may give any consents or approvals that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment or service;

d. He may institute an action to compel the performance by any person of a duty to support the ward or to pay sums for the welfare of the ward;

e. He may receive money, payable from any source for the support of the ward and tangible personal property deliverable to the ward. Any sums so received shall be applied to the ward's current needs for support, care and education in the exercise of a reasonable discretion, with or without court order, with or without regard to the duty or ability of any person to support or provide for the ward and with or without regard to any other funds, income or property which may be available for that purpose. But he may not use funds from the ward's estate for room and board which he, his spouse, parent, or child have furnished the ward unless agreed upon by a guardian of the ward's estate under N. J. S. 3B:12–41 or unless a charge for the service is approved by order of the court made upon notice to at least one of the heirs of the incompetent ward, if notice is possible. He must exercise care to conserve any excess for the ward's needs.

Source: C. 3A:6–16.24 (1979, c. 482, s. 26).

Gifts to charities and other objects.

3B:12–58. Gifts to charities and other objects. If the estate is ample to provide for the purposes implicit in the distributions authorized by this article, a guardian for the estate of a mental incompetent may apply to the court for authority to make gifts to charity and other objects as the ward might have been expected to make.

Source: C. 3A:6–16.25 (1979, c. 482, s. 27).

Purchase of real property for use of mental incompetent and his dependents.

3B:12–59. Purchase of real property for use of mental incompetent and his dependents. When it shall appear to the court that it would be advantageous to the mental incompetent and to those legally dependent upon him for their support or are members of the mental incompetent's household, or any of them, if a dwelling house and a lot of land were purchased or a lot of land were purchased and a dwelling house built thereon, for the use of the mental incompetent and to those legally dependent upon him for their support or who are members of the mental incompetent's household, or any of them, the court may direct the guardian of his estate to purchase a house and lot or to purchase a lot and build a dwelling house thereon and to enter into contracts therefor as the court shall deem advisable, and to expend all necessary funds from the ward's estate for that purpose.

Source: N. J. S. 3A:20–5.

Guardian's duty with respect to will of deceased mental incompetent.

3B:12–60. Guardian's duty with respect to will of deceased mental incompetent. Upon the death of a mental incompetent, his guardian shall deliver to the appropriate court for safekeeping any will of the deceased person which may have come into his possession, inform the executor or a beneficiary named therein that he has done so, and retain the estate for delivery to a duly appointed personal representative of the decedent or other persons entitled thereto.

Source: C. 3A:6–16.27 (1979, c. 482, s. 29).

Power of guardian to act as personal representative of the estate of a deceased mental incompetent.

3B:12–61. Power of guardian to act as personal representative of the estate of a deceased mental incompetent. If within 40 days after the death of a mental incompetent, no other person has been appointed personal representative and no action for an appointment is pending in the Superior Court or surrogate's court of the

county where the mental incompetent resided at his death, the guardian may apply to the Superior Court for authority to exercise the powers and duties of a personal representative so that he may proceed to administer and distribute the decedent's estate without additional or further appointment. Upon application for an order granting the powers of a personal representative to a guardian, after notice to all persons interested in the mental incompetent's estate either as heirs or devisees and including any person nominated executor in any will of which the applicant is aware, the court may order the conferral of those powers, upon determining that there is no objection, and may enter judgment that the guardian has all of the powers and duties of a personal representative. The making and entry of a judgment under this section shall have the effect of an order of appointment of a personal representative, except that the estate in the name of the guardian, after administration, may be distributed to persons entitled to the decedent's estate under his will or the laws of intestacy without prior retransfer to the guardian as personal representative.

Source: C. 3A:6–16.27 (1979, c. 482, s. 29).

Factors to be considered by the court or guardian in exercising certain powers.

3B:12–62. Factors to be considered by the court or guardian in exercising certain powers. In investing the estate, and in selecting assets of the estate for distribution under this article, in utilizing powers of revocation or withdrawal available for the support of the ward, and other powers exercisable by the guardian or a court, the guardian or the court should take into account any known estate plan of the ward, including his will, any revocable trust of which he is settlor, and any contract, transfer or joint ownership arrangement with provisions for payment or transfer of benefits or interests at his death to another or others which he may have originated. The guardian may examine the will of the ward.

Source: C. 3A:6–16.28 (1979, c. 482, s. 30).

Guardian's final account and delivery of property upon restoration of competency.

3B:12–63. Guardian's final account and delivery of property upon restoration of competency. Upon an adjudication that the ward has returned to competency, the guardian, after the allowance of his final account, shall pay over and distribute all funds and properties of the former ward.

Source: C. 3A:6–16.26 (1979, c. 482, s. 28).

When authority and responsibility of guardian terminate.

3B:12–64. When authority and responsibility of guardian terminate. The authority and responsibility of a guardian of the person or estate of a mental incompetent terminate upon the death, resignation or removal of the guardian or upon the death of the mental incompetent or upon the entry of a judgment adjudicating the restoration of competency, but termination does not affect the guardian's liability for prior acts, nor his obligation to account for funds and assets of his ward. Resignation of a guardian does not terminate the guardianship unless it has been approved by a judgment of the court.

Source: C. 3A:6–16.29 (1979, c. 482, s. 31).

Article 6. Substituted Guardian

Vacancy in guardianship.

3B:12–65. Vacancy in guardianship. A vacancy in a guardianship shall be deemed to arise when a sole or sole surviving or remaining guardian dies, resigns or is removed or discharged after entering upon but before completing the duties of his office. The resignation of a guardian shall not be effective unless approved by a judgment of the court.

Source: N. J. S. 3A:6–47.

Filling vacancy in guardianship.

3B:12–66. Filling vacancy in guardianship. The court granting letters of guardianship or the court removing or discharging the guardian or in the case of a guardian of a minor, where letters were granted by the surrogate's court, then the surrogate's court shall have jurisdiction to fill the vacancy by the appointment of a substituted guardian.

Source: N. J. S. 3A:6–47.

Chapter 13

Guardianship of Veterans

Article 1. Generally

3B:13–1. Short title.
3B:13–2. Definitions.
3B:13–3. General rules of construction.
3B:13–4. Fees and costs.
3B:13–5. No charges to be made for copies of certain records.

Article 2. Appointment of Guardians

3B:13–6. Determination of incompetency by Superior Court.
3B:13–7. Guardians; when and how appointed.
3B:13–8. Guardian to have no more than five wards; exceptions.

Article 3. Guardians' Accounts

3B:13–9. Filing account with the court.
3B:13–10. Filing account with Federal agency.
3B:13–11. Times for accounting.
3B:13–12. Notice to Federal agency.
3B:13–13. Accounting without filing vouchers.
3B:13–14. Removal of guardian for failure to account; costs.

Article 4. Management of Estates and Property Received from Sources Other Than the United States Government

3B:13–15. Investments.
3B:13–16. Support of dependents.
3B:13–17. Compensation of guardian.
3B:13–18. Authorization for guardian of incompetent ward to receive additional personal property not exceeding $10,000.00.
3B:13–19. Direction of court for expenditure required; investment.
3B:13–20. Fees.

Article 5. Public Guardian of Incompetent Veterans

A. Appointment and General Duties

3B:13–21. Appointment of public guardian for veterans.
3B:13–22. Guardian's bond.
3B:13–23. Salary of public guardian.
3B:13–24. Duties of public guardian as adviser of other guardians.
3B:13–25. Discharge and removal of public guardian.

B. Public Guardian as General Guardian

3B:13–26. Public guardian may be appointed general guardian for veteran.
3B:13–27. Powers of public guardian as guardian of veterans' estates.
3B:13–28. Settlement of accounts.
3B:13–29. Termination of guardianship; settlement of account.
3B:13–30. Settlement of accounts upon expiration of public guardian's term.
3B:13–31. Counsel to represent public guardian; compensation.

Article 1. Generally

Short title.

3B:13–1. Short title. This chapter shall be known and may be cited as the "Uniform Veterans' Guardianship Law."

Source: N. J. S. 3A:27–1.

Definitions.

3B:13–2. Definitions. As used in this chapter:

a. "Federal agency" means any bureau, office, board or officer of the United States by whatever name known, now or hereafter charged by Congress:

(1) With payment of pensions, bounties and allowances to veterans of the military service of the United States, their widows, children, mothers and fathers, or

(2) With the administration of the affairs of any of the aforesaid persons who may be minors or mentally incompetent or to manage pensions, bounties and allowances payable to them;

b. "Military" has reference to the army, navy, marine, air and coast guard services;

c. "Estate" and "income" include only moneys received by the guardian from a Federal agency and earnings, interest and profits derived therefrom;

d. "Benefits" means moneys payable by the United States to the aforesaid persons or their guardians through a Federal agency;

e. "Chief officer" means an officer of a Federal agency, charged by the laws of the United States with the particular duty in connection with which the term is used;

f. "Ward" means a beneficiary of a Federal agency;

g. "Guardian" means a person acting as fiduciary for a ward.

Source: N. J. S. 3A:27–2.

General rules of construction.

3B:13–3. General rules of construction. This chapter shall be liberally construed to secure the beneficial intent and purpose thereof and shall apply only to beneficiaries enumerated in N. J. S. 3B:13–2. This chapter shall also be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact the "Uniform Veterans' Guardianship Act."

Source: N. J. S. 3A:27–3.

Fees and costs.

3B:13–4. Fees and costs. Except as otherwise provided in this chapter, no costs or fees shall be charged or taxed by the surrogates

of the respective counties or by the Superior Court for accounts rendered or other proceedings had under this chapter.

Source: N. J. S. 3A:27–4.

No charges to be made for copies of certain records.

3B:13–5. No charges to be made for copies of certain records. When a copy of a public record is required by a Federal agency for use in determining the eligibility of a person to participate in benefits made available by the agency, the official charged with the custody of the public record shall furnish a certified copy of the record without charge.

Source: N. J. S. 3A:27–5.

Article 2. Appointment of Guardians

Determination of incompetency by Superior Court.

3B:13–6. Determination of incompetency by Superior Court. For the purpose of appointing a guardian pursuant to this chapter, the mental incompetency of a beneficiary of a Federal agency shall be determined by the Superior Court.

Source: N. J. S. 3A:28–3.

Guardians; when and how appointed.

3B:13–7. Guardians; when and how appointed. When, pursuant to any law of the United States or regulation of a Federal agency, the chief officer of the agency requires, prior to payment of benefits, that a guardian be appointed for a ward, the appointment shall be made in the Superior Court in the case of a mental incompetent, and in the surrogate's court or in the Superior Court in the case of a minor.

Source: N. J. S. 3A:28–1.

Guardian to have no more than five wards; exceptions.

3B:13–8. Guardian to have no more than five wards; exceptions. Except as provided in this section, no person shall accept appointment as guardian of a ward if he be acting as guardian for five wards.

In an action brought by an attorney of a Federal agency, establishing that a guardian is acting in a fiduciary capacity for more than five wards, the Superior Court shall require a final accounting forthwith from the guardian and shall discharge him.

The limitation of this section shall not apply where the guardian is a bank or trust company or a public guardian of incompetent

veterans, and an individual may be guardian of more than five wards if they are all members of the same family.

Source: N. J. S. 3A:28–2.

Article 3. Guardians' Accounts

Filing account with the court.

3B:13–9. Filing account with the court. Every guardian appointed by the surrogate of any county or by the Superior Court, who receives any moneys from a Federal agency for the benefit of his ward, shall, at intervals as the court may require, render to the Superior Court a true account of all moneys received by him, as guardian, by way of pension, bounty or other allowance from the United States. The account shall be submitted in duplicate.

Source: N. J. S. 3A:29–1; amended 1971, c. 290, s. 2.

Filing account with Federal agency.

3B:13–10. Filing account with Federal agency. Each year when not required to render an account to the court, the guardian shall render an account to the regional office of the Veterans' Administration on forms to be supplied by the Federal agency.

Source: N. J. S. 3A:29–1; amended 1971, c. 290, s. 2.

Times for accounting.

3B:13–11. Times for accounting. The times for rendering accounts shall be as follows:

a. In the counties of Hudson, Somerset or Sussex, on or before January 5;

b. In the counties of Warren or Essex, on or before February 5;

c. In the counties of Bergen, Morris or Passaic, on or before March 5;

d. In the counties of Union, Hunterdon or Middlesex, on or before April 5;

e. In the counties of Mercer, Burlington, Monmouth or Gloucester, on or before May 5;

f. In the counties of Camden, Atlantic or Salem, on or before June 5;

g. In the counties of Cape May, Cumberland or Ocean, on or before July 5.

Source: N. J. S. 3A:29–2.

Notice to Federal agency.

3B:13–12. Notice to Federal agency. The clerk of the court shall, within 5 days of the date of filing of the account, mail a copy of

the account to the office of the Veterans' Administration having jurisdiction over the area in which the county lies.

Source: N. J. S. 3A:29–3.

Accounting without filing vouchers.

3B:13–13. Accounting without filing vouchers. The Superior Court may allow the account without proof or the submission of vouchers if the written approval of the attorney in this State for the Veterans' Administration shall be filed with the account. The approval shall set forth the facts upon which the approval is based.

Source: N. J. S. 3A:29–3.

Removal of guardian for failure to account; costs.

3B:13–14. Removal of guardian for failure to account; costs. If the Federal agency, the sureties on the guardian's bond, any person interested in the benefits in the hands of the guardian or any person as next friend of the ward serves notice upon the guardian that his account has not been filed in accordance with this article, and if the guardian fails to render his account within 30 days from the date of mailing of the notice or from the time of service or within the time as the court may otherwise provide, the court shall remove him. The notice may be mailed to the guardian's last known address.

The cost of the proceedings, as well as the cost incident to an order to show cause when it is necessary to obtain an accounting, shall be paid by the guardian out of his own estate, unless the court shall otherwise order.

Source: N. J. S. 3A:29–4.

Article 4. Management of Estates and Property Received from Sources Other Than the United States Government

Investments.

3B:13–15. Investments. A guardian shall invest the funds of the estate in a manner and in securities, in which the guardian has no interest, as allowed by law or approved by the court.

Source: N. J. S. 3A:30–1.

Support of dependents.

3B:13–16. Support of dependents. When directed in writing by the proper Federal agency, the guardian shall apply that portion of the estate to the ward's spouse, child, father or mother as may be set forth in the direction. The direction shall be submitted to

the Superior Court when an account is filed as proof of the guardian's authority for those payments.

Except as permitted by this section, a guardian shall not apply any of the estate of his ward to the support of any person other than his ward.

Source: N. J. S. 3A:30–2.

Compensation of guardian.

3B:13–17. Compensation of guardian. Compensation payable to a guardian shall not exceed 5% of the income of the ward during any year.

For extraordinary services rendered by the guardian, the Superior Court may, after hearing upon the settlement of his account, authorize additional compensation payable from the estate of the ward, but no compensation shall be allowed on the corpus of an estate received from a preceding guardian.

The guardian may be allowed from the estate of his ward reasonable premiums paid by him to a corporate surety upon his bond.

Source: N. J. S. 3A:30–3.

Authorization for guardian of incompetent ward to receive additional personal property not exceeding $10,000.00.

3B:13–18. Authorization for guardian of incompetent ward to receive additional personal property not exceeding $10,000.00. When an incompetent ward for whom a guardian has been appointed becomes entitled to personal property amounting to not more than $10,000.00 from any source other than the United States Government, the court may authorize him to receive the personal property for conservation and administrative care. On payment of any money or delivery of property to the guardian, a release executed by him to the person or persons paying the money or delivering the property shall be valid and effective.

Source: N. J. S. 3A:30–4.

Direction of court for expenditure required; investment.

3B:13–19. Direction of court for expenditure required; investment. The guardian shall not expend any portion of the personal property received from any source other than the United States Government, except as directed by the court to which he is accountable; but he may invest the personal property as provided by N. J. S. 3B:13–15.

Source: N. J. S. 3A:30–5.

Fees.

3B:13–20. Fees. The fees allowed by law shall be applicable to proceedings with respect to personal property received from sources other than the United States Government, and may be taxed by the clerk of the court.

Source: N. J. S. 3A:30–6.

Article 5. Public Guardian of Incompetent Veterans

A. Appointment and General Duties

Appointment of public guardian for veterans.

3B:13–21. Appointment of public guardian for veterans. There may be appointed in each county a person to be known as "public guardian of incompetent veterans for the county of ..... (naming county)", who shall be appointed by the Assignment Judge of the Superior Court in the county. He shall hold office for the term of 5 years from the date of his appointment and until his successor is appointed and qualified.

Source: N. J. S. 3A:31–1.

Guardian's bond.

3B:13–22. Guardian's bond. Before entering upon the duties of his office, a public guardian of incompetent veterans shall execute a bond to the Superior Court in an amount and with sureties as shall be approved by the Superior Court, conditioned for the faithful discharge of all duties imposed by law upon him.

The bond shall be renewed annually and shall, from time to time, be increased or reduced as the court may direct.

The expense of procuring the bond shall be paid by the county treasurer upon presentation of a proper voucher approved by the Assignment Judge of the Superior Court in the county.

Source: N. J. S. 3A:31–2.

Salary of public guardian.

3B:13–23. Salary of public guardian. A public guardian of incompetent veterans shall receive an annual salary to be fixed by the Assignment Judge of the Superior Court of the county for which the guardian is appointed, with the approval of the board of freeholders of the county.

The salary shall be paid by the county treasurer in semimonthly payments and shall be in lieu of all other charges, compensation and commissions. A guardian shall not accept any other money what-

soever by way of fee, compensation, gratuity or present for any of his services.

Source: N. J. S. 3A:31–3.

Duties of public guardian as adviser of other guardians.

3B:13–24. Duties of public guardian as adviser of other guardians. The public guardian of incompetent veterans shall, in each county, assist, supervise, advise and otherwise aid the duly appointed guardians of incompetent veterans and give help as may be necessary in preparing and drawing papers and documents, and also help them to work in conjunction with the United States Veterans' Administration, so that their wards may be fully protected.

Source: N. J. S. 3A:31–4.

Discharge and removal of public guardian.

3B:13–25. Discharge and removal of public guardian. The public guardian of incompetent veterans shall be subject to discharge or removal, by the court, on the grounds and in the manner in which other guardians of mental incompetents are discharged or removed.

Source: N. J. S. 3A:31–5.

B. Public Guardian as General Guardian

Public guardian may be appointed general guardian for veteran.

3B:13–26. Public guardian may be appointed general guardian for veteran. Where an action is brought in the Superior Court for the appointment of a guardian for a person who, while in the military, naval, marine, air or coast guard service of the United States, or after discharge therefrom, is or shall have been determined to be mentally incompetent, whether or not he is or shall have been committed or confined to an institution for the care of mentally incompetent persons, and the heirs of the person are unwilling, unable or unqualified for the appointment, or in case it shall appear to the court that the best interests of the person require it, the Superior Court may appoint the public guardian of the county in which the person resides as his guardian.

Source: N. J. S. 3A:31–6.

Powers of public guardian as guardian of veterans' estates.

3B:13–27. Powers of public guardian as guardian of veterans' estates. The public guardian of incompetent veterans shall have, in respect of any veteran and the estate of any veteran for whom he

has been appointed guardian, the same power and authority as any other duly appointed guardian of a mental incompetent.

Source: N. J. S. 3A:31–7.

Settlement of accounts.

3B:13–28. Settlement of accounts. The public guardian shall settle his accounts in each estate in which he has been appointed guardian at the times and in the same manner as other guardians of mental incompetents.

Source: N. J. S. 3A:31–8.

Termination of guardianship; settlement of account.

3B:13–29. Termination of guardianship; settlement of account. Upon the termination of a guardianship, by death of his ward or otherwise, the public guardian shall settle his account as guardian in the same manner as other guardians of mental incompetents.

Source: N. J. S. 3A:31–9.

Settlement of accounts upon expiration of public guardian's term.

3B:13–30. Settlement of accounts upon expiration of public guardian's term. The public guardian shall proceed to settle the accounts of all estates of which he is duly appointed guardian upon the expiration of his term of office.

Source: N. J. S. 3A:31–10.

Counsel to represent public guardian; compensation.

3B:13–31. Counsel to represent public guardian; compensation. The public guardian of incompetent veterans may, when authorized by the Superior Court, employ counsel to represent him.

The compensation of counsel shall be fixed by the court and paid from moneys in the guardian's hands belonging to the estate involved in litigation.

Source: N. J. S. 3A:31–11.

Chapter 14

Fiduciaries

Article 1. Generally

3B:14–1. Survivorship and succession among cofiduciaries; duties and powers.

3B:14–2. Appointment of substituted fiduciary in place of one deceased or removed.

3B:14–3. Powers and duties of substituted fiduciary.

3B:14-4. Actions of succeeding or substituted fiduciary to recover assets misapplied by predecessor.
3B:14-5. Removed or discharged fiduciary to deliver assets to successor.
3B:14-6. Penalty for failure of removed or discharged fiduciary to account or deliver assets.
3B:14-7. Account of removed or discharged fiduciary.

Article 2. Substitute for Fiduciary in War Service

3B:14-8. "Engaged in war service" defined.
3B:14-9. Appointment of substitute for fiduciary engaged in war service.
3B:14-10. Cofiduciaries; terms of instrument.
3B:14-11. Substituted fiduciary; bond.
3B:14-12. Substituted fiduciary; powers and duties.
3B:14-13. Reinstatement of original fiduciary.
3B:14-14. Termination of substituted fiduciary's powers and duties; accounting and delivery of assets.
3B:14-15. Powers and duties of reinstated fiduciary.
3B:14-16. Commissions; apportionment.
3B:14-17. More than one substituted fiduciary.

Article 3. Discharge and Removal of Fiduciaries

3B:14-18. Discharge from office of fiduciary; account; allowances.
3B:14-19. Discharge from particular trust; effect.
3B:14-20. Discharge of one or more joint fiduciaries.
3B:14-21. Removal for cause.
3B:14-22. Discharge or removal not to release fiduciary or sureties from certain liabilities.

Article 4. Powers of Fiduciaries

A. In General

3B:14-23. Powers.
3B:14-24. Authorization to exercise other powers.

B. Foreign Fiduciaries

3B:14-25. Payment of debt or delivery of certain personal property; requirements.
3B:14-26. Release upon payment or delivery in good faith.
3B:14-27. When payment or delivery may not be made.
3B:14-28. Filing proof of domiciliary foreign fiduciary's authority.

3B:14–29. Exercise of powers by domiciliary foreign fiduciary; security for costs.
3B:14–30. Termination of domiciliary foreign fiduciary's powers: protection of third persons; exercise of powers binding on local fiduciary.

Article 5. Liability of Fiduciaries and Protection of Persons Assisting or Dealing with Fiduciaries

3B:14–31. Personal liability of fiduciary on contracts.
3B:14–32. Personal liability for obligations arising from ownership or control of estate; torts.
3B:14–33. Asserting claims against estate.
3B:14–34. Determining issues of liability between estate and fiduciary.
3B:14–35. Liability of fiduciary for improper exercise of power concerning estate.
3B:14–36. Voidable sales, encumbrances or transactions; exceptions.
3B:14–37. Protection of persons assisting or dealing with fiduciary.

Article 6. Actions by or Against Fiduciaries

A. In General

3B:14–38. Actions by fiduciaries.
3B:14–39. Several fiduciaries sued; judgment and execution.
3B:14–40. No actions against personal representatives within 6 months of grants of letters; exceptions; execution.
3B:14–41. Actions against fiduciaries; proof of proper administration.
3B:14–42. Recovery of damages for injury to property subsequently transferred.
3B:14–43. Adjudication binding on local fiduciary.

B. Discovery

3B:14–44. Discovery of assets in action by fiduciary.
3B:14–45. Discovery of assets in action against the fiduciary.

C. Power of Attorney for Service of Process

3B:14–46. "Process" defined.
3B:14–47. Fiduciary to file power of attorney; requisites of power.
3B:14–48. Service of process.

D. Jurisdiction over Domiciliary Foreign Fiduciary

3B:14–49. Submission to jurisdiction of courts.
3B:14–50. Jurisdiction by act of decedent.
3B:14–51. Service of process.

Article 7. Uniform Fiduciaries Law

3B:14–52. Short title.
3B:14–53. Definitions.
3B:14–54. Application of payments of money or transfer of property made to fiduciaries.
3B:14–55. Check drawn by and payable to fiduciary.
3B:14–56. Deposit in name of fiduciary; checks; when bank liable.
3B:14–57. Checks drawn by fiduciary upon principal's account.
3B:14–58. Deposit in fiduciary's personal account; liability of bank receiving deposit and paying checks.
3B:14–59. Deposit in names of two or more trustees; liability of payee, holder or bank.
3B:14–60. Cases not provided for in article.
3B:14–61. Uniformity of interpretation.

Article 8. Abandonment of Real Property

3B:14–62. Abandonment of real property may be authorized.
3B:14–63. Directions of court when abandonment ordered.
3B:14–64. Order approving abandonment of real property by fiduciary and authorizing conveyance of title.
3B:14–65. Public liability after abandonment but before being divested of title.

Article 1. Generally

Survivorship and succession among cofiduciaries; duties and powers.

3B:14–1. Survivorship and succession among cofiduciaries; duties and powers. There shall be survivorship and succession between and among cofiduciaries. If only one fiduciary survives or remains qualified to act, no substituted fiduciary need be appointed to act in the place of any cofiduciary who may have died or may have been removed, discharged or otherwise disabled to act.

The surviving fiduciary or cofiduciaries shall proceed with the duties of the office and shall be entitled to the property and assets, and to sue for and recover them, and to sell and convey them, as if the remaining fiduciary or cofiduciaries had been solely appointed to the office.

Source: N. J. S. 3A:6–52.

Appointment of substituted fiduciary in place of one deceased or removed.

3B:14–2. Appointment of substituted fiduciary in place of one deceased or removed. A substituted fiduciary may be discharged or removed in the same manner and for the same causes as an originally named or appointed fiduciary. Upon the death or removal of a substituted fiduciary, a substituted fiduciary may be appointed in his stead with the same powers, authority, duties and liabilities as his predecessor in office.

Source: N. J. S. 3A:6–53.

Powers and duties of substituted fiduciary.

3B:14–3. Powers and duties of substituted fiduciary. A substituted fiduciary may demand, receive and recover the property and assets of the estate, and maintain all proper actions for the recovery thereof, and do all acts necessary for the administration and settlement of the estate and execution of the powers and performance of the trusts contained in the will or other instrument, in the same manner and to the same effect as if he had been appointed or named in the first instance. The fiduciary shall in the same manner be liable for any neglect or failure to perform the duties of his appointment.

Source: N. J. S. 3A:6–54.

Actions of succeeding or substituted fiduciary to recover assets misapplied by predecessor.

3B:14–4. Actions of succeeding or substituted fiduciary to recover assets misapplied by predecessor. A fiduciary appointed in the place of a removed or discharged fiduciary, or the cofiduciary remaining in office after the discharge or removal of the fiduciary, may sue for assets as shall have come into the possession of the discharged or removed fiduciary for any breach of trust, waste, embezzlement or misapplication thereof and may sue for the recovery of the assets of the estate against the discharged or removed fiduciary or against any other person in possession of the assets.

Source: N. J. S. 3A:6–55.

Removed or discharged fiduciary to deliver assets to successor.

3B:14–5. Removed or discharged fiduciary to deliver assets to successor. A fiduciary when removed or discharged shall forthwith deliver to his cofiduciary or the substituted fiduciary succeeding him all the assets of the estate which he holds, and shall, within 60 days after the accounting and settlement as provided in N. J. S. 3B:14–7, pay over to the cofiduciary or substituted fiduciary, as

the circumstances of the case may require or the court may order, any balance shown to be due.

Source: N. J. S. 3A:6–56.

Penalty for failure of removed or discharged fiduciary to account or deliver assets.

3B:14–6. Penalty for failure of removed or discharged fiduciary to account or deliver assets. A fiduciary who fails to account as provided by N. J. S. 3B:14–7 or who fails to comply with the provisions of N. J. S. 3B:14–5, or any order entered thereunder, shall be liable to a fine not exceeding the amount of the estate in the hands of the fiduciary and shall also be liable for contempt for disobeying or failing to perform any court order or for failing to pay the fine.

All fines hereunder shall be collected by execution against the real or personal property of the defaulting fiduciary and shall be collected in favor of the person to whom the defaulting fiduciary should have made the payment or delivery and shall be received as assets by the cofiduciary or substituted fiduciary succeeding to the management of the estate.

Source: N. J. S. 3A:6–57.

Account of removed or discharged fiduciary.

3B:14–7. Account of removed or discharged fiduciary. A removed or discharged fiduciary shall, within 60 days after removal or discharge or within a shorter or longer period as the court may direct, state and settle his account before the Superior Court for all the assets of the estate in his charge.

Source: N. J. S. 3A:6–58.

Article 2. Substitute for Fiduciary in War Service

"Engaged in war service" defined.

3B:14–8. "Engaged in war service" defined. For the purposes of this article, a fiduciary or person named to act as fiduciary shall be deemed to be engaged in war service if in time of war:

a. He is a member of the armed forces of the United States or of any of its allies or has been accepted for service and is awaiting induction into the service; or

b. He is engaged in any work abroad in connection with a governmental agency of the United States or in connection with the American Red Cross Society or any other body with similar objects; or

c. He is interned in an enemy country or is in a foreign country or a possession or dependency of the United States and is unable to return to this State.

Source: N. J. S. 3A:6–67.

Appointment of substitute for fiduciary engaged in war service.

3B:14–9. Appointment of substitute for fiduciary engaged in war service. If a person is named to act as a fiduciary in a will or in any instrument creating a trust, who has not accepted the appointment or has not qualified, or if a person acting as a fiduciary is engaged in war service, the court may suspend the right of that person to be appointed as the fiduciary or suspend the powers of the fiduciary while he is engaged in war service and until the further order of the court. The court may appoint a substituted fiduciary until the termination of the suspension and reinstatement of the fiduciary or the person named to act as fiduciary is appointed.

Source: N. J. S. 3A:6–59.

Cofiduciaries; terms of instrument.

3B:14–10. Cofiduciaries; terms of instrument. If the fiduciary or person named to act as fiduciary is one of several cofiduciaries or one of several named to act as cofiduciaries, the court may appoint a substituted cofiduciary or may appoint the fiduciary's cofiduciary or cofiduciaries or the person or persons named to act as cofiduciaries to act as the substituted fiduciary. If the will or other instrument under which the fiduciary is appointed or person is named to act as fiduciary provides for a substitute or alternate fiduciary in the event of his death or otherwise, the court shall appoint as substituted fiduciary the substitute or alternate fiduciary or person named to act as substitute or alternate fiduciary to act if he is willing to act and can qualify.

Source: N. J. S. 3A:6–60.

Substituted fiduciary; bond.

3B:14–11. Substituted fiduciary; bond. The substituted fiduciary shall give bond in the same terms as to condition, security and amount as were required of the fiduciary or person named to act as fiduciary in whose stead he is appointed or as the court shall direct. If the fiduciary or person named to act as fiduciary was not required to give bond the court may, in its discretion, require the substituted fiduciary to give bond in such terms as to condition, security and amount as the court may determine.

Source: N. J. S. 3A:6–61.

Substituted fiduciary; powers and duties.

3B:14–12. Substituted fiduciary; powers and duties. The substituted fiduciary, upon qualifying in accordance with the order of the court, shall be entitled to the control and possession of all of the unadministered assets of the estate, trust or fund, and shall be vested with title to and powers over the estate, trust or fund as the fiduciary or person named to act as fiduciary, in whose place and stead the substituted fiduciary is appointed, had or would have had except for the suspension of rights or powers and shall have power to administer the estate, trust or fund and shall be required to administer the estate, trust or fund and to account for his administration according to law.

Source: N. J. S. 3A:6–62.

Reinstatement of original fiduciary.

3B:14–13. Reinstatement of original fiduciary. When the fiduciary or person named to act as fiduciary in whose place a substituted fiduciary is appointed ceases to be engaged in war service, he may apply to the court to be reinstated as fiduciary or may be appointed to act as fiduciary if any part of the estate, trust or fund remains unadministered and if any of the duties of the office of fiduciary remain unexecuted, except the duty to account.

Source: N. J. S. 3A:6–63.

Termination of substituted fiduciary's powers and duties; accounting and delivery of assets.

3B:14–14. Termination of substituted fiduciary's powers and duties; accounting and delivery of assets. Upon reinstatement of the original fiduciary or person named to act as fiduciary, any substituted fiduciary of the estate, trust or fund, appointed by the court shall be removed and all of his powers as substituted fiduciary shall cease, except the power and duty to account for his administration of the estate, trust or fund. The substituted fiduciary shall deliver to the reinstated fiduciary all of the unadministered assets of the estate, trust or fund remaining in his possession and control and shall promptly account to the court for his administration of the estate, trust or fund.

Source: N. J. S. 3A:6–63.

Powers and duties of reinstated fiduciary.

3B:14–15. Powers and duties of reinstated fiduciary. Upon reinstatement, the fiduciary or person named to act as fiduciary shall be vested with all of the title to that portion of the estate, trust or fund as has not been administered by the substituted fi-

duciary, and shall have all of the powers and duties as to the estate, trust or fund which he had or would have had by virtue of his original appointment as fiduciary or his being named to act as fiduciary. He shall have no responsibility for the administration of the estate, trust or fund by the substituted fiduciary or person named to act as substituted fiduciary. He shall be responsible for and shall account for his own administration of the estate, trust or fund, which may have remained in his hands or for which he may be accountable by his own action or neglect.

Source: N. J. S. 3A:6–64.

Commissions; apportionment.

3B:14–16. Commissions; apportionment. Commissions on the administration of the estate, trust or fund shall be apportioned between the original fiduciary and the substituted fiduciary as the court shall direct.

Source: N. J. S. 3A:6–65.

More than one substituted fiduciary.

3B:14–17. More than one substituted fiduciary. The court may appoint more than one substituted fiduciary in place of any fiduciary or person named to act as fiduciary engaged in war service if, in its discretion, the court determines that it is for the best interests of the estate, trust or fund, or of the parties interested therein, that the appointment be made.

Source: N. J. S. 3A:6–66.

Article 3. Discharge and Removal of Fiduciaries

Discharge from office of fiduciary; account; allowances.

3B:14–18. Discharge from office of fiduciary; account; allowances. A fiduciary may be discharged from the further duties of his office by the court.

The court shall examine into the matter and if sufficient cause appears, the court may grant the discharge unless it will be prejudicial to the estate or persons interested therein or for any other reason the discharge ought not to be granted.

A discharge so granted shall discharge the fiduciary of all the further duties of his office except accounting for and paying over the money and assets with which he is chargeable by virtue of his office.

If the fiduciary is discharged, the court shall make orders respecting his commissions as may be just and equitable.

Source: N. J. S. 3A:11–1.

Discharge from particular trust; effect.

3B:14–19. Discharge from particular trust; effect. Where a fiduciary is appointed by a will to perform a particular trust thereunder, he may be discharged from the performance thereof by the court.

The court may grant the discharge and the fiduciary shall be relieved of all further duties and liabilities with respect to the trust, except accounting for and paying over to his successor all moneys or assets pertaining to the trust, for which he is accountable.

Source: N. J. S. 3A:11–2.

Discharge of one or more joint fiduciaries.

3B:14–20. Discharge of one or more joint fiduciaries. When there is more than one fiduciary they may all, or any one or more of them, be discharged.

Source: N. J. S. 3A:11–3.

Removal for cause.

3B:14–21. Removal for cause. The court may remove a fiduciary from office when:

a. After due notice of an order or judgment of the court so directing, he neglects or refuses, within the time fixed by the court, to file an inventory, render an account or give security or additional security;

b. After due notice of any other order or judgment of the court made under its proper authority, he neglects or refuses to perform or obey the order or judgment within the time fixed by the court; or

c. He has embezzled, wasted or misapplied any part of the estate committed to his custody, or has abused the trust and confidence reposed in him; or

d. He has removed from the state or does not reside therein and neglects or refuses to proceed with the administration of the estate and perform the duties and trust devolving upon him; or

e. He is of unsound mind or mentally incapacitated for the transaction of business; or

f. One of two or more fiduciaries has neglected or refused to perform his duties or to join with the other fiduciary or fiduciaries in the administration of the estate committed to their care whereby the proper administration and settlement of the estate is or may be hindered or prevented.

Source: N. J. S. 3A:11–4.

Discharge or removal not to release fiduciary or sureties from certain liabilities.

3B:14–22. Discharge or removal not to release fiduciary or sureties from certain liabilities. The discharge or removal of a fiduciary for any cause authorized by this article shall not release or discharge him or his surety or sureties, or any of them, from liability for the estate, or any part thereof, which has been received or ought to have been received by him or them, or for any neglect, default, miscarriage or breach of trust in the execution of his office.

Source: N. J. S. 3A:11–5.

Article 4. Powers of Fiduciaries

A. In General

Powers.

3B:14–23. Powers. In the absence of contrary or limiting provisions in the judgment or order appointing a fiduciary, in the will, deed or other instrument or in a subsequent court judgment or order, every fiduciary shall, in the exercise of good faith and reasonable discretion, have the power:

a. To accept additions to any estate or trust from sources other than the estate of the decedent, minor, mental incompetent or the settlor of a trust;

b. To acquire the remaining undivided interest in an estate or trust asset in which the fiduciary, in his fiduciary capacity, holds an undivided interest;

c. To invest and reinvest assets of the estate or trust under the provisions of the will, deed or other instrument or as otherwise provided by law and to exchange assets for investments and other property upon terms as may seem advisable to the fiduciary;

d. To effect and keep in force fire, rent, title, liability, casualty or other insurance to protect the property of the estate or trust and to protect the fiduciary;

e. With respect to any property or any interest therein owned by an estate or trust, including any real property belonging to the fiduciary's decedent at death, except where the property or any interest therein is specifically disposed of:

(1) To take possession of and manage the property and to collect the rents therefrom, and pay taxes, mortgage interest and other charges against the property;

(2) To sell the property at public or private sale, and on terms as in the opinion of the fiduciary shall be most advantageous to those interested therein;

(3) With respect to fiduciaries other than a trustee, to lease the property for a term not exceeding 3 years, and in the case of a trustee to lease the property for a term not exceeding 10 years, even though the term extends beyond the duration of the trust, and in either case including the right to explore for and remove mineral or other natural resources, and in connection with mineral leases to enter into pooling and unitization agreements;

(4) To mortgage the property;

(5) To grant easements to adjoining owners and utilities;

(6) A fiduciary acting under a will may exercise any of the powers granted by this subparagraph e. notwithstanding the effects upon the will of the birth of a child after its execution;

f. To make repairs to the property of the estate or trust for the purpose of preserving the property or rendering it rentable or saleable;

g. To grant options for the sale of any property of the estate or trust for a period not exceeding 6 months;

h. With respect to any mortgage held by the estate or trust to continue it upon and after maturity, with or without renewal or extension, upon terms as may seem advisable to the fiduciary and to foreclose, as an incident to collection of any bond or note, any mortgage and purchase the mortgaged property or acquire the property by deed from the mortgagor in lieu of foreclosure;

i. In the case of the survivor or survivors of two or more fiduciaries to administer the estate or trust without the appointment of a successor to the fiduciary or fiduciaries who have ceased to act and to exercise or perform all of the powers given unless contrary to the express provision of the will, deed or other instrument;

j. As a new, alternate, successor, substitute or additional fiduciary or fiduciaries, to have or succeed to all of the powers, duties and discretion of the original fiduciary or fiduciaries, with respect to the estate or trust, as were given to the original fiduciary or fiduciaries named in or appointed by a will, deed or other instrument, unless the exercise of the powers, duties or discretion of the original fiduciary or fiduciaries is expressly prohibited by the will, deed or other instrument to any successor or substitute fiduciary or fiduciaries;

k. Where there are three or more fiduciaries qualified to act, to take any action with respect to the estate or trust which a majority of the fiduciaries shall determine; a fiduciary who fails to act through absence or disability, or a dissenting fiduciary who joins

in carrying out the decision of a majority of the fiduciaries if his dissent is expressed promptly in writing to his cofiduciaries, shall not be liable for the consequences of any majority decision, provided that liability for failure to join in administering the trust or to prevent a breach of trust may not thus be avoided;

l. To employ and compensate attorneys for services rendered to the estate or trust or to a fiduciary in the performance of his duties;

m. To compromise, contest or otherwise settle any claim in favor of the estate, trust or fiduciary or in favor of third persons and against the estate, trust or fiduciary, including transfer inheritance, estate, income and other taxes;

n. To vote in person or by proxy, discretionary or otherwise, shares of stock or other securities held by the estate or trust;

o. To pay calls, assessments and any other sums chargeable or accruing against or on account of shares of stock, bonds, debentures or other corporate securities in the hands of a fiduciary, whenever the payments may be legally enforceable against the fiduciary or any property of the estate or trust or the fiduciary deems payment expedient and for the best interests of the estate or trust;

p. To sell or exercise stock subscription or conversion rights, participate in foreclosures, reorganizations, consolidations, mergers or liquidations, and to consent to corporate sales or leases and encumbrances, and, in the exercise of those powers, the fiduciary is authorized to deposit stocks, bonds or other securities with any custodian, agent, protective or other similar committee, or trustee under a voting trust agreement, under terms and conditions respecting the deposit thereof as the fiduciary may approve;

q. To execute and deliver agreements, assignments, bills of sale, contracts, deeds, notes, receipts and any other instrument necessary or appropriate for the administration of the estate or trust;

r. In the case of a trustee, to hold two or more trusts or parts of trusts created by the same instrument, as an undivided whole, without separation as between the trusts or parts of the trusts, provided that separate trusts or parts of trusts shall have undivided interests and provided further that no holding shall defer the vesting of any estate in possession or otherwise;

s. To distribute in kind any property of the estate or trust as provided in article 1 of chapter 23 of this title;

t. To join with the surviving spouse, the executor of his or her will or the administrator of his or her estate in the execution and

filing of a joint income tax return for any period prior to the death of a decedent for which he has not filed a return or a gift tax return on gifts made by the decedent's surviving spouse, and to consent to treat the gifts as being made one-half by the decedent, for any period prior to a decedent's death, and to pay taxes thereon as are chargeable to the decedent:

u. To acquire or dispose of an asset, including real or personal property in this or another State, for cash or on credit, at public or private sale, and to manage, develop, improve, exchange, partition, change the character of, or abandon an estate asset;

v. To continue any business constituting the whole or any part of the estate for so long a period of time as the fiduciary may deem advisable and advantageous for the estate and persons interested therein; and

w. The powers set forth in this section are in addition to any other powers granted by law, and by a will, deed or other instrument.

Source: C. 3A:6–16.2 (1968, c. 270, s. 2; amended 1979, c. 489, s. 2); C. 3A:6–16.3 (1968, c. 270, s. 3); N. J. S. 3A:6–68.

Authorization to exercise other powers.

3B:14–24. Authorization to exercise other powers. The court having jurisdiction of the estate or trust may authorize the fiduciary to exercise any other power which in the judgment of the court is necessary for the proper administration of the estate or trust.

Source: C. 3A:6–16.3 (1968, c. 270, s. 3).

B. Foreign Fiduciaries

Payment of debt or delivery of certain personal property; requirements.

3B:14–25. Payment of debt or delivery of certain personal property; requirements. After the expiration of 60 days from the appointment of a domiciliary foreign fiduciary, any person indebted to the estate or having possession or control of personal property, or of an instrument evidencing a debt, obligation, stock or chose in action belonging to the estate may pay the debt, deliver the personal property, or the instrument evidencing the debt, obligation, stock or chose in action, to the domiciliary foreign fiduciary upon being presented with a certificate of his letters or other proof of his authority and an affidavit made by or on his behalf stating:

a. The date of the letters of the domiciliary foreign fiduciary, or the date when he first received authority to act;

b. That no letters have issued in this State and no action therefor is pending in this State; and

c. That the domiciliary foreign fiduciary is entitled to payment or delivery.

Source: C. 3A:2A–58 (1977, c. 412, s. 61).

Release upon payment or delivery in good faith.

3B:14–26. Release upon payment or delivery in good faith. Payment or delivery made in good faith under N. J. S. 3B:14–25 on the basis of the proof of authority and affidavit releases the debtor or person having possession of the personal property to the same extent as if payment or delivery had been made to a local fiduciary.

Source: C. 3A:2A–59 (1977, c. 412, s. 62).

When payment or delivery may not be made.

3B:14–27. When payment or delivery may not be made. Payment or delivery under N. J. S. 3B:14–25 may not be made if a resident creditor of the estate has notified the debtor or the person having possession of the personal property that the debt should not be paid nor the property delivered to the domiciliary foreign fiduciary.

Source: C. 3A:2A–60 (1977, c. 412, s. 63).

Filing proof of domiciliary foreign fiduciary's authority.

3B:14–28. Filing proof of domiciliary foreign fiduciary's authority. If letters have not issued in this State or an action therefor is not pending in this State, a domiciliary foreign fiduciary or any other person may file in the office of the Clerk of the Superior Court, or if the decedent, ward, or trust has an interest in real estate in any county of this State, then either in that office or in the office of the surrogate of that county, authenticated copies of the letters of appointment of the fiduciary and of any official bond he has given.

Source: C. 3A:2A–61 (1977, c. 412, s. 64).

Exercise of powers by domiciliary foreign fiduciary; security for costs.

3B:14–29. Exercise of powers by domiciliary foreign fiduciary; security for costs. Upon compliance with N. J. S. 3B:14–28, a domiciliary foreign fiduciary may exercise as to assets in this State all powers he would have had if he had received letters or been appointed in this State, including the power to release and discharge real or personal estate from a mortgage, judgment or other lien or encumbrance held by his decedent, ward or trust. Whether N. J. S. 3B:14–28 is complied with prior to, pending, or subsequent to the action, a domiciliary foreign fiduciary may maintain, or be

made a party defendant or otherwise, to any action in any court of this State as if letters had been granted to him in this State, subject to any conditions generally imposed upon nonresident parties. Security for costs may be required of him.

Source: C. 3A:2A–62 (1977, c. 412, s. 65).

Termination of domiciliary foreign fiduciary's powers; protection of third persons; exercise of powers binding on local fiduciary.

3B:14–30. Termination of domiciliary foreign fiduciary's powers; protection of third persons; exercise of powers binding on local fiduciary. The power of a domiciliary foreign fiduciary under N. J. S. 3B:14–28 or N. J. S. 3B:14–29 shall be exercised only if letters have not been issued or an action therefor is not pending in this State. The issuance of local letters or an action therefor terminates the power of the domiciliary foreign fiduciary to act under N. J. S. 3B:14–29, but a court in this State may allow the domiciliary foreign fiduciary to exercise limited powers to preserve the estate. No person who, before receiving actual notice of local letters or an action therefor, has changed his position in reliance upon the powers of the domiciliary foreign fiduciary, shall be prejudiced by reason of the action for, or issuance of, local letters. The local fiduciary is subject to all duties and obligations which have accrued by virtue of the exercise of the powers by the domiciliary foreign fiduciary and may be substituted for him in any action in this State.

Source: C. 3A:2A–63 (1977, c. 412, s. 66).

Article 5. Liability of Fiduciaries and Protection of Persons Assisting or Dealing with Fiduciaries

Personal liability of fiduciary on contracts.

3B:14–31. Personal liability of fiduciary on contracts. Unless otherwise provided in the contract, a fiduciary is not individually liable on a contract properly entered into in his fiduciary capacity in the course of administration of the estate unless he fails to reveal his fiduciary capacity and identify the estate in the contract.

Source: C. 3A:2A–68 (1977, c. 412, s. 71).

Personal liability for obligations arising from ownership or control of estate; torts.

3B:14–32. Personal liability for obligations arising from ownership or control of estate; torts. A fiduciary is individually liable for obligations arising from ownership or control of the estate or for torts committed in the course of administration of the estate only if he is personally at fault.

Source: C. 3A:2A–68 (1977, c. 412, s. 71).

Asserting claims against estate.

3B:14–33. Asserting claims against estate. Claims based on contracts entered into by a fiduciary in his fiduciary capacity, on obligations arising from ownership or control of the estate or on torts committed in the course of estate administration may be asserted against the estate by proceeding against the fiduciary in his fiduciary capacity, whether or not the fiduciary is individually liable therefor.

Source: C. 3A:2A–68 (1977, c. 412, s. 71).

Determining issues of liability between estate and fiduciary.

3B:14–34. Determining issues of liability between estate and fiduciary. Issues of liability as between the estate and the fiduciary individually may be determined in a proceeding for accounting, surcharge or indemnification or other appropriate proceeding.

Source: C. 3A:2A–68 (1977, c. 412, s. 71).

Liability of fiduciary for improper exercise of power concerning estate.

3B:14–35. Liability of fiduciary for improper exercise of power concerning estate. If the exercise of power concerning the estate is improper, the fiduciary is liable to interested persons for damage or loss resulting from breach of his fiduciary duty to the same extent as a trustee of an express trust. The rights of purchasers and others dealing with a fiduciary shall be determined as provided in N. J. S. 3B:14–28 and N. J. S. 3B:14–29.

Source: C. 3A:2A–69 (1977, c. 412, s. 72).

Voidable sales, encumbrances or transactions; exceptions.

3B:14–36. Voidable sales, encumbrances or transactions; exceptions. Any sale or encumbrance to the fiduciary, his spouse, agent or attorney, or any corporation or trust in which he has a substantial beneficial interest, or any transaction which is affected by a substantial conflict of interest on the part of the fiduciary, is voidable by any person interested in the estate except one who has consented after fair disclosure, unless:

a. The will or a contract entered into by the decedent expressly authorized the transaction; or

b. The transaction is approved by the court after notice to interested persons.

Source: C. 3A:2A–70 (1977, c. 412, s. 73).

Protection of persons assisting or dealing with fiduciary.

3B:14–37. Protection of persons assisting or dealing with fiduciary. A person who in good faith either assists a fiduciary or

deals with him for value is protected as if the fiduciary properly exercised his power. The fact that a person knowingly deals with a fiduciary does not alone require the person to inquire into the existence of a power or the propriety of its exercise. Except as to real property specifically devised, no provision in any will or order of court purporting to limit the power of a fiduciary is effective except as to persons with actual knowledge thereof. A person who in good faith pays, transfers or delivers to a fiduciary money or other property is not responsible for the proper application thereof by the fiduciary; and any right or title acquired from the fiduciary in consideration of the payment, transfer or delivery is not invalid in consequence of a misapplication by the fiduciary. The protection here expressed extends to instances in which some procedural irregularity or jurisdictional defect occurred in proceedings leading to the issuance of letters, including a case in which the alleged decedent is found to be alive. The protection here expressed is in addition to that provided by comparable provisions of the laws relating to commercial transactions and laws simplifying transfers of securities by fiduciaries.

Source: C. 3A:2A–71 (1977, c. 412, s. 74; amended 1979, c. 221, s. 6).

Article 6. Actions by or Against Fiduciaries

A. In General

Actions by fiduciaries.

3B:14–38. Actions by fiduciaries. The fiduciary or a majority of the fiduciaries who qualify may maintain an action in any court of this State without joining any fiduciary who has failed to qualify or join in the action. An action so brought and judgment recovered thereon in the name of the majority shall be as valid and effectual as if brought by and in the names of all the qualified fiduciaries.

Source: N. J. S. 3A:12–1; 3A:12–2.

Several fiduciaries sued; judgment and execution.

3B:14–39. Several fiduciaries sued; judgment and execution. In a civil action in any court of this State against two or more fiduciaries, those served shall defend the action on behalf of all of them.

If, in the action, judgment is recovered by the plaintiff payable out of the decedent's estate, he shall have judgment and execution against all the fiduciaries named in the process, to be satisfied out of the decedent's estate.

Source: N. J. S. 3A:12–3.

No actions against personal representatives within 6 months of grants of letters; exceptions; execution.

3B:14–40. No actions against personal representatives within 6 months of grants of letters; exceptions; execution. To enable personal representatives to examine into the condition of the estate and to ascertain its amount and value and the debts to be paid, no actions, except for funeral expenses, shall be brought or maintained against personal representatives within 6 months after letters testamentary or of administration have been granted, as the case may be, unless by special leave of the court in which the action is brought; and, if leave is given, no execution shall issue within the period of 6 months.

Source: N. J. S. 3A:12–5.

Actions against fiduciaries; proof of proper administration.

3B:14–41. Actions against fiduciaries; proof of proper administration. The failure of a fiduciary to plead in an action against him in a representative capacity that he has fully administered the estate or the extent to which he has administered the estate shall not preclude him from proving his due administration of the estate in an action against him personally on a judgment recovered against him in the original action in his representative capacity. Notice by the fiduciary of his intention to prove administration must be given 20 days before trial.

Source: N. J. S. 3A:12–6.

Recovery of damages for injury to property subsequently transferred.

3B:14–42. Recovery of damages for injury to property subsequently transferred. A person injuring, damaging or destroying property while in the hands of a fiduciary shall be liable to the fiduciary in an action for damages for the benefit of his cestui que trust or persons in interest. The fiduciary's right to substantial damages shall not be affected by the fact that he may have transferred or conveyed the property to his cestui que trust, or other person, after the time of the injury, damage or destruction and before action brought.

Source: N. J. S. 3A:12–10.

Adjudication binding on local fiduciary.

3B:14–43. Adjudication binding on local fiduciary. An adjudication rendered in any jurisdiction in favor of or against any fiduciary of the estate is as binding on the local fiduciary upon notice to him as if he were a party to the adjudication.

Source: C. 3A:2A–67 (1977, c. 412, s. 70).

B. Discovery

Discovery of assets in action by fiduciary.

3B:14–44. Discovery of assets in action by fiduciary. Upon application by a fiduciary, the court may require any person to appear before and make discovery of his possession of, or knowledge of the existence or whereabouts of personal property of the fiduciary's decedent, ward or trust by the production of books, papers or securities relating to the estate, guardianship or trusteeship or by the examination of the person and other witnesses.

Source: N. J. S. 3A:12–11.

Discovery of assets in action against the fiduciary.

3B:14–45. Discovery of assets in action against the fiduciary. The court may, if it shall appear that a fiduciary may have wasted, embezzled or misapplied the estate intrusted to him, compel discovery to be made of the condition of the estate by the production of books, papers, securities and documents relating to the estate, or the examination of the fiduciary and other witnesses.

Source: N. J. S. 3A:12–12.

C. Power of Attorney for Service of Process

"Process" defined.

3B:14–46. "Process" defined. The word "process" as used in this subarticle shall include any summons, subpena, writ, attachment and levy thereunder, garnishment, rule, order, notice, decision, judgment or execution and levy thereunder, or any other process whatsoever, that may lawfully be issued out of any court of this State against a fiduciary in any proceeding affecting the estate which he may represent or affecting the property or interest of any beneficiary of, or interested in, the estate or against the property or interest of any beneficiary which is held or claimed to be held by the fiduciary for the account or benefit of the beneficiary.

Source: N. J. S. 3A:12–13.

Fiduciary to file power of attorney; requisites of power.

3B:14–47. Fiduciary to file power of attorney; requisites of power. Every fiduciary, whether or not a resident within this State, who is granted letters testamentary or of administration, trusteeship or guardianship within this State shall, at the time of the grant, or before he undertakes to perform his duties, file a power of attorney with the surrogate of the county or clerk of the court granting the letters. The power of attorney shall be duly executed in writing, shall set forth the post office address, street and number,

of the fiduciary and, by sufficient language, constitute the surrogate or clerk with whom it is filed, and his successors in office, his true and lawful attorney to receive process affecting the estate in charge of the fiduciary, or any interest therein, with the same force and effect as if the process were duly served on the fiduciary within this State.

Source: N. J. S. 3A:12–14.

Service of process.

3B:14–48. Service of process. Service of process, under the provisions of this subarticle, shall be made by leaving a copy of the process with the surrogate or clerk, or with a deputy or a clerk employed in his office, together with a fee of $2.00 to be taxed in the costs.

The surrogate, deputy or clerk shall forthwith notify the fiduciary of the service by mailing a letter, with a copy of the process served inclosed, with full postage prepaid, directed to the fiduciary at the post office address given in the power of attorney.

Source: N. J. S. 3A:12–15.

D. Jurisdiction over Domiciliary Foreign Fiduciary

Submission to jurisdiction of courts.

3B:14–49. Submission to jurisdiction of courts. A domiciliary foreign fiduciary submits himself personally to the jurisdiction of the courts of this State in any proceeding relating to the estate by:

a. Filing authenticated copies of his letters as provided in N. J. S. 3B:14–28;

b. Receiving payment of money or taking delivery of personal property under N. J. S. 3B:14–25, but jurisdiction hereunder is limited to the money or value of personal property received;

c. Doing any act as a fiduciary in this State which would have given the State jurisdiction over him as an individual.

Source: C. 3A:2A–64 (1977, c. 412, s. 67).

Jurisdiction by act of decedent.

3B:14–50. Jurisdiction by act of decedent. In addition to jurisdiction conferred by N. J. S. 3B:14–49, a domiciliary foreign fiduciary for a decedent is subject to the jurisdiction of the courts of this State to the same extent that his decedent was subject to their jurisdiction immediately prior to death.

Source: C. 3A:2A–65 (1977, c. 412, s. 68).

Service of process.

3B:14–51. Service of process. If a domiciliary foreign fiduciary has submitted himself to the jurisdiction of the courts of this State, service of process shall be made upon him as provided by the Rules of the Supreme Court of New Jersey.

Source: C. 3A:2A–66 (1977, c. 412, s. 69).

Article 7. Uniform Fiduciaries Law

Short title.

3B:14–52. Short title. This article shall be known and may be cited as the "Uniform Fiduciaries Law."

Source: N. J. S. 3A:41–14.

Definitions.

3B:14–53. Definitions. As used in this article:

a. "Bank" includes any person or association of persons, whether incorporated or not, carrying on the business of banking and any State chartered savings and loan association, or any Federal savings and loan association, having its principal office in this State;

The inclusion of savings and loan associations within the provisions of this article shall not be construed as conferring upon those associations any powers not otherwise conferred by this article, nor as enlarging any powers so conferred;

b. "Fiduciary" includes a trustee under any trust, express, implied, resulting or constructive, executor, administrator, guardian, conservator, curator, receiver, trustee in bankruptcy, assignee for the benefit of creditors, partner, agent, officer of a corporation, public or private, public officer, or any other person acting in a fiduciary capacity for any person, trust or estate;

c. "Person" includes two or more persons having a joint or common interest;

d. "Principal" includes any person to whom a fiduciary as such owes an obligation;

e. A thing is done "in good faith" within the meaning of this article, when it is in fact done honestly, whether it be done negligently or not.

Source: N. J. S. 3A:41–1; amended 1967, c. 232.

Application of payments of money or transfer of property made to fiduciaries.

3B:14–54. Application of payments of money or transfer of property made to fiduciaries. A person who in good faith pays or transfers to a fiduciary money or other property which the fiduciary is authorized to receive, is not responsible for the proper applica-

tion thereof by the fiduciary. Any right or title acquired from the fiduciary in consideration of the payment or transfer is not invalid in consequence of a misapplication by the fiduciary.

Source: N. J. S. 3A:41–2.

Check drawn by and payable to fiduciary.

3B:14–55. Check drawn by and payable to fiduciary. If a check or other bill of exchange is drawn by a fiduciary as such or in the name of his principal by a fiduciary empowered to draw the instrument in the name of his principal, payable to the fiduciary personally, or payable to a third person and by him transferred to the fiduciary, and is thereafter transferred by the fiduciary, whether in payment of a personal debt of the fiduciary or otherwise, the transferee is not bound to inquire whether the fiduciary is committing a breach of his obligation as fiduciary in transferring the instrument, and is not chargeable with notice that the fiduciary is committing a breach of his obligation as fiduciary unless he takes the instrument with actual knowledge of the breach or with knowledge of facts that his action in taking the instrument amounts to bad faith.

Source: N. J. S. 3A:41–6.

Deposit in name of fiduciary; checks; when bank liable.

3B:14–56. Deposit in name of fiduciary; checks; when bank liable. If a deposit is made in a bank to the credit of a fiduciary as such, the bank is authorized to pay the amount of the deposit or any part thereof upon the check of the fiduciary, signed with the name in which the deposit is entered, without being liable to the principal, unless the bank pays the check with the actual knowledge that the fiduciary is committing a breach of his obligation as fiduciary in drawing the check or with the knowledge of facts that its action in paying the check amounts to bad faith. If, however, a check is payable to the drawee bank and is delivered to it in payment of or as security for a personal debt of the fiduciary to it, the bank is liable to the principal if the fiduciary in fact commits a breach of his obligation as fiduciary in drawing or delivering the check.

Source: N. J. S. 3A:41–7.

Checks drawn by fiduciary upon principal's account.

3B:14–57. Checks drawn by fiduciary upon principal's account. If a check is drawn upon the account of his principal in a bank by a fiduciary who is empowered to draw checks upon his principal's account, the bank is authorized to pay the check without being liable

to the principal, unless the bank pays the check with actual knowledge that the fiduciary is committing a breach of his obligation as fiduciary in drawing the check, or with knowledge of facts that its action in paying the check amounts to bad faith. If, however, a check is payable to the drawee bank and is delivered to it in payment of or as security for a personal debt of the fiduciary to it, the bank is liable to the principal if the fiduciary in fact commits a breach of his obligation as fiduciary in drawing or delivering the check.

Source: N. J. S. 3A:41–8.

Deposit in fiduciary's personal account; liability of bank receiving deposit and paying checks.

3B:14–58. Deposit in fiduciary's personal account; liability of bank receiving deposit and paying checks. If a fiduciary makes a deposit in a bank to his personal credit of checks drawn by him upon an account in his own name as fiduciary, or of checks payable to him as fiduciary, or of checks drawn by him upon an account in the name of his principal, if he is empowered to draw thereon, or of checks payable to his principal and indorsed by him, if he is empowered to indorse the checks, or if he otherwise makes a deposit of funds held by him as fiduciary, the bank receiving the deposit is not bound to inquire whether the fiduciary is committing thereby a breach of his obligation as fiduciary. The bank is authorized to pay the amount of the deposit or any part thereof upon the personal check of the fiduciary without being liable to the principal, unless the bank receives the deposit or pays the check with actual knowledge that the fiduciary is committing a breach of his obligation as fiduciary in making the deposit or in drawing the check, or with knowledge of facts that its action in receiving the deposit or paying the check amounts to bad faith.

Source: N. J. S. 3A:41–9.

Deposit in names of two or more trustees; liability of payee, holder or bank.

3B:14–59. Deposit in names of two or more trustees; liability of payee, holder or bank. When a deposit is made in a bank in the names of two or more persons as trustees and a check is drawn upon the trust account by any trustee or trustees authorized by the other trustee or trustees to draw checks upon the trust account, neither the payee nor other holder nor the bank is bound to inquire whether it is a breach of trust to authorize the trustee or trustees to draw checks upon the trust account, and is not liable unless the circumstances be such that the action of the payee or other holder or the bank amounts to bad faith.

Source: N. J. S. 3A:41–10.

Cases not provided for in article.

3B:14–60. Cases not provided for in article. In any case not provided for in this article, the rules of law and equity, including the law merchant and those rules of law and equity relating to trusts, agency, commercial transactions and banking, shall continue to apply.

Source: N. J. S. 3A:41–12.

Uniformity of interpretation.

3B:14–61. Uniformity of interpretation. The article shall be so interpreted and construed as to effectuate its general purpose to make uniform laws of those states which enact it.

Source: N. J. S. 3A:41–13.

Article 8. Abandonment of Real Property

Abandonment of real property may be authorized.

3B:14–62. Abandonment of real property may be authorized. A fiduciary of or any person interested in an estate or a trust may apply to the court for a judgment or order directing the fiduciary to abandon any improved or unimproved real property that is an asset of the estate or trust and, which because of liens, encumbrances, the absence or lack of revenue, or for other reasons, does not have a value worth protecting, and that it is for the best interests of persons having an interest in the estate or trust that the real property be abandoned.

Source: N. J. S. 3A:16–5.

Directions of court when abandonment ordered.

3B:14–63. Directions of court when abandonment ordered. If the fiduciary is ordered to abandon real property:

a. The court may direct the fiduciary to refrain from

(1) Paying any arrearages of real property taxes and assessments and those thereafter assessed,

(2) Paying water rents or charges,

(3) Paying arrearages in mortgage principal and interest and those thereafter becoming due,

(4) Making repairs to or maintaining any improvements upon the real property,

(5) Keeping the real property or any improvements thereon insured against fire or other loss and liability or as the court may direct;

b. The court may direct that the fiduciary may, if a buyer can be found, convey the real property for a nominal consideration or no

consideration so as to avoid liability arising to the fiduciary or to the estate or trust.

Source: N. J. S. 3A:16–5.

Order approving abandonment of real property by fiduciary and authorizing conveyance of title.

3B:14–64. Order approving abandonment of real property by fiduciary and authorizing conveyance of title. Where it appears that a fiduciary in good faith and in the exercise of a reasonable discretion has abandoned real property by refraining from paying real property taxes, assessments, water rents or charges, mortgage principal and interest, making repairs or improvements to the property, and that because of the liens, encumbrances, the absence or lack of revenues or other reasons the real property did not have a value worth protecting and that it was advisable for the best interests of those interested in the estate or trust to abandon the real property, or that as a result of an abandonment, the fiduciary has been divested of title to or right of possession of the real property by foreclosure of a mortgage or the enforcement of any other lien or encumbrance, the court may ratify and approve the abandonment of the real property upon terms and conditions as it may deem proper. If the fiduciary still has title to the real property, the court may authorize the fiduciary to convey all right, title and interest therein for a nominal consideration or no consideration in order to avoid liability which might arise by reason of continued ownership of the property.

Source: N. J. S. 3A:16–6.

Public liability after abandonment but before being divested of title.

3B:14–65. Public liability after abandonment but before being divested of title. Whenever a fiduciary, trust or estate abandons any real property pursuant to this article, the fiduciary, trust or estate shall remain liable for injury or damage to persons or property arising out of the ownership of the real property notwithstanding the abandonment, until the fiduciary, trust or estate has divested itself or has been divested of title thereto.

Source: N. J. S. 3A:16–7.

CHAPTER 15

BONDS AND SURETIES

Article 1. Generally

3B:15–1. Bonds of fiduciaries.
3B:15–2. Bonds not to be approved unless prescribed conditions are included.
3B:15–3. Bond where will requires bond and fails to name obligee; prosecution.
3B:15–4. Bond when property unsafe or in danger of waste.
3B:15–5. Conditions of bond on grant of intestate administration.
3B:15–6. Conditions of bonds on certain grants of administration.
3B:15–7. Conditions of bonds of guardians of minors and mental incompetents.
3B:15–8. Allowance of expense of procuring surety bond of fiduciary, receiver or assignee.

Article 2. Additional and Separate Security

3B:15–9. Additional surety when original sureties and bond insufficient.
3B:15–10. When fiduciary required to account and give separate security to surety.

Article 3. Deposit in Lieu of Full Security of Bond

A. Generally

3B:15–11. When deposit permitted.
3B:15–12. Bond after deposit.
3B:15–13. How deposits made and withdrawn.
3B:15–14. Additional bond upon withdrawals.
3B:15–15. Depository to issue duplicate deposit certificates.

B. Estates of Minors Consisting of Proceeds of Judgments

3B:15–16. Deposit and investment.
3B:15–17. Investment by surrogate.

Article 4. Discharge of Surety and Reduction of Bonds

3B:15–18. Discharge of surety from liability for future acts of fiduciary, receiver or assignee.
3B:15–19. Discharge of surety for fiduciary or assignee after final account.

3B:15–20. Effect of discharge of surety.
3B:15–21. Reduction of fiduciary's bond; discharge of original sureties.
3B:15–22. Discharge of fiduciary from liability on bond without surety.
3B:15–23. Proof of order to limit creditors required in certain cases.

Article 5. Prosecution of Bonds

3B:15–24. Prosecution of fiduciaries' bonds.
3B:15–25. Court in which to bring proceedings to assess damages, to satisfy judgment or to discontinue action.
3B:15–26. Proceedings to satisfy judgment on bond; notice to claimants.
3B:15–27. Presentation of claims.
3B:15–28. Exceptions; trial.
3B:15–29. Satisfaction of judgment.
3B:15–30. Application to have action on bond discontinued.
3B:15–31. Discontinuance of action on bond.
3B:15–32. Unsatisfied claims.
3B:15–33. Bonds not invalidated because of abolition of certain offices or courts.

Article 1. Generally

Bonds of fiduciaries.

3B:15–1. Bonds of fiduciaries. 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, other than administration ad litem which may be granted with or without bond;

d. When the office to which the person is appointed is any form of guardianship of a minor or mental incompetent, 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; or

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 removes from the State, the court may require him to give such security as it may determine; and

i. 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.

Source: N. J. S. 3A:7–1.

Bonds not to be approved unless prescribed conditions are included.

3B:15–2. Bonds not to be approved unless prescribed conditions are included. When specific conditions as to a particular bond are prescribed by law, the bond shall not be approved unless the prescribed conditions are included therein, and where by law security is authorized to be given other than by sureties on the bond, compliance with the law shall be deemed compliance with this section.

Source: N. J. S. 3A:7–1.

Bond where will requires bond and fails to name obligee; prosecution.

3B:15–3. Bond where will requires bond and fails to name obligee; prosecution. When a will nominating an executor or devising or bequeathing property to a trustee by its terms requires the executor or trustee to give bond but is silent as to who shall be the obligee in the bond, the Superior Court of this State may be made the obligee therein and the bond shall be approved as to amount and sureties by, and filed with, the surrogate of the county wherein the will was probated, unless the will was probated before the Superior Court, in which case the bond shall, after approval, be filed with the clerk thereof.

If forfeited, the bond may be prosecuted and the money recovered thereon be applied, all as in the case of other bonds of fiduciaries given to the Superior Court.

Source: N. J. S. 3A:7–2.

Bond when property unsafe or in danger of waste.

3B:15–4. Bond when property unsafe or in danger of waste. If a fiduciary has not previously furnished a bond and proof is made to the satisfaction of the court that the property in his hands is unsafe, insecure, or in danger of being wasted, the court may, at the instance of any person interested, including creditors, in the decedent's estate or the estate held by the fiduciary, require the fiduciary to furnish a bond with sureties to the Superior Court in a sum to be fixed by the court conditioned for the faithful performance of the fiduciary's duty.

Source: N. J. S. 3A:7–3.

Conditions of bond on grant of intestate administration.

3B:15–5. Conditions of bond on grant of intestate administration. The bond of an administrator of the estate of a person dying intestate shall be conditioned substantially as follows:

a. If required by the court or if an exemption is to be set off as required in chapter 16 of this title, to make a true and perfect inventory of the real and personal property of the decedent which has or shall come to his hands, possession or knowledge or into the hands of any other person for him, and to cause an appraisal to be made of the real and personal property and to file the inventory and appraisal in the office of the clerk of the Superior Court or of the surrogate of the proper county, as the case may be, within the time so required;

b. To faithfully discharge all of the duties imposed upon him according to law;

c. To make a just and true account of his administration of the estate and, if required by court, to settle his account therein within the time so required;

d. To deliver and pay to the distributees entitled thereto by law the surplus property of the decedent as may remain pursuant to the account; and

e. To deliver his letters of administration to the proper court, when required so to do, if a will of the decedent is found and exhibited to it and by it admitted to probate.

Source: N. J. S. 3A:7–4; amended 1981, c. 180.

Conditions of bonds on certain grants of administration.

3B:15–6. Conditions of bonds on certain grants of administration. In the case of the grant of letters of administration durante minori aetate, durante absentia, pendente lite, cum testamento annexo and other grants of administration, the conditions of the fiduciary's bond

shall be substantially as provided in N. J. S. 3B:15–5 with changes as shall be appropriate in view of the nature of the respective grants.

Source: N. J. S. 3A:7–5.

Conditions of bonds of guardians of minors and mental incompetents.

3B:15–7. Conditions of bonds of guardians of minors and mental incompetents. The bond required of a guardian of a minor or mental incompetent shall be conditioned substantially as follows:

a. To well and truly administer the ward's estate, and to take proper care of the ward if the guardian is the guardian of the ward's person;

b. To make a just and true account of his administration of the guardianship, and, if required by the court, to settle his accounts therein within the time so required.

Source: N. J. S. 3A:7–6.

Allowance of expense of procuring surety bond of fiduciary, receiver or assignee.

3B:15–8. Allowance of expense of procuring surety bond of fiduciary, receiver or assignee. A fiduciary, receiver or assignee for the benefit of creditors required by law or order of court to give a bond, may include as a part of the lawful expense of executing his trust a reasonable sum, not exceeding, however, 1% per annum on the amount of the bond, paid a company authorized under the laws of this State so to do, for becoming his surety on the bond, as may be allowed by the court.

Source: N. J. S. 3A:7–7.

Article 2. Additional and Separate Security

Additional surety when original sureties and bond insufficient.

3B:15–9. Additional surety when original sureties and bond insufficient. If it appears that the security given by a fiduciary at the time of his appointment was insufficient or has become insufficient or the sureties appear to be in failing circumstances or insufficient for the security of the estate, the court may order the fiduciary to give other or further security to the Superior Court, by bond in the usual form, and other sureties as the court, after hearing persons interested, including creditors, shall approve.

Source: N. J. S. 3A:7–8.

When fiduciary required to account and give separate security to surety.

3B:15–10. When fiduciary required to account and give separate security to surety. When the surety on the bond of a fiduciary

discovers that the fiduciary is wasting or mismanaging the estate, so that the surety may become liable to loss or damage, the court may, in an action by the surety, and upon sufficient reason therefor, require the fiduciary to render an account of the performance of his office to the surety. If it shall appear that the fiduciary has embezzled, wasted, misapplied, mismanaged or insufficiently secured the estate, the court shall direct the fiduciary to give separate security to the surety for the true payment of the balance in his hands to be paid according to the trust.

Source: N. J. S. 3A:7–9.

Article 3. Deposit in Lieu of Full Security of Bond

A. Generally

When deposit permitted.

3B:15–11. When deposit permitted. If the value of an estate or fund is so great that the court in which the fiduciary received his letters or appointment deems it inexpedient to require security in the full amount prescribed by law, or if the estate or fund is in cash or is invested in securities in which a fiduciary may by law invest money intrusted to him in his fiduciary capacity without special order of any court, the court may direct that any securities for the payment of money belonging to the estate or fund be deposited in a savings bank, savings institution or trust company incorporated under the laws of this State, or in a national bank, having safe deposit boxes for the use of private individuals, and that any money belonging to the estate or fund be deposited in a savings bank, savings institution or trust company incorporated under the laws of this State or in a national bank, which depository shall be approved by the court when it directs the making of the deposit.

Source: N. J. S. 3A:7–10.

Bond after deposit.

3B:15–12. Bond after deposit. After deposit has been made pursuant to N. J. S. 3B:15–11, the court may fix the amount of the bond with respect to the value of the remainder only of the estate or fund, or in case all of the estate or fund is so deposited, then in an amount as the court shall determine to be sufficient under the circumstances.

Source: N. J. S. 3A:7–11.

How deposits made and withdrawn.

3B:15–13. How deposits made and withdrawn. Deposits authorized under N. J. S. 3B:15–11 shall be made in the name of the fiduciary and shall be withdrawn from the custody of the depository only upon the direction of the court which authorized the deposit and no part of the principal of securities so deposited shall be received or collected by the fiduciary without a like direction.
Source: N. J. S. 3A:7–12.

Additional bond upon withdrawals.

3B:15–14. Additional bond upon withdrawals. A fiduciary shall not be permitted by the court to collect or receive the principal of securities on deposit or to withdraw a deposit pursuant to N. J. S. 3B:15–13 unless an additional bond has been given by him, or unless there is proof that the estate or fund has been so reduced by payments or otherwise, that the amount of the bond originally given will be sufficient in amount to secure the estate or fund.
Source: N. J. S. 3A:7–13.

Depository to issue duplicate deposit certificates.

3B:15–15. Depository to issue duplicate deposit certificates. A depository receiving a deposit pursuant to N. J. S. 3B:15–11 shall issue a certificate in duplicate and deliver one certificate to the clerk of the court authorizing the deposit and the other to the fiduciary. The certificates shall set forth the amount and nature of the securities, or amount of money, deposited.
Source: N. J. S. 3A:7–14.

B. Estates of Minors Consisting of Proceeds of Judgments

Deposit and investment.

3B:15–16. Deposit and investment. Where the estate of a minor for whom a guardian has been or is to be appointed by a surrogate, consists of or is likely to consist of the proceeds of a judgment recovered in favor of the minor in any court of this State, the court, on application of the guardian or a person entitled to be appointed as guardian, by its order may dispense with the giving of a bond by the guardian where the order directs that the moneys be paid into the Superior Court for the benefit of the minor and that the moneys, or any part thereof, shall be deposited to the credit of the court in an interest-bearing account in, or in interest-bearing certificates of deposit of, a responsible bank, savings bank or trust company, or in an account in, or in interest-bearing certificates of deposit of, any savings and loan asssociation of this State, or any

federal savings and loan association, having its principal office in this State, the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, designated by the court.
Source: C. 3A:7–14.1 (1959, c. 132, s. 1; amended 1960, c. 71, s. 1; 1968, c. 206, s. 1; 1969, c. 185, s. 1).

Investment by surrogate.

3B:15–17. Investment by surrogate. The court may direct that the moneys, or any part thereof, shall be invested by the surrogate of the county, where the guardian has been or shall be appointed, in United States Savings Bonds in the name of the minor, and in the event of the maturity of the bonds during the period of minority, the court may order the surrogate to reinvest the proceeds in other United States Savings Bonds having later maturity dates. The custody of the bonds shall be retained by the surrogate, and the moneys or bonds shall be subject to any order in respect thereto as may be made by the court. The moneys shall be paid out or the bonds surrendered by the surrogate only by order of the court.
Source: C. 3A:7–14.1 (1959, c. 132, s. 1; amended 1960, c. 71, s. 1; 1968, c. 206, s. 1; 1969, c. 185, s. 1).

Article 4. Discharge of Surety and Reduction of Bonds

Discharge of surety from liability for future acts of fiduciary, receiver or assignee.

3B:15–18. Discharge of surety from liability for future acts of fiduciary, receiver or assignee. The court shall discharge a surety on the bond of a fiduciary, receiver or assignee for the benefit of creditors from liability for all his acts and omissions occurring after the granting of the discharge, if he accounts and files a new bond duly approved or, in default of an accounting and the filing of the bond, if the trust property shall be found or made good and paid over or properly secured.
Source: N. J. S. 3A:7–15.

Discharge of surety for fiduciary or assignee after final account.

3B:15–19. Discharge of surety for fiduciary or assignee after final account. At any time 3 months after the entry of a final judgment of distribution made after the allowance of the final account of a fiduciary or assignee for the benefit of creditors, the court shall, in an action by any person interested, and upon proof to the satisfaction of the court that the entire estate has been distributed according to law, and that no appeal from the judgment of distribution is pending, discharge the sureties of the principal from any and every liability by reason of having become sureties.
Source: N. J. S. 3A:7–16.

Effect of discharge of surety.

3B:15–20. Effect of discharge of surety. After discharge of a surety pursuant to this article, all his liability by virtue of his undertaking shall cease, but the personal liability of the principal in the bond shall remain.

Source: N. J. S. 3A:7–17.

Reduction of fiduciary's bond; discharge of original sureties.

3B:15–21. Reduction of fiduciary's bond; discharge of original sureties. When it shall appear upon the allowance of a fiduciary's intermediate account that the fiduciary's bond is in a greater sum than is necessary for the proper protection of property and assets of the estate remaining in his hands, the court may, in an action for that purpose, allow the fiduciary to give a new bond in a lesser sum as the court may deem sufficient.

When the new bond, with conditions and sureties duly approved, is filed, the court by its order may discharge the sureties upon the original bond from all liability thereunder after the date of the order.

Source: N. J. S. 3A:7–18.

Discharge of fiduciary from liability on bond without surety.

3B:15–22. Discharge of fiduciary from liability on bond without surety. Whenever a fiduciary which is a bank, trust company, savings bank or national bank, has heretofore given or hereafter gives a bond without surety and it shall appear to the satisfaction of the court, that the person entitled to take the assets of the estate or trust administered by the fiduciary has received the estate or trust, and has by release or other instrument released the fiduciary from liability, the court, with notice or without notice if it be so directed, may cancel the bond given by the fiduciary and discharge it from all liability on the bond.

Source: N. J. S. 3A:7–19.

Proof of order to limit creditors required in certain cases.

3B:15–23. Proof of order to limit creditors required in certain cases. An order of discharge shall not be made in cases in which the fiduciary is an executor, administrator with the will annexed, substituted administrator with the will annexed, administrator or substituted administrator except upon proof that 6 months have elapsed after the entry of an order to limit creditors pursuant to N. J. S. 3B:22–4, and that there are not any unpaid or pending claims of creditors of the decedent presented to the fiduciary pursuant to chapter 22 of this title.

Source: N. J. S. 3A:7–20.

Article 5. Prosecution of Bonds

Prosecution of fiduciaries' bonds.

3B:15–24. Prosecution of fiduciaries' bonds. Except as otherwise provided by law, when the bond of a fiduciary given to a court or to a judicial officer or clerk of a court, for the faithful performance, by him, of the duties of his office as fiduciary, is forfeited, the bond may, without leave of court, be prosecuted in any court of record by, and at the expense of, an aggrieved party and in the name of the State at the relation of the aggrieved party.

Source: N. J. S. 3A:7–21.

Court in which to bring proceedings to assess damages, to satisfy judgment or to discontinue action.

3B:15–25. Court in which to bring proceedings to assess damages, to satisfy judgment or to discontinue action. The moneys found due on the fiduciary's bond shall be applied toward making good the damage sustained by reason of the nonperformance of the conditions of the bond. Proceedings for that purpose, proceedings under N. J. S. 3B:15–26 to N. J. S. 3B:15–29 for the satisfaction of the judgment on the bond, and proceedings under N. J. S. 3B:15–30 and N. J. S. 3B:15–31 for the discontinuance of the action on the bond shall be taken in the Superior Court.

Source: N. J. S. 3A:7–22.

Proceedings to satisfy judgment on bond; notice to claimants.

3B:15–26. Proceedings to satisfy judgment on bond; notice to claimants. If any bond given by a fiduciary is forfeited and prosecuted to judgment in any court of record, and it is made to appear to the Superior Court, by a complaint filed by any surety against whom judgment has been rendered upon the bond, that the damages sustained by the nonperformance of the condition of the bond, together with costs of action and execution fees thereon, have been fully satisfied so far as the surety shall have been able to ascertain the damages, the court may make an order directing the surety to give public notice to all persons aggrieved by the forfeiture of the bond, to bring in their debts, demands and claims against the estate in charge of the fiduciary, under oath within 3 months from the date of the order. The notice shall be advertised, commencing within 20 days of the date of the order, for 6 weeks successively, once in each week, in one or more of the newspapers of this State, as may be directed in the order. Further notice shall also be given if the court deems it necessary.

Source: N. J. S. 3A:7–23.

Presentation of claims.

3B:15–27. Presentation of claims. Debts, claims and demands ordered to be brought in, pursuant to this article, shall be presented by the respective claimants in writing, verified by oath, setting forth the amount and particulars thereof, or they shall be of no effect.

Source: N. J. S. 3A:7–24.

Exceptions; trial.

3B:15–28. Exceptions; trial. The surety may except to any claim, debt or demand, and thereupon the same shall be tried as the court may direct, and the court may disallow and reject it if it is not established.

Source: N. J. S. 3A:7–25.

Satisfaction of judgment.

3B:15–29. Satisfaction of judgment. After expiration of the time limited in the order the court may order satisfaction of the judgment to be entered pursuant to law upon proof to its satisfaction that notice has been advertised as directed and that no claims, debts or demands have been presented or that all claims, debts or demands presented and allowed have been fully paid and satisfied by the surety.

Source: N. J. S. 3A:7–26.

Application to have action on bond discontinued.

3B:15–30. Application to have action on bond discontinued. In any action on the bond of a fiduciary, the surety before judgment may apply to have the action discontinued. The application shall be made to the Superior Court as provided in N. J. S. 3B:15–25. The court shall thereupon appoint a time and place to hear the application and direct what notice, if any, of the application be given to the persons aggrieved by the forfeiture of the bond.

Source: N. J. S. 3A:7–27.

Discontinuance of action on bond.

3B:15–31. Discontinuance of action on bond. If it shall appear on the hearing that all damages sustained by reason of the forfeiture of the bond have been paid so far as the surety shall have been able to ascertain, the court may direct that the action be discontinued upon payment of taxed costs of the suit.

Source: N. J. S. 3A:7–28.

Unsatisfied claims.

3B:15–32. Unsatisfied claims. If the claim of any person aggrieved by the forfeiture of the bond shall remain unsatisfied after the discontinuance of the action, the person may reprosecute the bond, in the same manner as if the action had not been instituted on the bond.

Source: N. J. S. 3A:7–29.

Bonds not invalidated because of abolition of certain offices or courts.

3B:15–33. Bonds not invalidated because of abolition of certain offices or courts. No bond heretofore given by any fiduciary for the faithful performance, by him, of the duties of his office as a fiduciary, to any court or to any judicial officer, or clerk of any court abolished by the Constitution of 1947, as amended, shall be invalidated by reason of the abolition of any court, judicial or clerical office, but the bond shall remain in full force and effect, and if forfeited, may be prosecuted in accordance with the provisions of this article.

Source: N. J. S. 3A:7–30.

Chapter 16. Inventories

3B:16–1. General requisites.
3B:16–2. Inventory and appraisal to be made and filed.
3B:16–3. Appointment of appraisers.
3B:16–4. Property to be included in inventory and appraisal.
3B:16–5. Exemption for benefit of decedent's family.
3B:16–6. Proof of inventory and exempt list.
3B:16–7. Selection of property to be exempted.
3B:16–8. Inventory of guardian of the estate of a minor or mental incompetent.

General requisites.

3B:16–1. General requisites. An inventory shall not be received nor admitted to be proved which is not full and specific in its details.

Source: N. J. S. 3A:8–1.

Inventory and appraisal to be made and filed.

3B:16–2. Inventory and appraisal to be made and filed. A personal representative may or, if required by the court or if the exemption for the benefit of the family of the decedent is to be set off as allowed by N. J. S. 3B:16–5, shall make and file a true and perfect inventory of the real and personal property of his decedent, which has come to his hands, possession or knowledge or into the

hands of any other person for him, and cause a just appraisal thereof to be made by two discreet and impartial persons.

The court shall not require an inventory and appraisal to be filed until 3 months after the grant of letters, except that if an exemption is to be set off, the inventory and appraisal shall be made within the 3 months.

Source: N. J. S. 3A:8–2.

Appointment of appraisers.

3B:16–3. Appointment of appraisers. If an inventory and appraisal is to be filed, the appraisers shall be chosen by the personal representative subject to the approval of the Superior Court or surrogate, except in cases where it shall be necessary to set off the exemption for the benefit of the family of the decedent as allowed by N. J. S. 3B:16–5, in which event the personal representative shall apply to the surrogate of the county wherein the decedent resided at his death, or to the Superior Court, as the case may be, for the appointment of two persons as appraisers who are neither interested in the estate nor related to the decedent's widow or child. The appraisers shall, before entering upon the duties of their appointment, be severally sworn before the surrogate, or a person authorized to administer oaths, to faithfully, honestly and impartially appraise the property according to its true and intrinsic value without reference to what the property might bring at a public sale.

Source: N. J. S. 3A:8–3.

Property to be included in inventory and appraisal.

3B:16–4. Property to be included in inventory and appraisal. The appraisers shall make an inventory and appraisement of all the real and personal property of which the decedent died seized and possessed.

Source: N. J. S. 3A:8–4.

Exemption for benefit of decedent's family.

3B:16–5. Exemption for benefit of decedent's family. The wearing apparel of any person who shall die leaving a family residing in this State, and his personal property to the value of $5,000.00, shall be reserved to and for the use of his family against all creditors, and before any distribution or other disposition thereof. This section and N. J. S. 3B:16–3 and N. J. S. 3B:16–7 of this title shall not be permitted to conflict with the will of the decedent. Every person residing in this State at the time of his death and leaving surviving him a widow or child who shall reside in his

family at his death, shall be deemed to have left a family entitled to the benefits of this section.

Source: N. J. S. 3A:8–6.

Proof of inventory and exempt list.

3B:16–6. Proof of inventory and exempt list. The inventory of a personal representative which is to be filed, shall be proved by his oath that it is just and true, and by the oath of the appraisers, or one of them, that the real and personal property specified in the inventory was appraised at its just and true values according to their or his best judgment. If only one of the appraisers be sworn it shall be added that the other appraiser was present at the same time and consented to the valuation and appraisal. The oaths shall be taken before any person qualified to administer oaths in this State and shall be indorsed on the inventory filed with the surrogate or clerk of the Superior Court, as the case may be.

If personal property of the decedent shall have been set off for the benefit of the family, the executor or administrator shall also verify by his oath the list of property selected and file the list with the inventory.

Source: N. J. S. 3A:8–5.

Selection of property to be exempted.

3B:16–7. Selection of property to be exempted. From the completed inventory, the widow of the decedent, or his personal representative may select personal property to the value of $5,000.00 and a list of the property selected shall be annexed to the inventory. Personal property so selected shall thereupon become the property of the family and remain for their use.

Source: N. J. S. 3A:8–7.

Inventory of guardian of the estate of a minor or mental incompetent.

3B:16–8. Inventory of guardian of the estate of a minor or mental incompetent. Every guardian of the estate of a minor or mental incompetent may, and if required by the court shall, file with the surrogate of the proper county or the clerk of the Superior Court, as the case may be, an inventory, under oath, of all the real and personal property which has come to his hands, possession or knowledge or into the hands of any other person for him. The court shall not require an inventory and appraisal to be filed until 3 months have elapsed after the grant of letters.

Source: N. J. S. 3A:8–8.

CHAPTER 17
ACCOUNTING

Article 1. When Unnecessary

3B:17-1. Fiduciary filing release by ward or cestui que trust.

Article 2. Requirements and Actions

3B:17-2. Accounts of personal representatives.
3B:17-3. Accounts of guardians and trustees.
3B:17-4. Account and bond required of cofiduciary.
3B:17-5. Account by representative of deceased fiduciary.
3B:17-6. Examination of accountant on exceptions to account.
3B:17-7. Statements or information regarding assets as part of account.
3B:17-8. Effect of judgment allowing account.

Article 3. Nontestamentary Trustees

3B:17-9. Nontestamentary trustee defined.
3B:17-10. Settling accounts in the Superior Court.
3B:17-11. Surrogate's fees.

Article 4. Certain Expenditures Authorized

3B:17-12. Fiduciary, receiver or assignee; rental of safe deposit box; expenses of safe-keeping of securities.

Article 1. When Unnecessary

Fiduciary filing release by ward or cestui que trust.

3B:17-1. Fiduciary filing release by ward or cestui que trust. A fiduciary need not render or settle his account if he files with the court a release or discharge from the beneficiary, ward or cestui que trust who is of full age and is mentally competent.

The release or discharge shall be executed and acknowledged as provided for deeds of real estate to be recorded.

Source: N. J. S. 3A:9-1.

Article 2. Requirements and Actions

Accounts of personal representatives.

3B:17-2. Accounts of personal representatives. A personal representative may settle his account or be required to settle his account in the Superior Court. Unless for special cause shown, he shall not be required to account until after the expiration of 1 year after his appointment.

Source: N. J. S. 3A:9-2.

Accounts of guardians and trustees.

3B:17-3. Accounts of guardians and trustees. A guardian or trustee shall settle his account in the Superior Court at intervals as the court may require. A guardian or trustee may settle his first account within 1 year after his appointment or as soon thereafter as may be practicable.

Source: N. J. S. 3A:9-3; amended 1957, c. 58; 1971, c. 290, s. 1.

Account and bond required of cofiduciary.

3B:17-4. Account and bond required of cofiduciary. Upon good cause shown, the Superior Court may order each cofiduciary to account for all assets which may have come into his hands.

The Superior Court may also require a fiduciary to give bond, in a sum and with sureties to be approved by the court, to each of his cofiduciaries to indemnify them against loss due to his neglect, default or breach of trust or to give a like bond to the Superior Court, conditioned for the faithful performance of his duties as a fiduciary and the proper disposition of all assets then in, or thereafter to come into, his hands.

Source: N. J. S. 3A:9-4.

Account by representative of deceased fiduciary.

3B:17-5. Account by representative of deceased fiduciary. When a fiduciary dies without having filed an account or having fully settled and obtained an allowance of an account of the administration of the estate that has come into his hands, his legal representative may settle the account.

Source: N. J. S. 3A:9-5.

Examination of accountant on exceptions to account.

3B:17-6. Examination of accountant on exceptions to account. On exceptions to an account of a fiduciary, the court or any party interested therein may examine the accountant, on oath, concerning the truth and fairness of the account.

Source: N. J. S. 3A:9-7.

Statements or information regarding assets as part of account.

3B:17-7. Statements or information regarding assets as part of account. When, in an account, or in a complaint in an action for the settlement of an account, or in any writing annexed to the complaint or account, there appear lists of or statements or information as to the investments or other assets in a fiduciary's hands at the close of, or during, the period covered by the account or as to changes made in investments or other assets during that

period, or there appear allegations or information as to other matters done or omitted by the fiduciary during the period, the complaint and the writing, statements, lists, information and allegations shall be deemed to be part of the account.

Source: N. J. S. 3A:9–8; amended 1979, c. 482, s. 6.

Effect of judgment allowing account.

3B:17–8. Effect of judgment allowing account. A judgment allowing an account, including a guardian's intermediate account, after due notice, shall be res adjudicata as to all exceptions which could or might have been taken to the account, and shall constitute an approval of the correctness and propriety of the account, the legality and propriety of the investments and other assets, the legality and propriety of the changes in investments or other assets, and the legality and propriety of other matters, and also shall exonerate and discharge the fiduciary from all claims of all interested parties and of those in privity with or represented by interested parties except:

a. For the investments and other assets in the fiduciary's hands at the close of the period covered by the account, and assets which may come into his hands after the close of the account;

b. Insofar as exceptions to the account shall be taken and sustained; and

c. As relief may be had from a judgment in any civil action.

Source: C. 3A:6–16.14 (1979, c. 482, s. 5); N. J. S. 3A:9–8; amended 1979, c. 482, s. 6.

Article 3. Nontestamentary Trustees

Nontestamentary trustee defined.

3B:17–9. Nontestamentary trustee defined. As used in this article, "nontestamentary trustee" means any owner of real or personal property who holds title thereto subject to equitable duties to deal with the property for the benefit of another or others arising from an express intention to create those duties manifested in writing otherwise than by a will or other testamentary disposition of property.

Source: N. J. S. 3A:9–9.

Settling accounts in the Superior Court.

3B:17–10. Settling accounts in the Superior Court. A nontestamentary trustee shall have the right, in addition to and not in limitation of any other remedy now or hereafter provided, from

time to time to settle his intermediate and final accounts in the Superior Court.

Source: N. J. S. 3A:9–10.

Surrogate's fees.

3B:17–11. Surrogate's fees. The surrogate and the Clerk of the Superior Court shall receive for filing, auditing, and reporting to the court the accounts of nontestamentary trustees the same fees as are now or may hereafter be provided by law in the case of accountings by other fiduciaries.

Source: N. J. S. 3A:9–11.

Article 4. Certain Expenditures Authorized

Fiduciary, receiver or assignee; rental of safe deposit box; expenses of safe-keeping of securities.

3B:17–12. Fiduciary, receiver or assignee; rental of safe deposit box; expenses of safe-keeping of securities. A fiduciary, receiver or assignee for the benefit of creditors may include as a part of the lawful expense of executing his trust a reasonable sum paid to a bank, trust company or safe deposit company organized under the laws of this State, or to a national bank doing business in this State, for safe deposit box rental for the safe-keeping or custody of the securities of the trust, as may be allowed by the court. A fiduciary, receiver or assignee for the benefit of creditors who holds under a lease or owns a vault within this State may include as a part of the lawful expense of executing his trust a reasonable sum for the safe-keeping of the securities and other property of the trust in the vault as may be allowed by the court.

Source: N. J. S. 3A:9–12.

Chapter 18

Commissions

Article 1. Generally

3B:18–1. Allowance of corpus commissions generally.
3B:18–2. Commissions of nontestamentary trustee.
3B:18–3. Provision in will for specific compensation.
3B:18–4. Disputes between fiduciaries as to apportionment.
3B:18–5. Fiduciary removed from office; forfeiture of commissions.
3B:18–6. Legal fees for attorney also serving as fiduciary.
3B:18–7. Annual statement relating to corpus commissions taken.

Article 2. Additional Compensation to Certain Fiduciaries

3B:18–8. Definitions.
3B:18–9. Additional compensation.
3B:18–10. Notice to recipient of property.
3B:18–11. Manner of payment of additional compensation.

Article 3. Commissions of Executors, Administrators and Certain Fiduciaries

3B:18–12. Definition of fiduciary.
3B:18–13. Income commissions.
3B:18–14. Corpus commissions; one fiduciary.
3B:18–15. Corpus commissions; two or more fiduciaries.
3B:18–16. Corpus commissions; unusual or extraordinary services.
3B:18–17. Taking annual amounts on account of corpus commissions.
3B:18–18. Value of assets for computing commissions taken annually.
3B:18–19. Failure to take commissions annually shall not constitute a waiver thereof.
3B:18–20. Corpus commissions taken annually subject to review.
3B:18–21. Burden of proving value.
3B:18–22. When rates for corpus commissions taken annually effective.

Article 4. Commissions of Trustees Under a Will and Guardians

3B:18–23. Definition of fiduciary.
3B:18–24. Income commissions.
3B:18–25. Taking annual amounts on account of corpus commissions.
3B:18–26. Failure to take commissions annually shall not constitute a waiver thereof.
3B:18–27. Commissions taken annually subject to review.
3B:18–28. Corpus commissions on termination of trust, guardianship or upon distribution of assets.
3B:18–29. Corpus commissions; unusual or extraordinary services.
3B:18–30. Burden of proving value.
3B:18–31. Authorization in testator's will as to commissions exceeding legal rates.

3B:18–32. When rates for corpus commissions taken annually effective.
3B:18–33. When rates of corpus commissions on termination of trust or guardianship effective.

Article 1. Generally

Allowance of corpus commissions generally.

3B:18–1. Allowance of corpus commissions generally. Allowance of commissions on corpus in excess of $100,000.00 to fiduciaries, and fiduciaries appointed under chapter 26 of this title for the property of an absentee, shall be made with reference to their actual pain, trouble and risk in settling the estate, rather than in respect to the quantum of the estate.

Source: N. J. S. 3A:10–1; amended 1957, c. 80, s. 1.

Commissions of nontestamentary trustee.

3B:18–2. Commissions of nontestamentary trustee. On the settlement of the account of a nontestamentary trustee, as defined in N. J. S. 3B:17–9, the court shall allow him the compensation as may have been agreed upon by the instrument creating the trust; and in the absence of any express provision concerning compensation, shall allow him commissions in accordance with this chapter.

Source: N. J. S. 3A:10–4.

Provision in will for specific compensation.

3B:18–3. Provision in will for specific compensation. Where provision is made in a will for specific compensation to a fiduciary, the compensation shall be deemed full payment for services in lieu of commissions provided by this chapter, unless the fiduciary shall in writing filed with the surrogate or clerk of the Superior Court renounce the specific compensation.

Source: N. J. S. 3A:10–5.

Disputes between fiduciaries as to apportionment.

3B:18–4. Disputes between fiduciaries as to apportionment. When a difference arises between fiduciaries concerning the apportionment of commissions between them, the Superior Court shall determine the apportionment of commissions, having regard to their respective services.

Source: N. J. S. 3A:10–6.

Fiduciary removed from office; forfeiture of commissions.

3B:18–5. Fiduciary removed from office; forfeiture of commissions. Where a fiduciary is removed for any cause, the Superior Court may direct that his commissions be forfeited.

Source: N. J. S. 3A:10–7.

Legal fees for attorney also serving as fiduciary.

3B:18–6. Legal fees for attorney also serving as fiduciary. If the fiduciary is a duly licensed attorney of this State and shall have performed professional services in addition to his fiduciary duties, the court shall, in addition to the commissions provided by this chapter, allow him a just counsel fee. If more than one fiduciary shall have performed the professional services, the court shall apportion the fee among them according to the services rendered by them respectively.

Source: N. J. S. 3A:10–8.

Annual statement relating to corpus commissions taken.

3B:18–7. Annual statement relating to corpus commissions taken. A trustee under a will or a guardian shall, within 60 days after the end of each tax year of the trust or guardianship furnish to each beneficiary currently receiving income, and to any other beneficiary interested in the income and to any person interested in the principal of the trust or guardianship who shall make a demand therefor, a statement showing any corpus commissions taken during the tax year and the basis upon which those commissions were computed, including the inventory value and value as of the date the commissions were computed.

Source: C. 3A:10–2.4 (1980, c. 6).

Article 2. Additional Compensation to Certain Fiduciaries

Definitions.

3B:18–8. Definitions. As used in this article:

a. "Fiduciary" means executor, administrator with the will annexed, substituted administrator with the will annexed, administrator, substituted administrator, or trustee or substituted trustee under a will of a decedent;

b. "Property" means any property, real or personal, tangible or intangible, or any interest or estate therein, which does not come into the hands of a fiduciary as part of a decedent's estate, and which, by operation of law or otherwise, has been received or is receivable by anyone other than the fiduciary, and which a taxing authority attempts to tax or does tax, as a decedent's taxable estate, or as part of a decedent's taxable estate, for the purposes of Federal estate tax, New Jersey estate tax, other state or foreign estate taxes, or New Jersey or other state or foreign transfer inheritance, legacy or succession taxes.

Source: C. 3A:10–3.1 (1952, c. 331, s. 1).

Additional compensation.

3B:18–9. Additional compensation. The court upon the settlement and allowance of a fiduciary's accounts, in addition to the compensation as may otherwise be allowable, may allow reasonable compensation to the fiduciary for services required by law to be rendered by the fiduciary in connection with or arising out of any property as defined in N. J. S. 3B:18–8, including, but not by way of limitation, services rendered in connection with apportionment of any taxes specified in N. J. S. 3B:18–8 between a decedent's estate and the recipient of the property, or between the decedent's estate and the property, and in collecting or attempting to collect, the apportionment of the taxes applicable to the property.

Source: C. 3A:10–3.2 (1952, c. 331, s. 2).

Notice to recipient of property.

3B:18–10. Notice to recipient of property. The court shall prescribe the notice to be given to the recipient of the property of the fiduciary's application for additional compensation.

Source: C. 3A:10–3.2 (1952, c. 331, s. 2).

Manner of payment of additional compensation.

3B:18–11. Manner of payment of additional compensation. The additional compensation of the fiduciary shall be payable by the recipient of the property if the recipient is within the jurisdiction of the court, or if the recipient is not within the jurisdiction of the court, shall be payable out of the property, if the property is within the jurisdiction of the court. If the recipient of the property is not within the jurisdiction of the court and if the property is not within the jurisdiction of the court, or if the fiduciary does not succeed in collecting the additional fiduciary's compensation from the recipient of the property or out of the property, the court may order the fiduciary's additional compensation to be paid out of the corpus of the decedent's estate which comes into the hands of the fiduciary.

Source: C. 3A:10–3.2 (1952, c. 331, s. 2).

Article 3. Commissions of Executors, Administrators and Certain Fiduciaries

Definition of fiduciary.

3B:18–12. Definition of fiduciary. As used in this article "fiduciary" means personal representative and fiduciaries appointed under chapter 26 of this title for absentees.

Source: N. J. S. 3A:10–2; amended 1957, c. 80, s. 2; 1964, c. 25; 1972, c. 147; 1979, c. 501, s. 1.

Income commissions.

3B:18–13. Income commissions. Commissions in the amount of 6% may be taken without court allowance on all income received by the fiduciary. For the purposes of this section, income which is withheld from payment to a fiduciary or fiduciaries pursuant to any law of this State, or of the United States, or any other state, country or sovereignty, or of any political subdivision or governmental unit of any of the foregoing, requiring the withholding for income tax or other tax purposes, shall be deemed to be income received by the fiduciary, and shall be subject to income commissions as provided in this section in the same manner as if actually received by the fiduciary.

Source: N. J. S. 3A:10–2; amended 1957, c. 80, s. 2; 1964, c. 25; 1972, c. 147; 1979, c. 501, s. 1.

Corpus commissions; one fiduciary.

3B:18–14. Corpus commissions; one fiduciary. On the settlement of the account of one fiduciary, 5% on all corpus received by the fiduciary where corpus receipts do not exceed $100,000.00, and where corpus receipts exceed $100,000.00, 5% on the first $100,000.00 of corpus, and, on the excess over $100,000.00 of corpus, a percentage, not in excess of 5%, as the court may determine on the intermediate or final settlement of the fiduciary's accounts, according to actual services rendered.

Source: N. J. S. 3A:10–2; amended 1957, c. 80, s. 2; 1964, c. 25; 1972, c. 147; 1979, c. 501, s. 1.

Corpus commissions; two or more fiduciaries.

3B:18–15. Corpus commissions; two or more fiduciaries. If there are two or more fiduciaries, their commissions on corpus shall be the same as provided in the case of one fiduciary, and, in addition thereto, the court may allow corpus commissions in excess of the commissions to which one fiduciary would be entitled under N. J. S. 3B:18–14, at a rate not exceeding 1% of all corpus for each additional fiduciary.

Source: N. J. S. 3A:10–2; amended 1957, c. 80, s. 2; 1964, c. 25; 1972, c. 147; 1979, c. 501, s. 1.

Corpus commissions; unusual or extraordinary services.

3B:18–16. Corpus commissions; unusual or extraordinary services. The court may, on an intermediate or the final settlement of the fiduciary's accounts, allow corpus commissions in addition to those hereinabove provided, on a showing that unusual or extra-

ordinary services have been rendered by the fiduciary for which the fiduciary should receive extra compensation.

Source: N. J. S. 3A:10–2; amended 1957, c. 80, s. 2; 1964, c. 25; 1972, c. 147; 1979, c. 501, s. 1.

Taking annual amounts on account of corpus commissions.

3B:18–17. Taking annual amounts on account of corpus commissions. Fiduciaries may annually, without court allowance, take sums as follows on account of corpus commissions: if there is but one fiduciary, the amount so taken may equal one-fifth of 1% of the value of the corpus and, if there are two or more fiduciaries, the amount so taken may equal the commissions which may be taken pursuant to this section when there is but one fiduciary, plus one-fifth of the commissions for each fiduciary more than one.

Source: N. J. S. 3A:10–2; amended 1957, c. 80, s. 2; 1964, c. 25; 1972, c. 147; 1979, c. 501, s. 1.

Value of assets for computing commissions taken annually.

3B:18–18. Value of assets for computing commissions taken annually. In computing the amount of commissions which may be taken annually pursuant to N. J. S. 3B:18–17, the value of any item of corpus at the time when the item is received by the fiduciary, referred to in this section as the "presumptive value" of the item, may be used as the value of the item, or, at the option of the fiduciary, the value of the item at the end of the period for which the commissions are taken may be used.

Source: N. J. S. 3A:10–2; amended 1957, c. 80, s. 2; 1964, c. 25; 1972, c. 147; 1979, c. 501, s. 1.

Failure to take commissions annually shall not constitute a waiver thereof.

3B:18–19. Failure to take commissions annually shall not constitute a waiver thereof. The failure of a fiduciary to take commissions in any year as provided in N. J. S. 3B:18–17 shall not constitute a waiver of the right of the fiduciary to take in a subsequent year the commissions not taken for that year.

Source: N. J. S. 3A:10–2; amended 1957, c. 80, s. 2; 1964, c. 25; 1972, c. 147; 1979, c. 501, s. 1.

Corpus commissions taken annually subject to review.

3B:18–20. Corpus commissions taken annually subject to review. Commissions taken as provided in N. J. S. 3B:18–17 shall be subject to review on intermediate and final accountings, and to the extent that aggregate commissions so taken exceed the commissions allow-

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able under N. J. S. 3B:18–14 and N. J. S. 3B:18–15, they may be disallowed.

Source: N. J. S. 3A:10–2; amended 1957, c. 80, s. 2; 1964, c. 25; 1972, c. 147; 1979, c. 501, s. 1.

Burden of proving value.

3B:18–21. Burden of proving value. In the event of a dispute as to the value of corpus on the settlement of the account of a fiduciary, the burden of proving that the value of any item of corpus differs from the presumptive value of the item shall be upon the fiduciary or other party claiming the difference.

Source: N. J. S. 3A:10–2; amended 1957, c. 80, s. 2; 1964, c. 25; 1972, c. 147; 1979, c. 501, s. 1.

When rates for corpus commissions taken annually effective.

3B:18–22. When rates for corpus commissions taken annually effective. With respect to a fiduciary's annual corpus commissions, the rates set forth in this article shall apply for all yearly periods ending after February 29, 1980.

Source: C. 3A:10–2.3 (1979, c. 501, s. 4).

Article 4. Commissions of Trustees Under a Will and Guardians

Definition of fiduciary.

3B:18–23. Definition of fiduciary. As used in this article "fiduciary" means a trustee acting under a will, or a guardian.

Source: C. 3A:10–2.1 (1979, c. 501, s. 2).

Income commissions.

3B:18–24. Income commissions. Commissions in the amount of 6% may be taken without court allowance on all income received by the fiduciary. For the purposes of this section, income which is withheld from payment to the fiduciary pursuant to any law of this State, or of the United States, or any other state, country or sovereignty or of any political subdivision or governmental unit of any of the foregoing, for income tax or other tax purposes, shall be deemed to be income received by the fiduciary, and shall be subject to income commissions as if actually received by the fiduciary.

Source: C. 3A:10–2.1 (1979, c. 501, s. 2).

Taking annual amounts on account of corpus commissions.

3B:18–25. Taking annual amounts on account of corpus commissions. Fiduciaries may annually, without court allowance, take commissions on corpus (including accumulated income which has

been invested by the fiduciary) in the amount of five-tenths of 1% of the first $100,000.00 of value of corpus, three-tenths of 1% of the next $100,000.00 of value and two-tenths of 1% of the value in excess of $200,000.00. The value of the corpus for the purpose of computing the commissions shall be the "presumptive value" as defined in N. J. S. 3B:18–18 or, at the option of the fiduciary, the value at the end of the period.

Source: C. 3A:10–2.1 (1979, c. 501, s. 2).

Failure to take commissions annually shall not constitute a waiver thereof.

3B:18–26. Failure to take commissions annually shall not constitute a waiver thereof. The failure of a fiduciary to take commissions in any year shall not constitute a waiver by the fiduciary to take in a subsequent year the commissions not taken for that year.

Source: C. 3A:10–2.1 (1979, c. 501, s. 2).

Commissions taken annually subject to review.

3B:18–27. Commissions taken annually subject to review. Commissions taken as provided in N. J. S. 3B:18–25 shall be subject to review on intermediate and final accountings, and to the extent that aggregate commissions so taken exceed the commissions allowable under this article, they may be disallowed.

Source: N. J. S. 3A:10–2; amended 1957, c. 80, s. 2; 1964, c. 25; 1972, c. 147; 1979, c. 501, s. 1.

Corpus commissions on termination of trust, guardianship or upon distribution of assets.

3B:18–28. Corpus commissions on termination of trust, guardianship or upon distribution of assets. In addition to the annual commissions on corpus, upon termination of the trust or guardianship, or upon distribution of assets from the trust or guardianship, the fiduciary may take a commission on corpus distributed, including accumulated income which has been invested by the fiduciary. The value of the corpus for the purpose of computing the commissions shall be the "presumptive value" or, at the option of the fiduciary, the value at the time of distribution, as defined in N. J. S. 3B:18–18. The amounts of the commissions to be taken are as follows:

a. If the distribution of corpus occurs within 5 years of the date when the corpus is received by the fiduciary, an amount equal to the annual commissions on corpus authorized pursuant to N. J. S. 3B:18–25, but not actually taken by the fiduciary, plus an amount equal to 2% of the value of the corpus distributed;

b. If distribution of the corpus occurs between 5 and 10 years of the date when the corpus is received by the fiduciary, an amount equal to the annual commissions on corpus authorized pursuant to N. J. S. 3B:18–25, but not actually received by the fiduciary, plus an amount equal to 1½% of the value of the corpus distributed;

c. If the distribution of corpus occurs more than 10 years after the date the corpus is received by the fiduciary, an amount equal to the annual commissions on corpus authorized pursuant to N. J. S. 3B:18–25, but not actually received by the fiduciary, plus an amount equal to 1% of the value of the corpus distributed; and

d. If there are two or more fiduciaries, their corpus commissions shall be the same as for a single fiduciary plus an additional amount of one-fifth of the commissions for each additional fiduciary.

Source: C. 3A:10–2.1 (1979, c. 501, s. 2).

Corpus commissions; unusual or extraordinary services.

3B:18–29. Corpus commissions; unusual or extraordinary services. The court may, on an intermediate or the final settlement of fiduciaries' accounts, allow corpus commissions in addition to those provided in this article, on a showing that unusual or extraordinary services have been rendered by the fiduciary for which he should receive additional compensation.

Source: C. 3A:10–2.1 (1979, c. 501, s. 2).

Burden of proving value.

3B:18–30. Burden of proving value. In the event of a dispute as to the value of corpus on the settlement of the account of a fiduciary, the burden of proving that the value of any item of corpus differs from the presumptive value of the item shall be upon the party claiming the difference.

Source: C. 3A:10–2.1 (1979, c. 501, s. 2).

Authorization in testator's will as to commissions exceeding legal rates.

3B:18–31. Authorization in testator's will as to commissions exceeding legal rates. No commissions in excess of those authorized in this article shall be paid to a fiduciary acting as a trustee under a will unless the testator, in his last will acknowledges that he is aware of the commissions specified in this article and expressly authorizes payment of commissions in excess thereof. The absence of an express authorization to pay excess commissions shall not preclude the court from allowing commissions as provided in N. J. S. 3B:18–29.

Source: C. 3A:10–2.2 (1979, c. 501, s. 3).

When rates for corpus commissions taken annually effective.

3B:18–32. When rates for corpus commissions taken annually effective. With respect to fiduciaries' annual corpus commissions, the rates set forth in this article shall apply for all annual periods ending after February 29, 1980.

Source: C. 3A:10–2.3 (1979, c. 501, s. 4).

When rates of corpus commissions on termination of trust or guardianship effective.

3B:18–33. When rates of corpus commissions on termination of trust or guardianship effective. With respect to the computation of corpus commissions pursuant to N. J. S. 3B:18–28 as to all corpus held by a fiduciary on February 29, 1980, the commissions which may be taken shall be at the rate authorized as of the date the corpus was received by the fiduciary, and the "annual commissions authorized" to be taken for yearly periods ending prior to February 29, 1980, shall be at the rate authorized by the applicable law in effect during that yearly period.

Source: C. 3A:10–2.3 (1979, c. 501, s. 4).

Chapter 19

Principal and Income

Article 1. Generally

3B:19–1. Definitions.
3B:19–2. Scope of chapter; generally.
3B:19–3. Scope of chapter; effect of trust instrument.
3B:19–4. Scope of chapter; fiduciary under duty to convert.
3B:19–5. Scope of chapter; time of acquisition of securities.
3B:19–6. Scope of chapter; source of dividends.
3B:19–7. Ascertainment of principal.
3B:19–8. Ascertainment of income.
3B:19–9. Income; optional dividends.
3B:19–10. Principal and income; profit or loss on sale or other disposition of securities; premium and discount.
3B:19–11. Principal and income; declaration of dividend after estate established; no record date designated.
3B:19–12. Principal and income; declaration of dividend after estate established; record date designated.
3B:19–13. Principal and income; declaration of dividend before estate established; no record date designated.
3B:19–14. Principal and income; declaration of dividend before estate established; record date designated.
3B:19–15. Application of chapter.

Article 2. United States Savings Bonds, Savings Certificates and Treasury Bills

A. United States Savings Bonds and Savings Certificates

3B:19–16. Increments in value deemed income.
3B:19–17. Payments to income beneficiary on account of increased value.
3B:19–18. Apportionment of increased value.

B. United States Treasury Bills

3B:19–19. Increase or decrease arising on sale or maturity.

A. Generally

Definitions.

3B:19–1. Definitions. As used in this chapter:

a. "Trust instrument" means a will, deed, agreement, statute, court order or other instrument pursuant to which money or other property is so set aside or limited that a fiduciary or other person is charged with the duty of ascertaining what constitutes principal and what constitutes income in respect to all or part of the money or other property, or any substitutions for it;

b. "Estate" means the money or other property limited or set aside in the manner described in paragraph a. of this section;

c. "Fiduciary" means an individual or a corporation authorized by a trust instrument to act as a trustee, personal representative, or guardian, and every other person or corporation charged with the duty of administering an estate. Where an estate is established without the interposition of a trust, "fiduciary" means the person charged with the duty of ascertaining what constitutes principal and what constitutes income;

d. "Securities" means:

(1) preferred and common stock,

(2) bonds, debentures, and other obligations of any corporation,

(3) notes or bonds secured by mortgages on real property, and

(4) shares of any open-end or closed-end management type investment company or investment trust registered pursuant to the Federal Investment Company Act of 1940, as from time to time amended;

e. "Corporation" includes the United States of America, all foreign countries or divisions thereof, the State of New Jersey, all other states, territories and possessions of the United States,

all municipal corporations, all bodies politic, all boards and commissions, and all private corporations and associations issuing securities;

f. "Tenant" means the person, corporation or association at any given time entitled to the return from or to the use of all or part of an estate, or for whose benefit the return is accumulated;

g. "Remainderman" means the person, corporation or association eventually entitled to all or part of an estate.

Source: C. 3A:14A–1 (1952, c. 156, s. 1).

Scope of chapter; generally.

3B:19–2. Scope of chapter; generally. This chapter shall govern, to the extent herein provided, the ascertainment of principal and income in respect to securities held in an estate, only in those cases where the trust instrument makes no provision governing the ascertainment or allocation of principal and income in respect to any one or more of the particulars covered by this chapter, and where a fiduciary is required, pursuant to the trust instrument, to make allocation of the principal and income.

Source: C. 3A:14A–2 (1952, c. 156, s. 2).

Scope of chapter; effect of trust instrument.

3B:19–3. Scope of chapter; effect of trust instrument. Where the trust instrument makes provision for the ascertainment of principal and income, or grants discretion to the fiduciary or other person to do so, the provision or the grant of discretion shall control, notwithstanding any provision of this chapter to the contrary.

Source: C. 3A:14A–2 (1952, c. 156, s. 2).

Scope of chapter; fiduciary under duty to convert.

3B:19–4. Scope of chapter; fiduciary under duty to convert. This chapter shall not apply to any securities which the fiduciary is under a duty, arising either by law or by the terms of a trust instrument, to convert into another form of investment.

Source: C. 3A:14A–2 (1952, c. 156, s. 2).

Scope of chapter; time of acquisition of securities.

3B:19–5. Scope of chapter; time of acquisition of securities. No distinction shall be made, in applying the provisions of this chapter, between securities which come into the hands of the fiduciary from the person establishing the estate, and securities which come into the hands of the fiduciary in any other manner.

Source: C. 3A:14A–3 (1952, c. 156, s. 3).

Scope of chapter; source of dividends.

3B:19–6. Scope of chapter; source of dividends. Except as otherwise provided in this chapter, the ascertainment and allocation of principal and income in respect to dividends on shares of stock held in an estate shall be made in the manner set forth in this chapter, regardless of the source of, or the manner of, or the time of the creation or accumulation of the fund out of which the dividends are declared, and regardless of the time when the dividends are declared, are payable, or are paid.

Source: C. 3A:14A–3 (1952, c. 156, s. 3).

Ascertainment of principal.

3B:19–7. Ascertainment of principal. Except as otherwise provided in this chapter, the following shall be principal:

a. All distributions to an estate by a corporation in the shares of the distributing corporation, whether in the form of a stock split or stock dividend or cash in lieu of fractional shares, shall be principal, unless any distribution is 4% or less of the number of shares of the stock held in the estate on the record date of the distribution or, if there is no record date, the date of the declaration thereof by the corporation, in which case the distribution shall be income;

b. All rights to subscribe to securities of a corporation held in an estate accruing by reason of the ownership of securities of the corporation creating the rights;

c. The proceeds of the sale of all rights described in paragraph b. of this section;

d. All distributions of corporate assets to stockholders on the liquidation of a corporation whose stock is held in an estate;

e. All distributions, whenever made, of corporate assets to stockholders of a corporation whose stock is held in an estate, which are designated by the corporation as a return or distribution of capital or a division of corporate property.

The provisions of paragraphs d. and e. of this section shall apply regardless of the source of, or the manner of, or the time of the acquisition of the property distributed.

Source: C. 3A:14A–4 (1952, c. 156, s. 4; amended 1964, c. 123, s. 1).

Ascertainment of income.

3B:19–8. Ascertainment of income. Except as otherwise provided in this chapter, the following shall be income:

a. All dividends and corporate distributions payable to an estate not constituted principal under the provisions of N. J. S. 3B:19–7,

including, by way of description, but not by way of limitation, cash dividends, extraordinary and ordinary, distribution in the shares of the distributing corporation which under N. J. S. 3B:19–7 shall be income and distributions in securities of a corporation other than the distributing corporation;

b. All rights to subscribe to securities of a corporation accruing by reason of the ownership of securities of another corporation whose securities are held in an estate, and the proceeds of the sale of those rights;

c. Amounts paid upon shares of stock of a corporation held in an estate, in the course of the liquidation of a corporation, where the amounts are in payment of cash dividends, declared before the liquidation commenced, or are in payment of arrears of preferred or guaranteed dividends;

d. Distributions made from ordinary income by an investment company or investment trust referred to in N. J. S. 3B:19–1 or a trust qualifying and electing to be taxed as a real estate investment trust under Federal law. All other distributions made by the company or trust, including distributions from capital gains, depreciation or depletion, whether in the form of cash or an option to take new stock or cash or an option to purchase additional shares, shall be principal.

Source: C. 3A:14A–5 (1952, c. 156, s. 5; amended 1964, c. 123, s. 2).

Income; optional dividends.

3B:19–9. Income; optional dividends. When a corporation, whose shares of stock are held in an estate, declares a dividend, and gives its stockholders a choice of receiving payment of the dividend in cash or in stock of the corporation, the dividend shall be income, regardless of the choice made by the fiduciary.

Source: C. 3A:14A–6 (1952, c. 156, s. 6).

Principal and income; profit or loss on sale or other disposition of securities; premium and discount.

3B:19–10. Principal and income; profit or loss on sale or other disposition of securities; premium and discount. Except as otherwise provided in article 2 of this chapter:

a. Any profit or loss arising from the sale, exchange, redemption, maturity or other disposition of securities held in an estate, shall enure to or fall upon principal, regardless of whether the cost of acquisition of the securities by the fiduciary is in excess of or less than the proceeds of the sale, exchange, redemption, maturity or other disposition; and regardless further, when the securities were

acquired by the person establishing the estate, whether the proceeds are in excess of or less than the value, measured by any standard, of the securities at the time they became part of the estate;

b. When the fiduciary acquires a security at a cost in excess of or less than the par, maturity, or redemption value of the security, or, when a security held in an estate was acquired by the person establishing the estate, and, at the time the estate was established, the value of the security, measured by any standard, was in excess of or less than the par, maturity or redemption value of the security, income shall not be subject to any charge to amortize the excess, nor shall income be entitled to any credit by way of accumulation on account of the deficiency.

Source: C. 3A:14A–7 (1952, c. 156, s. 7).

Principal and income; declaration of dividend after estate established; no record date designated.

3B:19–11. Principal and income; declaration of dividend after estate established; no record date designated. If a dividend of the nature described in N. J. S. 3B:19–8 is declared by a corporation, after the estate is established, and the corporation designates no record date on or as of which the stockholders of the corporation entitled to the dividend are to be determined, the dividend shall be income to the person who is the tenant on the date when the dividend is declared, regardless whether, at the time of the payment of the dividend, the period during which the person is entitled to income has terminated. There shall be no apportionment of the dividend between that person and a preceding or succeeding tenant, if any, or between the person and the remainderman. If, on the date of declaration of the dividend, there is no tenant, the dividend shall be principal, and there shall be no apportionment thereof between the remainderman and any former tenant.

Source: C. 3A:14A–8 (1952, c. 156, s. 8).

Principal and income; declaration of dividend after estate established; record date designated.

3B:19–12. Principal and income; declaration of dividend after estate established; record date designated. If a dividend of the nature described in N. J. S. 3B:19–8 is declared by a corporation, after the estate is established, and the corporation designates a record date on or as of which the stockholders of the corporation entitled to the dividend are to be determined, the dividend shall be income to the person who is the tenant on the record date, regardless whether, at the time of payment of the dividend, the period during which the person is entitled to income has terminated. There shall

be no apportionment of the dividend between that person and a preceding or succeeding tenant, if any, or between that person and the remainderman. If, on the record date, there is no tenant, the dividend shall be principal, and there shall be no apportionment thereof between the remainderman and any former tenant.

Source: C. 3A:14A–8 (1952, c. 156, s. 8).

Principal and income; declaration of dividend before estate established; no record date designated.

3B:19–13. Principal and income; declaration of dividend before estate established; no record date designated. If a dividend of the nature described in N. J. S. 3B:19–8 is declared by a corporation before the estate is established, and the corporation designates no record date on or as of which the stockholders of the corporation entitled to the dividend are to be determined, and the dividend is paid after the estate is established, the dividend shall be principal.

Source: C. 3A:14A–8 (1952, c. 156, s. 8).

Principal and income; declaration of dividend before estate established; record date designated.

3B:19–14. Principal and income; declaration of dividend before estate established; record date designated. If a dividend of the nature described in N. J. S. 3B:19–8 is declared by a corporation before the estate is established, and the corporation designates a record date on or as of which the stockholders of the corporation entitled to the dividend are to be determined, and the record date falls after the estate is established, the dividend shall be income to the person who is the tenant on the record date, and shall be subject to the provisions of N. J. S. 3B:19–14 to the same extent as if the dividend had been declared after the estate was established.

Source: C. 3A:14A–8 (1952, c. 156, s. 8).

Application of chapter.

3B:19–15. Application of chapter. Except as expressly provided in the trust instrument, this chapter shall apply to trusts and estates created or established before or after May 9, 1952, except that it shall not affect or apply to any apportionment or allocation of principal or income which was in fact made by the fiduciary prior to May 9, 1952.

Source: C. 3A:14A–9 (1952, c. 156, s. 9; amended 1964, c. 123, s. 3).

Article 2. United States Savings Bonds, Savings Certificates and Treasury Bills

A. United States Savings Bonds and Savings Certificates

Increments in value deemed income.

3B:19–16. Increments in value deemed income. Increments in value measured by increases in redemption values of United States savings bonds and United States treasury savings certificates issued upon a discount basis and not bearing interest pursuant to the Act of Congress, approved September 24, 1917, as amended (31 U. S. C. § 757c), now or hereafter held by a fiduciary acting under a will, or trust instrument, under which income of the estate, trust or other fund in which the bonds or certificates are held is payable to an income beneficiary, and shall be income whether or not the increments are actually realized by maturity or redemption of the bonds.

Source: C. 3A:14A–7 (1952, c. 156, s. 7); N. J. S. 3A:15–3.

Payments to income beneficiary on account of increased value.

3B:19–17. Payments to income beneficiary on account of increased value. The fiduciary may pay to the income beneficiary out of any principal funds in the fiduciary's hands or may transfer from the principal account to the income account the amounts of the increments or amounts of the increments as the income beneficiary may be entitled to and in case the payment or transfer is so made the increments in value of the bonds or certificates, or amounts of the increments as the income beneficiary may be entitled to, shall be added to and thereafter held as a part of the principal.

Source: N. J. S. 3A:15–3.

Apportionment of increased value.

3B:19–18. Apportionment of increased value. Upon commencement of or upon termination of the right of the income beneficiary to receive income, that part of the increment in value of the bonds or certificates which accrued after the commencement of or up to the time of termination of right to receive income, respectively, shall be apportioned to income.

Source: N. J. S. 3A:15–3.

B. United States Treasury Bills

Increase or decrease arising on sale or maturity.

3B:19–19. Increase or decrease arising on sale or maturity. Any increment or decrease in value arising on the sale or maturity of United States treasury bills shall enure to or fall upon income.

Source: C. 3A:14A–7 (1952, c. 156, s. 7).

Chapter 20

Investments

Article 1. Generally

3B:20–1. Definitions.
3B:20–2. Fiduciary may rely on financial publications.
3B:20–3. Corporate fiduciary may register securities in name of nominee without disclosing fiduciary capacity.
3B:20–4. Corporate fiduciary liable for loss caused by acts of nominee.
3B:20–5. Limitation on authority to register securities in name of nominee.
3B:20–6. Trusts inter vivos; continuation of trust investments made by creator.
3B:20–7. Directions of court concerning the sale, conversion or retention of investments.
3B:20–8. Protection afforded fiduciary continuing investments under court order.
3B:20–9. Application to court upon change in conditions.
3B:20–10. Investments by court order upon change in conditions.
3B:20–11. Continuance of decedent's investments.

Article 2. Prudent Investment Law

3B:20–12. Short title.
3B:20–13. Standard of care required of fiduciary.
3B:20–14. Authorized investments.
3B:20–15. Terms of trust instrument to control investments; departure from terms of trust instrument.
3B:20–16. Use and meaning of words "legal investments" and words of similar import.
3B:20–17. Application of article.

Article 3. Exchange or Conversion of Securities Upon Reorganization, Merger or Consolidation of Issuing Corporation

3B:20–18. Authority to exchange or convert securities.
3B:20–19. Fiduciary as issuing corporation.
3B:20–20. Authority of fiduciary to retain securities on exchange or conversion.

Article 4. Exchange and Conversion of Bank Shares for Shares of Bank Holding Company

3B:20–21. Definitions.
3B:20–22. Authority to exchange or convert.
3B:20–23. Banking institution acting as fiduciary.
3B:20–24. Continuance of investment by fiduciary.
3B:20–25. Application of article.

Article 5. Deposit of Securities in Clearing Corporations

3B:20–26. Short title.
3B:20–27. Definitions.
3B:20–28. Deposit of securities by fiduciary.
3B:20–29. Merger of certificates deposited.
3B:20–30. Records of securities deposited.
3B:20–31. Transfer of ownership in securities deposited.
3B:20–32. Rules and regulations governing banking institutions.
3B:20–33. Certification of securities deposited.
3B:20–34. Application of article.
3B:20–35. Construction of article.

Article 1. Generally

Definitions.

3B:20–1. Definitions. As used in this chapter:

a. "Trust instrument" means and includes a will, deed, agreement, court order or other instrument pursuant to which money or other property is entrusted to a fiduciary;

b. "Fiduciary" means an individual or corporation authorized to act as a trustee, personal representative, guardian, and every other person or corporation charged with the duty of administering a trust estate;

c. "Trust estate" means money or other property entrusted to a fiduciary pursuant to a trust instrument, will, estate of an intestate decedent or the estate of a minor or mentally incompetent person being administered by a guardian;

d. "Investments" means and includes property of every nature, real, personal and mixed, tangible and intangible, which persons of ordinary prudence and reasonable discretion acquire for the purpose of preserving capital and of realizing income; and specifically includes, solely by way of description and not by way of limitation, bonds, debentures and other corporate obligations, capital stocks, common stocks, preferred stocks, common trust

funds as defined in and regulated by article 9, "Common Trust Funds," P. L. 1948, c. 67 (C. 17:9A–36 et seq.), and securities of any open-end or closed-end management type investment company or investment trust registered pursuant to the Federal Investment Company Act of 1940, as from time to time amended.

Source: C. 3A:15–36 (1975, c. 337, s. 2; amended 1979, c. 490).

Fiduciary may rely on financial publications.

3B:20–2. Fiduciary may rely on financial publications. A fiduciary, in determining whether any bond, debenture, stock or other security or investment meets the requirements of this chapter or of a deed of trust, will or order of the court governing the making of the investment, may rely and be fully protected in relying upon statistical, financial, corporate or other information as to the bond, debenture, stock or other security, and upon ratings or other opinion as to the financial or other status thereof, contained in or offered by any financial, statistical, investment, rating or other publication or service published for the use of and accepted as reliable by investors in like securities or investments or upon a copy of the prospectus prepared and filed with the Securities and Exchange Commission in connection with a new issue.

Source: N. J. S. 3A:15–2.

Corporate fiduciary may register securities in name of nominee without disclosing fiduciary capacity.

3B:20–3. Corporate fiduciary may register securities in name of nominee without disclosing fiduciary capacity. Any bank may, when acting as sole fiduciary or when acting as cofiduciary, with the consent of a cofiduciary or cofiduciaries, cause any certificates for shares of stock, bonds, debentures, notes or other securities, herein denominated "securities", held in fiduciary capacities, to be registered and held in the name of a nominee of the corporate fiduciary without disclosing the fiduciary capacity in which the securities are held; provided, that

a. The records of the fiduciary or fiduciaries and all accounts rendered by it or them shall at all times clearly show the ownership of the securities so registered,

b. The securities shall at all times be kept separate and apart from the assets of the fiduciary or fiduciaries, and

c. The nominee shall not have possession of or access to the securities.

Source: N. J. S. 3A:15–7.

Corporate fiduciary liable for loss caused by acts of nominee.

3B:20–4. Corporate fiduciary liable for loss caused by acts of nominee. The fiduciary or fiduciaries shall be liable for any loss caused by the acts of the nominee with respect to securities registered as provided in N. J. S. 3B:20–3.

Source: N. J. S. 3A:15–7.

Limitation on authority to register securities in name of nominee.

3B:20–5. Limitation on authority to register securities in name of nominee. A fiduciary or fiduciaries may not register securities in the name of a nominee where any will, trust instrument or any order appointing or relating to any fiduciary or fiduciaries prohibits securities from being registered in the name of a nominee.

Source: N. J. S. 3A:15–7.

Trusts inter vivos; continuation of trust investments made by creator.

3B:20–6. Trusts inter vivos; continuation of trust investments made by creator. A fiduciary acting under a deed of trust or other trust instrument, who, in the exercise of good faith and reasonable discretion, continues to hold any investments placed in or added to a trust by the creator thereof, shall not be accountable for any loss by reason of the continuance or retention of those investments.

Source: N. J. S. 3A:15–12.

Directions of court concerning the sale, conversion or retention of investments.

3B:20–7. Directions of court concerning the sale, conversion or retention of investments. When securities or other property come into possession of a fiduciary as part of the assets of the estate he is to administer or manage, the fiduciary may apply to the court for direction as to the sale, conversion or retention of the securities or property.

The court shall make an order as it shall deem most advantageous to the estate, or the trust fund and the interests of persons entitled to share therein.

Source: N. J. S. 3A:15–13.

Protection afforded fiduciary continuing investments under court order.

3B:20–8. Protection afforded fiduciary continuing investments under court order. A fiduciary continuing to hold securities or other property as investments in accordance with an order of court pursuant to N. J. S. 3B:20–7 shall not be held accountable for any loss by reason of continuing to hold the securities or other property.

Source: N. J. S. 3A:15–13.

Application to court upon change in conditions.

3B:20-9. Application to court upon change in conditions. If, as a result of a change in conditions which occurs or which may be reasonably foreseen, the objects of a trust created by a will, other instrument or order of court may be defeated in whole or in part by the investment or retention of investments of the trust in securities or other property to which the fiduciary is limited by the will, other instrument or court order creating the trust, the fiduciary or any beneficiary of the trust may apply to the court to secure authority permitting or directing the fiduciary to invest all or any part of the trust in other investments.

Source: N. J. S. 3A:15-15.

Investments by court order upon change in conditions.

3B:20-10. Investments by court order upon change in conditions. If the court finds that by reason of a change in conditions which has occurred since the creation of the trust or which may be reasonably foreseen, the objects of the trust estate may be defeated in whole or in part by the investment or retention of the trust in securities or other property to which the fiduciary is limited by the trust instrument or court order creating the trust estate and that objects of the trust and those interested in it would be promoted by the investment of all or part of the trust otherwise, the court shall authorize or direct the fiduciary to invest the whole of the trust or that part of it as shall be designated, in any securities or other property which in its judgment will promote the objects of the trust and those interested in it.

Source: N. J. S. 3A:15-15.

Continuance of decedent's investments.

3B:20-11. Continuance of decedent's investments. When a decedent has invested in securities or other property and his personal representative has received the securities or other property to be administered by him, the personal representative may, in the exercise of good faith and reasonable discretion, continue to hold the investments. The personal representative shall not be accountable for any loss by reason of the continuance of those investments.

Source: N. J. S. 3A:15-11.

Article 2. Prudent Investment Law

Short title.

3B:20-12. Short title. This article shall be known and may be cited as the "Prudent Investment Law."

Source: C. 3A:15-35 (1975, c. 337, s. 1).

Standard of care required of fiduciary.

3B:20–13. Standard of care required of fiduciary. In investing and reinvesting money and property of a trust and in acquiring, retaining, selling, exchanging and managing investments, a fiduciary shall exercise care and judgment under the circumstances then prevailing, which persons of ordinary prudence and reasonable discretion exercise in the management of and dealing with the property and affairs of another, considering the probable income as well as the probable safety of capital. If the fiduciary has special skills or is named as the fiduciary on the basis of representations of special skills or expertise, he is under a duty to exercise those skills.

Source: C. 3A:15–37 (1975, c. 337, s. 3).

Authorized investments.

3B:20–14. Authorized investments. Except as otherwise provided in this article, a fiduciary may, within the limitations of the standard prescribed by N. J. S. 3B:20–13, invest in any investments whatsoever, and subject to the limitations imposed by N. J. S. 3B:20–15.

Source: C. 3A:15–38 (1975, c. 337, s. 4).

Terms of trust instrument to control investments; departure from terms of trust instrument.

3B:20–15. Terms of trust instrument to control investments; departure from terms of trust instrument. If a trust instrument prescribes, defines, limits or otherwise regulates a fiduciary's powers, duties, acts, or obligations in acquiring, investing, reinvesting, exchanging, retaining, selling, valuing or otherwise acting with respect to the property of a trust estate, the trust instrument shall control notwithstanding this article; but nothing herein shall affect the jurisdiction of the Superior Court to order or authorize a fiduciary to depart from the express terms or provisions of a trust instrument for the causes, in the manner, and to the extent otherwise provided by law.

Source: C. 3A:15–39 (1975, c. 337, s. 5).

Use and meaning of words "legal investments" and words of similar import.

3B:20–16. Use and meaning of words "legal investments" and words of similar import. Whenever any trust instrument or any statute of this State directs or authorizes a fiduciary to make any investment for a trust estate in "legal investments," or in "investments in which a fiduciary may by law invest" or in "legal investments for trustees" or uses words of similar import, those words

shall, in the absence of an express provision to the contrary contained in the trust instrument or the statute, be taken to include any investments of the kinds authorized by this article.

Source: C. 3A:15–40 (1975, c. 337, s. 6).

Application of article.

3B:20–17. Application of article. This article shall apply to and govern trust estates made before and after March 3, 1976, fiduciaries appointed before and after March 3, 1976, and trust instruments made before and after March 3, 1976.

Source: C. 3A:15–41 (1975, c. 337, s. 7).

Article 3. Exchange or Conversion of Securities Upon Recapitalization, Reorganization, Merger or Consolidation of Issuing Corporation

Authority to exchange or convert securities.

3B:20–18. Authority to exchange or convert securities. Except as otherwise provided in a will, deed of trust, other trust instrument or court order, a fiduciary who holds securities in a trust issued by a corporation which has been recapitalized or reorganized, or which has been a party to a merger or consolidation, may exchange or convert the securities so held for or into other securities issued by the corporation as an incident of its recapitalization, reorganization, merger or consolidation, or issued by the corporation's successor corporation as an incident of the merger or consolidation.

Source: C. 3A:15–17.1 (1963, c. 94, s. 1).

Fiduciary as issuing corporation.

3B:20–19. Fiduciary as issuing corporation. An exchange or conversion of securities may be made pursuant to this article notwithstanding that the fiduciary which holds the securities in a trust is the same corporation which issued the securities.

Source: C. 3A:15–17.2 (1963, c. 94, s. 2).

Authority of fiduciary to retain securities on exchange or conversion.

3B:20–20. Authority of fiduciary to retain securities on exchange or conversion. A fiduciary receiving securities on an exchange or conversion as authorized by this article may, in the exercise of good faith and reasonable discretion, continue to hold the securities so received, without being accountable for any loss by reason of the continuance, regardless whether or not the securities so received and held are the substantial equivalent of the securities surrendered on the exchange or conversion, and the

securities so received and held are authorized by the law of this State from time to time governing the investment of trust funds.

Source: C. 3A:15–17.3 (1963, c. 94, s. 3).

Article 4. Exchange and Conversion of Bank Shares for Shares of Bank Holding Company

Definitions.

3B:20–21. Definitions. As used in this article:

a. "Banking institution" includes State chartered banks and national banking associations;

b. "Bank holding company" means a bank holding company as defined in the Bank Holding Company Act of 1956 (Act of May 9, 1956, 70 Stat. 1933, 12 U. S. C. 1841 et seq.) as amended by the Bank Holding Company Act Amendments of 1970 (Act of December 31, 1970, 84 Stat. 1760).

Source: C. 3A:15–17.8 (1975, c. 25, s. 4).

Authority to exchange or convert.

3B:20–22. Authority to exchange or convert. When a bank holding company which is a corporation acquires 80% or more of the outstanding capital stock of a banking institution, any shares of the capital stock of the banking institution held in a trust estate by a fiduciary may be exchanged for or converted into the capital stock of the bank holding company as an incident of the company's acquisition of the shares.

Source: C. 3A:15–17.5 (1975, c. 25, s. 1).

Banking institution acting as fiduciary.

3B:20–23. Banking institution acting as fiduciary. An exchange or conversion of shares may be made pursuant to this article notwithstanding that the fiduciary which holds the shares in the trust is the banking institution which issued them.

Source: C. 3A:15–17.6 (1975, c. 25, s. 2).

Continuance of investment by fiduciary.

3B:20–24. Continuance of investment by fiduciary. A fiduciary who or which has heretofore received or hereafter receives shares of the capital stock of a bank holding company as authorized by this article may, in the exercise of good faith and reasonable discretion, continue to hold the shares without being accountable for any loss by reason of the continuance, regardless of whether or not the shares so held are the substantial equivalent of the shares surrendered in exchange for or on conversion thereof or the shares

so received and held are authorized by the law of this State from time to time governing the investment of trust funds.

Source: C. 3A:15–17.7 (1975, c. 25, s. 3).

Application of article.

3B:20–25. Application of article. This article shall not apply where a will, deed of trust or other trust instrument contains provisions inconsistent with or contrary to the provisions of this article.

Source: C. 3A:15–17.9 (1975, c. 25, s. 5).

Article 5. Deposit of Securities in Clearing Corporations

Short title.

3B:20–26. Short title. This article shall be known and may be cited as the "Clearing Corporation Deposit Law of 1973."

Source: C. 3A:15–34 (1973, c. 359, s. 5).

Definitions.

3B:20–27. Definitions. As used in this article:

a. "Fiduciary" includes an individual or corporation authorized to act as a custodian under the "New Jersey Uniform Gifts to Minors Act," P. L. 1963, c. 177 (C. 46:38–13 et seq.);

b. "Securities" means instruments which are commonly dealt with on securities exchanges or markets or commonly recognized in any area in which they are issued or dealt with as a medium for investment, and which are subject to the provisions of chapter 8, "Uniform Commercial Code-Investment Securities" (chapter 8, Title 12A of the New Jersey Statutes);

c. "Clearing corporation" means a corporation as defined in N. J. S. 12A:8–102.

Source: C. 3A:15–30 (1973, c. 359, s. 1).

Deposit of securities by fiduciary.

3B:20–28. Deposit of securities by fiduciary. Notwithstanding any other provision of law, a fiduciary holding securities in a trust estate, or any banking institution holding securities as a custodian or managing agent, or as custodian for a fiduciary, is authorized to deposit or arrange for the deposit of the securities in a clearing corporation.

Source: C. 3A:15–31 (1973, c. 359, s. 2).

Merger of certificates deposited.

3B:20–29. Merger of certificates deposited. When securities are deposited, certificates representing securities of the same class of

the same issuer may be merged and held in bulk in the name of the nominee of the clearing corporation with any other securities deposited in the clearing corporation by any person regardless of the ownership of the securities, and certificates of small denomination may be merged into one or more certificates of larger denomination.

Source: C. 3A:15-31 (1973, c. 359, s. 2).

Records of securities deposited.

3B:20-30. Records of securities deposited. The records of the fiduciary and the records of a banking institution acting as custodian, as managing agent or as custodian for a fiduciary, shall at all times show the name of the party for whose account the securities are deposited.

Source: C. 3A:15-31 (1973, c. 359, s. 2).

Transfer of ownership in securities deposited.

3B:20-31. Transfer of ownership in securities deposited. Ownership of, and other interests in, securities deposited may be transferred by bookkeeping entry on the books of the clearing corporation without physical delivery of certificates representing the securities.

Source: C. 3A:15-31 (1973, c. 359, s. 2).

Rules and regulations governing banking institutions.

3B:20-32. Rules and regulations governing banking institutions. A banking institution depositing securities pursuant to this article shall be subject to rules and regulations as, in the case of State chartered institutions the Commissioner of the Department of Banking and, in the case of national banks, the Comptroller of the Currency may from time to time issue.

Source: C. 3A:15-31 (1973, c. 359, s. 2).

Certification of securities deposited.

3B:20-33. Certification of securities deposited. A banking institution acting as custodian for a fiduciary shall, on demand by the fiduciary, certify in writing to the fiduciary securities deposited by the banking institution in a clearing corporation for the account of the fiduciary. A fiduciary shall, on demand by any party to a judicial proceeding for the settlement of the fiduciary's account or on demand by the attorney for the party, certify in writing to the party the securities deposited by the fiduciary in the clearing corporation for its account as the fiduciary.

Source: C. 3A:15-31 (1973, c. 359, s. 2).

Application of article.

3B:20–34. Application of article. This article shall apply to any fiduciary holding securities in its fiduciary capacity, and to any banking institution holding securities as a custodian, managing agent or custodian for a fiduciary, acting on January 2, 1974, or who thereafter may act regardless of the date of the agreement, instrument or court order by which the fiduciary is appointed and regardless of whether or not the fiduciary, custodian, managing agent or custodian for a fiduciary owns capital stock of the clearing corporation.

Source: C. 3A:15–32 (1973, c. 359, s. 3).

Construction of article.

3B:20–35. Construction of article. Nothing contained in this article shall be construed as relieving a fiduciary depositing securities as authorized herein from the duty to account for all securities so deposited.

Source: C. 3A:15–33 (1973, c. 359, s. 4).

Chapter 21

Transfer of Property Out of State

3B:21–1. Removal of property from the State.
3B:21–2. Meaning of term "personal property."
3B:21–3. Proof of authority of, and giving of security by, guardian or trustee.
3B:21–4. When removal will be denied.
3B:21–5. Effect of judgment for removal and transfer.

Removal of property from the State.

3B:21–1. Removal of property from the State. When a ward or a cestui que trust, or all the cestuis que trustent in esse, is or, all of them, are nonresidents of this State and is or are entitled to personal or real property in this State and the guardian or trustee received his letters from, or is subject to the jurisdiction of, a court of another state or country, the Superior Court may authorize the guardian or trustee, if it is in the interest of the persons in interest, to demand, collect, sue for, receive and remove from this State all or any part of the personal property and the rents, issues and profits of the real property, or authorize the personal property, and the rents, issues and profits of the real property to be transferred to the custody of the proper court of that state, jurisdiction or country.

Source: N. J. S. 3A:23–1.

Meaning of term "personal property."

3B:21–2. Meaning of term "personal property." The term "personal property" as used in this chapter shall include, but without limitation, property or money or any devise or distributive share, interest, trust fund or trust property in the hands of a fiduciary residing or acting in this State, moneys in the hands of a receiver appointed by any court, moneys in the hands of a commissioner, officer, fiduciary or other person constituting the proceeds from the sale of real estate under any judicial proceeding, or pursuant to the provisions of any will or instrument of trust, or awarded as damages for the taking of lands under legislative authority, moneys or funds deposited in any court of this State, whether arising from the sale of lands or otherwise, and moneys or property in the custody or under the control or subject to the directions of any court.

Source: N. J. S. 3A:23–2.

Proof of authority of, and giving of security by, guardian or trustee.

3B:21–3. Proof of authority of, and giving of security by, guardian or trustee. In any action brought pursuant to N. J. S. 3B:21–1, the court shall be satisfied by proof that the guardian or trustee is authorized and qualified to act in the state or country to which the money or other property is to be removed. The court shall require him to give bond, in double the amount or value of the moneys or other property to be removed, or in any other sum and with an obligee, conditions and sureties as the court may determine. A bond need not be required if the court is satisfied that he has given security satisfactory to the court in that state or country or is not required to furnish security under the laws thereof.

Source: N. J. S. 3A:23–3.

When removal will be denied.

3B:21–4. When removal will be denied. Property belonging to any cestui que trust or ward shall not be removed or transferred where it would conflict with the terms, limitations or conditions attending his right to the property, whether they are created by will, trust or any other instrument, or where the interests of a citizen of this State with respect to the property would thereby be prejudiced.

Source: N. J. S. 3A:23–4.

Effect of judgment for removal and transfer.

3B:21–5. Effect of judgment for removal and transfer. The delivery, transfer or payment of property or money pursuant to a

judgment entered in accordance with this chapter shall be a legal discharge and acquittance for the delivery, transfer or payment of property or money, but if the court deems it advisable, it may require receipts or releases or refunding bonds to be given and recorded.

Source: N. J. S. 3A:23–5.

Chapter 22

Creditors of Decedents; Their Rights and Remedies

Article 1. Generally

3B:22–1. Waiver of statutes of limitations.
3B:22–2. Order of priority of claims when assets insufficient.
3B:22–3. Abatement for purpose of paying claims and debts.

Article 2. Presentation and Bar of Claims

3B:22–4. Limitation of time to present claims of creditors.
3B:22–5. Liquidated claims payable in future.
3B:22–6. Payment of claim not legally presented; effect; allowance in personal representative's account.
3B:22–7. Allowance or rejection of claims within 3 months.
3B:22–8. Commencement of action by creditor on disputed claim within 3 months after notice.
3B:22–9. Discharge of personal representative where claim is not duly presented before distribution.

Article 3. Remedies of Creditors Who Fail to Present Their Claims Within the Time Limited

A. Against Personal Representative

3B:22–10. Presentation of claim.
3B:22–11. Acceptance or rejection of claim.
3B:22–12. Action on unrejected claim.
3B:22–13. Failure to sue after notice to perfect claim; claim debarred.
3B:22–14. Direction of court before paying claims not presented within 6-month period.
3B:22–15. Failure to file refunding bond; presumption that devise or distributive share remains unpaid.

B. On Refunding Bond

3B:22–16. Action upon refunding bond of devisee or heir.
3B:22–17. Defense to action on fiduciary's bond in certain cases.
3B:22–18. Action on refunding bond of ultimate devisee or heir.

Article 4. Administration of Estate in More Than One State

3B:22–19. Assets being administered here subject to claims established wherever personal representative appointed.
3B:22–20. Payment of claims where assets insufficient.
3B:22–21. Payment of claims allowed in this State out of local assets; delivery of surplus assets to domiciliary personal representative.

Article 5. Liability of Real Property for Debts

3B:22–22. Real property liable only 1 year for debts.
3B:22–23. Time not extended by general words in will.
3B:22–24. Article not to affect liability of heirs or devisees.

Article 6. Sale of Property Subject to Escheat to Pay Debts

3B:22–25. Sale of property subject to escheat to pay debts.
3B:22–26. Direction of court as to sale.
3B:22–27. Estate passed by sale or conveyance.
3B:22–28. Effect of confirmation.
3B:22–29. Accounting; surplus from sale payable to State Treasurer.
3B:22–30. Distribution by State Treasurer; proof of claim required of claimants.
3B:22–31. Payment of share to established claimant; State Treasurer released as to subsequent claimants; recovery by claimant from distributee.

Article 7. Insolvent Estates

3B:22–32. Distribution among creditors to be pro rata; preferred debts excepted.
3B:22–33. Claims not presented in time barred; exception; extension of time.
3B:22–34. Authority of court to pass upon claims against the estate and upon amount and value of estate.
3B:22–35. Judgment of insolvency; sale of assets.
3B:22–36. Proceeds; distribution.
3B:22–37. Residue after debts to go to heirs or devisees.
3B:22–38. Certain actions against personal representative saved.

Article 8. Liability of Heirs and Devisees

3B:22–39. "Heirs and devisees" defined.
3B:22–40. Heirs and devisees liable for debt of decedent.
3B:22–41. Joinder of parties.

3B:22–42. General judgment; special judgment.
3B:22–43. Liability in case of sale or transfer of estate.
3B:22–44. Contribution between heirs and devisees liable.

Article 1. Generally

Waiver of statutes of limitations.

3B:22–1. Waiver of statutes of limitations. Unless an estate is insolvent the personal representative may, but only with the consent of all successors, waive any defense of limitations available to the estate. If the defense is not waived, no claim which was barred by any statute of limitations at the time of the decedent's death shall be allowed or paid.

Source: C. 3A:2A–46 (1977, c. 412, s. 49).

Order of priority of claims when assets insufficient.

3B:22–2. Order of priority of claims when assets insufficient. If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

a. Reasonable funeral expenses;

b. Costs and expenses of administration;

c. Debts and taxes with preference under Federal law or the laws of this State;

d. Reasonable medical and hospital expenses of the last illness of the decedent, including compensation of persons attending him;

e. Judgments entered against the decedent according to the priorities of their entries respectively;

f. All other claims.

No preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to a preference over claims not due.

Source: C. 3A:2A–47 (1977, c. 412, s. 50).

Abatement for purpose of paying claims and debts.

3B:22–3. Abatement for purpose of paying claims and debts. Except as otherwise provided in a decedent's will, the property of a decedent's estate shall abate for the purposes of paying debts and claims, without any preference or priority as between real and personal property, in the following order:

a. Property passing by intestacy;

b. Residuary devises;

c. General devises; and

d. Specific devises.

Source: C. 3A:2A–48.1 (1979, c. 221, s. 12).

Article 2. Presentation and Bar of Claims

Limitation of time to present claims of creditors.

3B:22–4. Limitation of time to present claims of creditors. At any time after granting letters testamentary or of administration, the Superior Court, or surrogate, as the case may be, may, whether the estate be solvent or not, order the personal representative to give public notice to creditors of the decedent to present to him their claims in writing and under oath, specifying the amount claimed and the particulars of the claim, within 6 months from the date of the order.

Source: N. J. S. 3A:24–3.

Liquidated claims payable in future.

3B:22–5. Liquidated claims payable in future. A liquidated claim, not due and payable, but payable in the future, may be presented for allowance, a reasonable rebate of interest being made when interest is not accruing thereon. If the claim is disputed and action is brought thereon, the plaintiff shall not fail in the action because the claim is payable in the future, if the claim is otherwise valid.

Source: N. J. S. 3A:24–4.

Payment of claim not legally presented; effect; allowance in personal representative's account.

3B:22–6. Payment of claim not legally presented; effect; allowance in personal representative's account. If a personal representative in good faith pays a claim presented to him which is not verified as required, and, on or before final accounting, it is proved to the court or surrogate that the claim was owed by the decedent and was a just claim against the estate, the court shall allow in the personal representative's account the full amount of the claim if the estate is sufficient to pay the debts of equal degree with the claim in full. If the estate is not sufficient for that purpose, he shall be allowed the pro rata amount the creditor would have been entitled to receive if the claim had been presented verified as required.

Source: N. J. S. 3A:24–5.

Allowance or rejection of claims within 3 months.

3B:22–7. Allowance or rejection of claims within 3 months. Within 3 months after the presentation to him of a claim, the personal representative shall allow or dispute it or allow it in part and dispute it in part, and give notice in writing to the creditor, his agent or attorney, of that which he allows or disputes.

Source: N. J. S. 3A:24–6.

Commencement of action by creditor on disputed claim within 3 months after notice.

3B:22-8. Commencement of action by creditor on disputed claim within 3 months after notice. Within 3 months after receiving notice that a claim or a part of it has been disputed, the creditor shall commence an action to recover on the claim or so much of it as is disputed; otherwise the personal representative shall not be liable to the creditor with respect to any assets which he may have delivered or paid in satisfaction of any lawful claims, devises or distributive shares before the commencement of the action.

Source: N. J. S. 3A:24-6.

Discharge of personal representative where claim is not duly presented before distribution.

3B:22-9. Discharge of personal representative where claim is not duly presented before distribution. If a claim is not presented to the personal representative under oath as required, within the period of 6 months limited for presentation of claims pursuant to N. J. S. 3B:22-4, the personal representative shall not be liable to the creditor with respect to any assets which he may have delivered or paid in satisfaction of any lawful claims, devises or distributive shares, before the presentation of the claim.

Source: N. J. S. 3A:24-7.

Article 3. Remedies of Creditors Who Fail to Present Their Claims Within the Time Limited

A. Against Personal Representative

Presentation of claim.

3B:22-10. Presentation of claim. Where the assets of an estate exceed the amount needed to pay claims presented within the time limited pursuant to N. J. S. 3B:22-4, a claimant, who has failed to present his claim within the time so limited, may present the claim, in the form required by that section, to the personal representative at any time before the remaining assets of the estate shall have been distributed or paid over pursuant to law.

Source: N. J. S. 3A:24-8.

Acceptance or rejection of claim.

3B:22-11. Acceptance or rejection of claim. The personal representative shall, if satisfied that the claim is correct and should be paid, pay the claim or so much thereof as the amount of the assets available for distribution will permit. If not satisfied with the correctness thereof, the personal representative shall notify the claimant, his agent or attorney, to proceed forthwith to establish

the disputed claim, or part thereof, by judgment. In that case the personal representative shall retain from the assets available for distribution a sum sufficient to pay the amount of the claim, together with interest and costs, until the claimant shall have had an opportunity to establish his claim by judgment.

Source: N. J. S. 3A:24–8.

Action on unrejected claim.

3B:22–12. Action on unrejected claim. If a personal representative fails to pay a claim presented pursuant to N. J. S. 3B:22–11, the claimant may bring an action against the personal representative to recover on his claim in any court of competent jurisdiction.

Source: N. J. S. 3A:24–9.

Failure to sue after notice to perfect claim; claim debarred.

3B:22–13. Failure to sue after notice to perfect claim; claim debarred. If a creditor fails to commence an action upon his claim within 1 month after being notified to establish the claim by judgment, as provided by N. J. S. 3B:22–11, he shall be thereafter forever barred from any action against the personal representative to recover on the claim.

Source: N. J. S. 3A:24–10.

Direction of court before paying claims not presented within 6-month period.

3B:22–14. Direction of court before paying claims not presented within 6-month period. A personal representative may not be compelled to pay any claim not presented within the period limited pursuant to N. J. S. 3B:22–4, unless the court shall, for good cause shown, so direct or until his account has been settled by the court and the court has authorized or directed him to make the payment.

Source: N. J. S. 3A:24–11.

Failure to file refunding bond; presumption that devise or distributive share remains unpaid.

3B:22–15. Failure to file refunding bond; presumption that devise or distributive share remains unpaid. In an action by a creditor against a personal representative, for the payment of a ratable proportion of his debt, it shall be presumed that the assets of the estate due a devisee or heir have not been paid over to him, if no refunding bond from the devisee or heir is on file. However, the presumption may be rebutted by proof that the devise or distributive share was actually paid over to him.

Source: N. J. S. 3A:24–12.

B. On Refunding Bond

Action upon refunding bond of devisee or heir.

3B:22–16. Action upon refunding bond of devisee or heir. A claimant against an estate who has failed to present his claim in due form within the time required, may bring an action in his own name without leave of court on a refunding bond given by a devisee or heir and recover the proportion of his claim which ought to be paid out of the devise or distributive share for which the bond was given.

Recovery on a refunding bond shall in no case exceed the amount actually received by the devisee or heir furnishing the bond.

Source: N. J. S. 3A:24–13.

Defense to action on fiduciary's bond in certain cases.

3B:22–17. Defense to action on fiduciary's bond in certain cases. A fiduciary, who has received a devise or distributive share from a personal representative and has given a refunding bond therefor, may set up in absolute bar to an action on the bond, that he has lawfully paid out and distributed the devise or distributive share to the person entitled thereto, and has taken a refunding bond therefor from that person. If the fiduciary has paid out a part only of the devise or distributive share and has taken a similar refunding bond therefor, he may defend in like manner as to the part so paid or distributed.

Source: N. J. S. 3A:24–14.

Action on refunding bond of ultimate devisee or heir.

3B:22–18. Action on refunding bond of ultimate devisee or heir. A creditor may sue on a bond taken by a fiduciary pursuant to N. J. S. 3B:22–17, in the same manner and with like effect as if the original personal representative had made payment or distribution directly and had taken the bond himself.

Source: N. J. S. 3A:24–15.

Article 4. Administration of Estate in More Than One State

Assets being administered here subject to claims established wherever personal representative appointed.

3B:22–19. Assets being administered here subject to claims established wherever personal representative appointed. All assets of estates being administered in this State are subject to all claims and charges existing or established against the personal representative wherever appointed.

Source: C. 3A:2A–48 (1977, c. 412, s. 51).

Payment of claims where assets insufficient.

3B:22–20. Payment of claims where assets insufficient. If the estate either in this State or as a whole is insufficient to cover all claims and prior charges, each claimant whose claim has been allowed either in this State or elsewhere in administrations of which the personal representative is aware, is entitled to receive payment of an equal proportion of his claim. If a preference or security in regard to a claim is allowed in another jurisdiction but not in this State, the creditor so benefited is to receive dividends from local assets only upon the balance of his claim after deducting the amount of the benefit.

Source: C. 3A:2A–48 (1977, c. 412, s. 51).

Payment of claims allowed in this State out of local assets; delivery of surplus assets to domiciliary personal representative.

3B:22–21. Payment of claims allowed in this State out of local assets; delivery of surplus assets to domiciliary personal representative. In case the claims and prior charges of the entire estate exceed the total value of the portions of the estate being administered separately and this State is not the state of the decedent's last domicile, the claims allowed in this State shall be paid their proportion if local assets are adequate for the purpose, and the balance of local assets shall be transferred to the domiciliary personal representative. If local assets are not sufficient to pay all claims allowed in this State the amount to which they are entitled, local assets shall be marshaled so that each claim allowed in this State is paid its proportion as far as possible, after taking into account all dividends on claims allowed in this State from assets in other jurisdictions.

Source: C. 3A:2A–48 (1977, c. 412, s. 51).

Article 5. Liability of Real Property for Debts

Real property liable only 1 year for debts.

3B:22–22. Real property liable only 1 year for debts. The real property of any person who shall die seized thereof or entitled thereto shall be and remain liable for the payment of his debts for 1 year after his decease, but may be sold free from liability for payment of debts by his personal representative upon application to the court upon terms and conditions as the court may direct for the protection of creditors, any alienation or encumbrance made or attempted to be made by his heirs or devisee to the contrary notwithstanding. Nothing herein contained shall affect any right of dower or curtesy in the real property.

Source: N. J. S. 3A:24–16.

Time not extended by general words in will.

3B:22–23. Time not extended by general words in will. The period of 1 year fixed in N. J. S. 3B:22–22, shall not be deemed to be extended by any directions in a will that just debts be paid. Any charge upon real property created by any directions in a will that just debts be paid shall not attach to the real property beyond the period of 1 year fixed in that section, unless the will contains express language to the effect that the debts shall remain a lien upon the real property for a longer period.

Source: N. J. S. 3A:24–17.

Article not to affect liability of heirs or devisees.

3B:22–24. Article not to affect liability of heirs or devisees. Nothing contained in this article, shall affect any liability of heirs and devisees under article 8 of this chapter.

Source: N. J. S. 3A:24–18.

Article 6. Sale of Property Subject to Escheat to Pay Debts

Sale of property subject to escheat to pay debts.

3B:22–25. Sale of property subject to escheat to pay debts. In any case where property may be subject to escheat to the State, proceedings to sell the property to pay debts may be taken as provided in this article.

Source: N. J. S. 3A:24–33.

Direction of court as to sale.

3B:22–26. Direction of court as to sale. If it shall appear to the satisfaction of the court that property of which a decedent died seized or possessed is subject to escheat to the State and that it is necessary to sell the property in order to pay debts of the decedent, the court shall direct the personal representative of the decedent's estate to sell the property or so much thereof as may be necessary for that purpose.

Source: New.

Estate passed by sale or conveyance.

3B:22–27. Estate passed by sale or conveyance. A sale or conveyance of property directed to be sold by the court, as provided in N. J. S. 3B:22–26, when made by a personal representative, shall vest in the purchaser all the estate of which the decedent was seized or possessed at the time of his death.

Source: New.

Effect of confirmation.

3B:22–28. Effect of confirmation. When property is sold pursuant to N. J. S. 3B:22–26 and the sale is confirmed by the court directing the sale, the judgment or order confirming the sale or a certified copy thereof shall be conclusive evidence in all courts of the validity of the proceedings for sale and of the fulfillment of statutory requirements.

The judgment or order may be set aside or reversed by appropriate proceedings for that purpose; but the proceedings shall not affect a bona fide purchaser, and the purchaser, his heirs and assigns, shall hold the property so purchased, notwithstanding the setting aside or reversal and notwithstanding any defect in the proceedings for sale.

Source: New.

Accounting; surplus from sale payable to State Treasurer.

3B:22–29. Accounting; surplus from sale payable to State Treasurer. After accounting duly made by the personal representative and after the payment of debts and just expenses, fees and commissions of every sort, if no heirs at law of the decedent, to whom distribution may be made pursuant to the provisions of law, have made claim to any surplus remaining from the sale, the court shall order the surplus to be paid over to the State Treasurer. Upon receiving the State Treasurer's receipt therefor, the personal representative shall have no further obligation with respect to the surplus.

Source: N. J. S. 3A:24–34.

Distribution by State Treasurer; proof of claim required of claimants.

3B:22–30. Distribution by State Treasurer; proof of claim required of claimants. After payment to the State Treasurer, no distribution of the surplus shall be made to any heir or other person interested in the property from the sale of which the surplus so paid over to the State Treasurer arose, unless the heir or other person shall have secured a judgment under the"Uniform Declaratory Judgments Act" (Article 9 of chapter 16 of Title 2A, of the New Jersey Statutes) establishing his right thereto. Upon receipt of a certified copy of the judgment, the State Treasurer shall distribute the surplus to the person or persons entitled thereto according to their respective interests. Payment shall be made by the State Treasurer upon proof by the person as to his identity and right to payment under the judgment.

Source: N. J. S. 3A:24–35.

Payment of share to established claimant; State Treasurer released as to subsequent claimants; recovery by claimant from distributee.

3B:22–31. Payment of share to established claimant; State Treasurer released as to subsequent claimants; recovery by claimant from distributee. After the State Treasurer has made payment to any person or persons in accordance with the declaratory judgment, as provided in N. J. S. 3B:22–30, no recovery may be had against the State Treasurer by any other person who may thereafter establish in any court proceeding his contrary interest in the surplus or the property from the sale of which the surplus arose. However, any other person who may thereafter establish in any court proceeding his contrary interest therein shall, as to the portion of the surplus remaining in the State Treasurer's hands, be entitled to his proportionate share thereof and, in addition thereto, may bring an action at law against the persons to whom distribution has been made by the State Treasurer, to recover his proportionate share of that portion of the surplus so distributed by the State Treasurer.

Source: N. J. S. 3A:24–36.

Article 7. Insolvent Estates

Distribution among creditors to be pro rata; preferred debts excepted.

3B:22–32. Distribution among creditors to be pro rata; preferred debts excepted. If the estate of a decedent is insufficient to pay his debts, his estate shall be applied to the preferred expenses and debts in accordance with N. J. S. 3B:22–2, and the balance shall be distributed among his creditors in proportion to the sum due to each.

Source: N. J. S. 3A:24–37.

Claims not presented in time barred; exception; extension of time.

3B:22–33. Claims not presented in time barred; exception; extension of time. If an estate is adjudged insolvent, any creditor who fails to exhibit his claim to the personal representative within the time limited and prescribed by N. J. S. 3B:22–4 shall be forever barred from prosecuting or recovering thereon unless the estate shall prove sufficient, after all claims exhibited and allowed are fully satisfied, or the creditors shall find some other asset not accounted for by the personal representative before distribution, in which case the creditor shall receive his ratable proportion therefrom. However, the court, before distribution made, may upon the application of any creditor of any insolvent decedent and after notice to the personal representative, extend the time within which

claims may be presented by creditors of the decedent upon terms as the court may deem just.
Source: N. J. S. 3A:24–38.

Authority of court to pass upon claims against the estate and upon amount and value of estate.

3B:22–34. Authority of court to pass upon claims against the estate and upon amount and value of estate. In an action to have an estate adjudged insolvent, the court may adjudicate upon and determine the amount and value of the estate and the liability of the estate on claims made against it.
Source: N. J. S. 3A:24–39.

Judgment of insolvency; sale of assets.

3B:22–35. Judgment of insolvency; sale of assets. If upon an adjudication and determination, it appears to the court that the estate is insufficient to pay the debts, or whenever it appears to the satisfaction of the court, upon consideration of the claims of creditors and the amount of estate and the value thereof that the estate is insufficient to pay the debts and that the estate is likely to be insolvent, the court may enter judgment to this effect, and direct the personal representative to proceed as if the estate were insolvent, and to make sale of the whole or any part of the estate of his decedent, from time to time, as may appear expedient.
Source: N. J. S. 3A:24–40.

Proceeds; distribution.

3B:22–36. Proceeds; distribution. Proceeds of the estate which come to the hands of the personal representative shall be distributed under direction of the court, from time to time, as may be found convenient and just.
Source: N. J. S. 3A:24–41.

Residue after debts to go to heirs or devisees.

3B:22–37. Residue after debts to go to heirs or devisees. If full payment of debts and claims is made, and there remains a residue, the residue shall be divided among the heirs of an intestate in the proportions as provided by law, or in case of a will, to the devisees as the will directs.
Source: N. J. S. 3A:24–42.

Certain actions against personal representative saved.

3B:22–38. Certain actions against personal representative saved. Nothing contained in this article shall prevent a person from maintaining an action against the personal representative for, or in respect of, waste or misapplication of the estate of his decedent.
Source: N. J. S. 3A:24–43.

Article 8. Liability of Heirs and Devisees

"Heirs and devisees" defined.

3B:22–39. "Heirs and devisees" defined. As used in this article, heirs and devisees shall include the heirs and devisees of a deceased debtor and the heirs and devisees of any of them, who shall have died before the commencement of the action, authorized by this article, to whom any of the real estate, of which the debtor died seized or possessed, descended or was devised.

Source: N. J. S. 3A:24–44.

Heirs and devisees liable for debt of decedent.

3B:22–40. Heirs and devisees liable for debt of decedent. Every creditor, whether by simple contract or specialty, and whether or not the heirs or devisees are mentioned therein, shall have and may maintain by virtue of this article an action against the heirs and devisees of his deceased debtor dying seized or possessed of any real or personal property. The heirs or devisees shall be liable to pay the debt by reason of the descent or devise of the real or personal property to them in the manner provided in this article. In all actions creditors shall be preferred as in actions against personal representatives.

Source: N. J. S. 3A:24–45.

Joinder of parties.

3B:22–41. Joinder of parties. The action shall be brought against all of the heirs and devisees of the deceased debtor who can be found within the State.

Source: N. J. S. 3A:24–46.

General judgment; special judgment.

3B:22–42. General judgment; special judgment. If the debt be found due, the judgment against any heir or devisee shall be general for the full amount found due, unless the heir or devisee shall admit in the action the descent or devise of the estate to him, specifically describing it, in which case the judgment shall be special against him to be made out of the estate so descended and devised alone.

Source: N. J. S. 3A:24–47.

Liability in case of sale or transfer of estate.

3B:22–43. Liability in case of sale or transfer of estate. In the event an estate descended or devised to any heir or devisee has been bona fide sold or transferred prior to the commencement of the action, it shall not be liable for the debt or for any judgment obtained in an action against him. In that event, if in an action

against him the debt be found due, the judgment against him shall be general for the full amount thereof, unless he shall admit in the action the descent or devise of the estate to him, specifically describing it, in which case the judgment shall be general for the amount so found due, but only to the value of the estate descended or devised, and sold or transferred.

Source: N. J. S. 3A:24–48.

Contribution between heirs and devisees liable.

3B:22–44. Contribution between heirs and devisees liable. Contribution between heirs and devisees liable under this article may be had as heretofore.

Source: N. J. S. 3A:24–49.

Chapter 23

Devises and Distributive Shares

Article 1. Distribution in Kind

3B:23–1. Distribution of assets in kind.
3B:23–2. Valuation of assets.
3B:23–3. Method of distribution.
3B:23–4. Proposal of distribution; contents; time to object.
3B:23–5. Instrument of distribution.
3B:23–6. Proof of delivery of instrument of distribution conclusive evidence of distributee's receipt of assets; exception.
3B:23–7. Protection of purchaser from or lender to distributee.
3B:23–8. Partition for purpose of distribution.
3B:23–9. Agreement among successors binding on personal representative.
3B:23–10. Distribution to guardian.

Article 2. Distribution Under Will

3B:23–11. Interest on general pecuniary devise.
3B:23–12. Abatement generally.
3B:23–13. General devise charged upon specific property or fund.
3B:23–14. Where will expresses order of abatement.
3B:23–15. Abatement where subject of specific devise sold.
3B:23–16. Distribution by order of court.

Article 3. Distribution of Intestate Estate

3B:23–17. Judgment for distribution.
3B:23–18. Distribution; when made.
3B:23–19. Order for filing claims of unknown distributees.
3B:23–20. Failure to file claim debars unknown distributee.

Article 4. Distribution of Devises, Distributive Shares, Trusts, etc.

A. Unclaimed Assets

3B:23–21. Payment into court; receipts; record.

B. Payment into Court for Benefit of Devisee, Distributee, etc.

3B:23–22. Deposit in court of money or other property of devisee, heir or beneficiary of trust in certain cases.

C. Distribution to Trustees

3B:23–23. Letters of trusteeship required before transfer to trustee.

Article 5. Bonds of Devisees and Distributees

A. Refunding Bonds

3B:23–24. Refunding bond of devisee or distributee.
3B:23–25. Amount of bond; form.
3B:23–26. Condition of devisee's bond.
3B:23–27. Condition of distributee's bond.

B. Bonds to Secure Remaindermen

3B:23–28. Bonds required of holders of determinable interests; in general.
3B:23–29. Bond when remainderman is lineal descendant of holder of determinable estate.
3B:23–30. Bond when the personal representative is holder of a determinable estate.

Article 6. Actions for Devises and Distributive Shares

A. Distributive Shares

3B:23–31. Actions for distributive shares.

B. Devises

3B:23–32. Limitations on enforcement of devise.
3B:23–33. Action for devise.
3B:23–34. Conditions precedent to suit for devise.
3B:23–35. Extent of recovery.
3B:23–36. Plea of want of assets; procedure.

Article 7. Contingent Devises Charged on Real Estate

A. Partition to Satisfy Devise

3B:23–37. Apportionment of certain real estate to pay devise.
3B:23–38. Effect of apportionment; filing and recording papers.

B. Deposit of Money to Satisfy Devise

3B:23–39. Deposit with court; effect.
3B:23–40. Payment of interest on moneys deposited.

Article 8. Miscellaneous

3B:23–41. Return of devise pro rata.
3B:23–42. Distribution of nonresident decedent's estate.
3B:23–43. Right of retainer.

Article 1. Distribution in Kind

Distribution of assets in kind.

3B:23–1. Distribution of assets in kind. Except where a will authorizes distribution to be made in cash or in kind, the distributable assets of an intestate's estate or testator's estate shall be distributed in kind to the extent reasonably possible through application of the following provisions:

a. A specific devisee is entitled to distribution of the thing devised to him;

b. Any devise payable in money or an intestate share may be satisfied by value in kind provided:

(1) The person entitled to the payment has not demanded payment in cash;

(2) The property distributed in kind is valued at fair market value as of the date of its distribution; and

(3) No residuary devisee has requested that the asset in question remain a part of the residue of the estate.

Source: C. 3A:2A–76 (1977, c. 412, s. 79; amended 1979, c. 221, s. 8).

Valuation of assets.

3B:23–2. Valuation of assets. For the purpose of valuation under subsection b. of N. J. S. 3B:23–1 securities regularly traded on recognized exchanges, if distributed in kind, are valued at the price for the last sale of like securities traded on the business day prior to distribution, or if there was no sale on that day, at the mean between amounts bid and offered at the close of that day. Assets consisting of sums owed the decedent or the estate by solvent debtors as to which there is no known dispute or defense are valued at the sum due with accrued interest or discounted to the date of distribution. For assets which do not have readily ascertainable value, a valuation as of a date not more than 30 days prior to the date of distribution, if otherwise reasonable, controls. For purposes of facilitating distribution, the personal representative may ascertain the value of the assets as of the time of the proposed distribution in any reasonable way, including the employment of qualified appraisers, even if the assets may have been previously appraised.

Source: C. 3A:2A–76 (1977, c. 412, s. 79; amended 1979, c. 221, s. 8).

Method of distribution.

3B:23–3. Method of distribution. If the personal representative of either a testate or an intestate estate has, in the exercise of good faith and reasonable discretion, continued to hold in kind the distributable assets of an intestate estate or of the residue of a testate estate, the assets shall be distributed in kind if there is no objection to the proposed distribution and it is practicable to distribute undivided interests, otherwise those assets shall be converted into cash for distribution.

Source: C. 3A:2A–76 (1977, c. 412, s. 79; amended 1979, c. 221, s. 8).

Proposal of distribution; contents; time to object.

3B:23–4. Proposal of distribution; contents; time to object. After the probable charges against the estate are known, the personal representative may mail or deliver a proposal for distribution to all persons who have a right to object to the proposed distribution. The proposal shall notify all persons who have a right to object to the proposal of their right to object and that their objection must be in writing and received by the personal representative within 30 days after the mailing or delivery of the proposal. The right of any distributee to object to the proposed distribution on the basis of the kind or value of asset he is to receive, if not waived earlier in writing, terminates if he fails to

object in writing received by the personal representative within 30 days after mailing or delivery of the proposal.

Source: C. 3A:2A–76 (1977, c. 412, s. 79; amended 1979, c. 221, s. 8).

Instrument of distribution.

3B:23–5. Instrument of distribution. If distribution in kind is made, the personal representative may and, if requested, shall execute an instrument or deed of distribution assigning, transferring or releasing the assets to the distributee as evidence of the distributee's title to the property.

Source: C. 3A:2A–77 (1977, c. 412, s. 80).

Proof of delivery of instrument of distribution conclusive evidence of distributee's receipt of assets; exception.

3B:23–6. Proof of delivery of instrument of distribution conclusive evidence of distributee's receipt of assets; exception. Proof that a distributee has received an instrument or deed of distribution of assets in kind or payment in distribution, from a personal representative, is conclusive evidence that the distributee has succeeded to the interest of the estate in the distributed assets, as against all persons interested in the estate, except that the personal representative may recover the assets or their value if the distribution was improper.

Source: C. 3A:2A–78 (1977, c. 412, s. 81; amended 1979, c. 221, s. 9).

Protection of purchaser from or lender to distributee.

3B:23–7. Protection of purchaser from or lender to distributee. If property distributed in kind or a security interest therein is acquired for value by a purchaser from or lender to a distributee who has received an instrument or deed of distribution from the personal representative, or is so acquired by a purchaser from or lender to a transferee from the distributee, the purchaser or lender takes title free of rights of any interested person in the estate and incurs no personal liability to the estate, or to any interested person, whether or not the distribution was proper or supported by court order or the authority of the personal representative was terminated before execution of the instrument or deed. This section protects a purchaser from or lender to a distributee who, as personal representative, has executed a deed of distribution to himself, as well as a purchaser from or lender to any other distributee or his transferee. To be protected under this provision, a purchaser or lender need not inquire whether a personal representative acted properly in making the distribution in kind, even if the personal representative and the distributee are the same person, or whether

the authority of the personal representative had terminated before the distribution. Any recorded instrument described in this section on which a State documentary fee is noted pursuant to section 3 of P. L. 1968, c. 49 (C. 46:15–7) shall be prima facie evidence that the transfer was made for value.

Source: C. 3A:2A–79 (1977, c. 412, s. 82; amended 1979, c. 221, s. 10).

Partition for purpose of distribution.

3B:23–8. Partition for purpose of distribution. When two or more heirs or devisees are entitled to distribution of undivided interests in any real or personal property of the estate, the personal representative or one or more of the heirs or devisees may institute an action, prior to the formal or informal closing of the estate, for partition. After notice to the interested heirs or devisees, the court shall partition the property in the same manner as provided by law for civil actions of partition. The court may direct the personal representative to sell any property which cannot be partitioned without prejudice to the owners and which cannot conveniently be allotted to any one party.

Source: C. 3A:2A–80 (1977, c. 412, s. 83).

Agreement among successors binding on personal representative.

3B:23–9. Agreement among successors binding on personal representative. Subject to the rights of creditors and taxing authorities, competent successors may agree among themselves to alter the interests, shares, or amounts to which they are entitled under the will of the decedent, or under the laws of intestacy, in any way that they provide in a written contract executed by all who are affected by its provisions. The personal representative shall abide by the terms of the agreement subject to his obligation to administer the estate for the benefit of creditors, to pay all taxes and costs of administration, and to carry out the responsibilities of his office for the benefit of any successors of the decedent who are not parties. Personal representatives of decedents' estates are not required to see to the performance of trusts if the trustee thereof is another person who is willing to accept the trust. Accordingly, trustees of a testamentary trust are successors for the purposes of this section. Nothing herein relieves trustees of any duties owed to beneficiaries of trusts.

Source: C. 3A:2A–81 (1977, c. 412, s. 84; amended 1979, c. 221, s. 11).

Distribution to guardian.

3B:23–10. Distribution to guardian. A personal representative may discharge his obligation to distribute to any person under legal disability by distributing to the guardian of his estate.

Source: C. 3A:2A–82 (1977, c. 412, s. 85).

Article 2. Distribution Under Will

Interest on general pecuniary devise.

3B:23–11. Interest on general pecuniary devise. General pecuniary devises bear interest at the rate of 4% per annum beginning 1 year after the first appointment of a personal representative until payment, unless a contrary intent is indicated by the will.

Source: C. 3A:2A–75 (1977, c. 412, s. 78).

Abatement generally.

3B:23–12. Abatement generally. Except as provided in N. J. S. 3B:23–14, shares of distributees abate, without any preference or priority as between real and personal property, in the following order:

a. Property passing by intestacy;

b. Residuary devises;

c. General devises;

d. Specific devises; and

e. Abatement within each classification is in proportion to the amount of property each of the beneficiaries would have received if full distribution of the property had been made in accordance with the terms of the will.

Source: C. 3A:2A–73 (1977, c. 412, s. 76; amended 1979, c. 221, s. 7).

General devise charged upon specific property or fund.

3B:23–13. General devise charged upon specific property or fund. For purposes of abatement, a general devise charged on any specific property or fund is a specific devise to the extent of the value of the property on which it is charged, and upon the failure or insufficiency of the property on which it is charged, a general devise to the extent of the failure or insufficiency.

Source: C. 3A:2A–73 (1977, c. 412, s. 76; amended 1979, c. 221, s. 7).

Where will expresses order of abatement.

3B:23–14. Where will expresses order of abatement. If the will expresses an order of abatement, or if the testamentary plan or the express or implied purpose of the devise would be defeated by the order of abatement stated in N. J. S. 3B:23–12, shares of

the distributees abate as may be found necessary to give effect to the intention of the testator.

Source: C. 3A:2A–73 (1977, c. 412, s. 76; amended 1979, c. 221, s. 7).

Abatement where subject of specific devise sold.

3B:23–15. Abatement where subject of specific devise sold. If the subject of a specific devise is sold or used incident to administration, abatement shall be achieved by appropriate adjustments in, or contribution from, other interests in the remaining assets.

Source: C. 3A:2A–73 (1977, c. 412, s. 76; amended 1979, c. 221, s. 7).

Distribution by order of court.

3B:23–16. Distribution by order of court. When the account of a personal representative has been allowed by court, the court may direct just distribution, in accordance with the provisions of the will, of what shall remain in the estate or a trust under the will, after all debts and expenses and other charges have been allowed and deducted.

Source: N. J. S. 3A:25–2.

Article 3. Distribution of Intestate Estate

Judgment for distribution.

3B:23–17. Judgment for distribution. When the account of a personal representative has been allowed by court, the court may direct just distribution of the property whereof a decedent died intestate which remains in his estate after payment of all debts, expenses and other charges which have been allowed and deducted as provided in chapter 5 of this title.

Source: N. J. S. 3A:25–4.

Distribution; when made.

3B:23–18. Distribution; when made. Distribution of the property of an intestate shall not be made until 1 year after the granting of administration unless an order to limit creditors is entered. in which case distribution may be made 6 months after the order.

Source: N. J. S. 3A:25–5.

Order for filing claims of unknown distributees.

3B:23–19. Order for filing claims of unknown distributees. When it appears in an action for the distribution of the property of which a decedent dies intestate that, in addition to persons known to have an interest in the estate, any other person or persons whose names or addresses are unknown may be entitled to participate in the distribution, the court may require all those persons whose

names or addresses are unknown, to appear or file their claims with the personal representative within a reasonable time and after reasonable notice by publication or otherwise, as may be prescribed by the court.

Source: N. J. S. 3A:25–6.

Failure to file claim debars unknown distributee.

3B:23–20. Failure to file claim debars unknown distributee. A person who fails to appear or file his claim within the time prescribed by the court pursuant to N. J. S. 3B:23–19, shall be forever thereafter debarred from all right, title or claim to the decedent's estate.

Source: N. J. S. 3A:25–7.

Article 4. Distribution of Devises, Distributive Shares, Trusts, etc.

A. Unclaimed Assets

Payment into court; receipts; record.

3B:23–21. Payment into court; receipts; record. When a fiduciary states his final account and there remains in his hands a balance, devise, distributive share, dividend or sum of money to be paid to a person and the person, or his guardian, if he be an infant or mental incompetent, fails to claim the balance, devise, distributive share, dividend or sum of money within 3 months from the time the account is allowed, the fiduciary may proceed to pay the balance, devise, distributive share, dividend or sum of money into court, taking therefor the receipt of the clerk or surrogate.

The receipt shall be a full and sufficient discharge and release to the fiduciary for moneys so by him paid into court and against the claimant thereto entitled.

Source: N. J. S. 3A:25–9.

B. Payment into Court for Benefit of Devisee, Distributee, etc.

Deposit in court of money or other property of devisee, heir or beneficiary of trust in certain cases.

3B:23–22. Deposit in court of money or other property of devisee, heir or beneficiary of trust in certain cases. Where it shall appear that a devisee, heir or beneficiary of a trust would not have the benefit or use or control of the money or other property due him, or where other special circumstances make it appear desirable that the payment should be withheld or, in the case of a trust where the trustee was appointed other than by a court, the Superior Court,

on motion of any person in interest, or, failing such, on motion of the Attorney General, or on the court's own motion, may direct that the money or other property be paid into court for the benefit of the devisee, heir, beneficiary of a trust, or any person or persons who may thereafter appear to be entitled thereto. The money or other property so paid into court shall be paid out only by order of the court.

Source: N. J. S. 3A:25–10.

C. Distribution to Trustees

Letters of trusteeship required before transfer to trustee.

3B:23–23. Letters of trusteeship required before transfer to trustee. It shall be unlawful for any fiduciary to transfer, pay over or distribute any devise, distributive share or part of the estate or trust in the possession or under the control of the fiduciary to a testamentary trustee or substituted testamentary trustee until letters of trusteeship shall have been issued to the testamentary trustee or substituted testamentary trustee.

Source: N. J. S. 3A:25–11.

Article 5. Bonds of Devisees and Distributees

A. Refunding Bonds

Refunding bond of devisee or distributee.

3B:23–24. Refunding bond of devisee or distributee. A personal representative shall, on paying a devise or distributive share or on delivering an instrument of distribution to the person entitled, take a refunding bond therefor, to be filed in the office of the surrogate of the county wherein he received his letters or in the office of the clerk of the Superior Court, if he received his letters from the Superior Court.

Source: N. J. S. 3A:25–13.

Amount of bond; form.

3B:23–25. Amount of bond; form. The bond required under N. J. S. 3B:23–24 or N. J. S. 3B:23–33 shall be in the amount or value of the devise or allotted distributive share and shall be sufficient, if signed by the devisee or distributee, or his guardian, as the case may be, without any sureties whatever.

Source: N. J. S. 3A:25–14.

Condition of devisee's bond.

3B:23–26. Condition of devisee's bond. The bond of a devisee shall be conditioned substantially as follows: That if any part or

the whole of the devise shall at any time thereafter be needed to discharge any debt or debts, devise or devises, which the personal representative may not have other assets to pay, he, the devisee, will return his devise or that part thereof as may be necessary for the payment of the debts, or for the payment of a proportional part of the devises.

Source: N. J. S. 3A:25–14.

Condition of distributee's bond.

3B:23–27. Condition of distributee's bond. The bond of a distributee shall be conditioned substantially as follows: That if any debt or debts, truly owing by the intestate, shall be afterwards sued for and recovered or otherwise duly made to appear, and there shall be no other assets to pay, he shall refund and pay back to the administrator his ratable part of the debt or debts, out of the part and share so allotted to him.

Source: N. J. S. 3A:25–14.

B. Bonds to Secure Remaindermen

Bonds required of holders of determinable interests; in general.

3B:23–28. Bonds required of holders of determinable interests; in general. A personal representative shall not be compelled to pay or deliver personal property devised for life, for a term of years or for any other limited period, or upon a condition or any contingency, to the holder of the determinable interest, until security is given to the court in a sum and form as the court may deem sufficient to secure the remainder interest, whenever it shall accrue or vest in possession.

Source: N. J. S. 3A:25–15.

Bond when remainderman is lineal descendant of holder of determinable estate.

3B:23–29. Bond when remainderman is lineal descendant of holder of determinable estate. Where the person next immediately in remainder is a lineal descendant of the holder of the determinable interest referred to in N. J. S. 3B:23–28, the holder of the determinable interest shall not be required to give security in excess of $50,000.00.

Source: N. J. S. 3A:25–16.

Bond when the personal representative is holder of a determinable estate.

3B:23–30. Bond when the personal representative is holder of a determinable estate. When the personal representative is the holder of a determinable interest referred to in N. J. S. 3B:23–28, he shall, before receiving the personal property into his posses-

sion, file a bond with the clerk of the Superior Court or the surrogate of the proper county, as the case may be, unless the will provides that no security shall be required of him.

The bond shall be in the amount of money or the value of the property to be received, with two sufficient sureties, conditioned for the faithful conservation of the property.

Until the bond is filed, the personal representative may not receive the moneys or property, but the court may appoint some other proper person to receive and administer the money or property as trustee upon giving security for the faithful discharge of his duties as the court may deem proper.

Source: N. J. S. 3A:25–17.

Article 6. Actions for Devises and Distributive Shares

A. Distributive Shares

Actions for distributive shares.

3B:23–31. Actions for distributive shares. If a personal representative fails to pay a distributive share to a person thereto entitled under a judgment made pursuant to N. J. S. 3B:23–17, that person may recover the distributive share in a civil action from the personal representative.

Source: N. J. S. 3A:25–18.

B. Devises

Limitations on enforcement of devise.

3B:23–32. Limitations on enforcement of devise. Nothing in N. J. S. 3B:23–33 to N. J. S. 3B:23–35 shall be so construed as to permit the enforcement of a devise to the prejudice of creditors of the testator or as giving effect to a will not warranted by law.

Source: N. J. S. 3A:25–19.

Action for devise.

3B:23–33. Action for devise. A devisee may bring an action in the Superior Court for his devise.

Source: N. J. S. 3A:25–20.

Conditions precedent to suit for devise.

3B:23–34. Conditions precedent to suit for devise. An action to recover a devise may not be maintained until:

a. The devise becomes due and payable;

b. Reasonable demand for payment is made upon the personal representative; and

c. A refunding bond in substantially the form prescribed in N. J. S. 3B:23–26 is tendered to the personal representative by the devisee, or the guardian of his estate if the devisee is an infant or a mental incompetent, and, if he refuses to accept the refunding bond, is filed with the clerk of the court, prior to the commencement of the action.

Source: N. J. S. 3A:25–21.

Extent of recovery.

3B:23–35. Extent of recovery. If it appears in the action that the surplus of assets in the possession of the personal representative over debts of the testator, is sufficient to pay all devises, the full amount of the devise may be recovered with costs; but if the surplus is not sufficient therefor, an abatement shall be made as provided in N. J. S. 3B:23–12 to N. J. S. 3B:23–15.

Source: N. J. S. 3A:25–22.

Plea of want of assets; procedure.

3B:23–36. Plea of want of assets; procedure. If want of assets to pay debts and devises is pleaded in the action and if the account of the personal representative has not been settled, the court shall require him to account. Judgment shall be entered and execution shall issue only for the proportion ascertained to be payable to plaintiff, but the judgment shall remain a security for the payment of the residue of the devise and costs out of assets which may thereafter come to the possession of the personal representative.

Source: N. J. S. 3A:25–23.

Article 7. Contingent Devises Charged on Real Estate

A. Partition to Satisfy Devise

Apportionment of certain real estate to pay devise.

3B:23–37. Apportionment of certain real estate to pay devise. When a devise, payable on a contingency which has not happened, is or may become a charge, at law or in equity, on real estate devised by will, any person in possession of a part of the real estate may bring a summary action in the Superior Court to set apart, as in an action for partition, a portion of the real estate as may be sufficient for payment of the devise when payable.

Source: N. J. S. 3A:25–25.

Effect of apportionment; filing and recording papers.

3B:23–38. Effect of apportionment; filing and recording papers. If the court approves the partition, the real estate so set apart

shall become charged or chargeable with the contingent devise, and the residue of the real estate shall thereupon be entirely discharged from all lien, charge or liability with respect to the devise.

All papers in the action shall be filed and recorded in the office of the county clerk or register of deeds and mortgages, as the case may be, of the county wherein the real estate is situate and shall be plenary evidence of the lien on the real estate so set apart and of the discharge of the residue of the real estate.

Source: N. J. S. 3A:25–26.

B. Deposit of Money to Satisfy Devise

Deposit with court; effect.

3B:23–39. Deposit with court; effect. When a devise charged by will upon real estate is wholly or in part limited over:

a. To infants, mental incompetents or persons not in esse; or

b. To persons who cannot be ascertained until the happening of an event named in the will; or

c. In a manner that the vesting of the devise may be contingent—

The Superior Court may, in a summary or other action by the executor, or a person interested in the real estate, direct the devise paid into court together with any additional sums as the court may deem reasonable to cover the expense of investing and taking charge of the devise. Upon payment into court, the real estate shall be wholly clear and discharged from the lien created by the will.

Source: N. J. S. 3A:25–27.

Payment of interest on moneys deposited.

3B:23–40. Payment of interest on moneys deposited. When moneys are ordered to be paid into court pursuant to N. J. S. 3B:23–39, the interest thereof, or any part of the interest as the court may direct, shall be paid to or on behalf of the persons who would for the time being be entitled to the interest in proportion to their respective shares therein, and payments of interest shall be made, yearly or half-yearly or otherwise directly to the persons entitled thereto, unless otherwise directed by the court.

Source: N. J. S. 3A:25–28.

Article 8. Miscellaneous

Return of devise pro rata.

3B:23–41. Return of devise pro rata. Where there are several devisees and a return of part of a devise shall afterwards appear

necessary, each devisee shall only be compelled to return a proportional part of his devise so as to make up the whole sum needed.

Source: N. J. S. 3A:25–29.

Distribution of nonresident decedent's estate.

3B:23–42. Distribution of nonresident decedent's estate. The estate of a nonresident decedent being administered by a personal representative appointed in this State shall, if there is a personal representative of the decedent's domicile willing to receive it, be distributed to the domiciliary personal representative for the benefit of the successors of the decedent unless:

a. By virtue of the decedent's will, if any, and applicable choice of law rules, the successors are identified pursuant to the local law of this State without reference to the local law of the decedent's domicile; or

b. The personal representative of this State, after reasonable inquiry, is unaware of the existence or identity of a domiciliary personal representative.

In other cases, distribution of the estate of a decedent shall be made in accordance with the law.

Source: C. 3A:2A–72 (1977, c. 412, s. 75).

Right of retainer.

3B:23–43. Right of retainer. The amount of a noncontingent indebtedness of a successor to the estate if due, or its present value if not due, shall be offset against the successor's interest; but the successor has the benefit of any defense which would be available to him in a direct proceeding for recovery of the debt.

Source: C. 3A:2A–74 (1977, c. 412, s. 77).

Chapter 24

Apportionment of Federal and New Jersey Estate Taxes

3B:24–1. Definitions.

3B:24–2. Apportionment of tax among fiduciary and transferees interested in gross tax estate.

3B:24–3. Apportionment of tax where temporary interest is created.

3B:24–4. Apportionment of tax to transferees in absence of directions to contrary.

3B:24–5. Limitation on direction for apportionment or nonapportionment of tax.

3B:24–6. Recovery by fiduciary from transferees or others in possession of property included in tax.
3B:24–7. Transfer or distribution of property; duties and liabilities of fiduciary.
3B:24–8. Jurisdiction of Superior Court.

Definitions.

3B:24–1. Definitions. As used in this chapter:

a. "The tax" means all taxes finally determined to be due and payable by a fiduciary, under the laws of the United States now or hereafter enacted and under the laws of this State now or hereafter enacted, imposing an estate tax;

b. "Gross tax estate" means all property of every description required to be included in computing the tax;

c. "Fiduciary" means any person acting in a fiduciary capacity who is required to pay the tax;

d. "Transferee" means any person to whom the gross tax estate or any part thereof is, or may be, transferred or to whom any benefit therein accrues other than that part of the gross tax estate which passes under the will of decedent, or, if there be no will, comes into the possession of the fiduciary for administration as a part of the gross tax estate of the decedent. The trustee of any inter vivos trust and the executor of, trustee or other fiduciary under, the will of any other decedent holding property included as a part of the gross estate shall be deemed to be a transferee.

Source: N. J. S. 3A:25–30.

Apportionment of tax among fiduciary and transferees interested in gross tax estate.

3B:24–2. Apportionment of tax among fiduciary and transferees interested in gross tax estate. Whenever a fiduciary has paid or may be required to pay an estate tax under any law of the State of New Jersey or of the United States upon or with respect to any property required to be included in the gross tax estate of a decedent under the provisions of any law, hereinafter called "the tax," the amount of the tax, except in a case where a testator otherwise directs in his will, and except to the extent where by any instrument other than a will, hereinafter called a "nontestamentary instrument," a direction is given for apportionment within the fund of taxes assessed upon the specific fund dealt with in the "nontestamentary instrument," shall be apportioned among the fiduciary and each of the transferees interested in the gross tax estate whether residents or nonresidents of the State, in accordance with

the rules of apportionment stated in this chapter, and the transferees shall each contribute to the tax the amounts apportioned against them. Nothing in this chapter shall be taken to require an apportionment of an estate tax inter sese among the devisees and beneficiaries under a will or among those who take as the heirs at law of a person dying intestate, or against the interest of any surviving spouse in any real property which was held by the spouse and the decedent as tenants by the entirety.

Source: N. J. S. 3A:25–31.

Apportionment of tax where temporary interest is created.

3B:24–3. Apportionment of tax where temporary interest is created. Where a trust is created, or other provision made in any nontestamentary instrument whereby any person is given an interest in income, or an estate for years, or for life, or other temporary interest in any property or fund, the tax apportionable against both the temporary interest and the remainder thereafter shall, in the absence of directions to the contrary in the instrument, be charged against and paid out of the corpus of the property or fund without apportionment between remainders and temporary estates. The provisions of this section shall apply notwithstanding that the holder of the temporary interest is given rights to the corpus.

Source: N. J. S. 3A:25–32.

Apportionment of tax to transferees in absence of directions to contrary.

3B:24–4. Apportionment of tax to transferees in absence of directions to contrary. In the absence of directions to the contrary:

a. That part of the tax shall be apportioned to each of the transferees as bears the same ratio to the total tax as the ratio which each of the transferees' property included in the gross tax estate bears to the total property entering into the net estate for tax before the specific exemption, and the balance of the tax shall be apportioned to the fiduciary, the values as finally determined in the respective tax proceedings being the values to be used as the basis for apportionment of the respective taxes;

b. Any deduction allowed under the law imposing the tax by reason of the relationship of any person to the decedent or by reason of the charitable purposes of the gift shall inure to the benefit of the fiduciary or transferee, as the case may be, subject nonetheless to the provisions of N. J. S. 3B:24–3;

c. Any deduction for property previously taxed and any credit for gift taxes paid by the decedent shall inure to the benefit of all

transferees and the fiduciary and the tax to be apportioned shall be the tax after allowance of the deduction and credit; and

d. Any interest resulting from late payment of the tax shall be apportioned in the same manner as the tax and shall be charged by the fiduciary and any trustee of any inter vivos trust and any other transferee wholly against corpus.

Source: N. J. S. 3A:25–33.

Limitation on direction for apportionment or nonapportionment of tax.

3B:24–5. Limitation on direction for apportionment or nonapportionment of tax. Any direction as to apportionment or nonapportionment of the tax, whether contained in a will or in a nontestamentary instrument, shall be limited in its operation to the property passing thereunder unless the will or instrument otherwise directs.

Source: N. J. S. 3A:25–34.

Recovery by fiduciary from transferees or others in possession of property included in tax.

3B:24–6. Recovery by fiduciary from transferees or others in possession of property included in tax. In all cases in which any property required to be included in the gross tax estate does not come into the possession of the fiduciary, he shall be entitled, and it shall be his duty, to recover from the transferees or from whoever is in possession of the property, the proportionate amounts of the tax and any interest thereon which is or may be payable by the transferees. If the fiduciary cannot recover the amount of the tax and interest thereon apportioned against a transferee, the amount not recoverable shall be dealt with in a manner as the court may determine. Nothing in this chapter shall require a person in possession of property to defer distribution of the property unless and until directed by the court.

Source: N. J. S. 3A:25–35.

Transfer or distribution of property; duties and liabilities of fiduciary.

3B:24–7. Transfer or distribution of property; duties and liabilities of fiduciary. A person acting in a fiduciary capacity shall not be required to transfer, pay over or distribute to any person, other than the fiduciary charged with the duty to collect and pay the tax, any fund or property with respect to which the tax is or may be imposed, until the amount of the tax and any interest thereon apportioned or which may be apportioned against the fund or property and which may be due from the persons entitled to the fund or property is paid, or, if the tax has not been determined or

apportionment made, until adequate security for the payment is furnished to the person acting in a fiduciary capacity. A fiduciary shall not be under any duty to institute any action under this chapter or to make an apportionment thereunder until after the expiration of 3 months following the final determination of the tax. A fiduciary, who within a reasonable time after the expiration of 3 months following the final determination of the tax shall proceed to carry out the duty imposed upon himself by this chapter, shall not be subject to liability or surcharge in case the amount of the tax or any part thereof apportioned or to be apportioned against any transferee or person in possession of property shall be collectible at any time following the death of the decedent but shall thereafter be or become uncollectible.

Source: N. J. S. 3A:25–36.

Jurisdiction of Superior Court.

3B:24–8. Jurisdiction of Superior Court. The Superior Court in a summary action or other action, including any action for the settlement of an account of the fiduciary, may apportion the tax and any interest. In the action the court, insofar as it may acquire jurisdiction over the property or person as the case may be, may charge the apportioned amount due by any transferee against the property of the transferee in the possession of the fiduciary or any other person and may direct all transferees, against whom the tax and any interest thereon have been or may be apportioned or from whom any part of the tax and any interest thereon may be recoverable, to make payment of the apportioned amounts to the fiduciary, and, further, may require the fiduciary to collect the charge and payments. If it shall be ascertained in the action that more than the proportionate amount of the tax and interest thereon due from any transferee has been paid by him or on his behalf, the court may direct reimbursement of the overpayment.

Source: N. J. S. 3A:25–37.

Chapter 25

Exoneration of Property Subject to Mortgage or Security Interest

3B:25–1. Nonexoneration of property subject to mortgage or security interest; exception.

Nonexoneration of property subject to mortgage or security interest; exception.

3B:25–1. Nonexoneration of property subject to mortgage or security interest; exception. When property subject to a mortgage

or security interest descends to an heir or passes to a devisee, the heir or devisee shall not be entitled to have the mortgage or security interest discharged out of any other property of the ancestor or testator, but the property so descending or passing to him shall be primarily liable for the mortgage or secured debt, unless the will of the testator shall expressly or impliedly direct that the mortgage or security interest be otherwise paid.

Source: N. J. S. 3A:26–1; amended 1977, c. 412, s. 89.

CHAPTER 26

ABSENTEES

3B:26–1. Definition of absent person.
3B:26–2. Appointment of trustee for absent person; general duties and powers.
3B:26–3. Distribution or other disposition of property.
3B:26–4. Powers, duties and responsibilities of trustee or court.

Definition of absent person.

3B:26–1. Definition of absent person. As used in this chapter, an absent person means any person who has disappeared, or been confined or detained by a foreign power.

Source: C. 3A:39–5 (1979, c. 487, s. 1).

Appointment of trustee for absent person; general duties and powers.

3B:26–2. Appointment of trustee for absent person; general duties and powers. If an absent person has property in this State, which property may be wasted or dissipated unless proper management is provided, or where funds are needed for the support, care and welfare of the person or those entitled to be supported by him, and protection is necessary or desirable to obtain or provide funds, the Superior Court may in a summary action appoint one or more trustees to take charge of and manage the property. The trustee shall be under the direction and control of the court and shall have full power over the property and may commence and maintain proceedings for the conservation, protection or disposal of the property, or any part thereof, as the court may deem proper.

Source: N. J. S. 3A:39–1; amended 1979, c. 487, s. 2.

Distribution or other disposition of property.

3B:26–3. Distribution or other disposition of property. Distribution or any other disposition of the property of an absent person may be made under direction of the court when he is presumed dead under N. J. S. 3B:27–1, or sooner if the death of the absent person

is established by evidence satisfactory to the court. If the absent person returns or the need for management or protection ceases before distribution or other disposition, the trustee shall restore to him the property, after deduction of the reasonable expenses of the trust and compensation of the trustees.

Source: N. J. S. 3A:39–2; amended 1979, c. 487, s. 3.

Powers, duties and responsibilities of trustee or court.

3B:26–4. Powers, duties and responsibilities of trustee or court. The trustee shall have all the powers, duties and responsibilities of a guardian of the estate of a minor, and the court shall have all the powers, for the benefit of any person, which it has for the benefit of a minor for whom a guardian has been appointed. The court shall have the same powers, without appointing a trustee, to authorize, direct or ratify any single or more than one transaction necessary or desirable to achieve any security, service, care or protective arrangement, which it has in the case of a minor for whom no general guardian has been appointed.

Source: C. 3A:39–6 (1979, c. 487, s. 4).

Chapter 27

Five Years' Absence

Article 1. Presumption of Death

3B:27–1. Death of resident or nonresident presumed after 5 years' absence.

3B:27–2. Restoration and recovery of property upon reappearance of absentee.

3B:27–3. Protection of personal representative or trustee making distribution.

Article 2. Sale or Other Disposition of Real Estate

3B:27–4. Real estate transaction in which an absentee has an interest; title.

3B:27–5. Absentee later proved alive entitled to proceeds of transaction.

Article 3. Declaration of Death

3B:27–6. Action to be brought in Superior Court.

Article 1. Presumption of Death

Death of resident or nonresident presumed after 5 years' absence.

3B:27–1. Death of resident or nonresident presumed after 5 years' absence. A resident or nonresident of this State who absents himself from the place of his last known residence for a continuous period of 5 years, during which he has not been heard from, and whose absence is not satisfactorily explained after diligent search or inquiry, is presumed to be dead. His death is presumed to have occurred at the end of the period unless there is sufficient evidence for determining that death occurred earlier.

Source: N. J. S. 3A:40–1; amended 1964, c. 5, s. 1; 1977, c. 412, s. 88.

Restoration and recovery of property upon reappearance of absentee.

3B:27–2. Restoration and recovery of property upon reappearance of absentee. If an estate or property has been received, recovered or taken into possession by any person by reason of a declaration of death under the provisions of this chapter and in any action or proceeding it is thereafter proved that the person declared dead was alive at the time of the receipt, recovery or taking into possession, the estate or property, or its reasonable value at that time, shall, except as otherwise provided by law, be restored to the person deprived thereof by reason of the declaration, or to his heirs, devisees, personal representative or other persons entitled thereto. He or they may also demand and recover the income, rents and profits therefrom during the time he was or they were deprived thereof.

Source: N. J. S. 3A:40–2; amended 1964, c. 5, s. 2.

Protection of personal representative or trustee making distribution.

3B:27–3. Protection of personal representative or trustee making distribution. A personal representative or trustee who pays over or delivers a devise, distributive share or any interest in property held in trust, to which a person declared dead by virtue of this chapter would, if living, be entitled, or which is given to a person so declared dead, for life or otherwise, with a limitation over to take effect in possession or enjoyment at or after the death of that person, shall be fully discharged from any and all liability to the person so declared dead, and to his personal representative and all persons claiming under him, upon filing with the surrogate of the proper county, or the clerk of the Superior Court as the case may be, the releases of the persons who would be entitled to the devise, share or interest if the person so declared to be dead were actually dead, together with their refunding bonds to the

fiduciary. The bond shall be in the amount or value of the money or property so distributed, without sureties and upon the condition that the money or property so distributed will be refunded to the fiduciary in the event that the refunding should be required. Any person claiming the devise, share or interest may sue upon the bond as if it had been assigned to him.

Source: N. J. S. 3A:40–3; amended 1964, c. 5, s. 3.

Article 2. Sale or Other Disposition of Real Estate

Real estate transaction in which an absentee has an interest; title.

3B:27–4. Real estate transaction in which an absentee has an interest; title. If an absentee, a resident or nonresident of New Jersey, shall be, by virtue of this chapter, declared dead by any court of competent jurisdiction in New Jersey; and if

a. Any real estate in which the absentee had or shall have any interest, divided or not, or contingent or not, as owner, tenant by the entirety, lessee, spouse of an owner, or otherwise, or

b. The interest in the real estate of the absentee has been or shall be sold, conveyed, mortgaged, assigned, leased, devised or otherwise alienated, as though the person were actually dead, then the absentee shall be thereafter forever barred from any claim of title to the real estate or interest therein. The person taking the real estate or interest therein in the transaction, and his heirs, assigns and successors in title, shall have as perfect a right or title therein and thereto, and shall hold the real estate, as though the absentee had actually died on the date he is declared dead.

Source: N. J. S. 3A:40–4; amended 1964, c. 5, s. 4.

Absentee later proved alive entitled to proceeds of transaction.

3B:27–5. Absentee later proved alive entitled to proceeds of transaction. If an absentee should later be proved to have been alive at the time of a transaction referred to in N. J. S. 3B:27–4, then he or any other person taking under him shall be entitled to a just interest in the rents, purchase price, and other proceeds of the transaction, which have not come into the hands of a person who has given value therefor without notice that the absentee was alive.

Source: N. J. S. 3A:40–5.

Article 3. Declaration of Death

Action to be brought in Superior Court.

3B:27–6. Action to be brought in Superior Court. The Superior Court may declare the absentee dead, if it is satisfied that he should be presumed dead under the provisions of N. J. S. 3B:27–1, or if

it concludes from a review of the evidence, both direct and circumstantial, that the earlier death of the absentee has been established and that the death occurred prior to the institution of the proceeding before the court. A declaration with respect to a nonresident shall affect only property located within the State.

Source: N. J. S. 3A:40–6; amended 1964, c. 5, s. 5.

Chapter 28

Dower and Curtesy

Article 1. Generally

3B:28–1. Estates of dower and curtesy prior to May 28, 1980.
3B:28–2. Rights of dower and curtesy abolished on and after May 28, 1980.
3B:28–3. Joint occupancy of principal matrimonial residence; alienation.
3B:28–3.1. Joint occupancy of principal matrimonial residence; mortgage lien.

Article 2. Acts Saved from Repeal

3B:28–4. N. J. S. 3A:16–16 saved from repeal.
3B:28–5. N. J. S. 3A:16–17 saved from repeal.
3B:28–6. N. J. S. 3A:25–12 saved from repeal.
3B:28–7. N. J. S. 3A:35–3 saved from repeal.
3B:28–8. N. J. S. 3A:35–4 saved from repeal.
3B:28–9. N. J. S. 3A:36–1 saved from repeal.
3B:28–10. N. J. S. 3A:36–2 saved from repeal.
3B:28–11. N. J. S. 3A:36–3 saved from repeal.
3B:28–12. N. J. S. 3A:36–4 saved from repeal.
3B:28–13. N. J. S. 3A:36–5 saved from repeal.
3B:28–14. N. J. S. 3A:37–1 saved from repeal.
3B:28–15. N. J. S. 3A:37–2 saved from repeal.
3B:28–16. N. J. S. 3A:37–3 saved from repeal.
3B:28–17. N. J. S. 3A:37–4 saved from repeal.
3B:28–18. N. J. S. 3A:37–5 saved from repeal.
3B:28–19. N. J. S. 3A:37–6 saved from repeal.

Article 1. Generally

Estates of dower and curtesy prior to May 28, 1980.

3B:28–1. Estates of dower and curtesy prior to May 28, 1980. The widow or widower, whether alien or not, of a person dying intestate or otherwise, shall be endowed for the term of her or his natural life of the one full and equal half part of all real property of which the decedent, or another to the decedent's use, was seized of an estate of inheritance at any time during coverture prior to May 28, 1980, to which the widow or widower shall not have relinquished her right of dower or his right of curtesy by deed duly executed and acknowledged in the manner provided by law to record deeds.

The widower's right of curtesy shall be enforced, admeasured and determined in the same manner and subject to the same limitations as is provided by law in the case of dower.

Source: N. J. S. 3A:35–1; 3A:35–2.

Rights of dower and curtesy abolished on and after May 28, 1980.

3B:28–2. Rights of dower and curtesy abolished on and after May 28, 1980. All rights of dower and curtesy are abolished as to the real property of which a married person, or another to his or her use, shall, on or after May 28, 1980, become seized, during coverture, of an estate of inheritance.

Source: C. 3A:35–5 (1979, c. 485).

Joint occupancy of principal matrimonial residence; alienation.

3B:28–3. Joint occupancy of principal matrimonial residence; alienation. As to real property occupied jointly by a married person with his or her spouse acquired on or after May 28, 1980, as their principal matrimonial residence, every married person shall be entitled to joint possession thereof with his or her spouse during their marriage, which right of possession may not be released, extinguished or alienated without the consent of both spouses except by judgment of a court of competent jurisdiction. All other real property owned by either spouse which is not the principal matrimonial residence may be alienated without the consent of both spouses.

Source: C. 3A:35–5 (1979, c. 485).

Joint occupancy of principal matrimonial residence; mortgage lien.

3B:28–3.1. Joint occupancy of principal matrimonial residence; mortgage lien. The right of joint possession to the principal matrimonial residence as provided in N. J. S. 3B:28–3 is subject to the

lien of a mortgage, irrespective of the date when the mortgage is recorded, provided:

a. The mortgage is placed upon the matrimonial residence prior to the time that title to the residence was acquired by the married person; or

b. The mortgage is placed upon the matrimonial residence prior to the marriage; or

c. The mortgage is a purchase money mortgage; or

d. The parties to the marriage have joined in the mortgage.

Source: New.

Article 2. Acts Saved from Repeal

3B:28-4. N. J. S. 3A:16-16 saved from repeal. N. J. S. 3A:16-16 is saved from repeal. This section provides that the court may order real property sold by a fiduciary to be sold free from dower or curtesy.

3B:28-5. N. J. S. 3A:16-17 saved from repeal. N. J. S. 3A:16-17 is saved from repeal. This section provides for the manner in which compensation shall be paid to the dower or curtesy holder where dower or curtesy is sold pursuant to N. J. S. 3A:16-16.

3B:28-6. N. J. S. 3A:25-12 saved from repeal. N. J. S. 3A:25-12 is saved from repeal. This section provides for the manner in which the proceeds of the sale of real property sold by judgment of the court and which have been invested during the lifetime of a surviving spouse shall be distributed after the death of the surviving spouse.

3B:28-7. N. J. S. 3A:35-3 saved from repeal. N. J. S. 3A:35-3 is saved from repeal. This section provides that title to real estate vested in a trustee is not subject to dower or curtesy.

3B:28-8. N. J. S. 3A:35-4 saved from repeal. N. J. S. 3A:35-4 is saved from repeal. This section grants to a widow or widower the right to remain in the mansion house until dower or curtesy are assigned.

3B:28-9. N. J. S. 3A:36-1 saved from repeal. N. J. S. 3A:36-1 is saved from repeal. This section provides that a widow or widower may recover damages when it is necessary to institute an action to have dower or curtesy assigned or whose right is unfairly assigned.

3B:28-10. N. J. S. 3A:36-2 saved from repeal. N. J. S. 3A:36-2 is saved from repeal. This section provides where and by whom an action may be commenced to admeasure dower or curtesy.

3B:28–11. N. J. S. 3A:36–3 saved from repeal. N. J. S. 3A:36–3 is saved from repeal. As provided in this section, the court may direct sale as in partition of real estate where dower or curtesy cannot be assigned without prejudice to the owners; direct assignment of dower or curtesy from rents and profits, or order the real estate sold free from dower or curtesy, making compensation for the value thereof.

3B:28–12. N. J. S. 3A:36–4 saved from repeal. N. J. S. 3A:36–4 is saved from repeal. Under this section, if real estate, subject to an inchoate right of dower or curtesy, is sold by a sheriff or other public officer, the purchaser may apply to have dower or curtesy admeasured.

3B:28–13. N. J. S. 3A:36–5 saved from repeal. N. J. S. 3A:36–5 is saved from repeal. Upon dower or curtesy becoming consummate after admeasurement under N. J. S. 3A:36–4, the widow or widower shall have the portion admeasured for life.

3B:28–14. N. J. S. 3A:37–1 saved from repeal. N. J. S. 3A:37–1 is saved from repeal. Under this section, a devise by a decedent to his or her spouse for life or otherwise is deemed to be in lieu of dower or curtesy unless the spouse files a written dissent within 6 months after probate rejecting the devise.

3B:28–15. N. J. S. 3A:37–2 saved from repeal. N. J. S. 3A:37–2 is saved from repeal. This section provides that, in the absence of a reconciliation, a spouse who lives in adultery is barred from having jointure, dower or curtesy.

3B:28–16. N. J. S. 3A:37–3 saved from repeal. N. J. S. 3A:37–3 is saved from repeal. This section provides that, in the absence of a reconciliation, a wife after being ravished, consents to the ravisher, is barred from having her jointure or dower.

3B:28–17. N. J. S. 3A:37–4 saved from repeal. N. J. S. 3A:37–4 is saved from repeal. This section provides that a widow may be barred of dower by jointure.

3B:28–18. N. J. S. 3A:37–5 saved from repeal. N. J. S. 3A:37–5 is saved from repeal. This section provides for the waiver of a jointure by a widow, her demand for dower and termination of her jointure estate.

3B:28–19. N. J. S. 3A:37–6 saved from repeal. N. J. S. 3A:37–6 is saved from repeal. This section provides that a widow who is evicted from her jointure may have it satisfied from the remainder of the husband's real estate.

Chapter 29

Repealer

3B:29–1. Laws repealed.

The following are repealed:

R. S. 3:2–12 (saved from repeal by N. J. S. 3A:3–32);

R. S. 3:2–45 (saved from repeal by N. J. S. 3A:3–30);

N. J. S. 3A:2–1 to 3A:2–8 inclusive;

N. J. S. 3A:3–4, 3A:3–5, 3A:3–12, 3A:3–15, 3A:3–16, 3A:3–17 to 3A:3–21 inclusive, 3A:3–23 to 3A:3–33 inclusive;

N. J. S. 3A:4–8 and 3A:4–12;

N. J. S. 3A:5–1 to 3A:5–8 inclusive;

N. J. S. 3A:6–1 to 3A:6–20 inclusive, 3A:6–22 to 3A:6–26 inclusive, 3A:6–28 to 3A:6–30 inclusive, 3A:6–33 to 3A:6–36 inclusive, 3A:6–38 to 3A:6–40 inclusive, 3A:6–43 to 3A:6–68 inclusive;

N. J. S. 3A:7–1 to 3A:7–30 inclusive;

N. J. S. 3A:8–1 to 3A:8–8 inclusive;

N. J. S. 3A:9–1 to 3A:9–12 inclusive;

N. J. S. 3A:10–1 to 3A:10–8 inclusive;

N. J. S. 3A:11–1 to 3A:11–5 inclusive;

N. J. S. 3A:12–1 to 3A:12–6 inclusive, 3A:12–10 to 3A:12–18 inclusive;

N. J. S. 3A:14–1 to 3A:14–4 inclusive;

N. J. S. 3A:15–1 to 3A:15–17 inclusive;

N. J. S. 3A:16–1 to 3A:16–11 inclusive, 3A:16–13 to 3A:16–15 inclusive, 3A:16–18 to 3A:16–20 inclusive;

N. J. S. 3A:17–1;

N. J. S. 3A:18–1 to 3A:18–8 inclusive;

N. J. S. 3A:19–1 to 3A:19–4 inclusive;

N. J. S. 3A:20–5 to 3A:20–8 inclusive;

N. J. S. 3A:21–1 to 3A:21–3 inclusive;

N. J. S. 3A:22–2, 3A:22–4 to 3A:22–6 inclusive;

N. J. S. 3A:23–1 to 3A:23–5 inclusive;

N. J. S. 3A:24–1, 3A:24–3 to 3A:24–49 inclusive;

N. J. S. 3A:25–2 to 3A:25–7 inclusive, 3A:25–9 to 3A:25–11 inclusive, 3A:25–13 to 3A:25–38 inclusive;

N. J. S. 3A:26–1;

N. J. S. 3A:27–1 to 3A:27–5 inclusive;

N. J. S. 3A:28–1 to 3A:28–3 inclusive;

N. J. S. 3A:29–1 to 3A:29–4 inclusive;

N. J. S. 3A:30–1 to 3A:30–6 inclusive;

N. J. S. 3A:31–1 to 3A:31–11 inclusive;

N. J. S. 3A:32–1 to 3A:32–3 inclusive;

N. J. S. 3A:33–1 and 3A:33–2;
N. J. S. 3A:34–1 to 3A:34–14, inclusive;
N. J. S. 3A:35–1 to 3A:35–4 inclusive;
N. J. S. 3A:36–1 to 3A:36–5 inclusive;
N. J. S. 3A:37–1 to 3A:37–6 inclusive;
N. J. S. 3A:38–1 to 3A:38–7 inclusive;
N. J. S. 3A:39–1 and 3A:39–2;
N. J. S. 3A:40–1 to 3A:40–6 inclusive;
N. J. S. 3A:41–1, 3A:41–2, 3A:41–6 to 3A:41–14 inclusive;
N. J. S. 3A:42–1 and 3A:42–2.

Laws of 1948, c. 364, ss. 17 and 18 (saved from repeal by N. J. S. 3A:3–31 and 3A:3–33);

Laws of 1977, c. 412, ss. 1 to 16 inclusive, 20 to 86 inclusive (C. 3A:2A–1 to C. 3A:2A–83 inclusive);

Laws of 1979, c. 219, s. 1 (C. 3A:2A–29.1);

Laws of 1979, c. 221, ss. 12 to 15 inclusive (C. 3A:2A–6.1, C. 3A:2A–48.1, C. 3A:2A–85 and C. 3A:2A–86);

Laws of 1980, c. 51, s. 1 (C. 3A:2A–87);

Laws of 1962, c. 241, ss. 1 to 5 inclusive (C. 3A:3–16.1 to C. 3A:3–16.5 inclusive);

Laws of 1952, c. 221, ss. 1 and 2 (C. 3A:3A–1 and C. 3A:3A–2);

Laws of 1968, c. 270, ss. 1 to 3 inclusive (C. 3A:6–16.1 to C. 3A:16–16.3 inclusive);

Laws of 1979, c. 482, ss. 1 to 5 inclusive, 7, 11 to 18 inclusive, 26 to 34 inclusive (C. 3A:6–16.10 to C. 3A:6–16.32 inclusive);

Laws of 1979, c. 494, ss. 1 and 2 (C. 3A:6–32.1 and C. 3A:6–32.2);

Laws of 1959, c. 132, ss. 1 and 2 (C. 3A:7–14.1 and C. 3A:7–14.2);

Laws of 1979, c. 501, ss. 2 to 4 inclusive (C. 3A:10–2.1 to C. 3A:10–2.3 inclusive);

Laws of 1980, c. 6, s. 1 (C. 3A:10–2.4);

Laws of 1952, c. 331, ss. 1 and 2 (C. 3A:10–3.1 and C. 3A:10–3.2);

Laws of 1952, c. 156, ss. 1 to 9 inclusive (C. 3A:14A–1 to C. 3A:14A–9 inclusive);

Laws of 1963, c. 94, ss. 1 to 4 inclusive (C. 3A:15–17.1 to C. 3A:15–17.4 inclusive);

Laws of 1975, c. 25, ss. 1 to 5 inclusive (C. 3A:15–17.5 to C. 3A:15–17.9 inclusive);

Laws of 1973, c. 359, ss. 1 to 5 inclusive (C. 3A:15–30 to C. 3A:15–34 inclusive);

Laws of 1975, c. 337, ss. 1 to 7 inclusive (C. 3A:15–35 to C 3A:15–41 inclusive);

Laws of 1979, c. 486, ss. 1 to 3 inclusive (C. 3A:20–12 to C. 3A:20–14 inclusive);

Laws of 1979, c. 485, s. 1 (C. 3A:35–5);

Laws of 1977, c. 483, ss. 1 to 8 inclusive (C. 3A:38A–1 to C. 3A:38A–8 inclusive);

Laws of 1979, c. 487, ss. 1 and 4 (C. 3A:39–5 and C. 3A:39–6);

Laws of 1971, c. 338, ss. 1 to 8 inclusive (C. 3A:43–1 to C. 3A:43–8 inclusive).

Section 2. This act shall take effect on the first day of the fourth calendar month following enactment.

Approved January 6, 1982.

TITLE 3B

ADMINISTRATION OF ESTATES-DECEDENTS AND OTHERS

Schedule of Allocations of Source Material

Source Sections			*Revised Sections*
R. S.	1:1–11		3B:1–5
R. S.	1:1–14		3B:1–5
N. J. S.	3A:1–1		Repealed L. 1977, c. 412, s. 90
N. J. S.	3A:2–1		3B:2–1
N. J. S.	3A:2–2		3B:2–2
N. J. S.	3A:2–3		3B:2–3
N. J. S.	3A:2–4		3B:2–4
N. J. S.	3A:2–5		3B:2–5
N. J. S.	3A:2–6		3B:2–6
N. J. S.	3A:2–7		3B:2–7
N. J. S.	3A:2–8		3B:2–8
C.	3A:2A–1	L. 1977, c. 412, s. 1	3B:1–1 3B:1–2
C.	3A:2A–2	L. 1977, c. 412, s. 2	3B:1–3
C.	3A:2A–3	L. 1977, c. 412, s. 3	3B:3–1
C.	3A:2A–4	L. 1977, c. 412, s. 4	3B:3–2
C.	3A:2A–5	L. 1977, c. 412, s. 5	3B:3–3
C.	3A:2A–6	L. 1977, c. 412, s. 6; As am. L. 1979, c. 221, s. 1	3B:3–4 3B:3–5
C.	3A:2A–6.1	L. 1979, c. 221, s. 15	3B:3–6
C.	3A:2A–7	L. 1977, c. 412, s. 7	3B:3–7 3B:3–8

Source Sections			*Revised Sections*
C.	3A:2A–8	L. 1977, c. 412, s. 8	3B:3–9
C.	3A:2A–9	L. 1977, c. 412, s. 9	3B:3–10
C.	3A:2A–10	L. 1977, c. 412, s. 10	3B:3–11
C.	3A:2A–11	L. 1977, c. 412, s. 11	3B:3–12
C.	3A:2A–12	L. 1977, c. 412, s. 12	3B:3–13
C.	3A:2A–13	L. 1977, c. 412, s. 13	3B:3–14
C.	3A:2A–14	L. 1977, c. 412, s. 14	3B:3–15
C.	3A:2A–15	L. 1977, c. 412, s. 15	3B:3–19
C.	3A:2A–16	L. 1977, c. 412, s. 16	3B:3–18
C.	3A:2A–17	L. 1977, c. 412, s. 20	3B:3–23
C.	3A:2A–18	L. 1977, c. 412, s. 21	3B:3–49
C.	3A:2A–19	L. 1977, c. 412, s. 22	3B:1–4
C.	3A:2A–20	L. 1977, c. 412, s. 23	3B:3–32
C.	3A:2A–21	L. 1977, c. 412, s. 24	3B:3–33
C.	3A:2A–22	L. 1977, c. 412, s. 25	3B:3–34
C.	3A:2A–23	L. 1977, c. 412, s. 26	3B:3–35
C.	3A:2A–24	L. 1977, c. 412, s. 27	3B:3–36
C.	3A:2A–25	L. 1977, c. 412, s. 28	3B:3–37
C.	3A:2A–26	L. 1977, c. 412, s. 29	3B:3–42
C.	3A:2A–27	L. 1977, c. 412, s. 30	3B:3–43
C.	3A:2A–28	L. 1977, c. 412, s. 31	3B:3–44
C.	3A:2A–29	L. 1977, c. 412, s. 32	3B:3–45
C.	3A:2A–29.1	L. 1979, c. 219, s. 1	3B:11–4
C.	3A:2A–30	L. 1977, c. 412, s. 33	3B:3–48
C.	3A:2A–31	L. 1977, c. 412, s. 34	3B:3–46
C.	3A:2A–32	L. 1977, c. 412, s. 35	3B:3–47
C.	3A:2A–33	L. 1977, c. 412, s. 36	3B:5–2
C.	3A:2A–34	L. 1977, c. 412, s. 37	3B:5–3
C.	3A:2A–35	L. 1977, c. 412, s. 38	3B:5–4
C.	3A:2A–36	L. 1977, c. 412, s. 39	3B:5–1
C.	3A:2A–37	L. 1977, c. 412, s. 40	3B:5–5
C.	3A:2A–38	L. 1977, c. 412, s. 41	3B:5–6
C.	3A:2A–39	L. 1977, c. 412, s. 42	3B:5–7
C.	3A:2A–40	L. 1977, c. 412, s. 43	3B:5–8
C.	3A:2A–41	L. 1977, c. 412, s. 44; As am. L. 1979, c. 221, s. 2	3B:5–9; 3B:5–10
C.	3A:2A–42	L. 1977, c. 412, s. 45	3B:5–11
C.	3A:2A–43	L. 1977, c. 412, s. 46	3B:5–12
C.	3A:2A–44	L. 1977, c. 412, s. 47; As am. L. 1979, c. 221, s. 3	3B:5–15

Source Sections			*Revised Sections*
C.	3A:2A–45	L. 1977, c. 412, s. 48	3B:5–16
C.	3A:2A–46	L. 1977, c. 412, s. 49	3B:22–1
C.	3A:2A–47	L. 1977, c. 412, s. 50	3B:22–2
C.	3A:2A–48	L. 1977, c. 412, s. 51	3B:22–19 3B:22–20 3B:22–21
C.	3A:2A–48.1	L. 1979, c. 221, s. 12	3B:22–3
C.	3A:2A–49	L. 1977, c. 412, s. 52	3B:10–19 3B:10–20 3B:10–21
C.	3A:2A–50	L. 1977, c. 412, s. 53	3B:10–22
C.	3A:2A–51	L. 1977, c. 412, s. 54; As am. L. 1979, c. 221, s. 4	3B:10–23 3B:10–24 3B:10–25 3B:10–26
C.	3A:2A–52	L. 1977, c. 412, s. 55	3B:10–27
C.	3A:2A–53	L. 1977, c. 412, s. 56	3B:10–28
C.	3A:2A–54	L. 1977, c. 412, s. 57; As am. L. 1979, c. 221, s. 5	3B:10–29
C.	3A:2A–55	L. 1977, c. 412, s. 58	3B:10–30
C.	3A:2A–56	L. 1977, c. 412, s. 59	3B:10–31
C.	3A:2A–57	L. 1977, c. 412, s. 60	3B:10–32
C.	3A:2A–58	L. 1977, c. 412, s. 61	3B:14–25
C.	3A:2A–59	L. 1977, c. 412, s. 62	3B:14–26
C.	3A:2A–60	L. 1977, c. 412, s. 63	3B:14–27
C.	3A:2A–61	L. 1977, c. 412, s. 64	3B:14–28
C.	3A:2A–62	L. 1977, c. 412, s. 65	3B:14–29
C.	3A:2A–63	L. 1977, c. 412, s. 66	3B:14–30
C.	3A:2A–64	L. 1977, c. 412, s. 67	3B:14–49
C.	3A:2A–65	L. 1977, c. 412, s. 68	3B:14–50
C.	3A:2A–66	L. 1977, c. 412, s. 69	3B:14–51
C.	3A:2A–67	L. 1977, c. 412, s. 70	3B:14–43
C.	3A:2A–68	L. 1977, c. 412, s. 71	3B:14–31 3B:14–32 3B:14–33 3B:14–34
C.	3A:2A–69	L. 1977, c. 412, s. 72	3B:14–35
C.	3A:2A–70	L. 1977, c. 412, s. 73	3B:14–36

Source Sections			*Revised Sections*
C.	3A:2A–71	L. 1977, c. 412, s. 74; As am. L. 1979, c. 221, s. 6	3B:14–37
C.	3A:2A–72	L. 1977, c. 412, s. 75	3B:23–42
C.	3A:2A–73	L. 1977, c. 412, s. 76; As am. L. 1979, c. 221, s. 7	3B:23–12 3B:23–13 3B:23–14 3B:23–15
C.	3A:2A–74	L. 1977, c. 412, s. 77	3B:23–43
C.	3A:2A–75	L. 1977, c. 412, s. 78	3B:23–11
C.	3A:2A–76	L. 1977, c. 412, s. 79; As am. L. 1979, c. 221, s. 8	3B:23–1 3B:23–2 3B:23–3 3B:23–4
C.	3A:2A–77	L. 1977, c. 412, s. 80	3B:23–5
C.	3A:2A–78	L. 1977, c. 412, s. 81; As am. L. 1979, c. 221, s. 9	3B:23–6
C.	3A:2A–79	L. 1977, c. 412, s. 82; As am. L. 1979, c. 221, s. 10	3B:23–7
C.	3A:2A–80	L. 1977, c. 412, s. 83	3B:23–8
C.	3A:2A–81	L. 1977, c. 412, s. 84; As am. L. 1979, c. 221, s. 11	3B:23–9
C.	3A:2A–82	L. 1977, c. 412, s. 85	3B:23–10
C.	3A:2A–83	L. 1977, c. 412, s. 86	3B:7–1 3B:7–2 3B:7–3 3B:7–5 3B:7–6 3B:7–7
C.	3A:2A–85	L. 1979, c. 221, s. 13	3B:1–8
C.	3A:2A–86	L. 1979, c. 221, s. 14	3B:1–6
C.	3A:2A–87	L. 1980, c. 51	3B:1–7
N. J. S.	3A:3–1	As am. L. 1953, c. 80	Repealed L. 1977, c. 412, s. 90
N. J. S.	3A:3–2		Repealed L. 1977, c. 412, s. 90
N. J. S.	3A:3–3		Repealed L. 1977, c. 412, s. 90

Source Sections		*Revised Sections*
N. J. S. 3A:3–4		3B:3–16
N. J. S. 3A:3–5	As am. L. 1952, c. 354; L. 1967, c. 293	Not Enacted; see N. J. S. 3B:3–3
N. J. S. 3A:3–6		Repealed L. 1977, c. 412, s. 90
N. J. S. 3A:3–7		Repealed L. 1977, c. 412, s. 90
N. J. S. 3A:3–8		Repealed L. 1977, c. 412, s. 90
N. J. S. 3A:3–9		Repealed L. 1977, c. 412, s. 90
N. J. S. 3A:3–10		Repealed L. 1977, c. 412, s. 90
N. J. S. 3A:3–11		Repealed L. 1977, c. 412, s. 90
N. J. S. 3A:3–12		3B:3–38
N. J. S. 3A:3–13		Repealed L. 1977, c. 412, s. 90
N. J. S. 3A:3–14		Repealed L. 1977, c. 412, s. 90
N. J. S. 3A:3–15		3B:3–39
N. J. S. 3A:3–16		3B:3–40
C. 3A:3–16.1	L. 1962, c. 241, s. 1	3B:4–2
C. 3A:3–16.2	L. 1962, c. 241, s. 2	3B:4–3 3B:4–4 3B:4–5
C. 3A:3–16.3	L. 1962, c. 241, s. 3	Not Enacted; unnecessary
C. 3A:3–16.4	L. 1962, c. 241, s. 4	3B:4–6
C. 3A:3–16.5	L. 1962, c. 241, s. 5	3B:4–1
N. J. S. 3A:3–17		3B:3–17

Source Sections		*Revised Sections*
N. J. S. 3A:3–18	As am. L. 1979, c. 412, s. 17	3B:3–24
N. J. S. 3A:3–19		3B:3–22
N. J. S. 3A:3–20		3B:3–20
N. J. S. 3A:3–21		3B:3–21
N. J. S. 3A:3–22		Repealed L. 1977, c. 412, s. 90
N. J. S. 3A:3–23		3B:3–29
N. J. S. 3A:3–24	As am. L. 1964, c. 115	3B:3–30
N. J. S. 3A:3–25		3B:3–31
N. J. S. 3A:3–26		3B:3–25
N. J. S. 3A:3–27	As am. L. 1977, c. 412, s. 18	3B:3–26
N. J. S. 3A:3–28	As am. L. 1977, c. 412, s. 19	3B:3–27
N. J. S. 3A:3–29		3B:3–28
N. J. S. 3A:3–30		Not Enacted; obsolete
N. J. S. 3A:3–31		Not Enacted; obsolete
N. J. S. 3A:3–32		Not Enacted; obsolete
N. J. S. 3A:3–33		Not Enacted; obsolete
C. 3A:3A–1	L. 1952, c. 221, s. 1	3B:3–41
C. 3A:3A–2	L. 1952, c. 221, s. 2	Not Enacted; unnecessary
N. J. S. 3A:4–1		Repealed L. 1977, c. 412, s. 90
N. J. S. 3A:4–2		Repealed L. 1977, c. 412, s. 90
N. J. S. 3A:4–3		Repealed L. 1977, c. 412, s. 90
N. J. S. 3A:4–4		Repealed L. 1977, c. 412, s. 90
N. J. S. 3A:4–5		Repealed L. 1977, c. 412, s. 90

Source Sections		*Revised Sections*
N. J. S. 3A:4–6		Repealed L. 1977, c. 412, s. 90
N. J. S. 3A:4–7		Repealed L. 1977, c. 412, s. 90
N. J. S. 3A:4–8	As am. L. 1971, c. 374	3B:5–13
N. J. S. 3A:4–9		Repealed L. 1977, c. 412, s. 90
N. J. S. 3A:4–10		Repealed L. 1977, c. 412, s. 90
N. J. S. 3A:4–11		Repealed L. 1977, c. 412, s. 90
N. J. S. 3A:4–12		3B:5–14
N. J. S. 3A:5–1		3B:6–2
N. J. S. 3A:5–2		3B:6–3
N. J. S. 3A:5–3		3B:6–4
N. J. S. 3A:5–4		3B:6–5
N. J. S. 3A:5–5		Not Enacted; unnecessary
N. J. S. 3A:5–6	As am. L. 1977, c. 412, s. 8	3B:6–6
N. J. S. 3A:5–7		3B:6–7
N. J. S. 3A:5–8		3B:6–1
N. J. S. 3A:6–1		3B:10–16
N. J. S. 3A:6–2		3B:10–14
N. J. S. 3A:6–3		3B:10–1
N. J. S. 3A:6–4		3B:10–2
N. J. S. 3A:6–5	As am. L. 1955, c. 114, s. 1; L. 1959, c. 100, s. 1; L. 1965, c. 135, s. 1; L. 1971, c. 295; L. 1979, c. 316, s. 1	3B:10–3
N. J. S. 3A:6–6	As am. L. 1955, c. 114, s. 2; L. 1959, c. 100, s. 2; L. 1965, c. 135, s. 2; L. 1979, c. 316, s. 2	3B:10–4

Source Sections			*Revised Sections*
N. J. S.	3A:6–7	As am. L. 1955, c. 114, s. 3; L. 1959, c. 100, s. 3; L. 1968, c. 203	3B:10–5
N. J. S.	3A:6–8		3B:10–6
N. J. S.	3A:6–9		3B:10–7
N. J. S.	3A:6–10		3B:10–8
N. J. S.	3A:6–11		3B:10–9
N. J. S.	3A:6–12		3B:10–10
N. J. S.	3A:6–13		3B:10–11
N. J. S.	3A:6–14		3B:10–12
N. J. S.	3A:6–15		3B:10–13
N. J. S.	3A:6–16		3B:11–2
C.	3A:6–16.1	L. 1968, c. 270, s. 1; As am. L. 1979, c. 489, s. 1	3B:1–1 3B:1–2
C.	3A:6–16.2	L. 1968, c. 270, s. 2; As am. L. 1979, c. 489, s. 2	3B:14–23
C.	3A:6–16.3	L. 1968, c. 270, s. 3	3B:14–23 3B:14–24
C.	3A:6–16.10	L. 1979, c. 482, s. 1	3B:1–1 3B:1–2
C.	3A:6–16.11	L. 1979, c. 482, s. 2	3B:12–36
C.	3A:6–16.12	L. 1979, c. 482, s. 3	3B:12–37
C.	3A:6–16.13	L. 1979, c. 482, s. 4	3B:12–38
C.	3A:6–16.14	L. 1979, c. 482, s. 5	3B:17–8
C.	3A:6–16.15	L. 1979, c. 482, s. 7	3B:12–39
C.	3A:6–16.16	L. 1979, c. 482, s. 11	3B:12–40 3B:12–41
C.	3A:6–16.17	L. 1979, c. 482, s. 12	3B:12–42
C.	3A:6–16.18	L. 1979, c. 482, s. 13	3B:12–43 3B:12–44 3B:12–45 3B:12–46 3B:12–47
C.	3A:6–16.19	L. 1979, c. 482, s. 14	3B:12–48 3B:12–49 3B:12–50
C.	3A:6–16.20	L. 1979, c. 482, s. 15	3B:12–51 3B:12–52
C.	3A:6–16.21	L. 1979, c. 482, s. 16	3B:12–53
C.	3A:6–16.22	L. 1979, c. 482, s. 17	3B:12–54

Source Sections		*Revised Sections*
C. 3A:6–16.23	L. 1979, c. 482, s. 18	3B:12–55
C. 3A:6–16.24	L. 1979, c. 482, s. 26	3B:12–56 3B:12–57
C. 3A:6–16.25	L. 1979, c. 482, s. 27	3B:12–58
C. 3A:6–16.26	L. 1979, c. 482, s. 28	3B:12–63
C. 3A:6–16.27	L. 1979, c. 482, s. 29	3B:12–60 3B:12–61
C. 3A:6–16.28	L. 1979, c. 482, s. 30	3B:12–62
C. 3A:6–16.29	L. 1979, c. 482, s. 31	3B:12–64
C. 3A:6–16.30	L. 1979, c. 482, s. 32	3B:12–30
C. 3A:6–16.31	L. 1979, c. 482, s. 33	3B:12–32
C. 3A:6–16.32	L. 1979, c. 482, s. 34	3B:12–31
N. J. S. 3A:6–17	As am. L. 1979, c. 482, s. 19	3B:12–12
N. J. S. 3A:6–18	As am. L. 1979, c. 482, s. 20	3B:12–13
N. J. S. 3A:6–19		3B:12–14
N. J. S. 3A:6–20	As am. L. 1979, c. 482, s. 21	3B:12–15
N. J. S. 3A:6–21		Repealed L. 1979, c. 482, s. 37
N. J. S. 3A:6–22	As am. L. 1979, c. 482, s. 8	3B:12–16 3B:12–33
N. J. S. 3A:6–23	As am. L. 1979, c. 482, s. 9	3B:12–17 3B:12–34
N. J. S. 3A:6–24	As am. L. 1979, c. 482, s. 10	3B:12–18 3B:12–35
N. J. S. 3A:6–25	As am. L. 1979, c. 482, s. 22	3B:12–19
N. J. S. 3A:6–26	As am. L. 1956, c. 121	3B:12–20
N. J. S. 3A:6–27		Repealed L. 1979, c. 482, s. 37
N. J. S. 3A:6–28	As am. L. 1979, c. 482, s. 23	3B:12–21
N. J. S. 3A:6–29	As am. L. 1979, c. 482, s. 24	3B:12–22
N. J. S. 3A:6–30		Not Enacted; unnecessary
N. J. S. 3A:6–31	As am. L. 1952, c. 185; L. 1968, c. 444	Repealed L. 1979, c. 494, s. 3

Source Sections		*Revised Sections*
N. J. S. 3A:6–32	.....	Repealed L. 1979, c. 494, s. 3
C. 3A:6–32.1	L. 1979, c. 494, s. 1; As am. L. 1981, c. 3	3B:12–6 3B:12–7 3B:12–8 3B:12–9 3B:12–10
C. 3A:6–32.2	L. 1979, c. 494, s. 2	3B:12–11
N. J. S. 3A:6–33	As am. L. 1979, c. 482, s. 25	3B:12–23
N. J. S. 3A:6–34	.....	Not Enacted
N. J. S. 3A:6–35	.....	3B:12–24
N. J. S. 3A:6–36	As am. L. 1968, c. 268; L. 1979, c. 482, s. 35	3B:12–25
N. J. S. 3A:6–37	.....	Repealed L. 1979, c. 482, s. 37
N. J. S. 3A:6–38	.....	3B:12–26
N. J. S. 3A:6–39	.....	3B:12–27
N. J. S. 3A:6–40	.....	Not Enacted; unnecessary
N. J. S. 3A:6–41	.....	Repealed L. 1979, c. 482, s. 37
N. J. S. 3A:6–42	.....	Repealed L. 1979, c. 482, s. 37
N. J. S. 3A:6–43	As am. L. 1979, c. 482, s. 36	3B:12–28
N. J. S. 3A:6–44	.....	3B:12–29
N. J. S. 3A:6–45	.....	3B:10–15 3B:10–17 3B:10–18
N. J. S. 3A:6–46	.....	Not Enacted
N. J. S. 3A:6–47	.....	3B:12–65 3B:12–66
N. J. S. 3A:6–48	.....	3B:11–3
N. J. S. 3A:6–49	.....	3B:11–5
N. J. S. 3A:6–50	.....	3B:11–6
N. J. S. 3A:6–51	.....	3B:11–7
N. J. S. 3A:6–52	.....	3B:14–1

Source Sections		*Revised Sections*
N. J. S. 3A:6–53		3B:14–2
N. J. S. 3A:6–54		3B:14–3
N. J. S. 3A:6–55		3B:14–4
N. J. S. 3A:6–56		3B:14–5
N. J. S. 3A:6–57		3B:14–6
N. J. S. 3A:6–58		3B:14–7
N. J. S. 3A:6–59		3B:14–9
N. J. S. 3A:6–60		3B:14–10
N. J. S. 3A:6–61		3B:14–11
N. J. S. 3A:6–62		3B:14–12
N. J. S. 3A:6–63		3B:14–13 3B:14–14
N. J. S. 3A:6–64		3B:14–15
N. J. S. 3A:6–65		3B:14–16
N. J. S. 3A:6–66		3B:14–17
N. J. S. 3A:6–67		3B:14–8
N. J. S. 3A:6–68		3B:14–23
N. J. S. 3A:7–1		3B:15–1 3B:15–2
N. J. S. 3A:7–2		3B:15–3
N. J. S. 3A:7–3		3B:15–4
N. J. S. 3A:7–4	As am. L. 1981, c. 180	3B:15–5
N. J. S. 3A:7–5		3B:15–6
N. J. S. 3A:7–6		3B:15–7
N. J. S. 3A:7–7		3B:15–8
N. J. S. 3A:7–8		3B:15–9
N. J. S. 3A:7–9		3B:15–10
N. J. S. 3A:7–10		3B:15–11
N. J. S. 3A:7–11		3B:15–12
N. J. S. 3A:7–12		3B:15–13
N. J. S. 3A:7–13		3B:15–14
N. J. S. 3A:7–14		3B:15–15
C. 3A:7–14.1	L. 1959, c. 132, s. 1; As am. L. 1960, c. 71, s. 1; L. 1968, c. 206, s. 1; L. 1969, c. 185, s. 1	3B:15–16 3B:15–17
C. 3A:7–14.2	L. 1959, c. 132, s. 2	Not Enacted; unnecessary
N. J. S. 3A:7–15		3B:15–18
N. J. S. 3A:7–16		3B:15–19

Source Sections		*Revised Sections*
N. J. S. 3A:7–17		3B:15–20
N. J. S. 3A:7–18		3B:15–21
N. J. S. 3A:7–19		3B:15–22
N. J. S. 3A:7–20		3B:15–23
N. J. S. 3A:7–21		3B:15–24
N. J. S. 3A:7–22		3B:15–25
N. J. S. 3A:7–23		3B:15–26
N. J. S. 3A:7–24		3B:15–27
N. J. S. 3A:7–25		3B:15–28
N. J. S. 3A:7–26		3B:15–29
N. J. S. 3A:7–27		3B:15–30
N. J. S. 3A:7–28		3B:15–31
N. J. S. 3A:7–29		3B:15–32
N. J. S. 3A:7–30		3B:15–33
N. J. S. 3A:8–1		3B:16–1
N. J. S. 3A:8–2		3B:16–2
N. J. S. 3A:8–3		3B:16–3
N. J. S. 3A:8–4		3B:16–4
N. J. S. 3A:8–5		3B:16–6
N. J. S. 3A:8–6		3B:16–5
N. J. S. 3A:8–7		3B:16–7
N. J. S. 3A:8–8		3B:16–8
N. J. S. 3A:9–1		3B:17–1
N. J. S. 3A:9–2		3B:17–2
N. J. S. 3A:9–3	As am. L. 1957, c. 58; L. 1971, c. 290, s. 1	3B:17–3
N. J. S. 3A:9–4		3B:17–4
N. J. S. 3A:9–5		3B:17–5
N. J. S. 3A:9–6		Repealed L. 1972, c. 482, s. 37
N. J. S. 3A:9–7		3B:17–6
N. J. S. 3A:9–8	As am. L. 1979, c. 482, s. 6	3B:17–7 3B:17–8
N. J. S. 3A:9–9		3B:17–9
N. J. S. 3A:9–10		3B:17–10
N. J. S. 3A:9–11		3B:17–11
N. J. S. 3A:9–12		3B:17–12
N. J. S. 3A:10–1	As am. L. 1957, c. 80, s. 1	3B:18–1

Source Sections			*Revised Sections*
N. J. S.	3A:10–2	As am. L. 1957, c. 80, s. 2; L. 1964, c. 25; L. 1972, c. 147; L. 1979, c. 501, s. 1	3B:18–12 3B:18–13 3B:18–14 3B:18–15 3B:18–16 3B:18–17 3B:18–18 3B:18–19 3B:18–20 3B:18–21 3B:18–27
C.	3A:10–2.1	L. 1979, c. 501, s. 2	3B:18–23 3B:18–24 3B:18–25 3B:18–26 3B:18–28 3B:18–29 3B:18–30
C.	3A:10–2.2	L. 1979, c. 501, s. 3	3B:18–31
C.	3A:10–2.3	L. 1979, c. 501, s. 4	3B:18–22 3B:18–32 3B:18–33
C.	3A:10–2.4	L. 1980, c. 6	3B:18–7
N. J. S.	3A:10–3		Not Enacted; unnecessary
C.	3A:10–3.1	L. 1952, c. 331, s. 1	3B:18–8
C.	3A:10–3.2	L. 1952, c. 331, s. 2	3B:18–9 3B:18–10 3B:18–11
N. J. S.	3A:10–4		3B:18–2
N. J. S.	3A:10–5		3B:18–3
N. J. S.	3A:10–6		3B:18–4
N. J. S.	3A:10–7		3B:18–5
N. J. S.	3A:10–8		3B:18–6
N. J. S.	3A:11–1		3B:14–18
N. J. S.	3A:11–2		3B:14–19
N. J. S.	3A:11–3		3B:14–20
N. J. S.	3A:11–4		3B:14–21
N. J. S.	3A:11–5		3B:14–22
N. J. S.	3A:12–1		3B:14–38

Source Sections	*Revised Sections*
N. J. S. 3A:12–2	3B:14–38
N. J. S. 3A:12–3	3B:14–39
N. J. S. 3A:12–4	Not Enacted; unnecessary
N. J. S. 3A:12–5	3B:14–40
N. J. S. 3A:12–6	3B:14–41
N. J. S. 3A:12–7	Repealed L. 1977, c. 412, s. 90
N. J. S. 3A:12–8	Repealed L. 1977, c. 412, s. 90
N. J. S. 3A:12–9	Repealed L. 1977, c. 412, s. 90
N. J. S. 3A:12–10	3B:14–42
N. J. S. 3A:12–11	3B:14–44
N. J. S. 3A:12–12	3B:14–45
N. J. S. 3A:12–13	3B:14–46
N. J. S. 3A:12–14	3B:14–47
N. J. S. 3A:12–15	3B:14–48
N. J. S. 3A:12–16	Not Enacted; unnecessary
N. J. S. 3A:12–17	Not Enacted; unnecessary
N. J. S. 3A:12–18	Not Enacted; unnecessary
N. J. S. 3A:13–1	Repealed L. 1977, c. 412, s. 90
N. J. S. 3A:14–1	Not Enacted; see N. J. S. 3B:14–23
N. J. S. 3A:14–2	Not Enacted; see N. J. S. 3B:14–23
N. J. S. 3A:14–3	Not Enacted; see N. J. S. 3B:14–23

Source Sections			*Revised Sections*
N. J. S.	3A:14–4		Not Enacted; see N. J. S. 3B:14–23
C.	3A:14A–1	L. 1952, c. 156, s. 1	3B:19–1
C.	3A:14A–2	L. 1952, c. 156, s. 2	3B:19–2 3B:19–3 3B:19–4
C.	3A:14A–3	L. 1952, c. 156, s. 3	3B:19–5 3B:19–6
C.	3A:14A–4	L. 1952, c. 156, s. 4; As am. L. 1964, c. 123, s. 1	3B:19–7
C.	3A:14A–5	L. 1952, c. 156, s. 5; As am. L. 1964, c. 123, s. 2	3B:19–8
C.	3A:14A–6	L. 1952, c. 156, s. 6	3B:19–9
C.	3A:14A–7	L. 1952, c. 156, s. 7	3B:19–10 3B:19–16 3B:19–19
C.	3A:14A–8	L. 1952, c. 156, s. 8	3B:19–11 3B:19–12 3B:19–13 3B:19–14
C.	3A:14A–9	L. 1952, c. 156, s. 9; As am. L. 1964, c. 123, s. 3	3B:19–15
N. J. S.	3A:15–1	As am. L. 1952, c. 280; L. 1969, c. 289, s. 1	Not Enacted; see Chapter 20 of this title
N. J. S.	3A:15–2		3B:20–2
N. J. S.	3A:15–3		3B:19–16 3B:19–17 3B:19–18
N. J. S.	3A:15–4		Not Enacted; see Chapter 20 of this title
N. J. S.	3A:15–5		Not Enacted; see Chapter 20 of this title
N. J. S.	3A:15–6		Not Enacted; see Chapter 20 of this title

Source Sections		*Revised Sections*
N. J. S.	3A:15–7	3B:20–3 3B:20–4 3B:20–5
N. J. S.	3A:15–8	Not Enacted; unnecessary
N. J. S.	3A:15–9	Not Enacted; unnecessary
N. J. S.	3A:15–10	Not Enacted; unnecessary
N. J. S.	3A:15–11	3B:20–11
N. J. S.	3A:15–12	3B:20–6
N. J. S.	3A:15–13	3B:20–7 3B:20–8
N. J. S.	3A:15–14	Not Enacted; see Chapter 20 of this title
N. J. S.	3A:15–15	3B:20–9 3B:20–10
N. J. S.	3A:15–16	Not Enacted; see Chapter 20 of this title
N. J. S.	3A:15–17	Not Enacted; see Chapter 20 of this title
C.	3A:15–17.1 L. 1963, c. 94, s. 1	3B:20–18
C.	3A:15–17.2 L. 1963, c. 94, s. 2	3B:20–19
C.	3A:15–17.3 L. 1963, c. 94, s. 3	3B:20–20
C.	3A:15–17.4 L. 1963, c. 94, s. 4	Not Enacted; see N. J. S. 3B:1–2
C.	3A:15–17.5 L. 1975, c. 25, s. 1	3B:20–22
C.	3A:15–17.6 L. 1975, c. 25, s. 2	3B:20–23
C.	3A:15–17.7 L. 1975, c. 25, s. 3	3B:20–24
C.	3A:15–17.8 L. 1975, c. 25, s. 4	3B:20–21
C.	3A:15–17.9 L. 1975, c. 25, s. 5	3B:20–25
N. J. S.	3A:15–18	Repealed L. 1975, c. 337, s. 8
N. J. S.	3A:15–19	Repealed L. 1975, c. 337, s. 8

Source Sections		*Revised Sections*
N. J. S. 3A:15–20	As am. L. 1961, c. 131	Repealed L. 1975, c. 337, s. 8
N. J. S. 3A:15–21		Repealed L. 1975, c. 337, s. 8
N. J. S. 3A:15–22		Repealed L. 1975, c. 337, s. 8
N. J. S. 3A:15–23	As am. L. 1964, c. 50	Repealed L. 1975, c. 337, s. 8
N. J. S. 3A:15–24		Repealed L. 1975, c. 337, s. 8
N. J. S. 3A:15–25		Repealed L. 1975, c. 337, s. 8
N. J. S. 3A:15–26		Repealed L. 1975, c. 337, s. 8
N. J. S. 3A:15–27		Repealed L. 1975, c. 337, s. 8
N. J. S. 3A:15–28		Repealed L. 1975, c. 337, s. 8
N. J. S. 3A:15–29		Repealed L. 1975, c. 337, s. 8
C. 3A:15–30	L. 1973, c. 359, s. 1	3B:20–27
C. 3A:15–31	L. 1973, c. 359, s. 2	3B:20–28 3B:20–29 3B:20–30 3B:20–31 3B:20–32 3B:20–33
C. 3A:15–32	L. 1973, c. 359, s. 3	3B:20–34
C. 3A:15–33	L. 1973, c. 359, s. 4	3B:20–35
C. 3A:15–34	L. 1973, c. 359, s. 5	3B:20–26

Source Sections			*Revised Sections*
C.	3A:15–35	L. 1975, c. 337, s. 1	3B:20–12
C.	3A:15–36	L. 1975, c. 337, s. 2; As am. L. 1979, c. 490	3B:20–1
C.	3A:15–37	L. 1975, c. 337, s. 3	3B:20–13
C.	3A:15–38	L. 1975, c. 337, s. 4	3B:20–14
C.	3A:15–39	L. 1975, c. 337, s. 5	3B:20–15
C.	3A:15–40	L. 1975, c. 337, s. 6	3B:20–16
C.	3A:15–41	L. 1975, c. 337, s. 7	3B:20–17
N. J. S.	3A:16–1	As am. L. 1968, c. 270, s. 4	Not Enacted; see N. J. S. 3B:14–23
N. J. S.	3A:16–2		Not Enacted; unnecessary
N. J. S.	3A:16–3		Not Enacted; see N. J. S. 3B:14–23
N. J. S.	3A:16–4	As am. L. 1966, c. 41, s. 1	Not Enacted; see "Protective Arrangements", N. J. S. 3B:12–1, et seq., and N. J. S. 3B:14–23
N. J. S.	3A:16–5		3B:14–62 3B:14–63
N. J. S.	3A:16–6		3B:14–64
N. J. S.	3A:16–7		3B:14–65
N. J. S.	3A:16–8		Not Enacted; see N. J. S. 3B:14–23
N. J. S.	3A:16–9		Not Enacted; see N. J. S. 3B:14–23
N. J. S.	3A:16–10		Not Enacted; see N. J. S. 3B:14–23
N. J. S.	3A:16–11		Not Enacted; see N. J. S. 3B:14–23

Source Sections	*Revised Sections*
N. J. S. 3A:16–12	Repealed L. 1968, c. 270, s. 5
N. J. S. 3A:16–13	Not Enacted; see N. J. S. 3B:14–23
N. J. S. 3A:16–14	Not Enacted; see N. J. S. 3B:14–23
N. J. S. 3A:16–15	Not Enacted; see N. J. S. 3B:14–23
N. J. S. 3A:16–16	3B:28–4
N. J. S. 3A:16–17	3B:28–5
N. J. S. 3A:16–18	Not Enacted; unnecessary
N. J. S. 3A:16–19	Not Enacted; unnecessary
N. J. S. 3A:16–20	Not Enacted; unnecessary
N. J. S. 3A:17–1	Not Enacted; see N. J. S. 3B:14–23 and 3B:14–24
N. J. S. 3A:18–1	Not Enacted; see N. J. S. 3B:14–23 and 3B:14–24
N. J. S. 3A:18–2	Not Enacted; see N. J. S. 3B:14–23 and 3B:14–24
N. J. S. 3A:18–3	Not Enacted; see N. J. S. 3B:14–23 and 3B:14–24
N. J. S. 3A:18–4	Not Enacted; see N. J. S. 3B:14–23 and 3B:14–24

Source Sections	*Revised Sections*
N. J. S. 3A:18–5	Not Enacted; see N. J. S. 3B:14–23 and 3B:14–24
N. J. S. 3A:18–6	Not Enacted; see N. J. S. 3B:14–23 and 3B:14–24
N. J. S. 3A:18–7	Not Enacted; see N. J. S. 3B:14–23 and 3B:14–24
N. J. S. 3A:18–8	Not Enacted; see N. J. S. 3B:14–23 and 3B:14–24
N. J. S. 3A:19–1	Not Enacted; see N. J. S. 3B:14–23
N. J. S. 3A:19–2	Not Enacted; see N. J. S. 3B:14–23
N. J. S. 3A:19–3	Not Enacted; see N. J. S. 3B:14–23
N. J. S. 3A:19–4	Not Enacted; see N. J. S. 3B:14–36
N. J. S. 3A:20–1	Repealed L. 1979, c. 482, s. 38
N. J. S. 3A:20–2	Repealed L. 1979, c. 482, s. 38
N. J. S. 3A:20–3	Repealed L. 1979, c. 482, s. 38
N. J. S. 3A:20–4	Repealed L. 1979, c. 482, s. 38

Source Sections		*Revised Sections*
N. J. S. 3A:20–5		3B:12–59
N. J. S. 3A:20–6	As am. L. 1966, c. 41, s. 2	Not Enacted; see Chapter 12 of this title and N. J. S. 3B:14–23 and 3B:14–24
N. J. S. 3A:20–7		Not Enacted; see Chapter 12 of this title and N. J. S. 3B:14–23 and 3B:14–24
N. J. S. 3A:20–8		Not Enacted; see Chapter 12 of this title and N. J. S. 3B:14–23 and 3B:14–24
N. J. S. 3A:20–9		Repealed L. 1966, c. 41, s. 3
N. J. S. 3A:20–10		Repealed L. 1966, c. 41, s. 3
N. J. S. 3A:20–11		Repealed L. 1966, c. 41, s. 3
C. 3A:20–12	L. 1979, c. 486, s. 1	3B:12–1 3B:12–2
C. 3A:20–13	L. 1979, c. 486, s. 2	3B:12–3 3B:12–4
C. 3A:20–14	L. 1979, c. 486, s. 3	3B:12–5
N. J. S. 3A:21–1		Not Enacted; see Chapter 12 of this title, and N. J. S. 3B:14–24

Source Sections	*Revised Sections*
N. J. S. 3A:21–2	Not Enacted; see Chapter 12 of this title, and N. J. S. 3B:14–24
N. J. S. 3A:21–3	Not Enacted; see N. J. S. 3B:14–24
N. J. S. 3A:22–1	Repealed L. 1979, c. 482, s. 37
N. J. S. 3A:22–2	Not Enacted; unnecessary
N. J. S. 3A:22–3	Repealed L. 1979, c. 482, s. 37
N. J. S. 3A:22–4	Not Enacted; other remedies available
N. J. S. 3A:22–5	Not Enacted; unnecessary
N. J. S. 3A:22–6	Not Enacted; see N. J. S. 3B:14–23
N. J. S. 3A:23–1	3B:21–1
N. J. S. 3A:23–2	3B:21–2
N. J. S. 3A:23–3	3B:21–3
N. J. S. 3A:23–4	3B:21–4
N. J. S. 3A:23–5	3B:21–5
N. J. S. 3A:24–1	Not Enacted; see N. J. S. 3B:1–1
N. J. S. 3A:24–2	Repealed L. 1977, c. 412, s. 90
N. J. S. 3A:24–3	3B:22–4
N. J. S. 3A:24–4	3B:22–5
N. J. S. 3A:24–5	3B:22–6
N. J. S. 3A:24–6	3B:22–7 3B:22–8

Source Sections		*Revised Sections*
N. J. S. 3A:24–7	.....	3B:22–9
N. J. S. 3A:24–8	.....	3B:22–10 3B:22–11
N. J. S. 3A:24–9	.....	3B:22–12
N. J. S. 3A:24–10	.....	3B:22–13
N. J. S. 3A:24–11	.....	3B:22–14
N. J. S. 3A:24–12	.....	3B:22–15
N. J. S. 3A:24–13	.....	3B:22–16
N. J. S. 3A:24–14	.....	3B:22–17
N. J. S. 3A:24–15	.....	3B:22–18
N. J. S. 3A:24–16	.....	3B:22–22
N. J. S. 3A:24–17	.....	3B:22–23
N. J. S. 3A:24–18	.....	3B:22–24
N. J. S. 3A:24–19	.....	Not Enacted; unnecessary
N. J. S. 3A:24–20	.....	Not Enacted; unnecessary
N. J. S. 3A:24–21	.....	Not Enacted; unnecessary
N. J. S. 3A:24–22	.....	Not Enacted; unnecessary
N. J. S. 3A:24–23	.....	Not Enacted; unnecessary
N. J. S. 3A:24–24	.....	Not Enacted; unnecessary
N. J. S. 3A:24–25	.....	Not Enacted; unnecessary
N. J. S. 3A:24–26	.....	Not Enacted; unnecessary
N. J. S. 3A:24–27	.....	Not Enacted; unnecessary
N. J. S. 3A:24–28	.....	Not Enacted; unnecessary
N. J. S. 3A:24–29	.....	Not Enacted; unnecessary
N. J. S. 3A:24–30		Not Enacted; unnecessary
N. J. S. 3A:24–31	.....	Not Enacted; unnecessary
N. J. S. 3A:24–32	.....	Not Enacted; unnecessary

Source Sections	*Revised Sections*
N. J. S. 3A:24–33	3B:22–25
N. J. S. 3A:24–34	3B:22–29
N. J. S. 3A:24–35	3B:22–30
N. J. S. 3A:24–36	3B:22–31
N. J. S. 3A:24–37	3B:22–32
N. J. S. 3A:24–38	3B:22–33
N. J. S. 3A:24–39	3B:22–34
N. J. S. 3A:24–40	3B:22–35
N. J. S. 3A:24–41	3B:22–36
N. J. S. 3A:24–42	3B:22–37
N. J. S. 3A:24–43	3B:22–38
N. J. S. 3A:24–44	3B:22–39
N. J. S. 3A:24–45	3B:22–40
N. J. S. 3A:24–46	3B:22–41
N. J. S. 3A:24–47	3B:22–42
N. J. S. 3A:24–48	3B:22–43
N. J. S. 3A:24–49	3B:22–44
N. J. S. 3A:25–1	Repealed L. 1977, c. 412, s. 90
N. J. S. 3A:25–2	3B:23–16
N. J. S. 3A:25–3	Not Enacted; unnecessary
N. J. S. 3A:25–4	3B:23–17
N. J. S. 3A:25–5	3B:23–18
N. J. S. 3A:25–6	3B:23–19
N. J. S. 3A:25–7	3B:23–20
N. J. S. 3A:25–8	Repealed L. 1977, c. 412, s. 90
N. J. S. 3A:25–9	3B:23–21
N. J. S. 3A:25–10	3B:23–22
N. J. S. 3A:25–11	3B:23–23
N. J. S. 3A:25–12	3B:28–6
N. J. S. 3A:25–13	3B:23–24
N. J. S. 3A:25–14	3B:23–25 3B:23–26 3B:23–27
N. J. S. 3A:25–15	3B:23–28
N. J. S. 3A:25–16	3B:23–29

Source Sections		*Revised Sections*
N. J. S. 3A:25–17		3B:23–30
N. J. S. 3A:25–18		3B:23–31
N. J. S. 3A:25–19		3B:23–32
N. J. S. 3A:25–20		3B:23–33
N. J. S. 3A:25–21		3B:23–34
N. J. S. 3A:25–22		3B:23–35
N. J. S. 3A:25–23		3B:23–36
N. J. S. 3A:25–24		Not Enacted; unnecessary
N. J. S. 3A:25–25		3B:23–37
N. J. S. 3A:25–26		3B:23–38
N. J. S. 3A:25–27		3B:23–39
N. J. S. 3A:25–28		3B:23–40
N. J. S. 3A:25–29		3B:23–41
N. J. S. 3A:25–30		3B:24–1
N. J. S. 3A:25–31		3B:24–2
N. J. S. 3A:25–32		3B:24–3
N. J. S. 3A:25–33		3B:24–4
N. J. S. 3A:25–34		3B:24–5
N. J. S. 3A:25–35		3B:24–6
N. J. S. 3A:25–36		3B:24–7
N. J. S. 3A:25–37		3B:24–8
N. J. S. 3A:25–38		Not Enacted; unnecessary
C. 3A:25–39		3B:9–1
C. 3A:25–40		3B:9–2
C. 3A:25–41		3B:9–3
C. 3A:25–42		3B:9–4
C. 3A:25–43		3B:9–5
C. 3A:25–44		3B:9–6
C. 3A:25–44		3B:9–7
C. 3A:25–45		3B:9–8
C. 3A:25–46		3B:9–9
C. 3A:25–47		3B:9–10
C. 3A:25–48		3B:9–11
C. 3A:25–49		3B:9–12
C. 3A:25–50		3B:9–13
N. J. S. 3A:26–1	As am. L. 1977, c. 412, s. 89	3B:25–1
N. J. S. 3A:27–1		3B:13–1
N. J. S. 3A:27–2		3B:13–2

Source Sections		*Revised Sections*
N. J. S. 3A:27–3	.....	3B:13–3
N. J. S. 3A:27–4	.....	3B:13–4
N. J. S. 3A:27–5	.....	3B:13–5
N. J. S. 3A:28–1	.....	3B:13–7
N. J. S. 3A:28–2	.....	3B:13–8
N. J. S. 3A:28–3	.....	3B:13–6
N. J. S. 3A:29–1	As am. L. 1971, c. 290, s. 2	3B:13–9 3B:13–10
N. J. S. 3A:29–2	.....	3B:13–11
N. J. S. 3A:29–3	.....	3B:13–12 3B:13–13
N. J. S. 3A:29–4	.....	3B:13–4
N. J. S. 3A:30–1	.....	3B:13–15
N. J. S. 3A:30–2	.....	3B:13–16
N. J. S. 3A:30–3	.....	3B:13–17
N. J. S. 3A:30–4	.....	3B:13–18
N. J. S. 3A:30–5	.....	3B:13–19
N. J. S. 3A:30–6	.....	3B:13–20
N. J. S. 3A:31–1	.....	3B:13–21
N. J. S. 3A:31–2	.....	3B:13–22
N. J. S. 3A:31–3	.....	3B:13–23
N. J. S. 3A:31–4	.....	3B:13–24
N. J. S. 3A:31–5	.....	3B:13–25
N. J. S. 3A:31–6	.....	3B:13–26
N. J. S. 3A:31–7	.....	3B:13–27
N. J. S. 3A:31–8	.....	3B:13–28
N. J. S. 3A:31–9	.....	3B:13–29
N. J. S. 3A:31–10	.....	3B-13–30
N. J. S. 3A:31–11	.....	3B:13–31
N. J. S. 3A:32–1	.....	Not Enacted; see N. J. S. 3B:14–23 and 3B:14–24
N. J. S. 3A:32–2	.....	Not Enacted; see N. J. S. 3B:14–23 and 3B:14–24
N. J. S. 3A:32–3	.....	Not Enacted; see N. J. S. 3B:14–23 and 3B:14–24

Source Sections	*Revised Sections*
N. J. S. 3A:33–1	Not Enacted; see N. J. S. 3B:14–23 and 3B:14–24
N. J. S. 3A:33–2	Not Enacted; see N. J. S. 3B:14–23 and 3B:14–24
N. J. S. 3A:34–1	Not Enacted; see "Proctective Arrangements," N. J. S. 3B:12–1 et seq.
N. J. S. 3A:34–2	Not Enacted; see "Protective Arrangements," N.J.S. 3B:12–1 et seq.
N. J. S. 3A:34–3	Not Enacted; see "Protective Arrangements," N.J.S. 3B:12–1 et seq.
N. J. S. 3A:34–4	Not Enacted; see "Protective Arrangements," N.J.S. 3B:12–1 et seq.
N. J. S. 3A:34–5	Not Enacted; see "Protective Arrangements," N.J.S. 3B:12–1 et seq.

Source Sections	*Revised Sections*
N. J. S. 3A:34–6	Not Enacted; see "Protective Arrangements," N.J.S. 3B:12–1 et seq.
N. J. S. 3A:34–7	Not Enacted; see "Protective Arrangements," N.J.S. 3B:12–1 et seq.
N. J. S. 3A:34–8	Not Enacted; see "Protective Arrangements," N.J.S. 3B:12–1 et seq.
N. J. S. 3A:34–9	Not Enacted; see "Protective Arrangements," N.J.S. 3B:12–1 et seq.
N. J. S. 3A:34–10	Not Enacted; see "Protective Arrangements," N.J.S. 3B:12–1 et seq.
N. J. S. 3A:34–11	Not Enacted; see "Protective Arrangements," N.J.S. 3B:12–1 et seq.

Source Sections		*Revised Sections*
N. J. S. 3A:34–12		Not Enacted; see "Protective Arrangements," N.J.S. 3B:12–1 et seq.
N. J. S. 3A:34–13		Not Enacted; see "Protective Arrangements," N.J.S. 3B:12–1 et seq.
N. J. S. 3A:34–14		Not Enacted; see "Protective Arrangements," N.J.S. 3B:12–1 et seq.
N. J. S. 3A:35–1		3B:28–1
N. J. S. 3A:35–2		3B:28–1
N. J. S. 3A:35–3		3B:28–7
N. J. S. 3A:35–4		3B:28–8
C. 3A:35–5	L. 1979, c. 485	3B:28–2
		3B:28–3
N. J. S. 3A:36–1		3B:28–9
N. J. S. 3A:36–2		3B:28–10
N. J. S. 3A:36–3		3B:28–11
N. J. S. 3A:36–4		3B:28–12
N. J. S. 3A:36–5		3B:28–13
N. J. S. 3A:37–1		3B:28–14
N. J. S. 3A:37–2		3B:28–15
N. J. S. 3A:37–3		3B:28–16
N. J. S. 3A:37–4		3B:28–17
N. J. S. 3A:37–5		3B:28–18
N. J. S. 3A:37–6		3B:28–19
N. J. S. 3A:38–1		Not Enacted; see "Protective Arrangements," N.J.S. 3B:12–1 et seq.

Source Sections			*Revised Sections*
N. J. S. 3A:38–2			Not Enacted; see "Protective Arrangements," N.J.S. 3B:12–1 et seq.
N. J. S. 3A:38–3			Not Enacted; see "Protective Arrangements," N.J.S. 3B:12–1 et seq.
N. J. S. 3A:38–4			Not Enacted; see "Protective Arrangements," N.J.S. 3B:12–1 et seq.
N. J. S. 3A:38–5			Not Enacted; see "Protective Arrangements," N.J.S. 3B:12–1 et seq.
N. J. S. 3A:38–6			Not Enacted; see "Protective Arrangements," N.J.S. 3B:12–1 et seq.
N. J. S. 3A:38–7			Not Enacted; see "Protective Arrangements," N.J.S. 3B:12–1 et seq.
C.	3A:38A–1	L. 1979, c. 483, s. 1	3B:8–1 3B:8–2

Source Sections			*Revised Sections*
C.	3A:38A–2	L. 1979, c. 483, s. 2	3B:8–3 3B:8–4 3B:8–5 3B:8–6 3B:8–7 3B:8–8 3B:8–9
C.	3A:38A–3	L. 1979, c. 483, s. 3	3B:8–11
C.	3A:38A–4	L. 1979, c. 483, s. 4	3B:8–10
C.	3A:38A–5	L. 1979, c. 483, s. 5	3B:8–12 3B:8–13 3B:8–14 3B:8–15 3B:8–16
C.	3A:38A–6	L. 1979, c. 483, s. 6	3B:8–17
C.	3A:38A–7	L. 1979, c. 483, s. 7	3B:8–18 3B:8–19
C.	3A:38A–8	L. 1979, c. 483, s. 8	3B:7–4 3B:7–6
N. J. S.	3A:39–1	As am. L. 1979, c. 487, s. 2	3B:26–2
N. J. S.	3A:39–2	As am. L. 1979, c. 487, s. 3	3B:26–3
N. J. S.	3A:39–3		Repealed L. 1979, c. 487, s. 5
N. J. S.	3A:39–4		Repealed L. 1979, c. 487, s. 5
C.	3A:39–5	L. 1979, c. 487, s. 1	3B:26–1
C.	3A:39–6	L. 1979, c. 487, s. 4	3B:26–4
N. J. S.	3A:40–1	As am. L. 1964, c. 5, s. 1; L. 1977, c. 412, s. 88	3B:27–1
N. J. S.	3A:40–2	As am. L. 1964, c. 5, s. 2	3B:27–2
N. J. S.	3A:40–3	As am. L. 1964, c. 5, s. 3	3B:27–3
N. J. S.	3A:40–4	As am. L. 1964, c. 5, s. 4	3B:27–4
N. J. S.	3A:40–5		3B:27–5
N. J. S.	3A:40–6	As am. L. 1964, c. 5, s. 5	3B:27–6
N. J. S.	3A:41–1	As am. L. 1967, c. 232	3B:14–53
N. J. S.	3A:41–2		3B:14–54

Source Sections		*Revised Sections*
N. J. S. 3A:41–3		Repealed L. 1959, c. 200, s. 12
N. J. S. 3A:41–4		Repealed N. J. S. 12A:10–105
N. J. S. 3A:41–5		Repealed N. J. S. 12A:10–105
N. J. S. 3A:41–6		3B:14–55
N. J. S. 3A:41–7		3B:14–56
N. J. S. 3A:41–8		3B:14–57
N. J. S. 3A:41–9		3B:14–58
N. J. S. 3A:41–10		3B:14–59
N. J. S. 3A:41–11		Not Enacted; unnecessary
N. J. S. 3A:41–12		3B:14–60
N. J. S. 3A:41–13		3B:14–61
N. J. S. 3A:41–14		3B:14–52
N. J. S. 3A:42–1		3B:11–1
N. J. S. 3A:42–2		Not Enacted; unnecessary
C. 3A:43–1	L. 1971, c. 338, s. 1	3B:11–8
C. 3A:43–2	L. 1971, c. 338, s. 2	3B:11–9
C. 3A:43–3	L. 1971, c. 338, s. 3	3B:11–10
C. 3A:43–4	L. 1971, c. 338, s. 4	3B:11–11
C. 3A:43–5	L. 1971, c. 338, s. 5	3B:11–12
C. 3A:43–6	L. 1971, c. 338, s. 6	3B:11–13
C. 3A:43–7	L. 1971, c. 338, s. 7	3B:11–14
C. 3A:43–8	L. 1971, c. 338, s. 8	3B:11–15

TITLE 3B

ADMINISTRATION OF ESTATES—DECEDENTS AND OTHERS

Treatment of Source Material

Revised Section	*Source*	*Treatment of Source*
3B:1–1	C. 3A:2A–1 C. 3A:6–16.1 C. 3A:6–16.10	Revised section derived from sources and section 1–201 of U.P.C.

Revised Section	*Source*	*Treatment of Source*
3B:1–2	C. 3A:2A–1 C. 3A:6–16.1 C. 3A:6–16.10	Revised section derived from sources and section 1–201 of U.P.C.
3B:1–3	C. 3A:2A–2	No change
3B:1–4	C. 3A:2A–19	Editorial
3B:1–5	R. S. 1:1–11 R. S. 1:1–14	Revised section derived from sources
3B:1–6	C. 3A:2A–86	Editorial; "fiduciary" substituted for "personal representative"
3B:1–7	C. 3A:2A–87	Editorial
3B:1–8	C. 3A:2A–85	Editorial
3B:1–9	New	Revised section derived from section 1–106 of U.P.C.
3B:2–1	N.J.S. 3A:2–1	No change
3B:2–2	N.J.S. 3A:2–2	Editorial; "Superior Court" substituted for "county court"
3B:2–3	N.J.S. 3A:2–3	Editorial; "Superior Court" substituted for "county court"
3B:2–4	N.J.S. 3A:2–4	Editorial; "Superior Court" substituted for "county court"
3B:2–5	N.J.S. 3A:2–5	Editorial; "Superior Court" substituted for "county court"
3B:2–6	N.J.S. 3A:2–6	Editorial; "Superior Court" substituted for "county court"
3B:2–7	N.J.S. 3A:2–7	No change
3B:2–8	N.J.S. 3A:2–8	Editorial; "Superior Court" substituted for "county court"
3B:3–1	C. 3A:2A–3	No change
3B:3–2	C. 3A:2A–4	Editorial
3B:3–3	C. 3A:2A–5	Editorial
3B:3–4	C. 3A:2A–6	Revised section derived from source
3B:3–5	C. 3A:2A–6	Revised section derived from source
3B:3–6	C. 3A:2A–6.1	Editorial
3B:3–7	C. 3A:2A–7	Revised section derived from source
3B:3–8	C. 3A:2A–7	Revised section derived from source
3B:3–9	C. 3A:2A–8	Editorial

Revised Section	*Source*	*Treatment of Source*
3B:3–10	C. 3A:2A–9	No change
3B:3–11	C. 3A:2A–10	Editorial
3B:3–12	C. 3A:2A–11	No change
3B:3–13	C. 3A:2A–12	No change
3B:3–14	C. 3A:2A–13	No change
3B:3–15	C. 3A:2A–14	Editorial
3B:3–16	N. J. S. 3A:3–4	Editorial
3B:3–17	N. J. S. 3A:3–17	No change
3B:3–18	C. 3A:2A–16	No change
3B:3–19	C. 3A:2A–15	Editorial
3B:3–20	N. J. S. 3A:3–20	Editorial
3B:3–21	N. J. S. 3A:3–21	Editorial
3B:3–22	N. J. S. 3A:3–19	No change
3B:3–23	C. 3A:2A–17	No change
3B:3–24	N. J. S. 3A:3–18	No change
3B:3–25	N. J. S. 3A:3–26	Editorial
3B:3–26	N. J. S. 3A:3–27	No change
3B:3–27	N. J. S. 3A:3–28	No change
3B:3–28	N. J. S. 3A:3–29	Editorial; "county court" deleted
3B:3–28.1	New	Revised section derived from section 1605 of the New York Surrogate's Court Procedure Act
3B:3–29	N. J. S. 3A:3–23	Editorial; "Superior Court" substituted for "county court"
3B:3–30	N. J. S. 3A:3–24	Editorial; "county court" deleted
3B:3–31	N. J. S. 3A:3–25	Editorial; "county court" deleted
3B:3–32	C. 3A:2A–20	Editorial
3B:3–33	C. 3A:2A–21	Editorial
3B:3–34	C. 3A:2A–22	No change
3B:3–35	C. 3A:2A–23	No change
3B:3–36	C. 3A:2A–24	Editorial
3B:3–37	C. 3A:2A–25	Editorial
3B:3–38	N. J. S. 3A:3–12	Editorial
3B:3–39	N. J. S. 3A:3–15	No change
3B:3–40	N. J. S. 3A:3–16	Editorial
3B:3–41	C. 3A:3A–1	No change
3B:3–42	C. 3A:2A–26	No change
3B:3–43	C. 3A:2A–27	Editorial
3B:3–44	C. 3A:2A–28	No change
3B:3–45	C. 3A:2A–29	No change

Revised Section	*Source*		*Treatment of Source*
3B:3-46	C.	3A:2A-31	No change
3B:3-47	C.	3A:2A-32	No change
3B:3-48	C.	3A:2A-30	No change
3B:3-49	C.	3A:2A-18	No change
3B:4-1	C.	3A:3-16.5	Editorial
3B:4-2	C.	3A:3-16.1	Editorial
3B:4-3	C.	3A:3-16.2	Revised section derived from source
3B:4-4	C.	3A:3-16.2	Revised section derived from source
3B:4-5	C.	3A:3-16.2	Revised section derived from source
3B:4-6	C.	3A:3-16.4	Editorial
3B:5-1	C.	3A:2A-36	Editorial
3B:5-2	C.	3A:2A-33	Editorial
3B:5-3	C.	3A:2A-34	No change
3B:5-4	C.	3A:2A-35	Editorial
3B:5-5	C.	3A:2A-37	No change
3B:5-6	C.	3A:2A-38	No change
3B:5-7	C.	3A:2A-39	No change
3B:5-8	C.	3A:2A-40	No change
3B:5-9	C.	3A:2A-41	Revised section derived from source
3B:5-10	C.	3A:2A-41	Revised section derived from source
3B:5-11	C.	3A:2A-42	No change
3B:5-12	C.	3A:2A-43	Editorial
3B:5-13	N. J. S.	3A:4-8	Editorial
3B:5-14	N. J. S.	3A:4-12	Editorial
3B:5-15	C.	3A:2A-44	Editorial
3B:5-16	C.	3A:2A-45	Editorial
3B:6-1	N. J. S.	3A:5-8	Editorial
3B:6-2	N. J. S.	3A:5-1	No change
3B:6-3	N. J. S.	3A:5-2	Editorial
3B:6-4	N. J. S.	3A:5-3	Editorial
3B:6-5	N. J. S.	3A:5-4	No change
3B:6-6	N. J. S.	3A:5-6	No change
3B:6-7	N. J. S.	3A:5-7	No change
3B:7-1	C.	3A:2A-83	Revised section derived from source

Revised Section	*Source*		*Treatment of Source*
3B:7–2	C.	3A:2A–83	Revised section derived from source
3B:7–3	C.	3A:2A–83	Revised section derived from source
3B:7–4	C.	3A:38A–8	Revised section derived from source
3B:7–5	C.	3A:2A–83	Revised section derived from source
3B:7–6	C. C.	3A:2A–83 3A:38A–8	Revised section derived from source
3B:7–7	C.	3A:2A–83	Revised section derived from source
3B:8–1	C.	3A:38A–1	Revised section derived from source
3B:8–2	C.	3A:38A–1	Revised section derived from source
3B:8–3	C.	3A:38A–2	Revised section derived from source; made applicable to transfers "after May 28, 1980"
3B:8–4	C.	3A:38A–2	Revised section derived from source
3B:8–5	C.	3A:38A–2	Revised section derived from source
3B:8–6	C.	3A:38A–2	Revised section derived from source
3B:8–7	C.	3A:38A–2	Revised section derived from source
3B:8–8	C.	3A:38A–2	Revised section derived from source
3B:8–9	C.	3A:38A–2	Revised section derived from source
3B:8–10	C.	3A:38A–4	Editorial
3B:8–11	C.	3A:38A–3	Editorial; "guardian or conservator" substituted for "fiduciary"
3B:8–12	C.	3A:38A–5	Revised section derived from source
3B:8–13	C.	3A:38A–5	Revised section derived from source
3B:8–14	C.	3A:38A–5	Revised section derived from source

Revised Section	*Source*	*Treatment of Source*
3B:8–15	C. 3A:38A–5	Revised section derived from source
3B:8–16	C. 3A:38A–5	Revised section derived from source
3B:8–17	C. 3A:38A–6	No change
3B:8–18	C. 3A:38A–7	Revised section derived from source
3B:8–19	C. 3A:38A–7	Revised section derived from source
3B:9–1	C. 3A:25–39	Editorial; definitions of "devise" and "heir" omitted, see N. J. S. 3B:1–1
3B:9–2	C. 3A:25–40	Editorial
3B:9–3	C. 3A:25–41	Editorial
3B:9–4	C. 3A:25–42	Editorial
3B:9–5	C. 3A:25–43	Editorial
3B:9–6	C. 3A:25–44	Revised section derived from source
3B:9–7	C. 3A:25–44	Revised section derived from source
3B:9–8	C. 3A:25–45	Editorial
3B:9–9	C. 3A:25–46	Editorial
3B:9–10	C. 3A:25–47	No change
3B:9–11	C. 3A:25–48	No change
3B:9–12	C. 3A:25–49	Editorial
3B:9–13	C. 3A:25–50	Editorial
3B:10–1	N. J. S. 3A:6–3	Editorial
3B:10–2	N. J. S. 3A:6–4	Editorial
3B:10–3	N. J. S. 3A:6–5	Editorial
3B:10–4	N. J. S. 3A:6–6	Editorial
3B:10–5	N. J. S. 3A:6–7	Editorial
3B:10–6	N. J. S. 3A:6–8	Editorial
3B:10–7	N. J. S. 3A:6–9	Editorial
3B:10–8	N. J. S. 3A:6–10	Editorial
3B:10–9	N. J. S. 3A:6–11	Editorial
3B:10–10	N. J. S. 3A:6–12	Editorial
3B:10–11	N. J. S. 3A:6–13	No change
3B:10–12	N. J. S. 3A:6–14	Editorial; "Superior Court" substituted for "county court"
3B:10–13	N. J. S. 3A:6–15	Editorial; "county court" deleted

Revised Section	*Source*	*Treatment of Source*
3B:10–14	N. J. S. 3A:6–2	Editorial
3B:10–15	N. J. S. 3A:6–45	Revised section derived from source
3B:10–16	N. J. S. 3A:6–1	No change
3B:10–17	N. J. S. 3A:6–45	Revised section derived from source; "county court" deleted
3B:10–18	N. J. S. 3A:6–45	Revised section derived from source; "savings and loan association" added and amount increased to $1,000.00
3B:10–19	C. 3A:2A–49	Revised section derived from source
3B:10–20	C. 3A:2A–49	Revised section derived from source
3B:10–21	C. 3A:2A–49	Revised section derived from source
3B:10–22	C. 3A:2A–50	No change
3B:10–23	C. 3A:2A–51	Revised section derived from source
3B:10–24	C. 3A:2A–51	Revised section derived from source
3B:10–25	C. 3A:2A–51	Revised section derived from source
3B:10–26	C. 3A:2A–51	Revised section derived from source
3B:10–27	C. 3A:2A–52	No change
3B:10–28	C. 3A:2A–53	No change
3B:10–29	C. 3A:2A–54	No change
3B:10–30	C. 3A:2A–55	No change
3B:10–31	C. 3A:2A–56	No change
3B:10–32	C. 3A:2A–57	No change
3B:11–1	N. J. S. 3A:42–1	No change
3B:11–2	N. J. S. 3A:6–16	Editorial; "county court" deleted
3B:11–3	N. J. S. 3A:6–48	No change
3B:11–4	C. 3A:2A–29.1	Editorial; "presently exercisable general power of appointment" defined
3B:11–5	N. J. S. 3A:6–49	Editorial; "county court" deleted
3B:11–6	N. J. S. 3A:6–50	No change
3B:11–7	N. J. S. 3A:6–51	Editorial

Revised Section	*Source*		*Treatment of Source*
3B:11–8	C.	3A:43–1	Editorial
3B:11–9	C.	3A:43–2	Editorial
3B:11–10	C.	3A:43–3	Editorial
3B:11–11	C.	3A:43–4	Editorial
3B:11–12	C.	3A:43–5	Editorial
3B:11–13	C.	3A:43–6	Editorial
3B:11–14	C.	3A:43–7	Editorial
3B:11–15	C.	3A:43–8	Editorial
3B:12–1	C.	3A:20–12	Revised section derived from source
3B:12–2	C.	3A:20–12	Revised section derived from source
3B:12–3	C.	3A:20–13	Revised section derived from source
3B:12–4	C.	3A:20–13	Revised section derived from source
3B:12–5	C.	3A:20–14	Editorial
3B:12–6	C.	3A:6–32.1	Revised section derived from source
3B:12–7	C.	3A:6–32.1	Revised section derived from source
3B:12–8	C.	3A:6–32.1	Revised section derived from source
3B:12–9	C.	3A:6–32.1	Revised section derived from source
3B:12–10	C.	3A:6–32.1	Revised section derived from source
3B:12–11	C.	3A:6–32.2	Editorial; financial institution and married minor excepted from filing requirement
3B:12–12	N. J. S.	3A:6–17	Editorial
3B:12–13	N. J. S.	3A:6–18	Editorial
3B:12–14	N. J. S.	3A:6–19	Editorial
3B:12–15	N. J. S.	3A:6–20	Editorial
3B:12–16	N. J. S.	3A:6–22	Revised section derived from source
3B:12–17	N. J. S.	3A:6–23	Revised section derived from source
3B:12–18	N. J. S.	3A:6–24	Revised section derived from source

Revised Section	*Source*	*Treatment of Source*
3B:12–19	N. J. S. 3A:6–25	Editorial
3B:12–20	N. J. S. 3A:6–26	Editorial
3B:12–21	N. J. S. 3A:6–28	Editorial
3B:12–22	N. J. S. 3A:6–29	Editorial
3B:12–23	N. J. S. 3A:6–33	Editorial; time limit deleted
3B:12–24	N. J. S. 3A:6–35	Editorial
3B:12–25	N. J. S. 3A:6–36	Editorial
3B:12–26	N. J. S. 3A:6–38	No change
3B:12–27	N. J. S. 3A:6–39	Editorial
3B:12–28	N. J. S. 3A:6–43	Editorial
3B:12–29	N. J. S. 3A:6–44	Editorial; "county court" deleted
3B:12–30	C. 3A:6–16.30	No change
3B:12–31	C. 3A:6–16.32	Editorial
3B:12–32	C. 3A:6–16.31	Editorial
3B:12–33	N. J. S. 3A:6–22	Editorial
3B:12–34	N. J. S. 3A:6–23	Editorial
3B:12–35	N. J. S. 3A:6–24	Editorial
3B:12–36	C. 3A:6–16.11	No change
3B:12–37	C. 3A:6–16.12	Editorial
3B:12–38	C. 3A:6–16.13	No change
3B:12–39	C. 3A:6–16.15	No change
3B:12–40	C. 3A:6–16.16	Revised section derived from source
3B:12–41	C. 3A:6–16.16	Revised section derived from source
3B:12–42	C. 3A:6–16.17	No change
3B:12–43	C. 3A:6–16.18	Revised section derived from source
3B:13–44	C. 3A:6–16.18	Revised section derived from source
3B:12–45	C. 3A:6–16.18	Revised section derived from source
3B:12–46	C. 3A:6–16.18	Revised section derived from source
3B:12–47	C. 3A:6–16.18	Revised section derived from source
3B:12–48	C. 3A:6–16.19	Revised section derived from source
3B:12–49	C. 3A:6–16.19	Revised section derived from source

Revised Section	*Source*		*Treatment of Source*
3B:12–50	C.	3A:6–16.19	Revised section derived from source
3B:12–51	C.	3A:6–16.20	Revised section derived from source
3B:12–52	C.	3A:6–16.20	Revised section derived from source
3B:12–53	C.	3A:6–16.21	Editorial
3B:12–54	C.	3A:6–16.22	No change
3B:12–55	C.	3A:6–16.23	No change
3B:12–56	C.	3A:6–16.24	Revised section derived from source
3B:12–57	C.	3A:6–16.24	Revised section derived from source
3B:12–58	C.	3A:6–16.25	Editorial
3B:12–59	N. J. S.	3A:20–5	Editorial
3B:12–60	C.	3A:6–16.27	Revised section derived from source
3B:12–61	C.	3A:6–16.27	Revised section derived from source
3B:12–62	C.	3A:6–16.28	No change
3B:12–63	C.	3A:6–16.26	No change
3B:12–64	C.	3A:6–16.29	Editorial
3B:12–65	N. J. S.	3A:6–47	Revised section derived from source
3B:12–66	N. J. S.	3A:6–47	Revised section derived from source
3B:13–1	N. J. S.	3A:27–1	Editorial
3B:13–2	N. J. S.	3A:27–2	Editorial
3B:13–3	N. J. S.	3A:27–3	Editorial
3B:13–4	N. J. S.	3A:27–4	Editorial
3B:13–5	N. J. S.	3A:27–5	No change
3B:13–6	N. J. S.	3A:28–3	Editorial; "Superior Court" substituted for "county court"
3B:13–7	N. J. S.	3A:28–1	Editorial; "Superior Court" substituted for "county court"
3B:13–8	N. J. S.	3A:28–2	Editorial; "Superior Court" substituted for "county court"
3B:13–9	N. J. S.	3A:29–1	Revised section derived from source

Revised Section	*Source*	*Treatment of Source*
3B:13–10	N. J. S. 3A:29–1	Revised section derived from source
3B:13–11	N. J. S. 3A:29–2	Editorial
3B:13–12	N. J. S. 3A:29–3	Revised section derived from source
3B:13–13	N. J. S. 3A:29–3	Revised section derived from source
3B:13–14	N. J. S. 3A:29–4	Editorial
3B:13–15	N. J. S. 3A:30–1	Editorial
3B:13–16	N. J. S. 3A:30–2	Editorial; "county court" deleted
3B:13–17	N. J. S. 3A:30–3	Editorial; "county court" deleted
3B:13–18	N. J. S. 3A:30–4	Editorial; amount increased to $10,000.00
3B:13–19	N. J. S. 3A:30–5	Editorial
3B:13–20	N. J. S. 3A:30–6	Editorial
3B:13–21	N. J. S. 3A:31–1	Editorial; "Assignment Judge of the Superior Court" substituted for "county court"
3B:13–22	N. J. S. 3A:31–2	Editorial; "Superior Court" and "Assignment Judge of the Superior Court" substituted for "county court"
3B:13–23	N. J. S. 3A:31–3	Editorial; "Assignment Judge of the Superior Court" substituted for "county court"
3B:13–24	N. J. S. 3A:31–4	Editorial
3B:13–25	N. J. S. 3A:31–5	Editorial
3B:13–26	N. J. S. 3A:31–6	Editorial; "Superior Court" substituted for "county court"
3B:13–27	N. J. S. 3A:31–7	No change
3B:13–28	N. J. S. 3A:31–8	Editorial; public guardian to settle accounts at same times and in same manner as other guardians
3B:13–29	N. J. S. 3A:31–9	No change
3B:13–30	N. J. S. 3A:31–10	Editorial
3B:13–31	N. J. S. 3A:31–11	Editorial; "Superior Court" substituted for "county court"
3B:14–1	N. J. S. 3A:6–52	Editorial
3B:14–2	N. J. S. 3A:6–53	Editorial

Revised Section	*Source*	*Treatment of Source*
3B:14–3	N. J. S. 3A:6–54	Editorial
3B:14–4	N. J. S. 3A:6–55	Editorial
3B:14–5	N. J. S. 3A:6–56	Editorial
3B:14–6	N. J. S. 3A:6–57	Editorial
3B:14–7	N. J. S. 3A:6–58	Editorial
3B:14–8	N. J. S. 3A:6–67	Editorial
3B:14–9	N. J. S. 3A:6–59	Editorial
3B:14–10	N. J. S. 3A:6–60	Editorial
3B:14–11	N. J. S. 3A:6–61	Editorial
3B:14–12	N. J. S. 3A:6–62	Editorial
3B:14–13	N. J. S. 3A:6–63	Revised section derived from source
3B:14–14	N. J. S. 3A:6–63	Revised section derived from source
3B:14–15	N. J. S. 3A:6–64	Editorial
3B:14–16	N. J. S. 3A:6–65	Editorial
3B:14–17	N. J. S. 3A:6–66	Editorial
3B:14–18	N. J. S. 3A:11–1	Editorial
3B:14–19	N. J. S. 3A:11–2	Editorial
3B:14–20	N. J. S. 3A:11–3	Editorial
3B:14–21	N. J. S. 3A:11–4	Editorial
3B:14–22	N. J. S. 3A:11–5	Editorial
3B:14–23	C. 3A:6–16.2 C. 3A:6–16.3 N. J. S. 3A:6–68	Revised section derived from sources
3B:14–24	C. 3A:6–16.3	Revised section derived from source
3B:14–25	C. 3A:2A–58	Editorial
3B:14–26	C. 3A:2A–59	Editorial
3B:14–27	C. 3A:2A–60	Editorial
3B:14–28	C. 3A:2A–61	Editorial
3B:14–29	C. 3A:2A–62	Editorial
3B:14–30	C. 3A:2A–63	Editorial
3B:14–31	C. 3A:2A–68	Revised section derived from source
3B:14–32	C. 3A:2A–68	Revised section derived from source
3B:14–33	C. 3A:2A–68	Revised section derived from source

Revised Section	*Source*	*Treatment of Source*
3B:14–34	C. 3A:2A–68	Revised section derived from source
3B:14–35	C. 3A:2A–69	Editorial
3B:14–36	C. 3A:2A–70	No change
3B:14–37	C. 3A:2A–71	No change
3B:14–38	N. J. S. 3A:12–1 N. J. S. 3A:12–2	Revised to consolidate source sections
3B:14–39	N. J. S. 3A:12–3	Editorial
3B:14–40	N. J. S. 3A:12–5	Editorial
3B:14–41	N. J. S. 3A:12–6	Editorial
3B:14–42	N. J. S. 3A:12–10	Editorial
3B:14–43	C. 3A:2A–67	No change
3B:14–44	N. J. S. 3A:12–11	Editorial
3B:14–45	N. J. S. 3A:12–12	Editorial
3B:14–46	N. J. S. 3A:12–13	Editorial
3B:14–47	N. J. S. 3A:12–14	Editorial
3B:14–48	N. J. S. 3A:12–15	Editorial
3B:14–49	C. 3A:2A–64	Editorial
3B:14–50	C. 3A:2A–65	Editorial
3B:14–51	C. 3A:2A–66	No change
3B:14–52	N. J. S. 3A:41–14	Editorial
3B:14–53	N. J. S. 3A:41–1	Editorial
3B:14–54	N. J. S. 3A:41–2	Editorial
3B:14–55	N. J. S. 3A:41–6	Editorial
3B:14–56	N. J. S. 3A:41–7	Editorial
3B:14–57	N. J. S. 3A:41–8	Editorial
3B:14–58	N. J. S. 3A:41–9	Editorial
3B:14–59	N. J. S. 3A:41–10	Editorial
3B:14–60	N. J. S. 3A:41–12	Editorial
3B:14–61	N. J. S. 3A:41–13	Editorial
3B:14–62	N. J. S. 3A:16–5	Revised section derived from source
3B:14–63	N. J. S. 3A:16–5	Revised section derived from source
3B:14–64	N. J. S. 3A:16–6	Editorial
3B:14–65	N. J. S. 3A:16–7	Editorial
3B:15–1	N. J. S. 3A:7–1	Revised section derived from source
3B:15–2	N. J. S. 3A:7–1	Revised section derived from source

Revised Section	*Source*	*Treatment of Source*
3B:15–3	N. J. S. 3A:7–2	No change
3B:15–4	N. J. S. 3A:7–3	Editorial
3B:15–5	N. J. S. 3A:7–4	Editorial
3B:15–6	N. J. S. 3A:7–5	Editorial
3B:15–7	N. J. S. 3A:7–6	Editorial; made applicable to guardians of minors
3B:15–8	N. J. S. 3A:7–7	Editorial
3B:15–9	N. J. S. 3A:7–8	Editorial
3B:15–10	N. J. S. 3A:7–9	Editorial
3B:15–11	N. J. S. 3A:7–10	Editorial
3B:15–12	N. J. S. 3A:7–11	Editorial
3B:15–13	N. J. S. 3A:7–12	Editorial
3B:15–14	N. J. S. 3A:7–13	Editorial
3B:15–15	N. J. S. 3A:7–14	Editorial
3B:15–16	C. 3A:7–14.1	Revised section derived from source
3B:15–17	C. 3A:7–14.1	Revised section derived from source
3B:15–18	N. J. S. 3A:7–15	Editorial
3B.15–19	N. J. S. 3A:7–16	Editorial
3B:15–20	N. J. S. 3A:7–17	Editorial
3B:15–21	N. J. S. 3A:7–18	Editorial
3B:15–22	N. J. S. 3A:7–19	Editorial
3B:15–23	N. J. S. 3A:7–20	Editorial
3B:15–24	N. J. S. 3A:7–21	Editorial
3B:15–25	N. J. S. 3A:7–22	Editorial
3B:15–26	N. J. S. 3A:7–23	Editorial
3B:15–27	N. J. S. 3A:7–24	Editorial
3B:15–28	N. J. S. 3A:7–25	Editorial
3B:15–29	N. J. S. 3A:7–26	Editorial
3B:15–30	N. J. S. 3A:7–27	Editorial
3B:15–31	N. J. S. 3A:7–28	Editorial
3B:15–32	N. J. S. 3A:7–29	Editorial
3B:15–33	N. J. S. 3A:7–30	Editorial
3B:16–1	N. J. S. 3A:8–1	Editorial
3B:16–2	N. J. S. 3A:8–2	Editorial
3B:16–3	N. J. S. 3A:8–3	Editorial
3B:16–4	N. J. S. 3A:8–4	Editorial
3B:16–5	N. J. S. 3A:8–6	Editorial; exemption increased to $5,000.00

Revised Section	*Source*	*Treatment of Source*
3B:16–6	N. J. S. 3A:8–7	Editorial
3B:16–7	N. J. S. 3A:9–2	Editorial; exemption increased to $5,000.00
3B:16–8	N. J. S. 3A:9–1	Editorial
3B:17–1	N. J. S. 3A:8–5	Editorial
3B:17–2	N. J. S. 3A:9–3	Editorial; "county court" deleted
3B:17–3	N. J. S. 3A:9–4	Editorial; "county court" deleted
3B:17–4	N. J. S. 3A:9–5	Editorial; "county court" deleted
3B:17–5	N. J. S. 3A:8–8	Editorial
3B:17–6	N. J. S. 3A:9–7	No change
3B:17–7	N. J. S. 3A:9–8	Revised section derived from source
3B:17–8	C. 3A:6–16.14 N. J. S. 3A:9–8	Revised section derived from source
3B:17–9	N. J. S. 3A:9–9	Editorial
3B:17–10	N. J. S. 3A:9–10	Editorial; "Superior Court" substituted for "county court"
3B:17–11	N. J. S. 3A:9–11	Editorial; "Clerk of Superior Court" added
3B:17–12	N. J. S. 3A:9–12	Editorial
3B:18–1	N. J. S. 3A:10–1	Editorial
3B:18–2	N. J. S. 3A:10–4	Editorial
3B:18–3	N. J. S. 3A:10–5	Editorial
3B:18–4	N. J. S. 3A:10–6	Editorial; "county court" deleted
3B:18–5	N. J. S. 3A:10–7	Editorial; "county court" deleted
3B:18–6	N. J. S. 3A:10–8	Editorial
3B:18–7	C. 3A:10–2.4	Editorial
3B:18–8	C. 3A:10–3.1	Editorial
3B:18–9	C. 3A:10–3.2	Revised section derived from source
3B:18–10	C. 3A:10–3.2	Revised section derived from source
3B:18–11	C. 3A:10–3.2	Revised section derived from source
3B:18–12	N. J. S. 3A:10–2	Revised section derived from source
3B:18–13	N. J. S. 3A:10–2	Revised section derived from source
3B:18–14	N. J. S. 3A:10–2	Revised section derived from source

Revised Section	*Source*	*Treatment of Source*
3B:18–15	N. J. S. 3A:10–2	Revised section derived from source
3B:18–16	N. J. S. 3A:10–2	Revised section derived from source
3B:18–17	N. J. S. 3A:10–2	Revised section derived from source
3B:18–18	N. J. S. 3A:10–2	Revised section derived from source
3B:18–19	N. J. S. 3A:10–2	Revised section derived from source
3B:18–20	N. J. S. 3A:10–2	Revised section derived from source
3B:18–21	N. J. S. 3A:10–2	Revised section derived from source
3B:18–22	C. 3A:10–2.3	Revised section derived from source
3B:18–23	C. 3A:10–2.1	Revised section derived from source
3B:18–24	C. 3A:10–2.1	Revised section derived from source; "fiduciary or fiduciaries" substituted for "trustee"
3B:18–25	C. 3A:10–2.1	Revised section derived from source
3B:18–26	C. 3A:10–2.1	Revised section derived from source
3B:18–27	N. J. S. 3A:10–2	Revised section derived from source
3B:18–28	C. 3A:10–2.1	Revised section derived from source
3B:18–29	C. 3A:10–2.1	Revised section derived from source
3B:18–30	C. 3A:10–2.1	Revised section derived from source
3B:18–31	C. 3A:10–2.2	Editorial
3B:18–32	C. 3A:10–2.3	Revised section derived from source
3B:18–33	C. 3A:10–2.3	Revised section derived from source
3B:19–1	C. 3A:14A–1	Editorial

Revised Section	*Source*	*Treatment of Source*
3B:19–2	C. 3A:14A–2	Revised section derived from source
3B:19–3	C. 3A:14A–2	Revised section derived from source
3B:19–4	C. 3A:14A–2	Revised section derived from source
3B:19–5	C. 3A:14A–3	Revised section derived from source
3B:19–6	C. 3A:14A–3	Revised section derived from source
3B:19–7	C. 3A:14A–4	Editorial
3B:19–8	C. 3A:14A–5	Editorial
3B:19–9	C. 3A:14A–6	Editorial
3B:19–10	C. 3A:14A–7	Revised section derived from source
3B:19–11	C. 3A:14A–8	Revised section derived from source
3B:19–12	C. 3A:14A–8	Revised section derived from source
3B:19–13	C. 3A:14A–8	Revised section derived from source
3B:19–14	C. 3A:14A–8	Revised section derived from source
3B:19–15	C. 3A:14A–9	Editorial
3B:19–16	C. 3A:14A–7 N.J.S. 3A:15–3	Revised section derived from source
3B:19–17	N.J.S. 3A:15–3	Revised section derived from source
3B:19–18	N.J.S. 3A:15–3	Revised section derived from source
3B:19–19	C. 3A:14A–7	Revised section derived from source
3B:20–1	C. 3A:15–36	Editorial
3B:20–2	N.J.S. 3A:15–2	Editorial
3B:20–3	N.J.S. 3A:15–7	Revised section derived from source; made applicable to all fiduciaries

Revised Section	*Source*	*Treatment of Source*
3B:20–4	N. J. S. 3A:15–7	Revised section derived from source
3B:20–5	N. J. S. 3A:15–7	Revised section derived from source
3B:20–6	N. J. S. 3A:15–12	Editorial
3B:20–7	N. J. S. 3A:15–13	Revised section derived from source
3B:20–8	N. J. S. 3A:15–13	Revised section derived from source
3B:20–9	N. J. S. 3A:15–15	Revised section derived from source
3B:20–10	N. J. S. 3A:15–15	Revised section derived from source
3B:20–11	N. J. S. 3A:15–11	Editorial
3B:20–12	C. 3A:15–35	Editorial
3B:20–13	C. 3A:15–37	No change
3B:20–14	C. 3A:15–38	Editorial
3B:20–15	C. 3A:15–39	Editorial
3B:20–16	C. 3A:15–40	Editorial
3B:20–17	C. 3A:15–41	Editorial
3B:20–18	C. 3A:15–17.1	Editorial
3B:20–19	C. 3A:15–17.2	Editorial
3B:20–20	C. 3A:15–17.3	Editorial
3B:20–21	C. 3A:15–17.8	Editorial; subsection b. omitted
3B:20–22	C. 3A:15–17.5	Editorial
3B:20–23	C. 3A:15–17.6	Editorial
3B:20–24	C. 3A:15–17.7	Editorial
3B:20–25	C. 3A:15–17.9	Editorial
3B:20–26	C. 3A:15–34	Editorial
3B:20–27	C. 3A:15–30	Editorial; subsection b. omitted
3B:20–28	C. 3A:15–31	Revised section derived from source
3B:20–29	C. 3A:15–31	Revised section derived from source
3B:20–30	C. 3A:15–31	Revised section derived from source
3B:20–31	C. 3A:15–31	Revised section derived from source
3B:20–32	C. 3A:15–31	Revised section derived from source

Revised Section	*Source*	*Treatment of Source*
3B:20–33	C. 3A:15–31	Revised section derived from source
3B:20–34	C. 3A:15–32	Editorial
3B:20–35	C. 3A:15–33	Editorial
3B:21–1	N. J. S. 3A:23–1	Editorial
3B:21–2	N. J. S. 3A:23–2	Editorial
3B:21–3	N. J. S. 3A:23–3	Editorial
3B:21–4	N. J. S. 3A:23–4	No change
3B:21–5	N. J. S. 3A:23–5	Editorial
3B:22–1	C. 3A:2A–46	No change
3B:22–2	C. 3A:2A–47	Editorial; "judgments" added
3B:22–3	C. 3A:2A–48.1	No change
3B:22–4	N. J. S. 3A:24–3	Editorial
3B:22–5	N. J. S. 3A:24–4	Editorial
3B:22–6	N. J. S. 3A:24–5	Editorial
3B:22–7	N. J. S. 3A:24–6	Revised section derived from source
3B:22–8	N. J. S. 3A:24–6	Revised section derived from source
3B:22–9	N. J. S. 3A:24–7	Editorial
3B:22–10	N. J. S. 3A:24–8	Revised section derived from source
3B:22–11	N. J. S. 3A:24–8	Revised section derived from source
3B:22–12	N. J. S. 3A:24–9	Editorial
3B:22–13	N. J. S. 3A:24–10	Editorial
3B:22–14	N. J. S. 3A:24–11	Editorial
3B:22–15	N. J. S. 3A:24–12	Editorial
3B:22–16	N. J. S. 3A:24–13	Editorial
3B:22–17	N. J. S. 3A:24–14	Editorial
3B:22–18	N. J. S. 3A:24–15	Editorial
3B:22–19	C. 3A:2A–48	Revised section derived from source
3B:22–20	C. 3A:2A–48	Revised section derived from source
3B:22–21	C. 3A:2A–48	Revised section derived from source
3B:22–22	N. J. S. 3A:24–16	Revised section derived from source; court may order real property sold free from liability

Revised Section	*Source*	*Treatment of Source*
3B:22–23	N. J. S. 3A:24–17	Editorial
3B:22–24	N. J. S. 3A:24–18	Editorial
3B:22–25	N. J. S. 3A:24–33	Editorial
3B:22–26	New	Authorizes court to direct sale of property subject to escheat
3B:22–27	New	Title of decedent vested in purchaser upon sale
3B:22–28	New	Effect of court confirmation of sale
3B:22–29	N. J. S. 3A:24–34	Editorial
3B:22–30	N. J. S. 3A:24–35	Editorial
3B:22–31	N. J. S. 3A:24–36	Editorial
3B:22–32	N. J. S. 3A:24–37	Editorial
3B:22–33	N. J. S. 3A:24–38	Editorial
3B:22–34	N. J. S. 3A:24–39	Editorial
3B:22–35	N. J. S. 3A:24–40	Editorial; distinction between real and personal property abolished
3B:22–36	N. J. S. 3A:24–41	Editorial
3B:22–37	N. J. S. 3A:24–42	Editorial
3B:22–38	N. J. S. 3A:24–43	Editorial
3B:22–39	N. J. S. 3A:24–44	Editorial
3B:22–40	N. J. S. 3A:24–45	Editorial
3B:22–41	N. J. S. 3A:24–46	Editorial
3B:22–42	N. J. S. 3A:24–47	Editorial
3B:22–43	N. J. S. 3A:24–48	Editorial
3B:22–44	N. J. S. 3A:24–49	No change
3B:23–1	C. 3A:2A–76	Revised section derived from source
3B:23–2	C. 3A:2A–76	Revised section derived from source
3B:23–3	C. 3A:2A–76	Revised section derived from source
3B:23–4	C. 3A:2A–76	Revised section derived from source
3B:23–5	C. 3A:2A–77	No change
3B:23–6	C. 3A:2A–78	No change
3B:23–7	C. 3A:2A–79	Editorial
3B:23–8	C. 3A:2A–80	No change
3B:23–9	C. 3A:2A–81	No change

Revised Section	*Source*	*Treatment of Source*
3B:23–10	C. 3A:2A–82	Editorial
3B:23–11	C. 3A:2A–75	No change
3B:23–12	C. 3A:2A–73	Revised section derived from source
3B:23–13	C. 3A:2A–73	Revised section derived from source
3B:23–14	C. 3A:2A–73	Revised section derived from source
3B:23–15	C. 3A:2A–73	Revised section derived from source; "preferred" changed to "specific"
3B:23–16	N. J. S. 3A:25–2	No change
3B:23–17	N. J. S. 3A:25–4	Editorial
3B:23–18	N. J. S. 3A:25–5	Editorial
3B:23–19	N. J. S. 3A:25–6	Editorial
3B:23–20	N. J. S. 3A:25–7	Editorial
3B:23–21	N. J. S. 3A:25–9	Editorial
3B:23–22	N. J. S. 3A:25–10	Editorial; transfers deposits to credit of Superior Court
3B:23–23	N. J. S. 3A:25–11	Editorial
3B:23–24	N. J. S. 3A:25–13	Editorial
3B:23–25	N. J. S. 3A:25–14	Revised section derived from source
3B:23–26	N. J. S. 3A:25–14	Revised section derived from source
3B:23–27	N. J. S. 3A:25–14	Revised section derived from source
3B:23–28	N. J. S. 3A:25–15	Editorial
3B:23–29	N. J. S. 3A:25–16	Editorial
3B:23–30	N. J. S. 3A:25–17	Editorial
3B:23–31	N. J. S. 3A:25–18	Editorial
3B:23–32	N. J. S. 3A:25–19	Editorial
3B:23–33	N. J. S. 3A:25–20	Editorial
3B:23–34	N. J. S. 3A:25–21	Editorial
3B:23–35	N. J. S. 3A:25–22	Editorial
3B:23–36	N. J. S. 3A:25–23	Editorial
3B:23–37	N. J. S. 3A:25–25	Editorial
3B:23–38	N. J. S. 3A:25–26	Editorial
3B:23–39	N. J. S. 3A:25–27	Editorial
3B:23–40	N. J. S. 3A:25–28	Editorial

Revised Section	*Source*		*Treatment of Soruce*
3B:23–41	N. J. S.	3A:25–29	Editorial
3B:23–42	C.	3A:2A–72	Editorial
3B:23–43	C.	3A:2A–74	No change
3B:24–1	N. J. S.	3A:25–30	Editorial
3B:24–2	N. J. S.	3A:25–31	Editorial
3B:24–3	N. J. S.	3A:25–32	No change
3B:24–4	N. J. S.	3A:25–33	Editorial
3B:24–5	N. J. S.	3A:25–34	Editorial
3B:24–6	N. J. S.	3A:25–35	Editorial
3B:24–7	N. J. S.	3A:25–36	Editorial
3B:24–8	N. J. S.	3A:25–37	Editorial; "county court" deleted
3B:25–1	N. J. S.	3A:26–1	Editorial
3B:26–1	C.	3A:39–5	Editorial
3B:26–2	N. J. S.	3A:39–1	Editorial
3B:26–3	N. J. S.	3A:39–2	Editorial
3B:26–4	C.	3A:39–6	Editorial
3B:27–1	N. J. S.	3A:40–1	No change
3B:27–2	N. J. S.	3A:40–2	Editorial
3B:27–3	N. J. S.	3A:40–3	Editorial
3B:27–4	N. J. S.	3A:40–4	Editorial
3B:27–5	N. J. S.	3A:40–5	Editorial
3B:27–6	N. J. S.	3A:40–6	Editorial; "county court" deleted
3B:28–1	N. J. S. N. J. S.	3A:35–1 3A:35–2	Revised to consolidate source sections
3B:28–2	C.	3A:35–5	Revised section derived from source
3B:28–3	C.	3A:35–5	Revised section derived from source
3B:28–3.1	New		Provides for priority of mortgage lien under certain circumstances
3B:28–4	N. J. S.	3A:16–16	Saved from repeal
3B:28–5	N. J. S.	3A:16–17	Saved from repeal
3B:28–6	N. J. S.	3A:25–12	Saved from repeal
3B:28–7	N. J. S.	3A:35–3	Saved from repeal
3B:28–8	N. J. S.	3A:35–4	Saved from repeal
3B:28–9	N. J. S.	3A:36–1	Saved from repeal
3B:28–10	N. J. S.	3A:36–2	Saved from repeal
3B:28–11	N. J. S.	3A:36–3	Saved from repeal
3B:28–12	N. J. S.	3A:36–4	Saved from repeal

Revised Section	*Source*	*Treatment of Source*
3B:28–13	N. J. S. 3A:36–5	Saved from repeal
3B:28–14	N. J. S. 3A:37–1	Saved from repeal
3B:28–15	N. J. S. 3A:37–2	Saved from repeal
3B:28–16	N. J. S. 3A:37–3	Saved from repeal
3B:28–17	N. J. S. 3A:37–4	Saved from repeal
3B:28–18	N. J. S. 3A:37–5	Saved from repeal
3B:28–19	N. J. S. 3A:37–6	Saved from repeal
3B:29–1		Repealer

CHAPTER 406

AN ACT appropriating moneys from the Hazardous Discharge Fund for the purposes of identification and cleanup and removal of hazardous discharges; and providing procedures relating to the expenditures of these funds.

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

1. There is appropriated to the Department of Environmental Protection from the Hazardous Discharge Fund created pursuant to the "Hazardous Discharge Bond Act," P. L. 1981, c. 275, the sum of $10,000,000.00 for the purpose of identification and cleanup and removal of hazardous discharges to pay the nonfederal share of the federal program which finances the identification, cleanup and removal of hazardous discharges at the following sites: (1) Bridgeport Rental and Oil Service, (2) Burnt Fly Bog, (3) Kin Buc, (4) LiPari Landfill, (5) Spence Farm, (6) Pijak Farm, (7) D'Imperio, (8) Prices Landfill, (9) Lone Pine, and (10) Friedman properties. Moneys appropriated pursuant to this section may, in the interim between appropriation and receipt of funds from the Federal government for these purposes, be used for the actual cleanup and removal of hazardous discharges at these sites.

2. There is appropriated to the Department of Environmental Protection from the Hazardous Discharge Fund created pursuant to the "Hazardous Discharge Bond Act," P. L. 1981, c. 275, the

sum of $20,000,000.00 for the purpose of identification, cleanup and removal of hazardous discharges at the following sites:

(1) Williams Property
(2) Bog Creek Farm
(3) North Bergen Drum Dump
(4) Barczewski Street Dump
(5) 466 Wilson Avenue
(6) 610 South 13th Street
(7) Sayreville Pesticide Dump
(8) GEMS Landfill
(9) Roosevelt Drive In Dump
(10) Bayonne Trailer
(11) Lang Property
(12) Buzby Brothers Landfill
(13) MAC Landfill
(14) Meyers Property
(15) Horseshoe Road Dump
(16) Krysowaty Farm
(17) JIS Landfill
(18) Newark Stamp & Die
(19) Swope Oil
(20) Barrier Industries
(21) Jackson Township Landfill
(22) Keystone Steel
(23) All County Environmental Services
(24) T. Fiore Demolition
(25) Delilah Road Landfill
(26) Renora, Inc.

3. There is appropriated to the Department of Environmental Protection from the Hazardous Discharge Fund created pursuant to the "Hazardous Discharge Bond Act," P. L. 1981, c. 275, the sum of $3,000,000.00 for the purpose of identification and cleanup and removal of hazardous discharges for unanticipated emergency actions from train derailments, chemical facility fires, explosions, truck accidents and other unexpected causes.

4. The expenditures of the sums appropriated by this act are subject to the provisions and conditions of P. L. 1981, c. 275, and shall include administrative costs. Moneys appropriated pursuant to this act shall be used only upon certification by the administrator of the New Jersey Spill Compensation Fund that moneys available in the fund are insufficient to cover the costs of the project or projects for which the moneys were appropriated. If the administrator does not so certify, the appropriated moneys will revert to the Hazardous Discharge Fund to be used, subject to appropriation, in accordance with the provisions of P. L. 1981, c. 275.

5. This act shall take effect immediately.

Approved January 6, 1982.

CHAPTER 407

AN ACT concerning the Port Authority of New York and New Jersey and supplementing P. L. 1979, c. 33 (C. 32:2–23.27 et seq.).

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

C. 32:2-23.29a $200 million additional authorization for Port Authority.

1. Subject to contracts with bondholders and to the availability of adequate and secure revenues as determined by the Port Authority of New York and New Jersey, the authorization given to the authority by P. L. 1979, c. 33 (C. 32:2–23.27 et seq.) to provide capital funds for passenger mass transportation capital projects through the issuance of consolidated bonds is hereby amended to authorize the authority to provide such capital funds through the issuance of consolidated bonds or the provision of its revenues and reserves and to increase the total of such capital funds by an additional sum or sums not to exceed $200,000,000.00, to be approved by the Governors of the States of New York and New Jersey based upon a certification by the authority that the issuance of its consolidated bonds or the provision of its revenues or reserves in the amount of each such additional sum will not, during the ensuing 10 years, in the light of the authority's estimated expenditures in connection with each such additional sum, materially impair the sound credit standing of the authority or the investment status of its consolidated bonds or the ability of the authority to fulfill any of its commitments, including those which require that it maintain its revenues and reserve funds in an amount adequate to permit it to discharge debt service on outstanding debt obligations, its other undertakings to the holders of consolidated bonds and its service obligations. The additional $200,000,000.00 or portion thereof certified as aforesaid shall be spent equally in the two states for the acquisition, development and financing of buses and ancillary bus facilities.

2. This act shall take effect upon the enactment into law by the state of New York of legislation having an identical effect with this act, but if the state of New York has already enacted such legislation, this act shall take effect immediately.

Approved January 7, 1982.

CHAPTER 408

A SUPPLEMENT to "An act relating to the transportation system of the State and making appropriations therefor," approved April 15, 1980 (P. L. 1980, c. 21).

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

1. The appropriations herein made are appropriated out of the Transportation Rehabilitation and Improvement Fund of 1979 established in section 15 of the "New Jersey Transportation Rehabilitation and Improvement Bond Act of 1979," P. L. 1979, c. 165 and are supplemental to the appropriations approved April 15, 1980 pursuant to P. L. 1980, c. 21.

2. There is appropriated the sum of $60,000,000.00 for the improvement of public transportation facilities to be allocated to the following projects:

	Estimated Additional Costs
Rail Support Vehicles and Equipment	($ 7,000,000)
Pollution Control at Fueling Sites	
Railroad Fixed Facility and Equipment Upgrade	
Rail Rolling Stock	(89,000,000)
Rail Equipment Modernization	
Silicone Transformers (PCB Removal)	
Raritan Valley Upgrade (Vehicles)	
Major Rail Construction	(4,000,000)
Erie Lackawanna Reelectrification	
New York and Long Branch Electrification	
Kearny Connection	
Montclair Connection	
Red Bank—Lakewood	
PATCO—Preliminary Engineering	
Rail Operations Support Facilities	(109,000,000)
Systemwide Track Rehabilitation	
Railroad Fixed Facility and Equipment Upgrade	
Repairs to Railroad Bridges	
Major Rail Equipment Repair Shop (Design and Land Acquisition)	

Major Rail Equipment Repair Shop (Construction)	
Maintenance Facilities Improvements	
Newark City Subway Modernization	
Hoboken Power Plant and Switch Heaters	
Marketing Program (Railroads)	
Rail Passenger Facilities	($10,000,000)
Raritan Valley Upgrade (Stations)	
Rail Station Restoration	
Hoboken Terminal Improvements	
PATCO Improvements	
Northeast Corridor Improvements	
Joint Dev./Urban Initiative Program	
Bus and Rail Park and Ride Facility	
Railroad Station Paging	
Camden Transportation Center	
Bus Operations Support Facilities	(62,000,000)
Bus Support Vehicles and Equipment	(8,000,000)
Bus Exact Fare Boxes	
Bus Service Vehicles	
Marketing Program (Bus)	
Systems and Equipment	
Radio System	
Bus Rolling Stock	(18,000,000)
Bus Acquisition (new and used)	
Specialized Equipment for Transportation Disadvantaged	
Bus Rehabilitation	
Bus Passenger Facilities	(12,000,000)
Bus and Rail Park and Ride Facilities	
Bus Stop Signs	
Bus Terminals/Loops	
Bus Shelters	
Subtotal	($319,000,000)
Less Port Authority	
Less Federal Aid	(259,000,000)
Total Appropriations	$ 60,000,000

3. There is appropriated the sum of $101,600,000.00 for the improvement of State Highways to be allocated to the following projects:

NEW PROJECTS

Route	Description	County	Estimated Cost
1	South of Milltown Road to Morris Goodkind Bridge; Resurfacing	Middlesex	($ 1,200,000)
1	Plainsboro Road Intersection; Improvement	Middlesex	(400,000)
1	Route 9 to Conrail; Resurfacing	Middlesex	(1,274,000)
1	Green Street Circle Improvements	Middlesex	(2,250,000)
1 & 9	Bridges over 11 Structures; Bridge Rehabilitation	Essex	(1,000,000)
1 & 9	Tonnelle Ave. to Route 3; Widening	Hudson	(1,500,000)
3	Bridge Rehabilitation over Passaic River	Bergen	(1,289,406)
4	Passaic River to Rte. 208; Resurfacing	Bergen	(600,000)
7	Bridge Rehabilitation over Hackensack River	Hudson	(400,000)
9	Washington Street to Lookout Street; Drainage, Resurfacing	Ocean	(860,000)
18	New Jersey Turnpike to Main Street; Resurfacing	Middlesex	(2,500,000)
27	Drainage at Mill Brook	Middlesex	(300,000)
18	River Road to Route 287; Roadway Improvements	Middlesex	(250,000)
21F	Monroe Street to Route I-80; Feasibility Study	Passaic	(300,000)
21F	Route 1 & 9 & 22 Interchange to Route 78 and Pioneer St. to Clay St.; Resurfacing	Essex	(1,500,000)
22	Mercer St. to Middle Brook; Resurfacing	Somerset	(538,000)
23	Vicinity of Steenyville Lake to New York State Line; Resurfacing	Sussex	(2,250,000)

Route	Description	County	Estimated Cost
29/129	Market Street to I-195; Grading, Paving, Structures	Mercer	($550,000)
30	M.P. 0.4 to M.P. 6.7 in Absecon and Atlantic City; Initial Improvement, Resurfacing	Atlantic	(1,800,000)
31	Flemington Circle to Route I-78; Highway Improvements	Hunterdon	(2,500,000)
33	Rocky Brook Culvert; Reconstruction	Mercer	(600,000)
35	M.P. 29.5 to M.P. 34.4; Resurfacing	Monmouth	(1,350,000)
35	Maple Place to Prospect Avenue; Bridge Replacement over Matawan Creek	Monmouth	(750,000)
36	Joline Avenue to Monmouth Beach; Highway Improvements	Monmouth	(5,700,000)
38	M.P. 4 to M.P. 6; Resurfacing	Camden	(990,000)
40	Bridge over Inside Thoroughfare; Bridge Replacement Engineering	Atlantic	(1,200,000)
40	M.P. 35.2 to M.P. 47.05 in Buena Vista and Hamilton Townships; Resurfacing	Atlantic	(3,000,000)
40	Race Track to Atlantic City Expressway; Resurfacing	Atlantic	(2,900,000)
41/70	Ellisburg Circle Improvement	Camden	(250,000)
45	M.P. 26.1 to M.P. 3; Resurfacing	Gloucester	(360,000)
45	M.P. 27.2 to M.P. 28.7; Resurfacing	Gloucester	(800,000)
46	Rehabilitation of Bridge over Passaic River, River Road	Passaic Bergen	(170,000)

Route	Description	County	Estimated Cost
46	Mekeel Brook; Culvert Replacement	Morris	($470,000)
47	Bridge Rehabilitation over Muskee Creek	Cumberland	(200,000)
47	M.P. 56.5 to M.P. 62.2; Resurfacing	Gloucester	(1,200,000)
49	Quinton to Shiloh; Resurfacing	Salem	(3,100,000)
70	Route 541 to Purgatory Road; Resurfacing	Burlington	(765,000)
70	Improvements to Route 70	Camden	(1,000,000)
71	M.P. 7.5 to M.P. 9.0; Resurfacing	Monmouth	(1,260,000)
77	Intersection at Carll's Corner	Cumberland	(560,000)
79	North of County Road 520 to Route 18; Safety Improvements	Monmouth	(1,000,000)
80	Ramp at Route 17, Eastbound	Bergen	(1,400,000)
82	Kingwood Avenue to Maple Avenue; Resurfacing	Union	(1,500,000)
130/206	M.P. 35.7 to M.P. 36.4; Resurfacing	Burlington	(886,000)
130	Hollywood Avenue to Carney's Point; Resurfacing	Salem	(1,300,000)
130	Bridge over Penn Central Railroad; Bridge Rehabilitation	Middlesex	(500,000)
202, 31	Country Club Road to Flemington Circle; Resurfacing	Hunterdon	(613,000)
30/130	Airport Circle to Collingswood Circle; Improvements	Camden	(875,000)
47	Greentree Road to south of Grove Street; Resurfacing	Gloucester	(450,000)

Route	Description	County	Estimated Cost
202 & 24	M.P. 45.1 to M.P. 45.5; M.P. 43.5 to M.P. 47.95; Resurfacing	Morris	($1,500,000)
202	Sumner Road to Old York Road; Resurfacing	Hunterdon Somerset	(1,500,000)
206	Springers Brook to New Road; Resurfacing	Burlington	(2,000,000)
206	M.P. 36.3 to M.P. 38.9; Resurfacing	Burlington Mercer	(1,700,000)
444	New Jersey Turnpike to Morris Ave.; Slope Protection, Fencing, Signs, Structures	Middlesex Union	(600,000)
3, 35, 80, 46, 87	Bridge Fender Repairs	Various	(3,900,000)
	Toms River Park and Ride	Ocean	(1,000,000)
	Somerville Traffic Circle; Computerized Signal Control System	Somerset	(1,200,000)
	Traffic Signal Improvements	Statewide	(2,075,000)
	Study and design of Transportation Improvements along Routes 30, 40 and 322 access corridors to Atlantic City and Brigantine	Various	(1,500,000)
	Construction, Reconstruction, Improvement or Rebuilding of State Highways	Statewide	(1,250,000)
	Planning, Engineering, Design, Right of Way Acquisition and other costs related to the construction of projects from this fund		(11,600,000)
	Subtotal New Projects		($88,235,406)

Route	Description	County	Estimated Cost
1 & 9	Bridge over Conrail; Structure Replacement	Middlesex	($7,000,000)
1 & 9	Structure Rehabilitaton over St. Paul's Avenue	Hudson	(500,000)
1 & 9	Morses Creek Culvert; Replacement	Union	(1,015,000)
3	Passaic River to Route 1 & 9; Safety Improvements	Hudson	(2,200,000)
4	Overpeck Creek to Fletcher Avenue; Resurfacing	Bergen	(1,800,000)
4	Bridge Improvements over Passaic River to Route 20	Bergen	(500,000)
9	West Farms Road to County Road 526; Dualization	Monmouth	(15,000,000)
17	Terrace Avenue over Route 17; Bridge Rehabilitation	Bergen	(125,000)
17	Route 46 to New York State line; Safety Improvements	Bergen	(6,400,000)
18	Route 1 to New Jersey Turnpike; Structure	Middlesex	(200,000)
22	Intersection Improvement at County Route 523	Hunterdon	(1,250,000)
23	New York Avenue to Pompton River	Passaic	(7,000,000)
30	Intersection Improvement at Laurel Road	Camden	(200,000)
37	Garden State Parkway to Dover Twp. line; Safety Improvements	Ocean	(2,357,000)
38	New Jersey Turnpike to Pemberton Road; Dualization	Burlington	(3,600,000)
41	Route 70 to Route 38; Widening	Camden	(7,370,000)
42/322	Main Street to Route 168	Gloucester	(800,000)

Route	Description	County	Estimated Cost
46	Intersection Improvement at Naughright Road and Sandshore Road	Morris	($550,000)
55	Route 40 to 47; Highway Construction	Gloucester	(20,400,000)
70	Route 9 to Chambers Bridge Road; Widening, Resurfacing, Jughandles	Ocean	(750,000)
90F	Route 73 to Haddonfield Rd.; Grading, Paving. Structures	Camden Burlington	(2,000,000)
88	Bridge over Inland Waterway	Ocean	(12,000,000)
130	Rancocas Creek; Bridge Replacement	Burlington	(21,000,000)
208	Maple Avenue to Fairlawn Avenue; Minor Widening, Resurfacing	Bergen	(250,000)
	Miscellaneous Contract Adjustments, Utilities		(1,983,650)
322	Mechanic Street to Route I-295	Gloucester	(450,000)
444	New Jersey Turnpike to Morris Avenue; Landscape	Union Middlesex	(350,000)
	Subtotal Previously Authorized Projects		($117,050,650)
	Total		($205,286,056)
	Less Federal Highway Funds		(65,324,056)
	Less Coast Guard Funds		(8,000,000)
	Less Interstate Dedesignation Funds		(30,362,000)
	Total Appropriations		($101,600,000)

4. There is appropriated the sum of $4,500,000.00 for discretionary State Aid to counties and municipalities for local projects facilitating urban revitalization and emergency projects.

5. There is appropriated the sum of $10,000,000.00 for State Aid for the improvement of county and municipal roads.

6. This act shall take effect immediately.

Approved January 7, 1982.

CHAPTER 409

AN ACT authorizing the creation of arson investigation units in certain fire departments, supplementing chapter 14 of Title 40A of the New Jersey Statutes, and amending N. J. S. 2C:39–6.

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

C. 40A:14-7.1 Arson investigation units authorized.

1. (New section) a. The governing body of any municipality which has established a paid or part-paid fire department or force may, by ordinance, create an arson investigation unit within the fire department or force and provide for the maintenance, regulation and control thereof. The arson investigation unit shall be responsible for conducting investigations of arson, suspicious fires or explosions within the municipality.

b. Only paid members of a paid or part-paid fire department or force may be assigned to an arson investigation unit created pursuant to this section. Before any member shall be assigned to an arson investigation unit, he shall have successfully completed a basic training course for police officers at a school approved by the Police Training Commission and an arson investigation training course approved by the Department of Law and Public Safety.

c. Any member of a fire department or force who is assigned to an arson investigation unit pursuant to this section shall attend and successfully complete in-service training programs as required by the Division of Criminal Justice.

d. Any member of a fire department or force who is assigned full-time to an arson investigation unit pursuant to this section shall have the same powers and authority of police officers within the municipality while engaged in the actual performance of arson investigation duties.

2. N. J. S. 2C:39–6 is amended to read as follows:

Exemptions.

2C:39–6. Exemptions. a. Section 2C:39–5 does not apply to:

(1) Members of the Armed Forces of the United States or of the National Guard while actually on duty, or while traveling between places of duty and carrying authorized weapons in the manner prescribed by the appropriate military authorities:

(2) Federal law enforcement officers, and any other Federal officers and employees required to carry firearms in the performance of their official duties;

(3) Members of the State Police, a motor vehicle inspector;

(4) A sheriff, undersheriff, sheriff's officer, county prosecutor, assistant prosecutor, prosecutor's detective or investigator, deputy attorney general or State investigator employed by the Division of Criminal Justice of the Department of Law and Public Safety, investigator employed by the State Commission of Investigation, inspectors and investigators of the Division of Alcoholic Beverage Control in the Department of Law and Public Safety, State park ranger or State conservation officer;

(5) A prison or jail warden of any penal institution in this State or his deputies, or an employee of the Department of Corrections engaged in the interstate transportation of convicted offenders, while in the performance of his duties, and when required to possess such a weapon by his superior officer, or a correction officer or keeper of a penal institution in this State at all times while in the State of New Jersey provided he annually passes an examination by the superintendent testing his proficiency in the handling of firearms;

(6) A civilian employee of the United States Government under the supervision of the commanding officer of any post, camp, station, base or other military or naval installation located in this State who is required, in the performance of his official duties, to carry firearms, and who is authorized to carry such firearms by said commanding officer, while in the actual performance of his official duties;

(7) A regularly employed member, including a detective, of the police department of any county or municipality, or of any State, interstate, municipal or county park police force or boulevard police force, at all times while in the State of New Jersey, or a special policeman or airport security officer appointed by the governing body of any county or municipality or by the commission, board or other body having control of a county park or airport or boulevard police force, while engaged in the actual performance of his official duties and when specifically authorized by the governing body to carry weapons; or

(8) A paid member of a paid or part-paid fire department or force of any municipality who is assigned full-time to an arson investigation unit created pursuant to section 1 of P. L. 1981, c. 409 (C. 40A:14–7.1), while engaged in the actual performance of arson

investigation duties and when specifically authorized by the governing body to carry weapons.

b. Subsections a., b. and c. of section 2C:39–5 do not apply to:

(1) A law enforcement officer employed by a governmental agency outside of the State of New Jersey while actually engaged in his official duties, provided, however, that he has first notified the superintendent or the chief law enforcement officer of the municipality or the prosecutor of the county in which he is engaged; or

(2) A licensed dealer in firearms and his registered employees during the course of their normal business while traveling to and from their place of business and other places for the purpose of demonstration, exhibition or delivery in connection with a sale, provided, however, that any such weapon is carried in the manner specified in subsection g. of this section.

c. Subsections b. and c. of section 2C:39–5 do not apply to:

(1) A special agent of the Division of Taxation who has passed an examination in an approved police training program testing proficiency in the handling of any firearm which he may be required to carry or a railway policeman, while in the actual performance of his official duties and while going to or from his place of duty, a campus police officer appointed pursuant to P. L. 1970, c. 211 (C. 18A:6–4.2 et seq.) or any other police officer, while in the actual performance of his official duties;

(2) A State deputy conservation officer or a full-time employee of the Division of Parks and Forestry having the power of arrest and authorized to carry weapons, while in the actual performance of his official duties;

(3) A full-time member of the marine patrol force or a special marine patrolman authorized to carry such a weapon by the Commissioner of Environmental Protection, while in the actual performance of his official duties;

(4) A court attendant serving as such under appointment by the sheriff of the county or by the judge of any municipal court or other court of this State, while in the actual performance of his official duties;

(5) A guard in the employ of any railway express company, banking or building and loan or savings and loan institution of this State, while in the actual performance of his official duties;

(6) A member of a legally recognized military organization while actually under orders or while going to or from the prescribed

place of meeting and carrying the weapons prescribed for drill, exercise or parade;

(7) An officer of the Society for the Prevention of Cruelty to Animals, while in the actual performance of his duties; or

(8) An employee of a public utilities corporation actually engaged in the transportation of explosives.

d. Subsections c. and d. of section 2C:39–5 do not apply to antique firearms, provided that such antique firearms are unloaded or are being fired for the purposes of exhibition or demonstration at an authorized target range or in such other manner as has been approved in writing by the chief law enforcement officer of the municipality in which the exhibition or demonstration is held.

e. Nothing in subsections b., c. and d. of section 2C:39–5 shall be construed to prevent a person keeping or carrying about his place of business, residence, premises or other land owned or possessed by him, any firearm, or from carrying the same, in the manner specified in subsection g. of this section, from any place of purchase to his residence or place of business, between his dwelling and his place of business, between one place of business or residence and another when moving, or between his dwelling or place of business and place where such firearms are repaired, for the purpose of repair. For the purposes of this section, a place of business shall be deemed to be a fixed location.

f. Nothing in subsections b., c. and d. of section 2C:39–5 shall be construed to prevent:

(1) A member of any rifle or pistol club organized in accordance with the rules prescribed by the National Board for the Promotion of Rifle Practice, in going to or from a place of target practice, carrying such firearms as are necessary for said target practice, provided that the club has filed a copy of its charter with the superintendent and annually submits a list of its members to the superintendent, and provided further that the firearms are carried in the manner specified in subsection g. of this section;

(2) A person carrying a firearm or knife in the woods or fields or upon the waters of this State for the purpose of hunting, target practice or fishing, provided that the firearm or knife is legal and appropriate for hunting or fishing purposes in this State and he has in his possession a valid hunting license, or, with respect to fresh water fishing, a valid fishing license;

(3) A person transporting any firearm or knife while traveling:

(a) Directly to or from any place for the purpose of hunting or

fishing, provided such person has in his possession a valid hunting or fishing license; or

(b) Directly to or from any target range, or other authorized place for the purpose of practice, match, target, trap or skeet shooting exhibitions, provided in all cases that during the course of such travel all firearms are carried in the manner specified in subsection g. of this section and the person has complied with all the provisions and requirements of Title 23 of the Revised Statutes and any amendments thereto and all rules and regulations promulgated thereunder;

(c) In the case of a firearm, directly to or from any exhibition or display of firearms which is sponsored by any law enforcement agency, any rifle or pistol club, or any firearms collectors club, for the purpose of displaying of the firearms to the public or to the members of such organization or club, provided, however, that not less than 30 days prior to such exhibition or display, notice of such exhibition or display shall be given to the Superintendent of the State Police by the sponsoring organization or club, and the sponsor has complied with such reasonable safety regulations as the superintendent may promulgate. Any firearms transported pursuant to this section shall be transported in the manner specified in paragraph g. of this section.

g. All weapons being transported under subsections b. (2), e. or f. (1) or (3) of this section shall be carried unloaded and contained in a closed and fastened case, gunbox, securely tied package, or locked in the trunk of the automobile in which it is being transported, and the course of travel shall include only such deviations as are reasonably necessary under the circumstances.

h. Nothing in subsection d. of section 2C:39–5 shall be construed to prevent any employee of a public utility, as defined in R. S. 48:2–13, doing business in this State or any United States Postal Service employee, while in the actual performance of duties which specifically require regular and frequent visits to private premises, from possessing, carrying or using any device which projects, releases or emits any substance specified as being noninjurious to canines or other animals by the Commissioner of Health and which immobilizes only on a temporary basis and produces only temporary physical discomfort through being vaporized or otherwise dispensed in the air for the sole purpose of repelling canine or other animal attacks.

The device shall be used solely to repel only those canine or other animal attacks when the canines or other animals are not restrained

in a fashion sufficient to allow the employee to properly perform his duties.

Any device used pursuant to this act shall be selected from a list of products, which consist of active and inert ingredients, permitted by the Commissioner of Health.

3. This act shall take effect immediately.

Approved January 7, 1982.

CHAPTER 410

AN ACT concerning the use of school property and amending N. J. S. 18A:20–4.2 and P. L. 1978, c. 91.

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

1. N. J. S. 18A:20–4.2 is amended to read as follows:

Powers of boards of education concerning real property.

18A:20–4.2 The board of education of any school district may, for school purposes:

(a) Purchase, take and condemn lands within the district and lands not exceeding 50 acres in extent without the district but situate in a municipality or municipalities adjoining the district, but no more than 25 acres may be so acquired in any one such municipality, without the district, except with the consent, by ordinance, of such municipality;

(b) Grade, drain and landscape lands owned or to be acquired by it and improve the same in like manner;

(c) Erect, lease for a term not exceeding 50 years, enlarge, improve, repair or furnish buildings;

(d) Borrow money therefor, with or without mortgage; in the case of a type II district without a board of school estimate, when authorized so to do at any annual or special school election and in the case of a type II district having a board of school estimate, when the amount necessary to be provided therefor shall have been fixed, determined and certified by the board of school estimate, and in the case of a type I district when an ordinance authorizing expenditures for such purpose is finally adopted by the governing body of a municipality comprised within the district; provided,

however, that no such election shall be held nor shall any such resolution of a school estimate board or ordinance of a municipal governing body be introduced to authorize any lease of any building for a term exceeding 1 year until the proposed terms of such lease have been reviewed and approved by the Commissioner of Education and the Local Finance Board in the Department of Community Affairs;

(e) Construct, purchase, lease or otherwise acquire a building with the Federal Government, the State, a political subdivision thereof or any other individual or entity properly authorized to do business in the State provided that: (1) the noneducational uses of the building are compatible with the establishment and operation of a school as determined by the Commissioner of Education; (2) the portion of the building to be used as a school meets regulations of the Department of Education; (3) the board of education has complied with the provisions of law and regulations relating to the selection and approval of sites; and (4) in the case of a lease, that any lease in excess of 5 years shall be approved by the Commissioner of Education and the Local Finance Board in the Department of Community Affairs;

(f) Acquire by lease purchase agreement a site and school building; provided that the site and building meet guidelines and regulations of the Department of Education and that any lease purchase agreement in excess of 5 years shall be approved by the Commissioner of Education and the Local Finance Board in the Department of Community Affairs. As used herein, a "lease purchase agreement" refers to any agreement which gives the board of education as lessee the option of purchasing the leased premises during or upon termination of the lease with credit toward the purchase price of all or part of rental payments which have been made by the board of education in accordance with the lease;

(g) Establish with an individual or entity authorized to do business in the State a tenancy in common, condominium, horizontal property regime or other joint ownership arrangement on a site contributed by the school district; provided the following conditions are met:

(1) the individual or entity agrees to construct on the site, or provide for the construction thereon a building or buildings for use of the board of education separately or jointly with the individual or entity which shall be subject to the joint ownership arrangement;

(2) the provision of the building shall be at no cost or at a reduced cost to the board of education;

(3) the school district shall not make any payment for use of the building other than its pro rata share of costs of maintenance and improvements;

(4) the noneducational uses of the building are compatible with the establishment and operation of a school as determined by the Commissioner of Education;

(5) the portion of the building to be used as a school, and the site meet regulations of the Department of Education; and

(6) any such agreement shall be approved by the Commissioner of Education and the Local Finance Board in the Department of Community Affairs.

2. Section 1 of P. L. 1978, c. 91 (C. 18A:20-8.2) is amended to read as follows:

C. 18A:20-8.2 Lease of school property.

1. a. Whenever any board of education shall by resolution determine that any tract of land, whether there is a building thereon or not, or part or all of a school building, is not necessary for school purposes, but which it does not desire to dispose of for reason that the property may, at some future time, again be required for school purposes, it may authorize the lease thereof for a term extending beyond the official life of the board; provided that the noneducational uses of such building or tract of land are compatible with the establishment and operation of a school, as determined by the Commissioner of Education, if joint occupancy of such site is considered. The lease shall be binding upon the successor board as follows:

(1) After advertisement of the request for bids to lease to the highest bidder in a newspaper published in the school district, or, if none is published therein, then in a newspaper circulating in the district in which the same is situate, at least once a week for 2 weeks prior to the date fixed for the receipt and opening of bids, unless:

(2) The same is leased to the Federal Government, State, a political subdivision thereof, another school district, or any board, body or commission of a municipality within the school district, in which case the same may be leased by private agreement for a nominal fee without advertisement for bids.

b. Any lease in excess of 5 years shall be approved by the Commissioner of Education.

3. This act shall take effect immediately.

Approved January 7, 1982.

CHAPTER 411

AN ACT concerning the fingerprinting and photographing of certain persons and amending R. S. 53:1–15 and section 1 of P. L. 1952, c. 92.

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

1. R. S. 53:1–15 is amended to read as follows:

Identification procedures.

53:1–15. The sheriffs, chiefs of police, members of the State Police and any other law enforcement agencies and officers, shall immediately upon the arrest of any person for an indictable offense, or of any person believed to be wanted for an indictable offense, or believed to be an habitual criminal, or within a reasonable time after the filing of a complaint by a law enforcement officer charging any person with an indictable offense, take the fingerprints of such person according to the fingerprint system of identification established by the Superintendent of State Police and on the forms prescribed, and forward without delay two copies or more of the same, together with photographs and such other descriptions as may be required and with a history of the offense committed, to the State Bureau of Identification.

Such sheriffs, chiefs of police, members of the State Police and any other law enforcement agencies and officers shall also take the fingerprints, descriptions and such other information as may be required, of unknown dead persons and forward same to the State Bureau of Identification.

Any person charged in a complaint filed by a law enforcement officer with an indictable offense who has not been arrested shall submit himself to the identification procedures provided herein either on the date of any court appearance or upon written request of the appropriate law enforcement agency within a reasonable time after the filing of the complaint. Any person who refuses to submit to such identification procedures shall be a disorderly person.

2. Section 1 of P. L. 1952, c. 92 (C. 53:1–18.1) is amended to read as follows:

C. 53:1-18.1 Narcotic and dangerous drug offenses.

1. Every law enforcement officer designated in R. S. 53:1–15 shall, immediately upon the arrest of any person for or within a

reasonable time after the filing of a complaint by a law enforcement officer charging any person with any offense against the laws of the United States, or any offense against the laws of this State, relating to narcotic or dangerous drugs, whether the same shall be indictable or otherwise, take the fingerprints of such person and forward copies thereof together with photographs and such other description and information as is required by such section in the case of the arrest of persons for any offense indictable under the laws of this State.

3. This act shall take effect immediately.

Approved January 7, 1982.

CHAPTER 412

AN ACT to amend the "municipal and county utilities authorities law" approved August 22, 1957 (P. L. 1957, c. 183, as said short title was amended by P. L. 1977, c. 384 and amending the "sewerage authorities law," approved April 23, 1946 (P. L. 1946, c. 138).

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

1. Section 4 of P. L. 1957, c. 183 (C. 40:14B–4) is amended to read as follows:

C. 40:14B-4 Creation of utilities authorities; appointment of additional members; contracts with other municipalities; reorganization of county authority as municipal authority; alternate members.

4. a. Any governing body may, in the case of a county by resolution or ordinance duly adopted, or in the case of a municipality by ordinance duly adopted, create a public body corporate and politic under the name and style of "the ..... municipal utilities authority," or of "the ..... county utilities authority," with the name of said county or municipality inserted. Said body shall consist of the five members thereof, who shall be appointed by the governing body as hereinafter in this section provided, and it shall constitute the county or municipal authority contemplated and provided for in this act and an agency and instrumentality of said county or municipality. After the taking effect

of the resolution or ordinance for the creation of said body and the filing of a certified copy thereof as in section 7 of this act provided, five persons shall be appointed as the members of the county or municipal authority. The members first appointed shall, by the resolution of appointment, be designated to serve for terms respectively expiring on the first days of the first, second, third, fourth and fifth Februarys next ensuing after the date of their appointment. On or after January 1 in each year after such first appointments, one person shall be appointed as a member of the county or municipal authority to serve for a term commencing on February 1 in such year and expiring on February 1 in the fifth year after such year. In the event of a vacancy in the membership of the county or municipal authority occurring during an unexpired term of office, a person shall be appointed as a member of the county or municipal authority to serve for such unexpired term.

b. Any county governing body may provide by resolution or ordinance as appropriate that the county utilities authority created by it shall consist of nine members. The four additional members first appointed pursuant to said resolution or ordinance shall be designated to serve for terms respectively expiring on the first day of the second, third, fourth and fifth Februarys next ensuing after the date of their appointment. On or after January 1 in the year in which expires the term of said additional member first appointed and in every fifth year thereafter, one person shall be appointed as a member of the county utilities authority by said county governing body as a successor to such additional member, to serve for a term commencing on February 1 of such year and expiring on February 1 in the fifth year after such year.

c. Whenever the municipal authority of any county shall certify to the governing body of any county that it has entered into a contract pursuant to section 49 of this act (C. 40:14B–49) with one or more municipalities situate within any other county one additional member of the municipal authority for each such other county shall be appointed by the governing body of such other county as in this section provided. The additional member so appointed for any such other county, and his successors shall be a resident of one of said municipalities situate within such other county. The additional member first appointed or to be first appointed for such other county shall serve for a term expiring on the first day of the fifth February next ensuing after the date of such appointment, and on or after January 1 in the year in which expires the term of the said additional member first ap-

pointed, and in every fifth year thereafter, one person shall be appointed by said governing body as a member of the municipal authority as successor to said additional member, to serve for a term commencing on February 1 in such year and expiring on February 1 in the fifth year after such year. If after such appointment of an additional member for such other county the municipal authority shall certify to said governing body of such other county that it is no longer a party to a contract entered into pursuant to section 49 of this act (C. 40:14B–49) with any municipality situate within such other county, the term of office of such additional member shall thereupon cease and expire and no additional member for such other county shall thereafter be appointed.

d. In any county wherein a county sewer authority is reorganized as a municipal authority pursuant to section 6 of this act (C. 40:14B–6), its governing body shall, by resolution or ordinance as appropriate, reappoint the existing members of the authority to terms corresponding to terms of members first appointed to a municipal authority pursuant to subsection a. of this section; provided, however, that, if said county sewer authority has seven members, then the existing members shall be reappointed to the reorganized municipal authority pursuant to subsections a. and b. of this section.

e. The governing body of a county or municipality may provide in the ordinance or resolution creating the utilities authority for not more than two alternate members. Alternate members shall be designated by the governing body as "Alternate No. 1" and "Alternate No. 2" and shall serve during the absence or disqualification of any regular member or members. The governing body of the county or municipality shall provide by ordinance or resolution for the order in which the alternates shall serve. The term of each alternate member shall be 5 years commencing on February 1 of the year of appointment; provided, however, that in the event two alternate members are appointed their initial terms shall be 4 and 5 years respectively. The terms of the first alternate members appointed pursuant to this amendatory act shall commence on the day of their appointment and shall expire on the fourth or fifth January 31 next ensuing after the date of their appointments, as the case may be. Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member.

2. Section 4 of P. L. 1946, c. 138 (C. 40:14A–4) is amended to read as follows:

C. 40:14A-4 Creation of sewerage authorities, county and municipal; joint authorities; filing of certified copies of ordinances and resolutions; limitations on formation; option of municipalities; dissolution procedure; contracts with municipalities in other counties; consolidation of municipalities; conveyance of facilities by nonmember municipality; contiguous districts; alternate members.

4. (a) The governing body of any county may, by resolution duly adopted, create a public body corporate and politic under the name and style of "the ..... sewerage authority," with all or any significant part of the name of such county inserted. Said body shall consist of the five members thereof, who shall be appointed by resolution of the governing body as hereinafter in this section provided, together with the additional members thereof, if any, appointed as hereinafter in subsection (i) of this section provided, and it shall constitute the sewerage authority contemplated and provided for in this act and an agency and instrumentality of said county. After the taking effect of the resolution for the creation of said body and the filing of a certified copy thereof as in subsection (d) of this section provided, five persons shall be appointed as the members of the sewerage authority. The members first appointed shall, by the resolution of appointment, be designated to serve for terms respectively expiring on the first days of the first, second, third, fourth and fifth Februarys next ensuing after the date of their appointment. On or after January 1 in each year after such first appointments, one person shall be appointed as a member of the sewerage authority to serve for a term commencing on February 1 in such year and expiring on February 1 in the fifth year after such year. In the event of a vacancy in the membership of the sewerage authority occurring during an unexpired term of office, a person shall be appointed as a member of the sewerage authority to serve for such unexpired term.

(b) The governing body of any municipality may, by ordinance duly adopted, create a public body corporate and politic under the name and style of "the ..... sewerage authority," with all or any significant part of the name of such municipality inserted. Said body shall consist of five members thereof, who shall be appointed by resolution of the governing body as hereinafter in this section provided, and it shall constitute the sewerage authority contemplated and provided for in this act and an agency and instrumentality of said municipality. After the taking effect of such ordinance and the filing of a certified copy

thereof as in subsection (d) of this section provided, five persons shall be appointed as the members of the sewerage authority. The members first appointed shall, by the resolution of appointment, be designated to serve for terms respectively expiring on the first days of the first, second, third, fourth and fifth Februarys next ensuing after the date of their appointment. On or after January 1 in each year after such first appointments, one person shall be appointed as a member of the sewerage authority to serve for a term commencing on February 1 in such year and expiring on February 1 in the fifth year after such year. In the event of a vacancy in the membership of the sewerage authority occurring during an unexpired term of office, a person shall be appointed as a member of the sewerage authority to serve for such unexpired term.

(c) The governing bodies of any two or more municipalities or any two or more counties, the areas of which together comprise an integral body of territory, may, by parallel ordinances or in the case of counties by parallel resolutions, duly adopted by each of such governing bodies within any single calendar year, create a public body corporate and politic under the name and style of "the ..... sewerage authority," with all or any significant part of the name of each such municipality or county or some identifying geographical phrase inserted. Said body shall consist of the members thereof, in an aggregate number determined as hereinafter in this subsection provided, who shall be appointed by resolutions of the several governing bodies as hereinafter in this section provided, and it shall constitute the sewerage authority contemplated and provided for in this act and an agency and instrumentality of the said municipalities or counties. The number of members of the sewerage authority to be appointed at any time for full terms of office by the governing body of any such municipality or county shall be as may be stated in said ordinances or resolutions which shall be not less than one nor more than three. After the taking effect of the said ordinances or resolutions of all such municipalities or counties and after the filing of certified copies thereof as in subsection (d) of this section provided, the appropriate number of persons shall be appointed as members of the sewerage authority by the governing body of each municipality or county. In the case of municipalities or counties which by ordinance or resolution are entitled to appoint only one member of the authority, the total number of members, if five or more, shall be divided into five classes as nearly equal as possible,

except that if there are less than five members each member shall constitute a class. The members initially appointed shall be appointed for such terms that the terms of one class shall expire on the first day of each of the first, second, third, fourth and fifth Februarys next ensuing the date of appointment. In the event the several municipalities or counties cannot agree on the terms of the respective representatives, such terms shall be determined by lot. On or after January 1 in each year after such appointments, the expiring terms shall be filled by the appointment for terms commencing February 1 in such year and expiring on the first day of the fifth February next ensuing.

Upon the expiration of the terms of office of members, in office on July 1, 1970, of sewerage authorities created by two or more municipalities or counties where only one member is appointed by any participating municipality or county, their immediate successors, except for appointments to fill vacancies, shall be appointed for designated terms of 1, 2, 3, 4 or 5 years in the same manner as in this subsection (c) provided as to initial appointees.

In municipalities or counties entitled to appoint three members, the appointing authority shall designate one of the initial appointees to serve for a term of 3 years, one for 4 years and one for 5 years. In municipalities or counties entitled to appoint two members, the appointing authority shall designate one of the initial appointees to serve for a term of 5 years and one for 4 years. On or after January 1 in the year in which expire the terms of the said members first appointed and in every fifth year thereafter, the appropriate number of persons shall be appointed as members of the sewerage authority by the governing body of each municipality or county, to serve for terms commencing on February 1 in such year and expiring on February 1 in the fifth year after such year. In the event of a vacancy in the membership of the sewerage authority occurring during the unexpired term of office, a person shall be appointed as a member of the sewerage authority to serve for such unexpired term by the governing body which made the original appointment for such unexpired term.

Upon the expiration of the terms of office of members, in office on July 1, 1967, of sewerage authorities created by two or more municipalities or counties where more than one member is appointed by any participating municipality or county, their immediate successors, except for appointments to fill vacancies, shall be appointed for designated terms of 3, 4 or 5 years in the same manner as in this subsection (c) provided as to initial appointees.

(d) A copy of each resolution or ordinance for the creation of a sewerage authority adopted pursuant to this section, duly certified by the appropriate officer of the local unit, shall be filed in the office of the Secretary of State. Upon proof of such filing of a certified copy of the resolution or ordinance or of certified copies of the parallel ordinances for the creation of a sewerage authority as aforesaid, the sewerage authority therein referred to shall, in any suit, action or proceeding involving the validity or enforcement of, or relating to, any contract or obligation or act of the sewerage authority, be conclusively deemed to have been lawfully and properly created and established and authorized to transact business and exercise its powers under this act. A copy of any such certified resolution or ordinance, duly certified by or on behalf of the Secretary of State, shall be admissible in evidence in any suit, action or proceeding.

(e) A copy of each resolution appointing any member of a sewerage authority adopted pursuant to this section, duly certified by the appropriate officer of the local unit, shall be filed in the office of the Secretary of State. A copy of such certified resolution, duly certified by or on behalf of the Secretary of State, shall be admissible in evidence in any suit, action or proceeding and, except in a suit, action or proceeding directly questioning such appointment, shall be conclusive evidence of the due and proper appointment of the member or members named therein.

(f) The governing body of a county which may create or join in the creation of any sewerage authority pursuant to this section shall not thereafter create or join in the creation of any other sewerage authority. No governing body of any municipality constituting the whole or any part of a district shall create or join in the creation of any sewerage authority except upon the written consent of the sewerage authority and in accordance with the terms and conditions of such consent, and in the event such consent be given and a sewerage authority be created pursuant thereto, the terms and conditions of such consent shall thereafter be in all respects binding upon such municipality and the sewerage authority so created and any system of sewers or sewage disposal plants constructed or maintained in conformity with the terms and conditions of such consent by the sewerage authority so created shall be deemed not to be competitive with the sewerage systems of the sewerage authority giving such consent. In the event that prior to the creation of a sewerage authority of a county the governing body of any municipality located in said county shall have

created or joined in the creation of a sewerage authority, the area within the territorial limits of such municipality shall not be part of the district of the sewerage authority of said county.

(g) Within 10 days after the filing in the office of the Secretary of State of a certified copy of a resolution for the creation of a sewerage authority adopted by the governing body of any county pursuant to this section, a copy of such resolution, duly certified by the appropriate officer of the county, shall be filed in the office of the clerk of each municipality within the county. In the event that the governing body of any such municipality shall, within 60 days after such filing in the office of the Secretary of State, adopt a resolution determining that such municipality shall not be a part of the district of such sewerage authority and file a copy thereof duly certified by its clerk, in the office of the Secretary of State, the area within the territorial limits of such municipality shall not thereafter be part of such district, but at any time after the adoption of such resolution, the governing body of such municipality may, by ordinance duly adopted, determine that such area shall again be a part of such district and if thereafter a copy of such ordinance duly certified by the appropriate officer of such municipality, together with a certified copy of a resolution of such sewerage authority approving such ordinance, shall be filed in the office of the Secretary of State, then from and after such filing the area within the territorial limits of such municipality shall forever be part of such district.

(h) The governing body of any local unit which has created a sewerage authority pursuant to subsection (a) or subsection (b) of this section may, in the case of a county by resolution duly adopted or in the case of a municipality by ordinance duly adopted, dissolve such sewerage authority on the conditions set forth in this subsection. The governing bodies of two or more local units which have created a sewerage authority pursuant to subsection (c) of this section may, by parallel ordinances duly adopted by each of such governing bodies within any single calendar year, dissolve such sewerage authority on the conditions set forth in this subsection. Such a sewerage authority may be dissolved on condition that (1) either the members of such authority have not been appointed or the sewerage authority, by resolution duly adopted, consents to such dissolution, and (2) the sewerage authority has no debts or obligations outstanding. Upon the dissolution of any sewerage authority in the manner provided in this subsection, the governing body or bodies dissolving such sewerage

authority shall be deemed never to have created or joined in the creation of a sewerage authority. A copy of each resolution or ordinance for the dissolution of a sewerage authority adopted pursuant to this subsection, duly certified by the appropriate officer of the local unit, shall be filed in the office of the Secretary of State. Upon proof of such filing of a certified copy of the resolution or ordinance or of certified copies of the parallel ordinances for the dissolution of a sewerage authority as aforesaid and upon proof that such sewerage authority had no debts or obligations outstanding at the time of the adoption of such resolution, ordinance or ordinances, the sewerage authority therein referred to shall be conclusively deemed to have been lawfully and properly dissolved and the property of the sewerage authority shall be vested in the local unit or units. A copy of any such certified resolution or ordinance, duly certified by or on behalf of the Secretary of State, shall be admissible in evidence in any suit, action or proceeding.

(i) Whenever the sewerage authority of any county shall certify to the governing body of any county that it has entered into a contract pursuant to section 23 of this act with one or more municipalities situate within any other county, one additional member of the sewerage authority for each such other county shall be appointed by resolution of the governing body of such other county as in this section provided. The additional member so appointed for any such other county, and his successors shall be a resident of one of said municipalities situate within such other county. The additional member first appointed or to be first appointed for any such other county shall serve for a term expiring on the first day of the fifth February next ensuing after the date of such appointment, and on or after January 1 in the year in which expires the term of the said additional member first appointed and in every fifth year thereafter, one person shall be appointed by said governing body as a member of the sewerage authority as successor to said additional member, to serve for a term commencing on February 1 in such year and expiring on February 1 in the fifth year after such year. If after such appointment of an additional member for any such other county the sewerage authority shall certify to said governing body of such other county that it is no longer a party to a contract entered into pursuant to section 23 of this act with any municipality situate within such other county, the term of office of such additional member shall thereupon cease and expire and no additional member for such other county shall thereafter be appointed.

(j) If a municipality, the governing body of which has created a sewerage authority pursuant to subsection (b) of this section, has been or shall be consolidated with another municipality, the governing body of the new consolidated municipality may, by ordinance duly adopted, provide that the members of the sewerage authority shall thereafter be appointed by the governing body of such new consolidated municipality, which shall make appointment of members of the sewerage authority by resolution as hereinafter in this subsection provided. On or after the taking effect of such ordinance, one person shall be appointed as a member of the sewerage authority for a term commencing on February 1 in each year, if any, after the date of consolidation, in which has or shall have expired the term of a member of the sewerage authority theretofore appointed by the governing body of the municipality which has been or shall be so consolidated, and expiring on February 1 in the fifth year after such year. Thereafter, on or after January 1 in each year, one person shall be appointed as a member of the sewerage authority to serve for a term commencing on February 1 in such year and expiring February 1 in the fifth year after such year. In the event of a vacancy in the membership of the sewerage authority occurring during an unexpired term of office, a person shall be appointed as a member of the sewerage authority to serve for such unexpired term. Each member of the sewerage authority appointed by the governing body of a municipality which has been or shall be so consolidated shall continue in office until his successor has been appointed as in this subsection provided and has qualified.

(k) If a municipality, the governing body of which has created a sewerage authority pursuant to subsection (b) of this section, has been or shall be consolidated with another municipality, the governing body of the new consolidated municipality, subject to the rights of the holders, if any, of bonds issued by the sewerage authority, and upon receipt of the sewerage authority's written consent thereto, may provide, by ordinance duly adopted, that the area within the territorial boundaries of the new consolidated municipality shall constitute the district of the sewerage authority, and upon the taking effect of such ordinance, such area shall constitute the district of the sewerage authority. Until the taking effect of such ordinance, the district of the sewerage authority shall be the area within the territorial boundaries, as they existed at the date of the consolidation, of the municipality the governing body of which created the sewerage authority.

(l) Whenever, with the approval of any sewerage authority created by the governing bodies of two or more municipalities, any other municipality not constituting part of the district shall convey to the sewerage authority all or any part of a system of main, lateral or other sewers or other sewerage facilities located within the district and theretofore owned and operated by such other municipality, then, if so provided in the instruments of such conveyance, one additional member of the sewerage authority for such other municipality shall be appointed by resolution of its governing body as in this section provided. The additional member so appointed for such municipality, and his successors, shall be residents of such municipality. The additional member first appointed or to be first appointed for such municipality shall serve for a term expiring on the first day of the fifth February next ensuing after the date of such appointment, and on or after January 1 in the year in which expires the term of the said additional member first appointed and in every fifth year thereafter, one person shall be appointed by said governing body as a member of the sewerage authority as successor to said additional member, to serve for a term commencing on February 1 in such year and expiring on February 1 in the fifth year after such year. If at any time after such conveyance of sewers or sewerage facilities by a municipality its governing body shall adopt a resolution determining not thereafter to be represented in the membership of the sewerage authority and shall file a copy thereof duly certified by its clerk in the office of the sewerage authority, the term of office of any such additional member theretofore appointed for such municipality shall thereupon cease and expire and no additional member for such municipality shall thereafter be appointed.

(m) (i) The governing body of any municipality which is contiguous to the district of a sewerage authority created by the governing bodies of two or more other municipalities may at any time, by ordinance duly adopted, propose that the whole or any part of the area herein referred to as "service area" within the territorial limits of such municipality shall be a part of said contiguous district. Such ordinance shall (1) state the number of members of the sewerage authority, not less than one nor more than three, thereafter to be appointed for full terms of office by the governing body of such municipality, and (2) determine that, after the filing of a certified copy thereof and of a resolution of the sewerage authority in accordance with this subsection, such service area shall be a part of said contiguous district. If thereafter a copy of such ordinance duly certified by the appropriate officer of such

municipality, together with a certified copy of a resolution of said sewerage authority approving such ordinance, shall be filed in the office of the Secretary of State, then from and after such filing the service area shall forever be part of said contiguous district and said sewerage authority shall consist of the members thereof acting or appointed as in this section provided and constitute an agency and instrumentality of such municipality as well as such other municipalities. The governing body of the said municipality so becoming part of said contiguous district shall thereupon appoint members of the sewerage authority in the number stated in such ordinance, for periods and in the manner provided for the first appointment of members of a sewerage authority under subsection (c) of this section.

(ii) If the service area of such municipality shall then be part of the district of any other sewerage authority or municipal authority, such other authority shall by resolution adopted not more than 1 year prior to the adoption of such ordinance, consent to the inclusion of the service area in the district of said contiguous district, and the service area shall become part of said contiguous district as aforesaid and shall no longer be part of the district of such other authority for sewerage purposes. If only part of the area within the territorial limits of such municipality shall constitute the service area to become part of said contiguous district, the service area shall be that so designated or shown on a map thereof bearing legend or reference to this section and filed in the office of the clerk of such municipality and in the office of the secretary of each authority referred to in this section, and such map shall be incorporated by a reference thereto in such ordinance and resolution as or for a description of the service area. For all the purposes of this act such sewerage authority shall be deemed to have been created by the governing body of such municipality jointly with the other municipalities (the territorial areas of which constitute the district of such contiguous authority), and such municipality shall have all powers, duties, rights and obligations provided for by this act or any other law for or with respect to such sewerage authority or any other sewerage authority or municipal authority, notwithstanding that only a part of the area within the territorial limits of such municipality shall become part of said contiguous district.

(n) The governing body of a county or municipality may provide in the ordinance or resolution creating the utilities authority for not more than two alternate members. Alternate members shall be

designated by the governing body as "Alternate No. 1" and "Alternate No. 2" and shall serve during the absence or disqualification of any regular member or members. The governing body of the county or municipality shall provide by ordinance or resolution for the order in which the alternates shall serve. The term of each alternate member shall be 5 years commencing on February 1 of the year of appointment; provided, however, that in the event two alternate members are appointed their initial terms shall be 4 and 5 years respectively. The terms of the first alternate members appointed pursuant to this amendatory act shall commence on the day of their appointment and shall expire on the fourth or fifth January 31 next ensuing after the date of their appointments, as the case may be. Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member.

3. This act shall take effect immediately.

Approved January 7, 1982.

CHAPTER 413

AN ACT concerning the sponsorship and promotion of ridesharing arrangements in New Jersey, the liability of employers with respect to employer-sponsored ridesharing arrangements and revising parts of the statutory law.

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

C. 27:26-1 Short title.

1. (New section) This act shall be known and may be cited as the "New Jersey Ridesharing Act of 1981."

C. 27:26-2 Legislature's findings and declarations.

2. (New section) The Legislature finds and declares that:

New Jersey's transportation needs are being threatened by the growing energy shortage which this nation faces. In addition, this State has many roads which are heavily congested during commuting hours, resulting in the unnecessary usage of gasoline and in

lengthy delays for the traveling public. There are presently no energy efficient alternatives such as public transportation for many citizens in New Jersey which would reduce the number of single occupancy, private automobiles on the road.

Therefore, the Legislature wishes to encourage ridesharing programs which will help reduce traffic congestion, conserve gasoline consumption and promote the mobility needs of the public. One important way to address these problems is to encourage employers and employees to form ridesharing arrangements. However, employers have been reluctant to support such activities because of their potential liability to employees and others. The Legislature, therefore, finds that it is in the public interest to promote ridesharing arrangements through employer sponsorship and promotional activities by exempting employers from certain liabilities they might incur as a result of their promotion or sponsorship of certain types of employee ridesharing programs.

C. 27:26-3 Ridesharing; van-pooling; carpool.

3. (New section) As used in this act:

a. "Ridesharing" means the transportation of persons in a motor vehicle, with a maximum carrying capacity of not more than 15 passengers, including the driver, where such transportation is incidental to the purpose of the driver. The term shall include such ridesharing arrangements known as carpools and vanpools.

b. "Van-pooling" means eight or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry 8 to 15 adult passengers.

c. "Carpool" means two or more persons commuting on a daily basis to and from work by means of a vehicle with a seating capacity of 9 passengers or less.

C. 27:26-4 Nonliability of employers.

4. (New section) a. An employer shall not be liable for injuries or damages sustained by passengers and other persons resulting from the operation or use of a motor vehicle not owned, leased or contracted for by the employer, when his or her employee is in a ridesharing arrangement between his or her place of residence and place of employment or termini near such places.

b. An employer shall not be liable for injuries or damages sustained by passengers and other persons because he provides information, incentives, or otherwise encourages his or her employees to participate in ridesharing arrangements.

C. 27:26-5 No compensation for travel time.

5. (New section) An employee who participates in a ridesharing arrangement between his or her place of residence and place of employment, or termini near such places, shall not be entitled to compensation by his or her employer for such travel time, and the wage provisions in Title 34 shall not apply during this travel period, unless the employee is required to participate in the ridesharing arrangement as a condition of his or her employment.

6. R. S. 34:15–36 is amended to read as follows:

Willful negligence; employer and employee; disability; ridesharing.

34:15–36. "Willful negligence" within the intent of this chapter shall consist of (1) deliberate act or deliberate failure to act, or (2) such conduct as evidences reckless indifference to safety, or (3) intoxication, operating as the proximate cause of injury, or (4) unlawful 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.).

"Employer" is declared to be synonymous with master, and includes natural persons, partnerships, and corporations; "employee" is synonymous with servant, and includes all natural persons, including officers of corporations, who perform service for an employer for financial consideration, exclusive of casual employments, which shall be defined, if in connection with the employer's business, as employment the occasion for which arises by chance or is purely accidental; or if not in connection with any business of the employer, as employment not regular, periodic or recurring; provided, however, that forest fire wardens and forest fire fighters employed by the State of New Jersey shall, in no event, be deemed casual employees.

Employment shall be deemed to commence when an employee arrives at the employer's place of employment to report for work and shall terminate when the employee leaves the employer's place of employment excluding areas not under the control of the employer; provided, however, when the employee is required by the employer to be away from the employer's place of employment, the employee shall be deemed to be in the course of employment when the employee is engaged in the direct performance of duties assigned or directed by the employer; but the employment of employee paid travel time by an employer for time spent traveling to and from a job site or of any employee who utilizes an employer authorized vehicle shall commence and terminate with the time spent traveling

to and from a job site or the authorized operation of a vehicle on business authorized by the employer. Travel by a policeman or fireman in responding to an emergency shall be deemed to be in the course of employment.

Employment shall also be deemed to commence when an employee is traveling in a ridesharing arrangement between his or her place of residence or terminal near such place and his or her place of employment if one of the following conditions is satisfied: the vehicle used in the ridesharing arrangement is owned, leased or contracted for by the employer or the employee is required by the employer to travel in a ridesharing arrangement as a condition of employment.

"Disability permanent in quality and partial in character" means a permanent impairment caused by a compensable accident or compensable occupational disease, based upon demonstrable objective medical evidence, which restricts the function of the body or of its members or organs; included in the criteria which shall be considered shall be whether there has been a lessening to a material degree of an employee's working ability. Subject to the above provisions nothing in this definition shall be construed to preclude benefits to a worker who returns to work following a compensable accident even if there be no reduction in earnings. Injuries such as minor lacerations, minor contusions, minor sprains, and scars which do not constitute significant permanent disfigurement, and occupational disease of a minor nature such as mild dermatitis and mild bronchitis shall not constitute permanent disability within the meaning of this definition.

"Disability permanent in quality and total in character" means a physical or neuropsychiatric total permanent impairment caused by a compensable accident or compensable occupational disease where no fundamental or marked improvement in such condition can be reasonably expected.

Factors other than physical and neuropsychiatric impairments may be considered in the determination of permanent total disability where such physical and neuropsychiatric impairments constitute at least 75% or higher of total disability.

"Ridesharing" means the transportation of persons in a motor vehicle, with a maximum carrying capacity of not more than 15 passengers, including the driver, where such transportation is incidental to the purpose of the driver. This term shall include such ridesharing arrangements known as carpools and vanpools.

7. R. S. 39:1–1 is amended to read as follows:

Definitions.

39:1–1. As used in this subtitle, unless other meaning is clearly apparent from the language or context, or unless inconsistent with the manifest intention of the Legislature:

"Alley" means a public highway wherein the roadway does not exceed 12 feet in width.

"Authorized emergency vehicles" means vehicles of the fire department, police vehicles and such ambulances and other vehicles as are approved by the Director of the Division of Motor Vehicles in the Department of Law and Public Safety when operated in response to an emergency call.

"Automobile" includes all motor vehicles except motorcycles.

"Berm" means that portion of the highway exclusive of roadway and shoulder, bordering the shoulder but not to be used for vehicular travel.

"Business district" means that portion of a highway and the territory contiguous thereto, where within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, office buildings, railroad stations, and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the roadway.

"Carpool" means two or more persons commuting on a daily basis to and from work by means of a vehicle with a seating capacity of 9 passengers or less.

"Commercial motor vehicle" includes every type of motor-driven vehicle used for commercial purposes on the highways, such as the transportation of goods, wares and merchandise, excepting such vehicles as are run only upon rails or tracks and vehicles of the passenger car type used for touring purposes or the carrying of farm products and milk, as the case may be.

"Commissioner" means the Director of the Division of Motor Vehicles in the Department of Law and Public Safety of this State.

"Commuter van" means a motor vehicle having a seating capacity of not less than eight nor more than 15 adult passengers, in which eight or more persons commute on a daily basis to and from work and which vehicle may also be operated by the driver or other designated persons for their personal use.

"Crosswalk" means that part of a highway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the shoulder or, if none, from the edges of the roadway; also, any portion of a highway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other marking on the surface.

"Dealer" includes every person actively engaged in the business of buying, selling or exchanging motor vehicles or motorcycles and who has an established place of business.

"Department" means the Division of Motor Vehicles in the Department of Law and Public Safety of this State acting directly or through its duly authorized officers or agents.

"Deputy commissioner" means deputy director of the Division of Motor Vehicles in the Department of Law and Public Safety.

"Deputy director" means deputy director of the Division of Motor Vehicles in the Department of Law and Public Safety.

"Director" means the Director of the Division of Motor Vehicles in the Department of Law and Public Safety.

"Division" means the Division of Motor Vehicles in the Department of Law and Public Safety acting directly or through its duly authorized officers or agents.

"Driver" means the rider or driver of a horse, bicycle or motorcycle or the driver or operator of a motor vehicle, unless otherwise specified.

"Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities or packing that an ignition by fire, friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

"Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

"Flammable liquid" means any liquid having a flash point below 200° Fahrenheit, and a vapor pressure not exceeding 40 pounds.

"Gross weight" means the combined weight of a vehicle and a load thereon.

"Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

"Horse" includes mules and all other domestic animals used as draught animals or beasts of burden.

"Inside lane" means the lane nearest the center line of the roadway.

"Intersection" means the area embraced within the prolongation of the lateral curb lines or, if none, the lateral boundary lines of two or more highways which join one another at an angle, whether or not one such highway crosses another.

"Laned roadway" means a roadway which is divided into two or more clearly marked lanes for vehicular traffic.

"Limited-access highway" means every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway; and includes any highway designated as a "freeway" or "parkway" by authority of law.

"Local authorities" means every county, municipal and other local board or body having authority to adopt local police regulations under the Constitution and laws of this State, including every county board of chosen freeholders with relation to county roads.

"Magistrate" means any municipal court, county district court, criminal judicial district court, County Court and the Superior Court, and any officer having the powers of a committing magistrate and the Director of the Division of Motor Vehicles in the Department of Law and Public Safety.

"Manufacturer" means a person engaged in the business of manufacturing or assembling motor vehicles, who will, under normal business conditions during the year, manufacture or assemble at least 10 new motor vehicles.

"Metal tire" means every tire the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

"Motorized bicycle" means a pedal bicycle having a helper motor characterized in that either the maximum piston displacement is

less than 50 cc. or said motor is rated at no more than 1.5 brake horsepower and said bicycle is capable of a maximum speed of no more than 25 miles per hour on a flat surface.

"Motorcycle" includes motorcycles, motor bikes, bicycles with motor attached and all motor operated vehicles of the bicycle or tricycle type, except motorized bicycles as defined in this section whether the motive power be a part thereof or attached thereto and having a saddle or seat with driver sitting astride or upon it or a platform on which the driver stands.

"Motor-drawn vehicle" includes trailers, semitrailers, or any other type of vehicle drawn by a motor-driven vehicle.

"Motor vehicle" includes all vehicles propelled otherwise than by muscular power, excepting such vehicles as run only upon rails or tracks and motorized bicycles.

"Noncommercial truck" means every motor vehicle designed primarily for transportation of property, and which is not a "commercial vehicle."

"Official traffic control devices" means all signs, signals, markings, and devices not inconsistent with this subtitle placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic.

"Omnibus" includes all motor vehicles used for the transportation of passengers for hire, except commuter vans and vehicles used in ridesharing arrangements and school buses if the same are not otherwise used in the transportation of passengers for hire.

"Operator" means a person who is in actual physical control of a vehicle or street car.

"Outside lane" means the lane nearest the curb or outer edge of the roadway.

"Owner" means a person who holds the legal title of a vehicle, or if a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee, lessee or mortgagor shall be deemed the owner for the purpose of this subtitle.

"Parking" means the standing or waiting on a street, road or highway of a vehicle not actually engaged in receiving or discharging passengers or merchandise, unless in obedience to traffic regulations or traffic signs or signals.

"Passenger automobile" means all automobiles used and designed for the transportation of passengers, other than omnibuses and school buses.

"Pedestrian" means a person afoot.

"Person" includes natural persons, firms, copartnerships, associations, and corporations.

"Pneumatic tire" means every tire in which compressed air is designed to support the load.

"Pole trailer" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

"Private road or driveway" means every road or driveway not open to the use of the public for purposes of vehicular travel.

"Railroad train" means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except street cars.

"Residence district" means that portion of a highway and the territory contiguous thereto, not comprising a business district, where within any 600 feet along such highway there are buildings in use for business or residential purposes which occupy 300 feet or more of frontage on at least one side of the highway.

''Ridesharing'' means the transportation of persons in a motor vehicle, with a maximum carrying capacity of not more than 15 passengers, including the driver, where such transportation is incidental to the purpose of the driver. The term shall include such ridesharing arrangements known as carpools and vanpools.

"Right-of-way" means the privilege of the immediate use of the highway.

"Road tractor" means every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

"Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways the term "roadway" as used herein shall refer

to any such roadway separately, but not to all such roadways, collectively.

"Safety zone" means the area or space officially set aside within a highway for the exclusive use of pedestrians, which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set apart as a safety zone.

"School bus" means every motor vehicle operated by, or under contract with, a public or governmental agency, or religious or other charitable organization or corporation, or privately operated for compensation for the transportation of children to or from school for secular or religious education which complies with the regulations of the Department of Education affecting school buses including "School Vehicle Type I" and "School Vehicle Type II" as defined below:

"School Vehicle Type I" means any vehicle with a seating capacity of 17 or more, used to transport enrolled children, and adults only when serving as chaperones, to or from a school, school connected activity, day camp, summer day camp, nursery school, child care center, preschool center or other similar places of education. Such vehicle shall comply with the regulations of the Division of Motor Vehicles and either the Department of Education or the Department of Institutions and Agencies whichever is the appropriate supervising agency.

"School Vehicle Type II" means any vehicle with a seating capacity of 16 or less, used to transport enrolled children, and adults only when serving as chaperones, to or from a school, school connected activity, day camp, summer day camp, nursery school, child care center, preschool center or other similar places of education. Such vehicle shall comply with the regulations of the Division of Motor Vehicles and either the Department of Education or the Department of Institutions and Agencies whichever is the appropriate supervising agency.

"School zone" means that portion of a highway which is either contiguous to territory occupied by a school building or is where school crossings are established in the vicinity of a school, upon which are maintained appropriate "school signs" in accordance with specifications adopted by the director and in accordance with law.

"School crossing" means that portion of a highway where school children are required to cross the highway in the vicinity of a school.

"Semitrailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

"Shoulder" means that portion of the highway, exclusive of and bordering the roadway, designed for emergency use but not ordinarily to be used for vehicular travel.

"Sidewalk" means that portion of a highway intended for the use of pedestrians, between the curb line or the lateral line of a shoulder, or if none, the lateral line of the roadway, and the adjacent right-of-way line.

"Sign." See "Official traffic control devices."

"Slow-moving vehicle" means a vehicle run at a speed less than the maximum speed then and there permissible.

"Solid tire" means every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

"Street" means the same as highway.

"Street car" means a car other than a railroad train for transporting persons or property and operated upon rails principally within a municipality.

"Stop," when required, means complete cessation from movement.

"Stopping or standing," when prohibited, means any cessation of movement of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control sign or signal.

"Through highway" means every highway or portion thereof at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing the same and when stop signs are erected as provided in this chapter.

"Trackless trolley" means every motor vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails.

"Traffic" means pedestrians, ridden or herded animals, vehicles, street cars, and other conveyances either singly, or together, while using any highway for purposes of travel.

"Traffic control signal" means a device whether manually, electrically, mechanically, or otherwise controlled by which traffic is alternately directed to stop and to proceed.

"Trailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

"Truck" means every motor vehicle designed, used, or maintained primarily for the transportation of property.

"Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

"Van-pooling" means 8 or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry 8 to 15 adult passengers.

"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.

8. R. S. 39:3–4.1 is amended to read as follows:

Motor vehicle defined; certification from Board of Public Utilities.

39:3–4.1 As used in this section the term "motor vehicle" is hereby defined as meaning any motor vehicle propelled otherwise than by muscular power (except such vehicles as run only on rails or tracks exclusively) carrying passengers for hire of any kind over the highways in this State, except (1) taxicabs, (2) hotel buses, (3) autobuses with a carrying capacity of not more than six passengers now or hereafter operated under municipal consent upon a route established wholly within the limits of a single municipality, which route does not in whole or in part parallel upon the same street the line of any street railway or traction railway or any other autobus line and (4) vehicles used in ridesharing arrangements.

No motor vehicle as herein defined shall be licensed by the commissioner until the applicant for such license shall first obtain a certificate from the Board of Public Utilities, that such motor vehicle conforms to the rules, regulations and specifications of the Board of Public Utilities, as to construction and safety devices of such motor vehicle; but all motor vehicles as herein defined and

approved by the Board of Public Utilities, prior to June 6, 1936, shall not require the further approval of such board as a condition precedent to the issuance of such license.

9. R. S. 39:3–10.1 is amended to read as follows:

Special licenses.

39:3–10.1. No person shall drive any motor vehicle or trackless trolley with a capacity of more than six passengers used for the transportation of passengers for hire or for the transportation of passengers to or from summer day camps or summer residence camps or any bus as defined by the director used for the intrastate transportation of passengers, except vehicles used in ridesharing arrangements, taxicabs, hotel buses, and omnibuses used for the transportation of passengers in interstate or foreign commerce, or any bus used to transport children to and from school pursuant to N. J. S. 18A:39–1 et seq. or when being used by a private school to transport children to and from school, unless specially licensed so to do by the director. Such license shall not be granted until the applicant therefor is at least 18 years of age and has passed a satisfactory examination in ascertainment of his driving ability and familiarity with the mechanism of said vehicle and has presented evidence, satisfactory to the director of his previous experience (including proof that he has had at least 3 years of driving experience), good character and physical fitness. Said license shall be effective until suspended or revoked by the director; provided, the special licensee is also the holder of a license as provided for in section 39:3–10 of this Title.

Every holder of a special license issued pursuant to this section shall furnish to the director satisfactory evidence of continuing physical fitness, good character and experience once in every 24 months after the issuance of the special license.

The director may suspend or revoke a license granted under authority of this section for a violation of any of the provisions of this subtitle, or on other reasonable grounds, or where, in his opinion, the licensee is either physically or morally unfit to retain the same.

The director may make such rules and regulations as he may deem necessary to carry out the provisions of this section.

10. R. S. 48:2–13 is amended to read as follows:

Powers of board; public utility defined; exemptions from jurisdiction.

48:2–13. The board shall have general supervision and regulation of and jurisdiction and control over all public utilities as hereinafter in this section defined and their property, property rights, equipment, facilities and franchises so far as may be necessary for the purpose of carrying out the provisions of this Title.

The term "public utility" shall include every individual, copartnership, association, corporation or joint stock company, their lessees, trustees or receivers appointed by any court whatsoever, their successors, heirs or assigns, that now or hereafter may own, operate, manage or control within this State any railroad, street railway, traction railway, autobus, charter bus operation, special bus operation, canal, express, subway, pipeline, gas, electric light, heat, power, water, oil, sewer, solid waste collection, solid waste disposal, telephone or telegraph system, plant or equipment for public use, under privileges granted or hereafter to be granted by this State or by any political subdivision thereof.

Nothing contained in this Title shall extend the powers of the board to include any supervision and regulation of, or jurisdiction and control over any vehicles engaged in ridesharing arrangements with a maximum carrying capacity of not more than 15 passengers, including the driver, where the transportation of passengers is incidental to the purpose of the driver or any vehicles engaged in the transportation of passengers for hire in the manner and form commonly called taxicab service unless such service becomes or is held out to be regular service between stated termini; hotel buses used exclusively for the transportation of hotel patrons to or from local railroad or other common carrier stations, including local airports, or bus employed solely for transporting school children and teachers, to and from school, or any autobus with a carrying capacity of not more than 10 passengers now or hereafter operated under municipal consent upon a route established wholly within the limits of a single municipality or with a carrying capacity of not more than 20 passengers operated under municipal consent upon a route established wholly within the limits of not more than four contiguous municipalities within any county of the fifth or sixth class, which route in either case does not in whole or in part parallel upon the same street the line of any street railway or traction railway or any other autobus route.

11. R. S. 48:4–1 is amended to read as follows:

Autobus; ridesharing; exceptions.

48:4–1. The term "autobus" as used in this chapter means and includes, except as hereinafter noted, any motor vehicle or motorbus operated over public highways or public places in this State for the transportation of passengers for hire in intrastate business, notwithstanding such motor vehicle or motorbus may be used in interstate commerce.

The term "ridesharing" as used in this chapter means the transportation of persons in a motor vehicle, with a maximum carrying capacity of not more than 15 passengers, including the driver, where such transportation is incidental to the purpose of the driver. The term shall include such ridesharing arrangements known as carpools and vanpools.

Nothing contained herein shall be construed to include:

a. Vehicles engaged in the transportation of passengers for hire in the manner and form commonly called taxicab service unless such service becomes or is held out to be regular service between stated termini;

b. Hotel buses used exclusively for the transportation of hotel patrons to or from local railroad or other common carrier stations including local airports;

c. Buses operated for the transportation of enrolled children and adults only when serving as chaperones to or from a school, school connected activity, day camp, summer day camp, nursery school, child care center, pre-school center or other similar places of education, including "School Vehicle Type I" and "School Vehicle Type II" as defined in R. S. 39:1–1;

d. Any autobus with a carrying capacity of not more than 13 passengers operated under municipal consent upon a route established wholly within the limits of a single municipality or with a carrying capacity of not more than 20 passengers operated under municipal consent upon a route established wholly within the limits of not more than four contiguous municipalities within any county of the fifth or sixth class, which route in either case does not in whole or in part parallel upon the same street the line of any street railway or traction railway or any other autobus route;

e. Autocabs, limousines or livery services as defined in R. S. 48:16–13, unless such service becomes or is held out to be regular service between stated termini;

f. Any vehicle used in a "ridesharing" arrangement, as defined by the "New Jersey Ridesharing Act of 1981" (P. L. 1981, c. 413).

The word "person" as used in this chapter means and includes any individual, copartnership, association, corporation or joint stock company, their lessees, trustees, or receivers appointed by any court.

The word "street" as used in this chapter means and includes any street, avenue, park, parkway, highway, road or other public place.

The term "charter bus operation" as used in this chapter means and includes the operation of an autobus or autobuses by the person owning or leasing such bus or buses pursuant to a contract, agreement or arrangement to furnish an autobus or autobuses and a driver or drivers thereof to a person, group of persons or organization (corporate or otherwise) for a trip designated by such person, group of persons or organization for a fixed charge per trip, per autobus or per mile.

The term "special bus operation" as used in this chapter means and includes the operation by the owner or lessee of an autobus or autobuses for the purpose of carrying passengers for hire, each passenger paying a fixed charge for his carriage, on a special trip arranged and designated by such owner or lessee, which fixed charge may or may not include meals, lodging, entertainment or other charges.

12. R. S. 48:4–46 is amended to read as follows:

Additional definitions.

48:4–46. (a) As used in this article "motor vehicle carrying passengers for hire" is hereby defined as meaning any motor vehicle propelled otherwise than by muscular power (excepting such vehicles as run only upon rails or tracks exclusively) carrying passengers for hire of any kind over the highways in this State except (1) motor vehicles carrying passengers for hire over the highways in this State by virtue of municipal consent or consents upon a route or routes established in any municipality or municipalities; (2) taxicabs; (3) hotel buses; (4) buses employed solely for transporting school children and teachers to or from school; (5) autobuses with a carrying capacity of not more than 10 passengers now or hereafter operated under municipal consent upon a route established wholly within the limits of a single municipality, which route does not in whole or in part parallel upon the same street the line of any street railway or traction railway or any other autobus route; (6) autobuses operated over highways in this State for the purpose of carrying passengers from a point outside the State to another point outside the State or from a point outside

the State to a point within the State, or from a point within the State to a point outside the State between fixed termini on a regular schedule; (7) any vehicle with a maximum carrying capacity of not more than 15 passengers, including the driver, which is used in the form of service termed "ridesharing," where the transportation of passengers is incidental to the purpose of the driver. The term shall include such ridesharing arrangements known as carpools and vanpools.

(b) "Self-insurer" means any person who by virtue of any law of this State, or in case of a nonresident, of the state of which such person is a resident and in which any motor vehicle coming within the provisions of this article is registered, is exempted by some official, board or body of this State or such other state from requirements imposed upon other owners of similar motor vehicles to carry insurance or secure possible claims for damages by a bond of a surety company.

(c) "Financial responsibility" means ability to satisfy claims to the extent set forth in sections 48:4–47 and 48:4–48 of this Title.

(d) "For hire" means compensation in any form, whether directly or indirectly made.

(e) "Financial coverage" means insurance and also self-insurer.

(f) "Magistrate" shall be deemed and understood to mean and include all judges of county and criminal courts, and other officers having powers of the committing magistrate.

13. This act shall take effect immediately.

Approved January 7, 1982.

CHAPTER 414

AN ACT concerning workers' compensation and amending R. S. 34:15–64.

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

1. R. S. 34:15–64 is amended to read as follows:

Witness and attorney fees.

34:15–64. The commissioner, director and the judges of compensation may make such rules and regulations for the conduct of the hearing not inconsistent with the provisions of this chapter

as may, in the commissioner's judgment, be necessary. The official conducting any hearing under this chapter may allow to the party in whose favor judgment is entered, costs of witness fees and a reasonable attorney fee, not exceeding 20% of the judgment; and a reasonable fee not exceeding $250.00 for any one witness, but not more than $150.00 for a medical witness who does not appear in court but prepares a written report or $750.00 in any one case, for medical witnesses residing in the State when in the official's judgment the services of an attorney and medical witnesses were necessary for the proper presentation of the case. In determining a reasonable fee for medical witnesses, the official shall consider (a) the time, personnel, and other cost factors required to conduct the examination; (b) the extent, adequacy and completeness of the medical evaluation; (c) the objective measurement of bodily function and the avoidance of the use of subjective complaints; and (d) the necessity of a court appearance of the medical witness. When, however, at a reasonable time, prior to any hearing compensation has been offered and the amount then due has been tendered in good faith or paid within 26 weeks from the date of the notification to the employer of an accident or an occupational disease or the employee's final active medical treatment or within 26 weeks after the employee's return to work whichever is later or within 26 weeks after employer's notification of the employee's death, the reasonable allowance for attorney fee shall be based upon only that part of the judgment or award in excess of the amount of compensation, theretofore offered, tendered in good faith or paid. When the amount of the judgment, or when that part of the judgment or award in excess of compensation, offered, tendered in good faith or paid as aforesaid, is less than $200.00, an attorney fee may be allowed not in excess of $50.00.

All counsel fees of claimants' attorneys for services performed in matters before the Division of Workers' Compensation, whether or not allowed as part of a judgment, shall be first approved by the division before payment. Whenever a judgment or award is made in favor of a petitioner, the judges of compensation or referees of formal hearings shall direct amounts to be deducted for the petitioner's expenses and to be paid directly to the persons entitled to the same, the remainder to be paid directly to the petitioner.

2. This act shall take effect immediately and shall apply only to those claims filed after January 1, 1980.

Approved January 9, 1982.

CHAPTER 415

AN ACT concerning the education of certain handicapped children, supplementing chapter 46 of Title 18A of the New Jersey Statutes and amending N. J. S. 18A:46-1, N. J. S. 18A:46-2, N. J. S. 18A:46-6, N. J. S. 18A:46-8 and sections 3 and 20 of the "Public School Education Act of 1975" (P. L. 1975, c. 212).

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

1. N. J. S. 18A:46-6 is amended to read as follows:

Identification of handicapped children.

18A:46-6. Each board of education according to uniform rules prescribed by the commissioner with the approval of the State board, shall provide for the identification of any children between the ages of 5 and 21 residing in the district and enrolled in the public or nonpublic schools of the State who cannot be properly accommodated through the school facilities usually provided because of handicaps.

For the purposes of this act, a child who boards at a school in a district in which his parents do not maintain a residence shall not be considered a resident of the district.

In addition, each board of education shall also identify and ascertain, according to rules promulgated by the commissioner with the approval of the State board, those children between the ages of 3 and 5 years of age who require and who would be benefited by special education programs and services which may prevent their handicaps from becoming more debilitating.

Each board of education shall provide information to parents of handicapped children below the age of 3 regarding available services and programs provided by other State, county or local agencies which may prevent their handicaps from becoming more debilitating.

C. 18A:46-6.1 Provision of programs and services.

2. (New section) The programs and services required pursuant to N. J. S. 18A:46-1 et seq. for handicapped children between the ages of 3 and 5 shall be provided by one or more of the following:

a. Parent training and counseling;

b. Special programs and services in the district including programs in hospitals, homes or other institutions;

c. Special programs and services offered by other districts as provided by agreement between one or more districts;

d. A Jointure Commission;

e. A county special services school district; and

f. Such other methods as shall be approved by the commissioner with the approval of the State board.

C. 18A:46-6.2 Programs for children below age 3.

3. (New section) The Department of Education in conjunction with the Departments of Health and Human Services shall provide, within the limits of funds appropriated to the Department of Education for these purposes, suitable programs for children below the age of 3 to prepare such children for the programs to be provided after age 3 pursuant to N. J. S. 18A:46-13. Such services shall be provided according to rules promulgated by the commissioner after consultation with the Departments of Health and Human Services and with the approval of the State Board.

4. Section 3 of P. L. 1975, c. 212 (C. 18A:7A-3) is amended to read as follows:

C. 18A:7A-3 Definitions.

3. For the purposes of this act, unless the context clearly requires a different meaning:

"Administrative order" means a written directive ordering specific corrective action by a district which has shown insufficient educational progress within a reasonable period of time in meeting goals and standards.

"Approved special class pupil" means a pupil enrolled in any class for atypical pupils pursuant to chapter 46 of Title 18A of the New Jersey Statutes.

"Approved special education services pupil" means a pupil receiving specific services pursuant to chapter 46 of Title 18A of the New Jersey Statutes but excluding pupils attending county special services school districts.

"Bilingual education pupil" means a pupil enrolled in a program of bilingual education approved by the State board.

"Budgeted capital outlay" means those capital outlay expenditures that are included in the annual school budget.

"Categorical programs" means those programs and services recognized in this act as requiring per pupil expenditures over and

above those applicable to regular programs, as provided in section 20 of this act.

"Current expense" means all expenses of the school district, as enumerated in N. J. S. 18A:22–8, other than those required for interest and debt redemption charges and any budgeted capital project.

"Debt service" means and includes payments of principal and interest upon school bonds and other obligations issued to finance the acquisition of school sites and the acquisition, construction or reconstruction of school buildings, including furnishings, equipment and the costs of issuance of such obligations and shall include payments of principal and interest upon bonds heretofore issued to fund or refund such obligations, and upon municipal bonds and other obligations which the commissioner approves as having been issued for such purposes. Debt service pursuant to the provisions of P. L. 1971, c. 10 (C. 18A:58–33.6 et seq.) and P. L. 1968, c. 177 (C. 18A:58–33.2 et seq.) is excluded.

"District equalized valuation per pupil" means the quotient resulting from dividing the total equalized valuations in the school district by the resident enrollment of the district; provided that in the determination of the equalized valuation per pupil of a county vocational school the total equalized valuations in the county shall be divided by the total resident enrollment in all school districts of the county to obtain the county vocational school equalized valuation per pupil.

"Equalized valuations" means the equalized valuation of the taxing district or taxing districts as certified by the Director of the Division of Taxation on October 1 of the prebudget year.

With respect to regional districts and their constituent districts, however, the equalized valuations as described above shall be allocated among the regional and constituent districts in proportion to the number of pupils in each of them.

"Evening school pupils" means the equated full-time resident enrollment of pupils enrolled in an accredited evening high school, an evening vocational high school, and in other evening schools except schools offering programs for self-improvement and social enrichment.

"Goals" means a written statement of educational aspirations for learner achievement and the educational process stated in general terms.

"Guaranteed valuation per pupil" means the product, rounded to the nearest dollar, of 1.344 times the State average valuation per pupil for the year in which the calculation of aid is made.

"Joint Committee on the Public Schools" means the committee created pursuant to P. L. 1975, c. 16 (C. 52:9R–1 et seq.).

"Local vocational pupils" means the full-time equivalent of pupils enrolled in approved categorical vocational programs in school districts designated as local area vocational school districts.

"Minimum aid guaranteed valuation per pupil" means the product, rounded to the nearest whole dollar, of 11.5 times the State average equalized valuation per pupil for the year in which the calculation of aid is made.

"Needs assessment" means a written analysis of the current status of an educational system in terms of achieving its goals.

"Net current expense budget" means the balance after deducting (1) State support for categorical programs pursuant to section 20 of this act, (2) the difference between the transportation amount in the current expense budget and 10% of the estimated approved transportation amount, and (3) all other revenue in the current expense budget except the amount to be raised by local taxation, equalization State support, the State support for approved transportation.

"Net current expenses per pupil" means the quotient resulting from dividing the net current expense budget by the resident enrollment.

"Net debt service and budgeted capital outlay" means the balance after deducting all revenues from the school debt service and budgeted capital outlay budgets of the school district and the school debt service amount included in the municipal budget, except the amount to be raised by local taxation and State support.

"Objective" means a written statement of the intended outcome of a specific educational process.

"Prebudget year" means the school year preceding the year in which the school budget will be implemented.

"Resident enrollment" means the number of pupils who are residents of the district and are enrolled in day or approved evening schools on the last school day of September of the prebudget year and are attending: (1) the public schools of the district; (2) another school district or a State college demonstration school to which the

district of residence pays tuition; or (3) a State facility; provided that a district shall count pupils regularly attending both the schools of the district and of a county vocational school in the same county on an equated full-time basis.

Handicapped children between 3 and 5 years of age and receiving programs and services pursuant to N. J. S. 18A:46-6 shall be included in the resident enrollment of the district on an equated full-time basis.

"Standards" means the process and stated levels of proficiency used in determining the extent to which goals and objectives are being met.

"State average net current expense budget per pupil" means the quotient resulting from dividing the total net current expense budget of all districts in the State by the total resident enrollment in the State.

"State average valuation per pupil" means the quotient resulting from dividing the total equalized valuations in the State as certified by the Director of the Division of Taxation on October 1 by the total resident enrollment in the State. In the event that the equalized table certified by the Director of the Division of Taxation shall be revised by the tax court on or before January 30 of the next succeeding year, such revised valuation shall be used in any recomputation of aid for an individual district filing such appeal but will have no effect upon the State average valuation per pupil.

"State compensatory education pupil" means a pupil who is enrolled in preventive and remedial programs offered during the normal school day, or in programs offered beyond the normal school day or during summer vacation, which are integrated and coordinated with programs operated during the regular school day and year. Said programs shall be approved by the State board, supplemental to the regular programs and designed to assist pupils who have academic, social, economic or environmental needs that prevent them from succeeding in regular school programs.

"State facility" means a State residential facility for the retarded; a day training center which is operated by or under contract with the State and in which all the children have been placed by the State; a State residential youth center; a State training school or correctional facility; a State child treatment center or psychiatric hospital.

"State support limit" means the sixty-fifth percentile net current expense budget per pupil for the prebudget year when all district

figures are ranked from low to high. The State support limit shall be calculated and applied separately for (a) limited purpose regional districts offering grades 9 through 12, (b) limited purpose regional districts offering grades 7 through 12, provided, however, that the figure used for such districts shall be not less than 90% of the sixty-fifth percentile for limited purpose regional districts offering grades 9 through 12, (c) constituent districts of limited purpose regional districts offering grades 9 through 12, (d) constituent districts of limited purpose regional districts offering grades 7 through 12, provided, however, that the figure used for such districts shall be not less than 90% of the sixty-fifth percentile for constituent districts of limited purpose regional districts offering grades 9 through 12, and (e) all other districts.

5. Section 20 of P. L. 1975, c. 212 (C. 18A:7A–20) is amended to read as follows:

C. 18A:7A-20 Categorical program support.

20. In addition to the equalization support authorized in section 18 of this act, categorical program support shall be paid in accordance with the following calculations:

a. The number of categorical aid units shall be determined by adding the products obtained by multiplying the pupils in each category by the appropriate additional cost factors. Unless the schedule of additional cost factors is or has been revised pursuant to section 21 of this act, the additional cost factors shall be the following:

CATEGORICAL PROGRAMS

Special Education Classes	Additional Cost Factors
Educable	0.53
Trainable	0.95
Orthopedically handicapped	1.27
Neurologically impaired	1.06
Perceptually impaired	0.85
Visually handicapped	1.91
Auditorily handicapped	1.38
Communication handicapped	1.06
Emotionally disturbed	1.27
Socially maladjusted	0.95
Chronically ill	0.85
Multiply handicapped	1.27

Other Classes and Services	Additional Cost Factors
Approved private school tuition	1.0 plus the additional cost factor of the handicap

Special Education Classes	Additional Cost Factors
Supplementary and speech instruction .	0.09 based on the number of pupils actually receiving such instruction in the prior school year
Resource room	0.65
Bilingual education	0.16
State compensatory education	0.11
Approved local vocational education ...	0.53

Classes in State Facilities	Additional Cost Factors
Residential facility for the retarded ...	1.26
Day training center	2.07
Residential youth center	1.06
Training school or correctional facility	0.27
Child treatment center or psychiatric hospital	0.16

b. The number of categorical aid units for home instruction shall be determined by multiplying the number of hours of instruction actually provided in the prior school year by 0.006.

c. For the purposes of this section, aid shall be paid to districts in which the pupils reside except in the case of home, supplementary or speech instruction where aid shall be paid to the district providing the service. No tuition may be charged for such home, supplementary or speech instruction for costs covered by State support as provided in this section.

d. Categorical program support shall equal the number of units of additional cost multiplied by the State average net current expense budget per pupil for the prebudget year.

e. Each child in a State facility shall be eligible only for that categorical aid provided by the additional cost factor for that facility.

f. The commissioner with the approval of the State board shall determine an additional cost factor for handicapped children between 3 and 5 years of age for the first year in which aid will be distributed for such programs and services. In all subsequent years,

these additional cost factors shall be determined pursuant to section 21 of the "Public School Education Act of 1975" (P. L. 1975, c. 212; C. 18A:7A–1 et seq.).

6. N. J. S. 18A:46–1 is amended to read as follows:

Definition of handicapped child.

18A:46–1. As used in this chapter a handicapped child shall mean and include any child who is mentally retarded, visually handicapped, auditorily handicapped, communication handicapped, neurologically or perceptually impaired, orthopedically handicapped, chronically ill, emotionally disturbed, socially maladjusted, multiply handicapped, or pre-school handicapped.

7. N. J. S. 18A:46–2 is amended to read as follows:

Responsibilities of commissioner.

18A:46–2. The commissioner shall be responsible for the coordination of the work of the county departments of child study and the general administration of special educational services in the public schools of this State.

In order to carry out the provisions of this chapter, he shall appoint to his staff persons qualified to administer educational services in the general field of education for handicapped children including each of the following disability groups: (1) mentally retarded, (2) orthopedically handicapped, (3) communication handicapped, (4) visually handicapped, (5) neurologically or perceptually impaired, (6) chronically ill, (7) emotionally disturbed, (8) socially maladjusted, (9) the auditorily handicapped, and (10) the pre-school handicapped, and a consultant experienced in child psychiatry, and specialists in school psychology, health service, school social work, learning disabilities and special education and such other qualified personnel as he shall deem necessary and he shall fix their compensation with the approval of the State board.

The commissioner shall appoint biannually an advisory council with the approval of the State board which will consist of not less than seven nor more than 15 members representative of public and private professional and lay interests. The advisory council shall advise in the promulgation of rules, regulations and the implementation of this chapter and the establishment of standards and qualifications for the professional personnel. The council shall serve without remuneration.

8. N. J. S. 18A:46–8 is amended to read as follows:

Examination and classification of children.

18A:46–8. Each board of education shall provide for the examination and classification of each child residing in the district and identified pursuant to N. J. S. 18A:46–6. Such examination and classification shall be accomplished according to procedures, prescribed by the commissioner and approved by the State board, under one of the following categories: mentally retarded, visually handicapped, auditorily handicapped, communication handicapped, neurologically or perceptually impaired, orthopedically handicapped, chronically ill, emotionally disturbed, socially maladjusted, multiply handicapped or pre-school handicapped. The examination and classification of such nonpublic school children shall be in a location determined by the local board of education and approved by the commissioner pursuant to rules and regulations promulgated by the State board.

The classification of communication handicapped shall be made by the basic child study team and an approved speech correctionist or speech pathologist without child study consultation. Such children shall be reported to the basic child study team.

The proposed classification shall be reported to the parent or guardian of the child and an opportunity provided, prior to implementation of the classification, for consultation by such parent or guardian with the appropriate special educational services personnel of the district. Pursuant to rules of the State board, the parent or guardian shall also be provided an opportunity for further review of the classification in the Department of Education.

9. (New section) For the purpose of calculating State aid for the 1982-83 school year the resident enrollment of each district shall be adjusted by an amount equal to the number of pre-school handicapped pupils 3 through 5 years of age enrolled as of the last school day of September, 1981, or the estimated number of such pupils to be served in the 1982-83 school year, whichever is greater. The net current expense budget of each district for the 1981-82 school year shall be increased for each such pupil by an amount equal to the State average net current expense budget per pupil. Such increases shall not be subject to the limit contained in section 25 of P. L. 1975, c. 212 (C. 18A:7A–25).

The approved district transportation budget for 1981-82 shall be adjusted by an amount equal to the number of pre-school handi-

capped pupils 3 through 5 years of age, multiplied by an estimated State average per pupil transportation cost for handicapped pupils.

10. This act shall take effect with the commencement of the second school year following enactment except that section 9 shall take effect immediately.

Approved January 9, 1982.

CHAPTER 416

AN ACT concerning alcoholic beverage control.

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

C. 33:1-19.3 Public sales of alcoholic beverage licenses.

1. Whenever a municipality is authorized to issue one or more plenary retail consumption, seasonal retail consumption or plenary retail distribution licenses and the governing body determines to permit the issuance thereof, the governing body by resolution may authorize that such license or licenses be issued to the highest qualified bidder therefor and shall conduct a public sale for such purpose or direct that such a sale be conducted by the municipal board of alcoholic beverage control or municipal excise commission in a municipality where such board or commission exists. The governing body by resolution may also prescribe qualifications for prospective bidders including the requirement that a licensee, as a condition of the award of the license, shall operate a restaurant, public accommodation or other facility; provided, however, that no municipal license requirement is contrary or inconsistent with law, rule or regulation. The governing body may, by resolution, fix a minimum bid and conditions of sale with the reservation of the right to reject all bids where the highest bid is not accepted.

C. 33:1-19.4 Newspaper publication.

2. If a governing body determines to conduct a sale pursuant to this act notice thereof and an invitation to bid shall be published in a newspaper circulating generally in the municipality by not less than two insertions, to be published not less than 1 week apart, and none to be published less than 30 days prior to the date of the sale. The notice shall also specify that any prospective bidder shall apply and qualify for a license prior to the

sale, that proof of qualification for a license shall be included with the bid, and that all bids shall be sealed. The notice shall also specify, as determined by governing body resolution, the minimum acceptable bid, any special requirements for prospective licensees, general conditions of sale including the statement that the municipality reserves the right to reject all bids where the highest bid is not accepted. The notice shall specify the time and place at which bids shall be received and opened and that all prospective bidders shall qualify no later than 5 business days prior to the opening of bids. The agent for the municipal governing body, municipal board of alcoholic beverage control, or municipal excise commission, as the case may be, shall 5 days prior to opening bids, publicly announce those applicants who meet the qualifications for bidding as fixed by law, rules and regulations, and resolution. No bid shall be opened from or on behalf of any prospective bidder who does not qualify. No bid shall be considered which does not contain proof of qualification.

C. 33:1-19.5 Issuance to highest qualified bidder.

3. Upon the conclusion of a sale the issuing authority shall issue a license to the highest qualified bidder therefor upon payment of his bid and the license fee, or shall reject all bids if the highest bid is not accepted. A sale may be postponed or canceled at any time prior to the opening of the bids. Funds derived from the conduct of a sale shall be remitted to the municipal treasurer for the general use of the municipality.

C. 33:1-19.6 Limited right of appeal.

4. Nothing in this act shall limit or restrict any issuing authority in the reasonable exercise of any of its powers over the issuance of alcoholic beverage licenses and no appeal shall lie from any action of the issuing authority under the provisions of this act except where the ground for such appeal is that the appellant had qualified as a bidder and submitted a higher bid than the successful applicant.

5. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 417

AN ACT concerning income execution, supplementing chapter 17 of Title 2A of the New Jersey Statutes, amending and supplementing the "Wage Reporting Act" (P. L. 1980, c. 48) and repealing P. L. 1977, c. 292.

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

C. 2A:17-56.7 Short title.

1. (New section) This act shall be known and may be cited as the "New Jersey Support Enforcement Act."

C. 2A:17-56.8 Notice to payer.

2. (New section) Every order of a court for alimony, maintenance or child support payments shall include a written notice to the payer stating that the order may be enforced by an income execution upon the commissions, earnings, salaries, wages and other current or future income due from the payer's employer or successor employers.

C. 2A:17-56.9 Income execution.

3. (New section) The payee or the county agency administering Title IV-D of the Federal Social Security Act on behalf of the payee, may apply to the county probation office of the county in which the payer resides for an income execution after the payer has failed to make a required alimony, maintenance or child support payment within 25 days of its due date. Subject to the provisions of section 4 of this act, the income execution shall take effect as and when provided by the county probation office.

C. 2A:17-56.10 Notice of application; court hearing; execution; continuation.

4. (New section) a. The county probation office shall notify the payer of the application for income execution by certified or registered mail with return receipt requested to the last known address. The notice shall be postmarked no later than 10 days after the date on which the application was filed, and shall inform the payer that the execution shall take effect 20 days after the postmark date of the notice unless the payer requests a court hearing. The payer may, before the effective date of the execution request a court hearing on the issue of whether the income excution should take effect and the amount and schedule of arrearages. The court hear-

ing requested under this section shall be held within 30 days after the date of the request. At the hearing the burden shall be on the payer to demonstrate good cause why the income execution, including the amount or schedule of arrearages, should not take effect. Payment of arrearages after the due date shall not be good cause.

b. The county probation department shall prepare the execution which shall include the amount of the monthly payments set forth in the order and where appropriate a schedule of payments towards the arrearages due at the time the execution takes effect in accordance with the provisions of this act. If the court modifies any alimony, maintenance or child support order based upon changed circumstances, the income execution amount shall also be changed accordingly. This income execution shall have priority over any other executions.

c. An execution made under section 3 shall continue in full force and effect until such time as a court order to the contrary is entered upon a showing of good cause.

C. 2A:17-56.11 Binding upon employer.

5. (New section) An execution made under section 3 of this act shall be binding upon the employer and successor employers 1 week after service upon the employer by the county probation office of a true copy of the execution and annexed to a copy of the order by personal service or by registered or certified mail with return receipt requested until further order of the court. For each payment, the employer may receive $1.00 which shall be deducted from the employee's salary in addition to the amount of the support order.

C. 2A:17-56.12 No discharge or discipline.

6. (New section) The employer may not use an execution as a basis for the discharge of any employee or for any disciplinary action against the employee. An employer who discharges or disciplines an employee in violation of this act or who discriminates in hiring because of an income execution or a potential execution is a disorderly person.

C. 2A:17-56.13 Payments through probation office.

7. (New section) In every award for alimony, maintenance or child support payments the judgment or order shall provide that payments be made through the probation office of the county in which the payer resides, unless the court, for good cause shown, otherwise orders. Upon the signing of an order or judgment allowing alimony or support or both through the county probation

office the court shall send to the county probation office a statement with the addresses, telephone numbers, social security numbers of both parties and the name and address of the payer's place of employment. Each judgment or order for alimony, maintenance or child support shall include an order that the payer and payee notify the appropriate county probation office of any change of employer or change of address within 10 days of the change. Failure to provide this information shall be considered a violation of this order. When a county probation office is unable to locate the payer's current employer in order to effectuate an income execution under this act, the office is authorized to utilize the procedure established in the "Wage Reporting Act," P. L. 1980, c. 48 (C. 54:1–55 et seq.).

C. 2A:17-56.14 Persons already entitled to payments.

8. (New section) Subject to the provisions of section 4 of this act, a person already entitled to payments under any alimony, maintenance or child support order issued prior to the effective date of this act or the county agency administering Title IV-D of the Federal Social Security Act on behalf of such payee may apply to the appropriate county probation office for an income execution order in accordance with the provisions of this act. A payee who does not receive payments made through the county probation office shall file an affidavit when applying for the execution stating that the payment was not made within 25 days of its due date. Alimony, maintenance or child support payments not presently made through the county probation office shall be so made upon application of the payee unless the payer upon application to the court shows good cause to the contrary.

The court and the county probation office shall follow the procedures established in this act.

C. 54:1-58.1 List of unlocated.

9. (New section) The Administrative Director of the Courts whenever possible shall, every calendar quarter, provide the Director of the Division of Taxation with a list, in a form and manner prescribed by the Director of the Division of Taxation, which shall contain the name and social security number of a person subject to an income execution and who cannot be located by the appropriate county probation office of the payer to effectuate the execution.

10. Section 6 of P. L. 1980, c. 48 (C. 54:1–60) is amended to read as follows:

C. 54:1-60 Division of Taxation to provide information.

6. Upon making such comparison, the Director of the Division of Taxation shall provide to the Directors of the Divisions of Public Welfare, Unemployment and Disability Insurance and the Administrative Director of the Courts the name, amount of wages, social security number and employer's name and address, of each person whose social security number appears on any list provided by either division or office and on the list of persons to whom wages were paid. The respective divisions shall investigate and, if appropriate, take action against said person. The Administrative Office of the Courts shall use the information provided by the Director of the Division of Taxation to effectuate an income execution through the appropriate county probation office.

11. Section 9 of P. L. 1980, c. 48 (C. 54:1–63) is amended to read as follows:

C. 54:1-63 Limited disclosure.

9. Notwithstanding the provisions of R. S. 54:50–8 and R. S. 54:50–9, the Division of Taxation or its employees may make only those disclosures to officers or employees of the Division of Public Welfare in the Department of Human Services, county welfare boards, the Division of Unemployment and Disability Insurance in the Department of Labor and the Administrative Office of the Courts required to implement the provisions of this act; provided, however, that no disclosure may be made to any receiving agency herein with respect to Federal tax information obtained directly from the Internal Revenue Service pursuant to agreement except with the consent of the Internal Revenue Service.

C. 2A:17-56.15 Docketing in any other court.

12. (New section) An income execution order against a payer pursuant to this act may be docketed in any other court and from the time of its docketing, the execution order shall have the same force and operation as an order of the court in which it is docketed.

Repealer.

13. P. L. 1977, c. 292 (C. 2A:17–56.1 et seq.) is repealed.

14. This act shall take effect 120 days after enactment.

Approved January 9, 1982.

CHAPTER 418

AN ACT concerning appointments by boards of education and supplementing Title 18A of the New Jersey Statutes.

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

C. 18A:12-1.1 Ineligibility of board members.

1. No member of a board of education shall, during the term for which he is elected or appointed, be eligible for appointment to any paid office or position required to be filled by the board unless he shall resign or cease to be a member at least 6 months prior to his appointment, except in cases where the office or position is by law required or permitted to be filled by a member of the board.

2. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 419

AN ACT concerning juveniles, jurisdiction and proceedings in the juvenile and domestic relations court and amending P. L. 1973, c. 306.

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

1. Section 3 of P. L. 1973, c. 306 (C. 2A:4-44) is amended to read as follows:

C. 2A:4-44 Definition of delinquency.

3. Definition of delinquency. As used in this act, "delinquency" means the commission of an act by a juvenile which if committed by an adult would constitute:

a. A homicide or act of treason;

b. A crime;

c. A disorderly persons offense or petty disorderly persons offense; or

d. A violation of any other penal statute, ordinance or regulation; provided, however, the following shall not constitute juvenile delinquency as defined herein: (1) an act which constitutes a violation of chapter 3, 4, 6 or 8 of Title 39, Motor Vehicles, of the Revised Statutes or of any amendment or supplement thereto, by a juvenile of or over the age of 17 years; (2) an act relating to the ownership or operation of a motorized bicycle which constitutes a violation of chapter 3 or 4 of Title 39, Motor Vehicles, of the Revised Statutes or of any amendment or supplement thereto, by a juvenile of any age; or (3) an act which constitutes a violation of article 3 or 6 of chapter 4 of Title 39, Motor Vehicles, of the Revised Statutes or of any amendment or supplement thereto, pertaining to pedestrians and bicycles, by a juvenile of any age.

2. This act shall take effect on January 1 next following enactment.

Approved January 9, 1982.

CHAPTER 420

AN ACT concerning certain savings and loan reserves, amending P. L. 1974, c. 137.

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

1. Section 30 of P. L. 1974, c. 137 (C. 17:12B–259) is amended to read as follows:

C. 17:12B-259 Dividends on capital stock.

30. Dividends on capital stock. The directors of a capital stock association, after payment of interest to depositors may declare dividends on capital stock from net income, earned surplus or undivided profits in accordance with the provisions of this act and the bylaws of such association, provided that before and following the declaration of any such dividend, a capital stock association shall have reserves required by this act, including reserves and net worth which are in compliance with the regulations of the Federal Savings and Loan Insurance Corporation.

2. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 421

AN ACT temporarily prohibiting the implementation of a revaluation of real property in certain municipalities.

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

1. Notwithstanding any provisions of law or any judicial order to the contrary, no revaluation of real property shall be implemented in any municipality which has adopted the Mayor-Council Plan D form of government, as provided in the "Optional Municipal Charter Law," P. L. 1950, c. 210 (C. 40:69A–1 et seq.), and which has a population of more than 45,000, but less than 130,000, according to the most recent decennial federal census, for the tax years 1982 to 1983, inclusive.

2. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 422

AN ACT providing for the continuation of group health insurance benefits for certain disabled persons, and supplementing Title 17B of the New Jersey Statutes.

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

C. 17B:27-51.11 Definitions.

1. As used in this act:

a. "Group policy" means a group health insurance policy issued by an insurer pursuant to Title 17B of the New Jersey Statutes.

b. "Insurer" means the entity issuing a group policy or an individual policy or converted policy.

c. "Insurance", "Insures" and "Insured" refer to coverage under a group policy on a premium-paying basis.

d. "Premium" includes any premium or other consideration payable for coverage under a group or individual policy.

e. "Medicare" means Title XVIII of the United States Social Security Act as amended or superseded.

f. "Total disability of the employee or member" exists only while the employee or member (1) is not engaged in any gainful occupation, and (2) is completely unable, due to sickness or injury or both, to engage in any and every gainful occupation for which the person is reasonably fitted by education, training or experience.

C. 17B:27-51.12 Disabled entitled to continuation of insurance; conditions; termination.

2. A group policy delivered or issued for delivery in this State which insures employees or members and their dependents for hospital, surgical or major medical insurance on an expense incurred or service basis, other than for specific diseases or for accidental injuries only, shall provide that employees or members whose insurance under the group policy would otherwise terminate because of termination of employment or membership due to total disability of the employee or member shall be entitled to continue their hospital, surgical and major medical insurance under that group policy, for themselves and their eligible dependents, subject to all of the group policy's terms and conditions applicable to those forms of insurance and subject to the following conditions:

a. Continuation shall only be available to any employee or member who has been continuously insured under the group policy during the entire 3-month period ending with such termination.

b. Continuation shall be available for any person who is covered by or eligible for Medicare, subject to any nonduplication of benefits provisions in the group policy.

c. In addition to hospital, surgical, or major medical benefits, continuation shall include all other health care expense benefits provided under the group policy, including dental, vision care, or prescription drug benefits.

d. An employee or member electing continuation shall pay to the group policyholder or his employer, on a monthly basis in advance, the amount of contribution required by the policyholder or employer, but not more than the group rate for the insurance being continued under the group policy on the due date of each payment. The employee's or member's written election for continuation, together with the first contribution required to establish contributions on a monthly basis in advance, shall be given to the policyholder or employer within 31 days of the date the employee's or member's insurance would otherwise terminate.

e. Continuation of insurance under the group policy for any person shall terminate at the first to occur of the following:

(1) Failure of the former employee or member to make timely payment of a required contribution. Termination shall occur at the end of the period for which contributions were made.

(2) The date the employee again becomes employed and eligible for benefits under another group plan providing health care expense benefits, or in the case of a qualified dependent, the date such qualified dependent becomes employed and eligible for such benefits.

(3) The date on which the group policy is terminated or, in the case of an employee, the date his employer terminates participation under the group policy, provided that

(a) The employee or member shall have the right to become covered under any new group policy contracted for by the employer, for the balance of the period that he would have remained covered under the prior group policy in accordance with this act had a termination of a group not occurred;

(b) The minimum level of benefits to be provided by the other group policy shall be the applicable level of benefits of the prior group policy reduced by any benefits payable under that prior group policy; and

(c) The prior group policy shall continue to provide benefits to the extent of its accrued liabilities and extensions of benefits as if the replacement had not occurred.

f. A notification of the continuation privilege shall be included in each certificate of coverage.

C. 17B:27-51.13 Limitation.

3. The provisions of this act shall not apply to any policy in which the insurer does not have the right to terminate the policy without the consent of the insured.

4. This act shall take effect 90 days after enactment.

Approved January 9, 1982.

CHAPTER 423

AN ACT concerning interest on certain savings certificates, amending N. J. S. 54A:5–1 and supplementing Chapter 6 of Title 54A of the New Jersey Statutes.

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

1. N. J. S. 54A:5–1 is amended to read as follows:

New Jersey gross income defined.

54A:5–1. New Jersey Gross Income Defined. New Jersey gross income shall consist of the following categories of income:

a. Salaries, wages, tips, fees, commissions, bonuses, and other remuneration received for services rendered whether in cash or in property.

b. Net profits from business. The net income from the operation of a business, profession, or other activity, after provision for all costs and expenses incurred in the conduct thereof, determined either on a cash or accrual basis in accordance with the method of accounting allowed for federal income tax purposes but without deduction of taxes based on income.

c. Net gains or income from disposition of property. Net gains or net income, less net losses, derived from the sale, exchange or other disposition of property, including real or personal, whether tangible or intangible as determined in accordance with the method of accounting allowed for federal income tax purposes. For the purpose of determining gain or loss, the basis of property shall be the adjusted basis used for federal income tax purposes.

For the tax year 1976, any taxpayer with a tax liability under this subsection, or under the "Tax on Capital Gains and Other Unearned Income Act" (P. L. 1975, c. 172), shall not be subject to payment of an amount greater than the amount he would have paid if either return had covered all capital transactions during the full tax year 1976; provided, however, that the rate which shall apply to any capital gain shall be that in effect on the date of the transaction. To the extent that any loss is used to offset any gain under P. L. 1975, c. 172, it shall not be used to offset any gain under the "New Jersey Gross Income Tax Act" (P. L. 1976, c. 47).

The term "net gains or income" shall not include gains or income derived from obligations which are referred to in clause (1) or (2) of section 54A:6–14 of this act. The term "net gains or net income" shall not include gains or income from transactions to the extent to which nonrecognition is allowed for federal income tax purposes. The term "sale, exchange or other disposition" shall not include the exchange of stock or securities in a corporation a party to a reorganization in pursuance of a plan of reorganization, solely for stock or securities in such corporation or in another corporation a party to the reorganization and the transfer of property to a corporation by one or more persons solely in exchange for stock or securities in such corporation if immediately after the exchange such person or persons are in control of the corporation. For purposes of this clause, stock or securities issued for services shall not be considered as issued in return for property.

For purposes of this clause, the term "reorganization" means—

(i) A statutory merger or consolidation;

(ii) The acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation) of stock of another corporation if, immediately after the acquisition, the acquiring corporation has control of such other corporation (whether or not such acquiring corporation had control immediately before the acquisition);

(iii) The acquisition by one corporation, in exchange solely for all or part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of substantially all of the properties of another corporation, but in determining whether the exchange is solely for stock the assumption by the acquiring corporation of a liability of the other, or the fact that property acquired is subject to a liability, shall be disregarded;

(iv) A transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor, or one or more of its shareholders (including persons who were shareholders immediately before the transfer), or any combination thereof, is in control of the corporation to which the assets are transferred;

(v) A recapitalization;

(vi) A mere change in identity, form, or place of organization however effected; or

(vii) The acquisition by one corporation, in exchange for stock of a corporation (referred to in this subclause as "controlling corporation") which is in control of the acquiring corporation, of substantially all of the properties of another corporation which in the transaction is merged into the acquiring corporation shall not disqualify a transaction under subclause (i) if such transaction would have qualified under subclause (i) if the merger had been into the controlling corporation, and no stock of the acquiring corporation is used in the transaction;

(viii) A transaction otherwise qualifying under subclause (i) shall not be disqualified by reason of the fact that stock of a corporation (referred to in this subclause as the "controlling corporation") which before the merger was in control of the merged corporation is used in the transaction, if after the transaction, the corporation surviving the merger holds substantially all of its properties and of the properties of the merged corporation (other than stock of the controlling corporation distributed in the transaction); and in the transaction, former shareholders of the surviving corporation exchanged, for an amount of voting stock of the controlling corporation, an amount of stock in the surviving corporation which constitutes control of such corporation.

For purposes of this clause, the term "control" means the ownership of stock possessing at least 80% of the total combined voting power of all classes of stock entitled to vote and at least 80% of the total number of shares of all other classes of stock of the corporation.

For purposes of this clause, the term "a party to a reorganization" includes a corporation resulting from a reorganization, and both corporations, in the case of a reorganization resulting from the acquisition by one corporation of stock or properties of another. In the case of a reorganization qualifying under subclause (i) by reason of subclause (vii) the term "a party to a reorganization" includes the controlling corporation referred to in such subclause (vii).

Notwithstanding any provisions hereof, upon every such exchange or conversion, the taxpayer's basis for the stock or securities received shall be the same as the taxpayer's actual or attributed basis for the stock, securities or property surrendered in exchange therefor.

d. Net gains or net income derived from or in the form of rents, royalties, patents, and copyrights.

e. Interest, except interest referred to in clause (1) or (2) of N. J. S. 54A:6–14, or interest on savings certificates issued pursuant to the provisions of Chapter 6 of this act.

f. Dividends. "Dividends" means any distribution in cash or property made by a corporation, association or business trust, (1) out of accumulated earnings and profits, or (2) out of earnings and profits of the year in which such dividend is paid.

g. Gambling winnings.

h. Net gains or income derived through estates or trusts.

i. Income in respect of a decedent.

j. Pensions and annuities except to the extent of exclusions in section 54A:6–10 hereunder, notwithstanding the provisions of N. J. S. 18A:66–51, P. L. 1973, c. 140, s. 41 (C. 43:6A–41), P. L. 1954, c. 84, s. 53 (C. 43:15A–53), P. L. 1944, c. 255, s. 17 (C. 43:16A–17), P. L. 1965, c. 89, s. 45 (C. 53:5A–45), R. S. 43:10–14, P. L. 1943, c. 160, s. 22 (C. 43:10–18.22), P. L. 1948, c. 310, s. 22 (C. 43:10–18.71), P. L. 1954, c. 218, s. 32 (C. 43:13–22.34), P. L. 1964, c. 275, s. 11 (C. 43:13–22.60), R. S. 43:10–57, P. L. 1938, c. 330, s. 13 (C. 43:10–105), R. S. 43:13–44, and P. L. 1943, c. 189, s. 5 (C. 43:13–37.5).

k. Distributive share of partnership income.

l. Amounts received as prizes and awards, except as provided in sections 54A:6–8 and 54A:6–11 hereunder.

m. Rental value of a residence furnished by an employer or a rental allowance paid by an employer to provide a home.

n. Alimony and separate maintenance payments to the extent that such payments are required to be made under a decree of divorce or separate maintenance but not including payments for support of minor children.

C. 54A:6-16 Definitions.

2. (New section) a. "Depository institution tax-exempt savings certificate" means any certificate

(1) which is issued by a qualified institution after September 30, 1981, and before January 1, 1983,

(2) which has a maturity of 1 year,

(3) which has an investment yield equal to 70% of the average investment yield for the most recent auction, before the week in which the certificate is issued, of United States Treasury bills with maturities of 52 weeks, and

(4) which is made available in denominations of $500.

b. "Qualified institution" means

New Jersey State Library

(1) a bank or trust company incorporated and doing business under the laws of the United States, including laws relating to the District of Columbia, of any state, or of any territory, a substantial part of the business of which consists of receiving deposits and making loans and discounts, or of exercising fiduciary powers similar to those permitted to national banks under authority of the Comptroller of the Currency, and which is subject by law to supervision and examination by state, territorial, or federal authority having supervision over banking institutions;

(2) a mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution chartered and supervised as a savings and loan or similar institution under federal or state law;

(3) a credit union, the deposits or accounts of which are insured under federal or state law or are protected or guaranteed under state law; or

(4) an industrial loan association or bank chartered and supervised under federal or state law in a manner similar to a savings and loan institution.

c. "Qualified net savings" means the excess of

(1) the amounts paid into passbook savings accounts, 6-month money market certificates, 30-month small saver certificates, time deposits with a face amount of less than $100,000.00, and depository institution tax-exempt savings certificates issued by such institution, over

(2) the amounts withdrawn or redeemed in connection with the accounts and certificates described in subparagraph (1).

d. "Qualified residential financing" means

(1) any loan secured by a lien on a single-family or multi-family residence;

(2) any secured or unsecured home improvement loan for alterations, repairs, or improvements on or in connection with an existing residence by the owner of the residence, when the improvements substantially protect or improve the basic livability or energy efficiency of the property;

(3) any mortgage on a single-family or multi-family residence, which is insured or guaranteed by the Federal, State or local government or any instrumentality thereof;

(4) any loan to acquire a mobile home;

(5) any construction loan for the construction or rehabilitation of a single-family or multi-family residence;

(6) the purchase of mortgages secured by single-family or multi-family residences on the secondary market but only to the extent that the amount of such purchases exceeds the amount of sales of such mortgages by an institution;

(7) the purchase of securities issued or guaranteed by the Federal National Mortgage Association, the Government National Mortgage Association or the Federal Home Loan Mortgage Corporation, or securities issued by any other person if such securities are secured by mortgages originated by a qualified institution, but only to the extent the amount of such purchase exceeds the amount of sales of such securities by an institution; or

(8) any loan for agricultural purposes.

For purposes of this definition, the term "residence" includes stock in a cooperative housing corporation.

C. 54A:6-17 Tax-exempt savings certificates.

3. (New section) Gross income shall not include any amount received by any individual during the taxable year as interest on any depository institution tax-exempt savings certificate; provided that the aggregate amount excludable for any taxable year shall not exceed $1,000.00 for a single taxpayer or a married person filing separately or $2,000.00 for a married couple filing jointly.

C. 54A:6-18 Requirements for qualified institutions.

4. (New section) If a qualified institution, other than a credit union, issues any depository institution tax-exempt savings certificates during any calendar quarter, the amount of the qualified residential financing provided by such institution during the succeeding calendar quarter shall not be less than the lesser of

a. 75% of the face amount of depository institution tax-exempt savings certificates issued during the calendar quarter, or

b. 75% of the qualified net savings for the calendar quarter.

If, as of the close of any calendar quarter, a qualified institution has not met the requirements of this section with respect to the preceding calendar quarter, such institution shall not issue any certificates until it meets such requirements.

C. 54A:6-19 Credit unions.

5. (New section) If a qualified institution which is a credit union issues any depository institution tax-exempt savings certificates during any calendar quarter, the amount of qualified residential financing provided by such institution during the succeeding calendar quarter, shall be the sum of

a. the aggregate of the amounts paid into passbook savings accounts, 6-month money market certificates, 30-month small saver certificates, time deposits with a face amount of less than $100,000.00, and depository institution tax-exempt savings certificates issued by such institutions, as of September 30, 1981, plus

b. 10% of the excess of

(1) the aggregate of these amounts as of the close of the calendar quarter, over

(2) the amount referred to in subparagraph a.

C. 54A:6-20 Premature redemption.

6. (New section) This act shall not apply to interest on any depository institution tax-exempt certificate, or portion thereof, redeemed before the date on which it matures. Gross income for the taxable year of such premature redemption shall include the amount of any interest on such certificates exempted from gross income for each and every preceding taxable year. A depository institution tax-exempt certificate, or portion thereof, which is used as collateral or security for a loan, shall be considered redeemed.

7. This act shall take effect immediately and sections 2 through 6 shall expire on December 31, 1982.

Approved January 9, 1982.

CHAPTER 424

AN ACT to amend "An act concerning relief of certain persons who served in the active military or naval forces of the United States, and supplementing Title 38 of the Revised Statutes," approved June 11, 1947 (P. L. 1947, c. 263), as said title was amended by P. L. 1948, c. 138.

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

1. Section 1 of P. L. 1947, c. 263 (C. 38:18A–1) is amended to read as follows:

C. 38:18A-1 "Veteran"; "in time of emergency."

1. As used in this act, the word "veteran" means and includes any officer, soldier, sailor, marine, airman, nurse, or any other

person, male or female, regularly enlisted or inducted, who was or shall have been a part of the active military or naval forces of the United States, and who took part or shall have taken part in any war in which the United States was engaged, or who took part or shall have taken part in the wars with the governments of Japan, Germany and Italy, or any of them, or who served or shall have served in the active military or naval service of the United States in time of emergency as herein defined, and who was a resident of this State at the time he was or shall be commissioned, enlisted, inducted, appointed or mustered into the active military or naval service of the United States, and who has been or shall have been given a discharge or release therefrom under conditions other than dishonorable and continues to be a resident of this State.

As used in this act the term "in time of emergency" shall mean (a) the Korean conflict and include any time after June 23, 1950, and prior to July 27, 1953 and (b) the Vietnam conflict and include any time after December 31, 1960, and prior to the date of termination as proclaimed by the Governor.

2. Section 2 of P. L. 1947, c. 263 (C. 38:18A–2) is amended to read as follows:

C. 38:18A-2 Payments for life.

2. A veteran who served in the active military or naval forces of the United States and who is suffering from paraplegia and has permanent paralysis of both legs and lower parts of the body, or who is suffering from osteochondritis and has permanent loss of the use of both legs, or who is suffering from hemiplegia and has permanent paralysis of one leg and one arm or either side of the body, resulting from injury to the spinal cord, skeletal structure, or brain or who has suffered amputation of both hands, both feet or one hand and one foot, or who has lost the use of both feet or both legs, due to multiple sclerosis, sustained through enemy action, or accident, or resulting from disease contracted while in such active military or naval service, shall be paid for the term of his life the sum of $750.00 annually in monthly payments. Such payments shall be due and payable from the date of his discharge or release if application therefor shall be made within one year from the date of such discharge or release. If the application shall be made after 1 year from the date of his discharge or release, such payment shall be due and payable from the date of such application. Accrued payments to the date of certification shall be paid in one lump sum.

Nothing in this act shall be intended to include paraplegia or hemiplegia resulting from locomotor ataxia or other forms of syphilis of the central nervous system or from chronic alcoholism, or to include other forms of disease resulting from the veteran's own misconduct which may produce signs and symptoms similar to those resulting from paraplegia, osteochondritis, hemiplegia or multiple sclerosis.

3. Section 3 of P. L. 1947, c. 263 (C. 38:18A–3) is amended to read as follows:

C. 38:18A-3 Evidence required.

3. Evidence of the service and disability mentioned in this act shall be furnished to the Division of Veterans' Services of the Department of Human Services, which shall examine the same and upon being satisfied that the service was performed and the veteran has been rendered permanently paralyzed or has permanently lost the use of both legs, or has suffered amputation, as defined in section 2 of this act, shall so certify to the Director of the Division of Budget and Accounting in the Department of the Treasury, who shall, upon receipt thereof, draw his warrant on the State Treasurer in favor of the applicant in the sum of $750.00 annually, which the State Treasurer shall pay out of the money appropriated therefor by the Legislature.

4. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 425

AN ACT to amend "The Professional Service Corporation Act," approved December 16, 1969 (P. L. 1969, c. 232).

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

1. Section 3 of P. L. 1969, c. 232 (C. 14A:17–3) is amended to read as follows:

C. 14A:17-3 Terms defined.

3. Terms defined. As used in this act, the following words shall have the meaning indicated:

(1) The term "professional service" shall mean any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license or other legal authorization and which prior to the passage of this act and by reason of law could not be performed by a corporation. By way of example and without limiting the generality thereof, the personal services which come within the provisions of this act are the personal services rendered by certified public accountants, architects, optometrists, professional engineers, land surveyors, land planners, chiropractors, dentists, osteopaths, physicians and surgeons, doctors of medicine, doctors of dentistry, podiatrists, chiropodists, veterinarians and, subject to the Rules of the Supreme Court, attorneys-at-law;

(2) The term "professional corporation" means a corporation which is organized under this act for the sole and specific purpose of rendering the same or closely allied professional service as its shareholders, each of whom must be licensed or otherwise legally authorized within this State to render such professional service;

(3) "Closely allied professional service" means and is limited to the practice of (a) architecture, professional engineering, land surveying and land planning and (b) any branch of medicine and surgery, and dentistry.

2. Section 5 of P. L. 1969, c. 232 (C. 14A:17–5) is amended to read as follows:

C. 14A:17-5 Professional corporation.

5. Professional corporation. One or more persons, each of whom is duly licensed or otherwise legally authorized to render the same or closely allied professional service within this State, may organize and become a shareholder or shareholders of a professional corporation for pecuniary profit under the provisions of the Business Corporation Act of New Jersey (Title 14A, Corporations, General, of the New Jersey Statutes), for the sole and specific purpose of rendering such professional service.

3. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 426

AN ACT concerning the prevention of domestic violence, supplementing Title 2A of the New Jersey Statutes, amending N. J. S. 2A :4–18 and repealing P. L. 1981, c. 200.

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

C. 2C:25-1 Short title.

1. (New section) This act shall be known and may be cited as the "Prevention of Domestic Violence Act."

C. 2C:25-2 Findings and declarations.

2. (New section) The Legislature finds and declares that domestic violence is a serious crime against society; that there are thousands of persons in this State who are regularly beaten, tortured and in some cases even killed by their spouses or cohabitants; that a significant number of women who are assaulted are pregnant; that victims of domestic violence come from all social and economic backgrounds and ethnic groups; that there is a positive correlation between spouse abuse and child abuse; and that children, even when they are not themselves physically assaulted, suffer deep and lasting emotional effects from exposure to domestic violence. It is therefore, the intent of the Legislature to assure the victims of domestic violence the maximum protection from abuse the law can provide.

The Legislature further finds and declares that even though many of the existing criminal statutes are applicable to acts of domestic violence, previous societal attitudes concerning domestic violence have affected the response of our law enforcement and judicial sytems, resulting in these acts receiving different treatment from similar crimes when they occur in a domestic context. The Legislature finds that battered adults presently experience substantial difficulty in gaining access to protection from the judicial system, particularly due to that system's inability to generate a prompt response in an emergency situation.

It is the intent of the Legislature to stress that the primary duty of a law enforcement officer when responding to a domestic violence call is to enforce the laws allegedly violated and to protect the victim. It is further intended that the official response to domestic

violence shall communicate the attitude that violent behavior will not be excused or tolerated, and shall make clear the fact that the existing criminal laws and civil remedies created under this act will be enforced without regard to the fact that the violence grows out of a domestic situation.

C. 2C:25-3 Definitions.

3. (New section) As used in this act:

a. "Cohabitants" means emancipated minors or persons 18 years of age or older of the opposite sex who have resided together or who currently are residing in the same living quarters or persons who together are the parents of one or more children, regardless of their marital status or whether they have lived together at any time.

b. "Domestic violence" means the occurrence of one or more of the following acts between cohabitants:

(1) Assault ..... N. J. S. 2C:12–1
(2) Kidnapping ..... N. J. S. 2C:13–1
(3) Criminal restraint ..... N. J. S. 2C:13–2
(4) False imprisonment ..... N. J. S. 2C:13–3
(5) Sexual assault ..... N. J. S. 2C:14–2
(6) Criminal sexual contact ..... N. J. S. 2C:14–3
(7) Lewdness ..... N. J. S. 2C:14–4
(8) Criminal mischief ..... N. J. S. 2C:17–3
(9) Burglary ..... N. J. S. 2C:18–2

c. "Law enforcement agency" means the Division of State Police of the Department of Law and Public Safety, any county prosecutor's office or a municipal or county police department of the State.

d. "Law enforcement officer" means an officer or trooper of the Division of State Police of the Department of Law and Public Safety, or an officer, investigator or detective of a county prosecutor's office or of a municipal or county police department of the State.

e. "Victim" means a cohabitant who alleges having been subjected to domestic violence.

C. 2C:25-4 Training for law enforcement officers; domestic crisis teams.

4. (New section) The Police Training Commission in the Department of Law and Public Safety shall provide that all training for law enforcement officers on the handling of domestic violence complaints shall stress the enforcement of criminal laws in domestic situations, the protection of the victim, and the use of available

community resources. Law enforcement agencies may establish domestic crisis teams or individual officers may be trained in methods of dealing with domestic violence. The teams may include social workers, clergy or other persons trained in counseling, crisis intervention or in the treatment of domestic violence victims. When an alleged incident of domestic violence is reported, the agency shall dispatch a domestic crisis team or specially trained officer, if available, to the scene of the incident.

C. 2C:25-5 Conditions for arrest.

5. (New section) A law enforcement officer may arrest a person:

a. When the officer has probable cause to believe that a person has violated the terms of an order issued pursuant to section 10, 11, 13 or 14 of this act and that service has been effected either in person or by substituted service. The officer may verify, if necessary, the existence of an order with the appropriate law enforcement agency in accordance with subsection d. of section 8 of this act; or

b. A victim exhibits signs of injury or there is other probable cause to believe that an act of domestic violence has been committed.

C. 2C:25-6 Good faith exception.

6. (New section) A law enforcement officer shall not be held liable in any civil action brought by any party for an arrest based on probable cause, enforcement in good faith of a court order, or any other act or omission in good faith under this act.

C. 2C:25-7 Notice to victims.

7. (New section) A victim shall have the rights in and an officer shall read and disseminate to the victim the following notice, which shall be written in both English and Spanish:

"You have the right to go to the municipal, juvenile and domestic relations or superior court and file a complaint requesting any of the following applicable orders for temporary relief: (1) an order restraining your attacker from abusing you; (2) an order directing your attacker to leave your household; (3) an order awarding you custody of a minor child; (4) an order directing your attacker to pay you for losses suffered as a result of the abuse, including medical, dental and moving expenses, loss of earnings or support, attorney's fees and other out-of-pocket losses for injuries sustained.

"You have the right to go to court and file a criminal complaint.

"On weekends, holidays and other times when the courts are closed, you may go to the municipal court for an emergency order granting the relief set forth above.

"If you are in need of medical treatment, you may ask the officer present to assist you or arrange for you to go to the nearest hospital or otherwise assist you or accompany you to a place of safety or shelter.

"If you believe that police protection is needed for your physical safety, you may ask the officer present to remain at the scene until you or your children can leave or until your safety is otherwise insured."

C. 2C:25-8 Domestic violence offense report.

8. (New section) a. It shall be the duty of a law enforcement officer who responds to a domestic violence call to complete a domestic violence offense report. All information contained in the domestic violence offense report shall be forwarded to the appropriate county bureau of identification and the State bureau of identification in the Division of State Police in the Department of Law and Public Safety.

b. The domestic violence offense report shall be on a form prescribed by the supervisor of the State bureau of identification which shall include, but not be limited to, the following information:

(1) The relationship of the parties;

(2) The sex of the parties;

(3) The time the complaint was received;

(4) The time the officer began investigation of the complaint;

(5) Whether children were involved, or whether the alleged act of domestic violence had been committed in the presence of children;

(6) The type and extent of abuse;

(7) The number and type of weapons involved;

(8) The amount of time involved in handling the case and the action taken by the law enforcement officer;

(9) The effective date and terms of an order issued pursuant to section 10, 11, 13 or 14 of this act concerning the parties; and

(10) Any other data that may be necessary for a complete analysis of all circumstances leading to the alleged incident of domestic violence.

c. It shall be the duty of the Superintendent of the State Police to compile and report annually for a period of 5 years to the Governor, the Legislature and the Advisory Council on Shelters for Victims of Domestic Violence on the tabulated data from the domestic violence offense reports. The Advisory Council on Shelters for Victims of Domestic Violence may request the Legislature to continue the reports for another 5 years. The report shall include, but not be limited to, the following information:

(1) The total number of domestic violence calls received;
(2) The number of calls made by victims of each sex;
(3) The number of domestic violence calls investigated;
(4) The average time-lapse in responding to these calls;
(5) The number of calls received from victims who have filed civil or criminal complaints with regard to domestic violence on more than one occasion with a classification according to charges brought;
(6) The number of complaints not pursued by the victims; and
(7) The types of police actions taken in disposition of these cases, including the number of arrests.

d. The supervisor of the State bureau of identification shall assist all law enforcement agencies in the establishment of procedures to insure that dispatchers and officers at the scene of an alleged incident of domestic violence are informed of any verified order in force concerning the parties issued pursuant to section 10, 11, 13, or 14 of this act or of any prior recorded incident of domestic violence involving the parties.

C. 2C:25-9 Court requirements.

9. (New section) The court in domestic violence actions:

a. Shall not dismiss any charge or delay disposition of a case because of concurrent dissolution of a marriage, other civil proceedings, or because the victim has left the residence to avoid further incidents of domestic violence;

b. Shall not require proof that either party is seeking a dissolution of a marriage prior to institution of criminal proceedings;

c. Shall waive any requirement that the victim's location be disclosed to any person.

C. 2C:25-10 Restrictions on defendant.

10. (New section) a. When a defendant charged with a crime or offense involving domestic violence is released from custody before trial on bail or personal recognizance, the court authorizing the release may as a condition of release issue an order prohibiting the defendant from having any contact with the victim including, but not limited to, restraining the defendant from entering the victim's residence, place of employment or business, or school, and from harassing the victim or victim's relatives in any way.

b. The written court order releasing the defendant shall contain the court's directives restricting the defendant's ability to have contact with the victim or the victim's relatives. The clerk of the court or other person designated by the court shall provide a copy of this order to the victim forthwith.

C. 2C:25-11 Contact with victim restricted.

11. (New section) When a defendant is found guilty of a crime or offense involving domestic violence and a condition of sentence restricts the defendant's ability to have contact with the victim, that condition shall be recorded in an order of the court and a written copy of that order shall be provided to the victim by the clerk of the court or other person designated by the court. In addition to restricting a defendant's ability to have contact with the victim, the court may require the defendant to receive professional counseling from either a private source or a source appointed by the court, and the court may require the defendant to provide documentation of attendance at the professional counseling.

C. 2C:25-12 Juvenile and domestic relations action.

12. (New section) a. A victim may file a complaint alleging the commission of an act of domestic violence with the juvenile and domestic relations court in conformity with the rules of court. The court in domestic violence actions shall not dismiss any complaint or delay disposition of a case because the victim has left the residence to avoid further incidents of domestic violence. Filing a complaint pursuant to this section shall not prevent the filing of a criminal complaint for the same act.

b. The juvenile and domestic relations court shall waive any requirement that the petitioner's place of residence appear on the complaint.

c. The clerk of the court, or other person designated by the court, shall assist the parties in completing any forms necessary for the filing of a summons, complaint, answer or other pleading.

d. Summons and complaint forms shall be readily available at the clerk's office and at the municipal courts.

C. 2C:25-13 Hearing; possible relief.

13. (New section) a. A hearing shall be scheduled in juvenile and domestic relations court within 10 days of the filing of a complaint pursuant to section 12 of this act. At the hearing the standard for proving the allegations in the complaint shall be by a preponderance of the evidence.

b. At the hearing the juvenile and domestic relations court may issue an order granting any or all of the following relief:

(1) An order prohibiting the defendant from having contact with the victim including, but not limited to, restraining the defendant from entering the plaintiff's residence, place of employment or business, or school. The court shall prohibit the defendant from harassing the plaintiff or plaintiff's relatives in any way;

(2) An order granting possession to the plaintiff of the residence to the exclusion of the defendant when the residence or household is jointly owned or leased by the parties. The court may amend its order at any time upon petition by either party. Sole ownership in the name of the defendant of the real property constituting the residence of the parties shall not bar the court from entering an order restraining the defendant from entering the marital residence. No order shall affect any interest in the residence held by either party;

(3) When the defendant has a duty to support the plaintiff or minor children living in the residence or household and the defendant is sole owner or lessee of the residence, an order granting possession to the plaintiff of the residence or household to the exclusion of the defendant may be issued or, upon consent of the parties, allowing the defendant to provide suitable, alternate housing;

(4) An order determining child support, child custody, or establishing visitation rights, provided that this issue has not been resolved nor is being litigated between the parties. The court shall protect the safety of the plaintiff by specifying a place of visitation away from the plaintiff or take any other appropriate precaution necessary to protect the safety and well-being of the plaintiff and minor children;

(5) An order requiring the defendant to pay to the victim monetary compensation for losses suffered as a direct result of the act of domestic violence. Compensatory losses shall include, but not be limited to, loss of earnings or support, out-of-pocket losses for injuries sustained, moving expenses and reasonable attorney's fees;

(6) An order requiring the defendant to receive professional counseling from either a private source or a source appointed by the court and, in that event, at the court's discretion requiring the defendant to provide the court at specified intervals with documentation of attendance at the professional counseling.

c. In addition to the relief sought in subsection b. of this section a plaintiff may seek emergency, ex parte relief in the nature of a temporary restraining order. The juvenile and domestic relations court may enter ex parte orders when necessary to protect the life, health or well-being of a victim on whose behalf the relief is sought.

Whenever emergency relief is sought by the plaintiff, the clerk of the court or other person designated by the court shall immedi-

ately transmit the complaint to the presiding juvenile and domestic relations court judge regarding the emergency relief sought by the close of business on the day relief is sought. An order granting emergency relief shall immediately be forwarded to the sheriff for immediate service of the order for emergency relief upon the defendant.

d. An order for emergency relief shall be granted upon good cause shown.

e. Emergency relief may constitute all relief available under this act together with any other appropriate relief. A temporary restraining order shall remain in effect until further action by the court.

f. Notice of orders issued pursuant to this section shall be sent by the clerk of the juvenile and domestic relations court or other person designated by the court to the appropriate chiefs of police, members of the State Police and any other law enforcement agency.

g. All pleadings, process, and other orders filed pursuant to this act shall be served upon the defendant in accordance with the rules of court. If personal service cannot be effected upon the defendant, the court may order other appropriate substituted service.

C. 2C:25-14 Emergency relief.

14. (New section) a. A municipal court judge shall be available to issue a temporary restraining order pursuant to this act. The order shall be made by the judge of the jurisdiction where the alleged domestic violence occurred or the jurisdiction where the plaintiff resides using the same procedure now available on other emergent applications.

b. If it appears that the plaintiff or the plaintiff's children are in danger of domestic violence, the municipal court judge shall, upon consideration of the plaintiff's affidavit, order emergency relief in the nature of a temporary restraining order. A decision shall be made by the judge regarding the emergency relief forthwith. An order granting emergency relief shall immediately be forwarded to the sheriff for immediate service of the order for emergency relief upon the defendant.

c. An order for emergency relief shall be granted upon good cause shown and shall remain in effect for 72 hours, which may be extended but not for more than 7 days. Any order hereunder may be dissolved or modified on 24 hours' notice or immediately appealable for a plenary hearing de novo not on the record before the Superior Court, Chancery Division or other juvenile and domestic relations court of the county in which the plaintiff resides.

d. Emergency relief may include forbidding the defendant from returning to the scene of the domestic violence together with any other appropriate relief.

e. The judge may permit the defendant to return to the scene of the domestic violence to pick up personal belongings and effects but may by order restrict the time and duration and provide for police supervision of such visit.

f. Notice of temporary restraining orders issued pursuant to this section 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 law enforcement agency.

g. An application for a temporary restraining order pursuant to this section shall, upon filing and issuance, be immediately forwarded to the clerk of the juvenile and domestic relations court of plaintiff's vicinage.

C. 2C:25-15 Supervision of removal of personal belongings.

15. (New section) a. Upon the issuance of an order pursuant to section 10, 11, 13 or 14 of this act the court may order a law enforcement officer to accompany either party to the residence to supervise the removal of personal belongings in order to insure the personal safety of the plaintiff.

b. Violation of an order issued pursuant to section 10, 11, 13 or 14 of this act shall constitute contempt and each order shall so state.

C. 2C:25-16 Record of requests for orders.

16. (New section) The Administrative Office of the Courts shall maintain a uniform record of all requests for orders issued pursuant to section 10, 11, 13, or 14 of this act. The record shall include the following information:

a. The names and addresses of the parties;

b. The sex of the parties;

c. The relationship of the parties;

d. The nature of the complaint;

e. The relief sought;

f. The nature of the relief granted including but not limited to, custody and child support; and

g. The effective date and terms of each order issued.

It shall be the duty of the Director of the Administrative Office of the Courts to compile and report annually to the Governor, the Legislature and the Advisory Council on Shelters for Victims of Domestic Violence on the data tabulated from the records on these orders for a period of 5 years. The Advisory Council on

Shelters for Victims of Domestic Violence may request the Legislature continue the reports for another 5 years.

All records maintained pursuant to this act shall be confidential and shall not be made available to any individual or institution except as otherwise provided by law.

17. N. J. S. 2A :4–18 is amended to read as follows:

Juvenile and domestic relations jurisdiction.

2A :4–18. The juvenile and domestic relations court shall also have jurisdiction concurrently with such other courts as may have jurisdiction over the matter, to hear and determine in a summary manner disputes and complaints:

a. Involving the domestic relation or the welfare of children, as to which jurisdiction is vested in any court except the Superior Court or except with respect to the adoption of children or adults.

b. Involving matters of support or temporary custody of children as to which jurisdiction is vested in the Superior Court.

c. Involving violations of subtitle 12 (disorderly persons law) of this title (§ 2A :169–1 et seq.), and chapter 1 of Title 44, Poor (§ 44 :1–1 et seq.), chapter 6 and chapter 17 of Title 9, Children (§ 9 :6–1 et seq. and § 9 :17–1 et seq.), and article 4 of chapter 5 of Title 30, Institutions and Agencies (§ 30 :5–33 et seq.), of the Revised Statutes, together with any other laws or future enactments covering similar complaints or offenses, where the gravamen of the complaint under such laws or enactments is the failure or neglect of one member of the family to satisfy or discharge the legal obligations to another member of the family.

d. Against any person who abuses, neglects, cruelly treats or abandons a child or who contributes to the delinquency of a child.

e. Involving the domestic relation, where a spouse or parent deserts the other spouse or child even though they continue to live in the same household, in which case the court may order adequate support of the other spouse, child or family.

f. Involving the domestic relation, where a spouse or a parent forces the other spouse or child to leave the home because of cruel and inhuman conduct, in which case the court may provide by appropriate order for their support and maintenance.

g. Involving domestic violence where a victim seeks civil relief.

Repealer.

18. P. L. 1981, c. 200 (C. 2C :12–4 et seq.) is repealed.

19. This act shall take effect 90 days following enactment.

Approved January 9, 1982.

CHAPTER 427

AN ACT concerning the membership of the governing bodies of certain municipal forms of government and revising parts of the statutory law.

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

1. R. S. 40:72–1.1 is amended to read as follows:

2 additional commissioners.

40:72–1.1. Any municipality, which is governed by a board of three commissioners may provide that two additional commissioners shall be elected at an election to be held on the second Tuesday in May next; provided, that a proposed ordinance increasing the number of commissioners from three to five was first submitted to the board of commissioners by petition signed by electors of the municipality equal in number to 15% of the votes cast at the last general election, held for the election of all the members of the General Assembly, requesting that said ordinance be submitted to the vote of the people.

The signatures, verification, authentication, inspection, certification, amendment and submission of such petition shall be the same as for petitions to recall commissioners. Upon the filing of said petition and certification of the same by the municipal clerk the board of commissioners shall submit said ordinance without change to the vote of the electors of the municipality at the next general election. Said petition shall be filed and certified to by the municipal clerk at least 60 days before the general election at which the proposed ordinance shall be submitted to a vote of the electors.

2. R. S. 40:81–1 is amended to read as follows:

Membership of municipal council.

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 3-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
..... be .....
municipality) (insert "increased" or "decreased" as appropriate)
from ..... to .....
(insert current number) (insert proposed number)
members?"

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.

3. R. S. 40:81–5 is amended to read as follows:

Conduct of elections.

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.).

C. 40:81-5.1 Municipal manager form of government.

4. (New section) 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.

5. R. S. 40:125–1 is amended to read as follows:

Number of wards.

40:125–1. The town shall be divided into not less than two or more than three wards. The town officers shall be a council, consisting except as otherwise provided by referendum of the voters, of two councilmen from each ward and one councilman-at-large who shall be designated and voted for as a mayor, a clerk, a collector, a treasurer, an attorney, an assessor except where such office has been abolished by law, one or more surveyors, one or more poundkeepers, a chief of police, and a chief engineer of the fire department.

6. R. S. 40:125–4 is amended to read as follows:

Councilman at large designated as mayor.

40:125–4. The councilman at large shall be officially known and designated as the mayor of ..... (the name of the town in which he shall be elected). He shall be so designated in all official documents and instruments of every kind, and shall sign all ordinances, warrants, bonds, notes, contracts and all other official documents and instruments by said title. Except as otherwise provided by referendum of the voters, he shall hold office for 2 years from January 1 next following his election. The mayor shall possess and exercise all the powers of a member of the council and shall by virtue of his election be the president thereof. At all elections candidates for the office heretofore known as councilman at large shall be designated and voted for under the title of mayor.

7. R. S. 40:125–5 is amended to read as follows:

Terms of office.

40:125–5. Except as herein otherwise provided, at the first general election held under chapters 123 to 130 of this Title (§ 40:123–1 et seq.), one member of the council from each ward shall be elected for 1 year, and one member for 2 years and the ballots used at such election shall designate the terms for which the several candidates shall be elected. Thereafter, annually, a member of the council shall be elected from each ward for 2 years, unless otherwise provided by referendum of the voters.

C. 40:123-6.1 Towns divided into wards.

8. (New section) The legal voters of any town divided into wards, by petition and referendum, may require the division of the town into either two or three wards, as set forth in the petition; increase to three the number of council members from each ward; and increase the terms of office of these members and the mayor to 3 years. Upon the submission to the clerk 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 which shall be submitted to the voters at the next general election. The proposition shall not be submitted more than once in any 3-year period.

The notice, advertisement and conduct of the election shall be in the same manner as for officers voted for at the election.

The proposition shall be submitted to the voters at the election in substantially the following form:

"Shall ..... be divided into ..... wards with
(name of town) (two or three)
three council members from each ward, and the terms of office of the council members and mayor be increased to 3 years?"

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.

Notwithstanding any other provisions of law to the contrary, upon approval by the legal voters of the proposition to divide the municipality into a specified number of wards and increase the number of council members from each ward and increase the terms

of office of the council members and mayor to 3 years as provided in this section, there shall be:

a. A division of the town into the number of wards as specified in the proposition in the manner generally provided by law; and

b. An election, at the first annual election after the division of the wards, of one member from each ward for a 1 year term, one for 2 years, and one for 3 years, and a mayor elected by the whole town for a 3 year term, the respective terms of each to be designated on the ballot. Thereafter one council member shall be elected annually from each ward for a term of 3 years; except that all members of the council holding office at the time of the division of the wards in accordance with this section shall serve the full term for which each was respectively elected and, except for the mayor, shall represent the ward in which each now happens to reside. At the election next preceding the expiration of the term of each of the said existing council members, such council members as may be necessary shall be elected so that the terms of office of the council members in each ward shall expire one in 1 year, one in 2 years and one in 3 years.

C. 40:125-4.1 3-year term for mayor.

9. (New section) The legal voters of any town divided into wards in which the mayor and council members are elected for 2 year terms of office, by petition and referendum, may require that the mayor shall be elected for a 3-year term of office. Upon the submission to the clerk 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 shall be submitted to the voters at the next general election. The proposition shall not be submitted more than once in any 3-year period.

The notice, advertisement and conduct of the election shall be in the same manner as for officers voted for at the election.

The proposition shall be submitted to the voters at the election in substantially the following form:

"Shall the term of the mayor in ..... be increased
(name of town)
to 3 years?"

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.

Notwithstanding any other provisions of law to the contrary, upon approval by the legal voters of the proposition to increase the term of the mayor to 3 years, the mayor elected at the first annual election after the approval of the proposition, and at an election held every third year thereafter, shall serve for a term of 3 years.

10. R. S. 40:131–1 is amended to read as follows:

Division into wards.

40:131–1. Except as otherwise provided by referendum of the voters, the governing body of any town containing more than 5,000 inhabitants may, by ordinance or resolution, require the division of the town into not less than three nor more than five wards.

11. R. S. 40:131–2 is amended to read as follows:

2 members from each ward.

40:131–2. Except as otherwise provided by referendum of the voters, after such division into wards the governing body of such town shall consist of two members from each ward and the mayor, who by virtue of his election shall be chairman of the governing body.

12. R. S. 40:131–3 is amended to read as follows:

2-year terms.

40:131–3. Except as otherwise provided by referendum of the voters, the legal voters of each ward shall elect two members of the council, and the mayor shall be elected by all the legal voters of the town. Each of such officers shall hold office for 2 years except as provided in R. S. 40:131–4, or except as otherwise provided by referendum of the voters.

13. R. S. 40:131–4 is amended to read as follows:

First election.

40:131–4. Except as otherwise provided by referendum of the voters, at the first general election held after such division into wards, one member shall be elected from each ward for 1 year and one for 2 years, the term of office to be designated on the ballots used at such election, and thereafter one member shall be elected annually to serve 2 years, except that all members of the governing body holding office at the time of such division into wards shall serve out the full term for which they were respectively elected, representing therein the wards in which they shall happen to

reside, and no member shall be elected from any ward until its representation therein shall, by expiration of term or otherwise, become less than two members.

14. R. S. 40:131–7 is amended to read as follows:

Corporate name.

40:131–7. After such division into wards the corporate name of such town shall be "the mayor and council of the town of ....," specifying the name borne by such town.

15. R. S. 40:132–1 is amended to read as follows:

Councilman at large.

40:132–1. Except as otherwise provided by referendum of the voters, the legal voters of every town shall, at the election at which other town officers are elected, elect from among the residents thereof a councilman at large to be called mayor, who shall hold office for 2 years from January 1 following the date of such election. He shall possess and exercise all the powers of a member of the council of such incorporated town. He shall, in addition thereto and by virtue of such election, be president of the council and shall sign all ordinances, warrants, bonds, contracts, and all other official documents and instruments of such incorporated town by said title.

C. 40:131-1.1 Petition and referendum.

16. (New section) The legal voters of any town divided into wards, by petition and referendum, may require the division of the town into either two or three wards, as set forth in the petition; increase to three the number of council members from each ward; and increase the terms of office of these members and the mayor to 3 years. Upon the submission to the clerk 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 shall be submitted to the voters at the next general election. The proposition shall not be submitted more than once in any 3-year period.

The notice, advertisement and conduct of the election shall be in the same manner as for officers voted for at the election.

The proposition shall be submitted to the voters at the election in substantially the following form:

"Shall ..... be divided into ..... wards
(name of town) (two or three)

with three council members from each ward, and the terms of office of the council members and mayor be increased to 3 years?"

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.

Notwithstanding any other provision of law to the contrary, upon approval by the legal voters of the proposition to divide the municipality into a specified number of existing wards, increase the number of council members from each ward and increase the terms of office of the council members and mayor to 3 years as provided in this section, there shall be:

a. A division of the town into the number of wards as specified in the proposition in the manner generally provided by law; and

b. An election, at the first annual election after the division of the wards, of one member from each ward for a 1 year term, one for 2 years and one for 3 years, and a mayor elected by the whole town for a 3-year term, the respective terms of each to be designated on the ballot. Thereafter one council member shall be elected annually from each ward for a term of 3 years; except that all members of the council holding office at the time of the division of the wards in accordance with this section shall serve the full term for which each was respectively elected and, except for the mayor, shall represent the ward in which each now happens to reside. At the election next preceding the expiration of the term of each of the existing council members, such council members as may be necessary shall be elected so that the terms of office of the council members in each ward shall expire one in 1 year, one in 2 years and one in 3 years.

C. 40:132-1a 3-year term for mayor.

17. (New section) The legal voters of any town divided into wards in which the mayor and council members are elected for 2-year terms of office, by petition and referendum, may require that the mayor shall be elected for a 3-year term of office. Upon the submission to the clerk 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 shall be submitted to the voters at the next general election. The proposition shall not be submitted more than once in any 3-year period.

The notice, advertisement and conduct of the election shall be in the same manner as for officers voted for at the election.

The proposition shall be submitted to the voters at the election in substantially the following form:

"Shall the term of the mayor in ..... be increased
(name of town)
to 3 years?"

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.

Notwithstanding any other provisions of law to the contrary, upon approval by the legal voters of the proposition to increase the term of the mayor to 3 years, the mayor elected at the first annual election after the approval of the proposition, and at an election held every third year thereafter, shall serve for a term of 3 years.

18. R. S. 40:144–1 is amended to read as follows:

Psychiatric patients not counted.

40:144–1. All townships having a population of more than 7,000 and not heretofore divided into wards, may be divided into not less than two wards or more than three wards as hereinafter in this chapter provided. In determining the population for the purposes of this chapter the patients of any State psychiatric hospital who are not legal residents of such township shall not be counted or included.

19. R. S. 40:144–11 is amended to read as follows:

Township committee.

40:144–11. Except as otherwise provided by referendum of the voters, the township committee of every township containing more than 7,000 inhabitants which shall hereafter be divided into wards under the provisions of this chapter, shall consist of two members elected from each ward, who shall hold office for 3 years, and one member at large elected by the voters of the whole township, who shall hold office for 4 years and who shall by virtue of his election be chairman of the township committee, and in townships having a population of more than 10,000 shall be known as the mayor of such township. A majority of the members of the committee shall constitute a quorum for the transaction of business, and no standing committees shall be appointed except by a vote of the majority

of the members of such committee. The members from each ward and the member at large shall be elected at the annual township election.

20. R. S. 40:144–12 is amended to read as follows:

First election after division into wards.

40:144–12. The first election for members of the township committee in any township after the same shall have been divided into wards under R. S. 40:144–1 through R. S. 40:144–10 shall be held at the time of the first general election occurring after such division into wards. At such election there shall be elected a member at large, and in each ward one member of the township committee for 1 year and one member for 2 years, and the ballots voted shall designate which one is to serve for 1 year and which one for 2 years.

C. 40:144-1.1 Decrease in number of wards.

21. (New section) The legal voters of any township divided into wards, by petition and referendum, may decrease the number of existing wards in the township to not less than two or more than three, and increase to three the number of committee members from each ward. Upon the submission to the clerk 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 shall be submitted to the voters at the next general election. The proposition shall not be submitted more than once in any 3-year period.

The notice, advertisement and conduct of the election shall be in the same manner as for officers voted for at the general election.

The proposition shall be submitted to the voters at the election in substantially the following form:

"Shall the number of wards in ..... be decreased
(name of township)
to ..... and the number of committee members from each
(two or three)
ward be increased to three?"

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 make the change.

Notwithstanding any other provisions of law to the contrary, upon approval by the legal voters of the proposition to decrease the number of existing wards, and to increase the number of committee members from each ward as provided in this section, there shall be:

a. A division of the township into the number of wards as specified in the proposition in the manner generally provided by law; and

b. An election, at the first annual election after the division of the wards, of one member from each ward for a 1 year term, one for 2 years and one for 3 years and a committee member at large elected by the whole township for a 4-year term, the respective terms of each to be designated on the ballot. Thereafter one committee member shall be elected annually from each ward for a term of 3 years; except that all members of the committee holding office at the time of the division of the wards in accordance with this section shall serve the full term for which each was respectively elected and, except for the committee member at large, shall represent the ward in which each now happens to reside. At the election next preceding the expiration of the term of each of the existing committee members, such committee members as may be necessary shall be elected so that the terms of office of the committee members in each ward shall expire one in 1 year, one in 2 years and one in 3 years.

Repealer.

22. R. S. 40:123–1 through R. S. 40:123–8 are repealed.

The repeal of these sections of law shall not affect a town incorporated under these sections prior to the effective date of this act.

23. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 428

AN ACT concerning the oaths to be taken by certain judicial officers and amending sections 1, 3 and 4 of P. L. 1948, c. 335 (C. 41:2A–1, 41:2A–3 and 41:2A–4) and section 1 of P. L. 1951, c. 351 (C. 41:2A–6).

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

1. Section 1 of P. L. 1948, c. 335 (C. 41:2A–1) is amended to read as follows:

C. 41:2A-1 Oath of allegiance.

1. The Chief Justice and each Associate Justice of the Supreme Court and each judge of the Superior Court, before entering upon the duties of his office, shall take and subscribe the oath of allegiance prescribed by R. S. 41:1–1, and the oath of office required to be taken by judicial officers.

2. Section 3 of P. L. 1948, c. 335 (C. 41:2A–3) is amended to read as follows:

C. 41:2A-3 Administration.

3. Any justice of the Supreme Court may administer the oath to a person appointed Chief Justice of the Supreme Court or Associate Justice of the Supreme Court, and any justice of the Supreme Court or judge of the Superior Court may administer the oath to a person appointed a judge of the Superior Court. Any judge of the Superior Court may administer the oath to a person appointed a judge of any juvenile and domestic relations court, county district court or the judge of any other court, and any surrogate, deputy surrogate or special deputy surrogate.

3. Section 4 of P. L. 1948, c. 335 (C. 41:2A–4) is amended to read as follows:

C. 41:2A-4 Subscription; filing.

4. The oaths shall also be subscribed by the judicial officer taking the oaths and, if the judicial officer is a Supreme Court Justice or judge of the Superior Court, shall be filed in the office of the Secretary of State.

4. Section 1 of P. L. 1951, c. 351 (C. 41:2A–6) is amended to read as follows:

C. 41:2A-6 Form of oath.

1. The Chief Justice, the Associate Justices of the Supreme Court, the judges of the Superior Court, the judges of the county district courts, the judges of the juvenile and domestic relations courts, the judges of the municipal courts, the judges of all other courts and the surrogates, deputy surrogates and special deputy surrogates shall, before entering upon the execution of their respective offices, take and subscribe the following oath:

"I, ..., do solemnly swear that I will support the Constitution of this State and the Constitution of the

United States, and will perform the duties of my office, faithfully, impartially and justly, to the best of my ability. So help me God."

5. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 429

AN ACT providing for the filling of legislative vacancies, amending sections 19:3–28, 19:27–4, 19:27–6, 19:27–9 and 19:27–11 of the Revised Statutes and supplementing chapter 27 of Title 19 of the Revised Statutes.

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

1. R. S. 19:3–28 is amended to read as follows:

Special election.

19:3–28. When a vacancy shall happen in the Senate or General Assembly of this State while such Senate or General Assembly is in session, the house in which such vacancy happens shall direct by a writ, issued at any session of the house within the 10 days following the occurrence of the vacancy but no later than the next session immediately following the 10-day period, that a special election be held for filling the same, but if the vacancy happens during the last 3 months of the second annual session of the legislative year, the house may issue a writ as herein provided.

If such vacancy happens subsequent to a sine die adjournment of the Legislature, the Governor shall forthwith issue a writ for a special election to be held to fill the vacancy, unless the term of service of the person whose office shall have become vacant will expire with the expiration of the legislative year in which the vacancy happens and he shall be of opinion that the services of a person in the office then vacant will not be required during the legislative year, or the residue thereof. The failure of the Governor to issue a writ for filling the vacancy shall not preclude the house in which the vacancy may have happened from causing the same to be filled, if it judge it advisable.

2. R. S. 19:27–4 is amended to read as follows:

Congressional, Legislative vacancies.

19:27–4. When any vacancy happens in the representation of this State in the United States Senate or in the House of Representatives, the Governor shall issue a writ of election to fill the same unless the term of service of the person whose office shall become vacant will expire within 6 months next after the happening of the vacancy and except as hereinafter provided.

When any vacancy happens in the Senate or General Assembly, the house in which such vacancy happens shall direct by a writ, issued at any session of the house within the 10 days following the occurrence of the vacancy but no later than the next session immediately following the 10-day period, that a special election be held to fill the same, but if the vacancy happens during the last 3 months of the second annual session of the legislative year, the house may issue a writ as herein provided. If such vacancy happens subsequent to a sine die adjournment of the Legislature, the Governor shall forthwith issue a writ of election to fill the vacancy, unless the term of service of the person whose office shall have become vacant will expire with the expiration of the legislative year in which the vacancy happens and he shall be of the opinion that the services of a person in the office then vacant will not be required during the legislative year, or the residue thereof. The failure of the Governor to issue a writ for filling the vacancy shall not preclude the house in which it may have happened from directing a writ of election to be issued for filling the same, if it judge this advisable.

3. R. S. 19:27–6 is amended to read as follows:

Designation of election day.

19:27–6. In the case of a vacancy in the representation of this State in the United States Senate or House of Representatives, the writ may designate the next general election day for the election, but if a special day is designated, it shall specify the cause and purpose of such election, the name of the officer in whose office the vacancy has occurred, the day on which a special primary election shall be held, which shall be not less than 31 days, nor more than 40 days, following the date of such proclamation, and the day on which the special election shall be held, which shall be not less than 14 nor more than 20 days following the day of the special primary election. The writ shall also specify the day or days when the district boards shall meet for the purpose of making,

revising or correcting the registers of voters to be used at such special election.

If the vacancy happens in the representation of this State in the United States Senate the election shall take place at the general election next succeeding the happening thereof, unless the vacancy shall happen within 30 days next preceding the primary election prior to the general election, in which case it shall be filled by election at the second succeeding election, unless the Governor shall deem it advisable to call a special election therefor, which he is authorized hereby to do.

If the vacancy happens in the representation of this State in the House of Representatives in any year, not later than the fiftieth day prior to the day for holding the next primary election for the general election, the Governor shall issue a writ of election to fill such vacancy, designating in said writ the next general election day as the day on which the election shall be held to fill such vacancy. The nomination of candidates to fill such vacancy shall be made in the same manner as the nomination of other candidates at the said primary election for the general election.

C. 19:27-6.1 Special election day.

4. (New section) In the case of a vacancy in the representation of this State in the Senate or General Assembly, the writ shall designate a special election day, the cause and purpose of the election and the name of the member in whose office the vacancy has occurred. The special election day shall be not less than 37 nor more than 43 days following the date on which the writ is issued. The writ also shall specify the day or days when the district boards shall meet for the purpose of making, revising or correcting the registers of voters to be used at the special election.

5. R. S. 19:27–9 is amended to read as follows:

Newspaper publication.

19:27–9. The county board of each of such counties shall forthwith after the receipt of a copy of such writ cause the same to be published at least once a week until the time of such primary, general or special election in at least two newspapers printed and published in the county, if so many there be.

The publication of the writs shall be at the expense of the State.

6. R. S. 19:27–11 is amended to read as follows:

Selection of candidates.

19:27–11. In the event of any vacancy in the Senate or General Assembly, each political party shall select a candidate for the office in question in the manner prescribed in R. S. 19:13–20 for selecting candidates to fill vacancies among candidates nominated at primary elections, and shall do so within 7 days of the issuance of the writ of election.

A statement of such selection shall be filed with the Secretary of State not later than 7 days after the issuance of the writ of election.

In the event of any vacancy in any county or municipal office, which vacancy shall occur after the last day for filing petitions for nomination for the primary election and prior to 37 days preceding the general election, each political party may select a candidate for the office in question in the manner prescribed in R. S. 19:13–20 for selecting candidates to fill vacancies among candidates nominated at primary elections. A statement of such selection shall be filed with the county clerk not later than the thirty-fourth day preceding the date of the general election.

Beside the selection of candidates by each political party as before provided, candidates may also be nominated by petition in a similar manner as herein provided for direct nomination by petition for the general election; but the petition shall be filed with the county clerk or the Secretary of State, as the law may require, at least 34 days prior to such general election.

When the vacancy occurs in the Senate or General Assembly, the county clerk of each county which is comprised in whole or part in the Senate or Assembly District shall forthwith give notice thereof to the chairman of the county committee of each political party and in counties of the first class to the county board.

When the vacancy occurs in a county office the county clerk shall forthwith give notice thereof to the chairman of the county committee of each political party and in counties of the first class to the county board, and in case the vacancy occurs in a municipal office the municipal clerk shall forthwith give notice thereof to the county clerk, the chairman of the county committee of each political party and in counties of the first class the county board.

The county clerk shall print on the ballots for the territory affected, in the personal choice column, the title of office and leave a proper space under such title of office; and print the title of office

and the names of such persons as have been duly nominated, in their proper columns.

C. 19:45-1.1 State to pay all expenses.

7. (New section) Notwithstanding the provisions in chapter 45 of Title 19 of the Revised Statutes to the contrary, the State shall pay all expenses incurred by any of its political subdivisions in connection with any special election held for the purpose of filling a vacancy occurring in the Senate or General Assembly.

8. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 430

A SUPPLEMENT to the "Public Employees' Retirement System Act," approved June 28, 1954 (P. L. 1954, c. 84; C. 43:15A–1 et seq.), as said short title was amended by P. L. 1971, c. 213.

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

1. Any part-time appointed officer or employee of the Legislature or either House thereof who is a member of the retirement system who was previously eligible to enroll in the system by virtue of service with a county and with the Legislature, may, upon filing an application with the board of trustees of the retirement system within 90 days after the effective date of this act, purchase credit for his previous service with the county and for his service with the Legislature preceding his enrollment in the system.

The member may purchase credit for his previous service by paying into the annuity savings fund the amount required by applying the factor, supplied by the actuary, applicable to his age at the time of the purchase, to his salary at that time. The terms of purchase and the credit granted shall be identical to those stipulated for the purchase of previous membership by members of the system as provided by section 8 of P. L. 1954, c. 84 (C. 43:15A–8).

2. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 431

AN ACT concerning teachers' pensions and supplementing chapter 66 of Title 18A of the New Jersey Statutes.

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

1. If a teacher has been or hereafter shall be discontinued from teaching service through voluntary service in the Peace Corps of the United States, his membership in the Teachers' Pension and Annuity Fund shall continue if he has not withdrawn his accumulated deductions, and if he returns to teaching service within a period of 5 years from the date of his discontinuance from service. Any previously held account in the Teachers' Pension and Annuity Fund which has expired as a result of such a discontinuance shall be reconstructed, and credit for retirement purposes shall be allowed to such member covering the period of his service in the Peace Corps. The method of computation, the terms of the purchase and the credit granted shall be identical to those stipulated for the purchase of previous membership service by members of the fund as provided in N. J. S. 18A:66–9.

2. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 432

AN ACT appropriating $9,635,000.00 from the Beaches and Harbor Fund for State projects and State matching grants to local governments to research, plan, acquire, develop, construct, and maintain beach restoration, maintenance and protection facilities, projects and programs.

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

1. There is appropriated to the Department of Environmental Protection from the Beaches and Harbors Fund created pursuant to the "Beaches and Harbors Bond Act of 1977" (P. L. 1977, c. 208)

the sum of $9,635,000.00 for the purpose of State projects and State matching grants to local governments for researching, planning, acquiring, developing, constructing and maintaining beach restoration, maintenance and protection facilities of the projects and programs and for administrative costs.

2. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P. L. 1977, c. 208 and the State matching grants are to be consistent with P. L. 1978, c. 157 and amendments thereto.

3. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 433

A SUPPLEMENT to the "Local Tax Authorization Act" approved December 23, 1970 (P. L. 1970, c. 326; C. 40:48C–1 et seq.), as said short title was amended by P. L. ....., c. ..... (now pending before the Legislature as Senate Bill No. 3374 of 1981).

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

C. 40:48C-1.1 Parking tax.

1. Any municipality having a population of less than 300,000 but in excess of 220,000, is authorized and empowered to enact an ordinance imposing the tax provided for in Article 3 (Parking Tax) of the "Local Tax Authorization Act," P. L. 1970, c. 326 (C. 40:48C–6 et seq.) at the rates and in the manner therein provided.

2. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 434

AN ACT concerning school elections, amending and supplementing P. L. 1944, c. 230, and amending sections 18A:14–50, 18A:14–51, 18A:14–53, 18A:14–54, 18A:14–61 and 18A:14–62 of the New Jersey Statutes.

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

1. N. J. S. 18A:14–50 is amended to read as follows:

Signature of voter.

18A:14–50. The voter shall, previous to the receipt of an official ballot, sign his name without assistance in the signature comparison record column of the signature copy register and state his address.

2. N. J. S. 18A:14–51 is amended to read as follows:

Signature comparison.

18A:14–51. After the voter shall have so signed and before an official ballot shall be given to him, one of the election officers shall compare the signature made in the signature comparison record with the signature theretofore made by the voter in the signature copy register, and if the signature thus written in the signature comparison record is the same or sufficiently similar to the signature in the signature copy register, the voter shall be eligible to receive a ballot.

3. N. J. S. 18A:14–53 is amended to read as follows:

Paper ballots.

18A:14–53. In all school districts using paper ballots, after the election officers shall have ascertained that a voter is properly registered and qualified to vote, the election officers shall furnish to the voter the official ballot bearing the lowest number of those not yet used or spoiled, and shall thereupon record the number of said ballot in the proper column on the record of voting form of such voter in the signature copy register. Such number shall constitute a record that such person has voted said ballot.

No ballot shall be handed to a voter until there is a booth ready for occupancy. The election officers shall not allow a voter to mark his ballot outside of an election booth unless the voter is unable to enter the booth by reason of his physical disability.

The election officers shall instruct the voter how to fold the ballot and shall crease the ballot so as to indicate the point where the voter shall fold the ballot, but before handing the ballot to the voter the election officers shall see that the face of the ballot including the coupon is exposed, and at the same time shall call off the ballot number to the official having charge of the signature copy register, who shall make certain that the ballot number and number entered opposite agree, allowing for spoiled ballots, if any.

If the number of the ballot does not follow consecutively, the missing number or numbers shall be written on a blank sheet of paper signed by the election officers and placed on the string with the coupons in its or their proper place or places.

Every voter to whom a ballot is given shall thereupon retire into the polling booth. Not more than one voter shall be permitted to enter or be in the same booth at one time. The voter shall prepare his ballot in the booth secretly and screened from the observation of others.

Any person or voter who shall intentionally violate the provisions of this section shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding $500.00, or by imprisonment not exceeding 1 year or both at the discretion of the court.

4. N. J. S. 18A:14–54 is amended to read as follows:

Spoiled or unfit ballots.

18A:14–54. Should any voter to whom any paper ballot has been handed spoil or render it unfit for use, he may return it and obtain another from the election officer but no more than two ballots shall be furnished to any voter except at the discretion of the election officer. The election officer shall preserve all spoiled or unfit ballots with the coupons attached and after proper correction has been made in the signature copy register, the same shall be placed upon the same string with the coupons.

5. N. J. S. 18A:14–61 is amended to read as follows:

Canvass of ballots.

18A:14–61. The tally sheets and ballots shall be placed by the inspector of the election at each polling place in a sealed package endorsed with the address of the polling place and the date on which the election was held and the judge of the election shall deliver the same immediately to the secretary of the board of education of the district, together with a statement of the result of the election signed by all of the election officers. The secretary of the

board of education shall add to the statements the result of the canvass of the military service and civilian absentee ballots as certified to him by the county board of elections and shall thereupon canvass the entire vote in the school district and combine the reports from all polling places and announce the result of the election. The secretary shall fill out and certify to the correctness of the count upon any statement which may be required by one or more school officials as provided for in this chapter.

6. N. J. S. 18A:14–62 is amended to read as follows:

Forwarding to county superintendent; preservation for 1 year.

18A:14–62. The secretary of the board of education shall, within 5 days after the date of the election, forward a sealed package containing a statement of the canvass of the votes in the school district, the ballots, including the irregular ballots and the tally sheets to the county superintendent who shall preserve them for 1 year.

All poll lists forwarded to the county superintendent under this section shall be made available for public inspection during the year in which they are to be preserved.

7. Section 1 of P. L. 1944, c. 230 (C. 19:31A–7) is amended to read as follows:

C. 19:31A-7 Signature comparison record.

1. The commissioner of registration shall have printed on the back of the duplicate permanent registration and voting form a signature comparison record, which record shall have in the left-hand side one-half inch from the top, a line upon which the voter when registering shall place his signature. Directly underneath this line shall be printed the words "sample signature."

The signature comparison record shall be printed so as to leave a margin one and one-half inches on the left-hand side for the purpose of binding. The remainder of the space shall be ruled in accordance with specifications prepared by the office of the Secretary of State to provide a record of registrants' signatures as made for comparison purposes before receiving a ballot at any election. The form shall be sufficient to record such signatures for a period of up to 20 years and shall be subdivided into nine columns.

At the top of the first column at the left-hand side shall appear the word "year." In this column, at the time the voter places his signature when voting in any election, the district election official

shall record the year which corresponds with the year during which said election is being held.

At the top of the second column shall appear the abbreviation for the words "signature compared by." In this column the district election board official shall place his initials certifying that he has compared the signature of the voter placed in third column with the sample signature at the top of the signature comparison record.

At the top of the third column shall appear the word "primary." Upon the line in said column opposite the particular year the voter shall place his signature when voting in the primary election for the general election in the year as stated in the first column.

At the top of the fourth column shall appear the abbreviation of the words "signature compared by." In this column the district election board official shall place his initials certifying that he has compared the signature of voter placed in the fifth column, with the sample signature at the top of the signature comparison record.

At the top of the fifth column shall appear the word "general." Upon the line in said column opposite the particular year the voter shall place his signature when voting in the general election in the year as stated in the first column.

At the top of the sixth column shall appear the abbreviation of the words "signature compared by." In this column the district election board official shall place his initials certifying that he has compared the signature of voter placed in the seventh column, with the sample signature at the top of the signature comparison record.

At the top of the seventh column shall appear the word "school." Upon the line in said column opposite the particular year the voter shall place his signature when voting in the annual school election in the year as stated in the first column.

At the top of the eighth column shall appear the abbreviation of the words "signature compared by." In this column the district election board official shall place his initials certifying that he has compared the signature of voter placed in the ninth column, with the sample signature at the top of the signature comparison record.

At the top of the ninth column shall appear the words "any other election." Upon the line in said column opposite the particular year the voter shall place his signature when voting in any election other than a primary election for a general election or a general election. The signature shall be placed on the line

opposite the year stated in the first column which corresponds with the year during which such other election shall be held.

At the time the voter registers, in addition to obtaining the signature on the original and duplicate registration forms the commissioner of registration shall also require the registrant to sign the signature comparison record on the back of the duplicate registration form above the line below which are the words "sample signature."

The signature comparison record shall be in the form specified by the office of the Secretary of State.

8. (New section) Within 60 days following enactment of this act the office of the Secretary of State shall prepare specifications for the permanent registration forms necessary for the implementation of this act.

9. This act shall take effect 6 months following enactment; provided, however, that any permanent registration form then in use may continue to be used until such time as the space available thereon is exhausted.

Approved January 9, 1982.

CHAPTER 435

AN ACT concerning municipal fire departments 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:14-54.1 Chief sole authority within fire lines.

1. The chief or other superior officer of any municipal paid or part-paid fire department or volunteer fire company, or a State fire warden, who is charged with the duty of supervising or directing operations at the scene of any fire shall be the sole authority within fire lines established by said fire chief or other superior fire officer, or State fire warden, at the scene of such fire with respect to all firefighting operations relating to the protection of lives and property endangered by such fire, and

within said fire lines such authority shall supersede that of any municipal police authority. The authority hereby invested in the chief or other superior officer, or State fire warden, shall terminate at such time as he shall declare the fire out. Nothing in this act shall affect the powers possessed by the Governor under the various emergency acts nor the powers possessed by any State agency to protect the public health, welfare and safety.

2. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 436

AN ACT concerning certain retired employees of counties, municipalities and school districts and their dependents and surviving spouses in connection with the New Jersey State Health Benefits Program and amending P. L. 1964, c. 125.

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

1. Section 7 of P. L. 1964, c. 125 (C. 52:14–17.38) is amended to read as follows:

C. 52:14-17.38 Health benefits for active and retired employees.

7. The Division of Pensions shall certify to the certifying agent of each employer electing participation under the program the premium rates and periodic charges applicable to the coverage provided for employees and dependents. The participating employer shall remit to the division all contributions to premiums and periodic charges in advance of their due dates, subject to the rules and regulations of the commission.

The employer shall reimburse the active employee for his premium charges under Part B of the Federal Medicare Program covering the employee and the employee's spouse.

From funds allocated therefor, the employer other than the State may pay the premium or periodic charges for the benefits provided to a retired employee and his dependents covered under the program, if such employee retired from a State or locally-admin-

istered retirement system on a benefit based on 25 years or more of service credited in such retirement system, excepting the employee who elected deferred retirement, but including the employee who retired on a disability pension based on fewer years of service credited in such retirement system, and may also reimburse such retired employee for his premium charges under Part B of the Federal Medicare Program covering the retired employee and the employee's spouse. "Retired employee and his dependents" may, upon adoption of an appropriate resolution therefor by the participating employer, also include otherwise eligible employees, and their dependents, who retired from a State or locally-administered retirement system on or after July 1, 1964, notwithstanding that said employer became a participating employer in the New Jersey State Health Benefits Program after said date. The term may also, upon adoption of an appropriate resolution therefor by the participating employer, include otherwise eligible employees, and their dependents, who did not elect to continue coverage in the program during such time after the employer became a participating employer that the employer did not pay premium or periodic charges for benefits to retired employees and their dependents pursuant to this section. Eligibility and enrollment of such employees and dependents shall be in accordance with such rules and regulations as may be adopted by the State Health Benefits Commission.

The employer other than the State may, by resolution, pay the premium or periodic charges for the benefits provided to the surviving spouse of a retired employee and his dependents covered under the program as provided in this section.

2. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 437

AN ACT authorizing municipalities to determine the regulation of traffic control devices to be operated as flashing mechanisms during offpeak hours under certain circumstances, and supplementing chapter 67 of Title 40 of the Revised Statutes.

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

C. 39:4-120.2 Flashing mechanism.

1. Subject to the provisions of R. S. 39:4–8 and P. L. 1969, c. 65 (C. 27:1A–43 et seq.), a municipality may determine the operation of any approved traffic control device as a flashing mechanism on municipally-owned and maintained streets and roads during the offpeak hours between 10 p.m. to 6 a.m. of any day of the week.

C. 39:4-120.3 Data submission to commissioner.

2. Any municipality seeking to enact an ordinance, regulation or resolution under this act shall first submit written information to the Commissioner of the Department of Tranportation indicating the location of the traffic control device where the use of flashing signals is requested, the intended hours of operation of such signal, data as to the traffic volume at, and the sight distances from, each intersection of, each location, and any other information requested by the commissioner.

C. 39:4-120.4 Effective on 90th day.

3. Any ordinance, regulation or resolution adopted hereunder shall become effective on the ninetieth day following enactment unless it shall have been disapproved before that time by the commissioner; provided that the commissioner shall have received a certified copy of the ordinance, regulation or resolution, as the case may be, within 5 days of its enactment.

4. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 438

AN ACT to amend and supplement the "Solid Waste Management Act" approved May 6, 1970 (P. L. 1970, c. 39, C. 13:1E–1 et seq.).

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

1. Section 9 of P. L. 1970, c. 39 (C. 13:1E–9) is amended to read as follows:

C. 13:1E-9 Codes, rules and regulations; injunctive and other relief; violations; compromise and settlement; knowing and reckless violations.

9. a. All codes, rules and regulations adopted by the department related to solid waste collection and disposal shall have the force and effect of law. Such codes, rules and regulations shall be observed throughout the State and shall be enforced by the department and by every local board of health, or county health department, as the case may be.

Any county health department may charge and collect from the owner or operator of any sanitary landfill facility within its jurisdiction such fees for enforcement activities as may be established by ordinance or resolution adopted by the governing body of any such county. Such fees shall be established in accordance with a fee schedule regulation to be adopted by the department, pursuant to law, within 60 days of the effective date of this amendatory act and shall be utilized exclusively to fund such enforcement activities.

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. 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 solid waste collection or disposal facility or operation, which is established or operated in violation of this act, or of any code, rule or regulation promulgated pursuant to this act and said court may proceed in the action in a summary manner. In any such proceeding the court may grant temporary or interlocutory relief notwithstanding the provisions of R. S. 48:2–24.

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 which 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 water and air quality resulting from any violation of any provision of this act or any rule, regulation or condition of approval 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, regulation or condition of approval established pursuant to this act for which the action under this subsection may have been brought. 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.

c. Any person who violates the provisions of this act or any code, rule or regulation promulgated pursuant to this act shall be liable to a penalty of not more than $25,000.00 per day to be collected in a civil action commenced by a local board of health, a county health department, or the commissioner by a summary proceeding under The Penalty Enforcement Law (N. J. S. 2A:58–1 et seq.) in the Superior Court, county district court, or a municipal court, all of which shall have jurisdiction to enforce said Penalty Enforcement Law in connection with this act. If the violation is of a continuing nature, each day during which it continues after the date given by which the violation must be eliminated in accordance with the order of the department shall constitute an additional, separate and distinct offense.

d. The department is hereby authorized and empowered to compromise and settle any claim for a penalty under this section in such amount in the discretion of the department as may appear appropriate and equitable under all of the circumstances, including a rebate of any such penalty paid up to 90% thereof where such person satisfies the department within 1 year or such other period as the department may deem reasonable that such violation has

been eliminated or removed or that such order or injunction has been met or satisfied, as the case may be.

e. Any person who knowingly:

(1) Transports any hazardous waste to a facility which does not have authorization from the department to accept such waste,

(2) Disposes, treats or stores hazardous waste without authorization from the department,

(3) Makes any false statement on any hazardous waste application, label, manifest, record, report, design or other document required to be submitted to the department 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 $25,000.00 for the first offense and not more than $50,000.00 for the second and each subsequent offense, in addition to any other appropriate disposition authorized by subsection b. of N. J. S. 2C:43–2.

f. Any person who recklessly:

(1) Transports any hazardous waste to a facility which does not have authorization from the department to accept such waste,

(2) Disposes, treats or stores hazardous waste without authorization from the department,

(3) Makes any false statement on any hazardous waste application, label, manifest, record, report, design or other document required to be submitted to the department, shall, upon conviction, be guilty of a crime of the fourth degree.

C. 13:1E-9.1 Surcharges; order of Board of Public Utilities.

2. (New section) a. The provisions of any law to the contrary notwithstanding, the owner or operator of any sanitary landfill facility may collect any fee imposed pursuant to section 9 of P. L. 1970, c. 39 (C. 13:1E–9) as a surcharge on any tariff established pursuant to law for the solid waste disposal operations of the facility.

b. The Board of Public Utilities shall issue an appropriate order increasing current tariffs established pursuant to law for solid waste collection operations by an amount equal to the total increase in the relevant solid waste disposal tariff pursuant to subsection a. of this section. In issuing this order, the board shall not be bound to find a rate base under section 31 of P. L. 1962, c. 198 (C. 48:2–21.2).

C. 40A:4-45.10 Expenditures mandated by State law.

3. (New section) Any additional expenditures for the collection or disposal of solid waste made by any county or municipality as a result of any fee imposed pursuant to section 9 of P. L. 1970, c. 39 (C. 13:1E-9) shall, for the purposes of P. L. 1976, c. 68 (C. 40A:4-45.1 et seq.), be considered an expenditure mandated by State law.

4. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 439

AN ACT concerning certain reemployment lists and supplementing chapter 22 of Title 11 of the Revised Statutes.

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

C. 11:22-10.4 Police reemployment list.

1. Notwithstanding any other law to the contrary, when a police officer in the classified service of any municipality who has resigned in good standing shall have requested his reinstatement thereto, the chief examiner and secretary shall place the name of the officer on a police reemployment list. No police officer's name shall be placed on such a list, however, unless the appointing authority shall have recommended that, because of the officer's record of past service, reinstatement would be in the best interests of the service. In addition, the officer may be required to pass appropriate medical and psychological examinations. The officer's request for reinstatement may be made at any time after his separation from the service.

2. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 440

AN ACT concerning conveyances by counties and municipailties to county or municipal sewerage authorities and amending P. L. 1971, c. 199.

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

1. Section 21 of P. L. 1971, c. 199 (C. 40A:12–21) is amended to read as follows:

C. 40A:12-21 Private sales to certain organizations upon nominal consideration.

21. Private sales to certain organizations upon nominal consideration. When the governing body of any county or municipality shall determine that all or any part of a tract of land, with or without improvements, owned by the county or municipality, is not then needed for county or municipal purposes, as the case may be, said governing body, by resolution or ordinance, may authorize a private sale and conveyance of the same, or any part thereof without compliance with any other law governing disposal of lands by counties and municipalities, for a consideration, which may be nominal, and containing a limitation that such lands or buildings shall be used only for the purposes of such organization or association, and to render such services or to provide such facilities as may be agreed upon, and not for commercial business, trade or manufacture, and that if said lands or buildings are not used in accordance with said limitation, title thereto shall revert to the county or municipality without any entry or reentry made thereon on behalf of such county or municipality, to

(a) A duly incorporated volunteer fire company or board of fire commissioners or first aid and emergency or volunteer ambulance or rescue squad association of a municipality within the county, in the case of a county, or of the municipality, in the case of a municipality, for the construction thereon of a firehouse or fire school or a first aid and emergency or volunteer ambulance or rescue squad building or for the use of any existing building for any or all of said purposes and any such land or building sold to any duly incorporated volunteer fire company may be leased by such fire company to any volunteer firemen's association for the use thereof for fire school purposes for the benefit of the members of such association, or

(b) Any nationally chartered organization or association of veterans of any war, in which the United States has or shall have been engaged, by a conveyance for consideration, a part of which may be an agreement by the organization or association to render service or to provide facilities for the general public of the county or municipality, of a kind which the county or municipality may furnish to its citizens and to the general public, or

(c) A duly incorporated nonprofit hospital association for the construction or maintenance thereon of a general hospital, or

(d) Any paraplegic veteran, that is to say, any officer, soldier, sailor, marine, nurse or other person, regularly enlisted or inducted, who was or shall have been in the active military or naval forces of the United States in any war in which the United States was engaged, and who, at the time he was commissioned, enlisted, inducted, appointed or mustered into such military or naval service, was a resident of and who continues to reside in this State, who is suffering from paraplegia and has permanent paralysis of both legs or the lower parts of the body resulting from injuries sustained through enemy action or accident while in such active military or naval service, for the construction of a home to domicile him, or to any organization or association of veterans, for the construction of a home or homes to domicile paraplegic veterans, with powers to convey said lands and premises to the paraplegic veteran or veterans on whose behalf said organization or association shall acquire title to said land, or

(e) Any duly incorporated nonprofit association or any regional commission or authority composed of one or more municipalities or one or more counties for the construction or maintenance thereon of an animal shelter, or

(f) Any duly incorporated nonprofit historical society for the acquisition of publicly owned historic sites for their restoration, preservation, improvement and utilization for the benefit of the general public, or

(g) Any duly incorporated nonprofit cemetery organization or association serving the residents of the municipality or county, or

(h) Any duly incorporated nonprofit organization for the principal purpose of the education or treatment of persons afflicted with developmental disabilities including cerebral palsy, or

(i) Any county or municipal sewerage authority serving the residents of the county or municipality, for the use thereof for sewerage authority purposes.

2. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 441

AN ACT regulating the sale, offering for sale, having, possession and destruction of stramonium, amending P. L. 1962, c. 113, and P. L. 1966, c. 314 and supplementing Title 26 of the Revised Statutes.

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

1. Section 1 of P. L. 1962, c. 113 (C. 2A:170–77.8) is amended to read as follows:

C. 2A:170-77.8 Stramonium preparations regulated.

1. Except as hereinafter provided, any person who uses or is under the influence of, or who possesses or has under his control, in any form, any prescription legend drug which is not a narcotic, depressant or stimulant drug or controlled dangerous substance within the meaning of existing law or any stramonium preparation, unless obtained from, or on a valid prescription of, a duly licensed physician, veterinarian or dentist, is a disorderly person.

In a prosecution under this act, it shall not be necessary for the State to prove that the accused did use or was under the influence of any specific drug or drugs except for stramonium preparations, but it shall be sufficient for a conviction under this act for the State to prove that the accused did use or was under the influence of some drug or drugs as aforesaid by proving that the accused did manifest physical and physiological symptoms or reactions caused by the use of any such drug.

As used in this act, "stramonium preparation" means a preparation prepared from the leaves, seeds, or any other part of the stramonium plant in the form of a powder, pipe mixture, cigarette, or any other form, with or without admixture of other ingredients. "Stramonium plant" means the plant Datura Stramonium Linné, including Datura Tatula Linné.

2. Section 2 of P. L. 1962, c. 113 (C. 2A:170–77.9) is amended to read as follows:

C. 2A:170-77.9 Sale or gift prohibited.

2. Except as hereinafter provided, any person who sells, dispenses or gives away, in any form, any prescription legend drug

which is not a narcotic, depressant or stimulant drug or controlled dangerous substance within the meaning of existing law, or any stramonium preparation, is a disorderly person.

3. Section 3 of P. L. 1962, c. 113 (C. 2A:170–77.10) is amended to read as follows:

C. 2A:170-77.10 Exemptions.

3. The provisions of sections 1 and 2 of this act, except so far as such provisions relate to any person who uses or is under the influence of the drugs or stramonium preparations described in the sections, shall not apply to a duly licensed physician, dentist, registered pharmacist, veterinarian, nurse, podiatrist, intern or resident physician of a hospital, sanitarium or other medical institution when acting in the regular course of his respective business or profession; or to a hospital, sanitarium, clinical laboratory or any other medical institution; or a state or governmental agency; or to any manufacturer, wholesaler, retailer or regular dealer in drugs or stramonium preparations when acting in the regular course of his respective business.

4. Section 4 of P. L. 1962, c. 113 (C. 2A:170–77.11) is amended to read as follows:

C. 2A:170-77.11 Further exemptions.

4. The provisions of section 1 of this act, except so far as such provisions relate to any person who uses or is under the influence of the drugs or stramonium preparations described in section 1, shall not apply to common carriers or to warehousemen while engaged in lawfully transporting or storing such drugs or stramonium preparations or to any employee of the same acting within the scope of his employment; or to public officers or employees in the performance of their official duties requiring possession or control of these drugs or stramonium preparations; or to temporary incidental possession by employees or agents of persons lawfully entitled to possession; or to persons whose possession is for the purpose of aiding public officers in performing their official duties.

5. Section 7 of P. L. 1966, c. 314 (C. 2A:170–77.15) is amended to read as follows:

C. 2A:170-77.15 Fraud, forgery, concealment, false name or address.

7. Any person, who shall obtain, or attempt to obtain, possession of, or procure, or attempt to procure, the administration of, in any form, any depressant or stimulant drug, as defined pursuant to

law, or any other prescription legend drug, which is not a narcotic drug within the meaning of chapter 18 of Title 24 of the Revised Statutes or any stramonium preparation, as defined in section 1 of P. L. 1962, c. 113 (C. 2A:170–77.8) as amended by section 1 of this act, (a) by fraud, deceit, misrepresentation, or subterfuge; or (b) by the forgery or alteration of a prescription or of any written order; or (c) by the concealment of a material fact; or (d) by the use of a false name or the giving of a false address, is a disorderly person.

C. 26:2-82.1 Location and destruction of plants.

6. (New section) a. In order to protect the health, morals and welfare of the State of New Jersey, wherever the prosecutor of any county of the State of New Jersey receives information that wild, cultivated or hidden growth of beds of alleged stramonium are located anywhere within his county, he shall immediately communicate the information to the State Department of Health, and the department, upon receipt of the information, shall immediately dispatch one of its agents to the location who shall make an examination and determination of the alleged stramonium weed so as to determine the existence or nonexistence of stramonium at the location. The department shall immediately communicate by writing its determination to the prosecutor.

b. Upon certification by the department of the existence of stramonium at the location examined by the department, the prosecutor is empowered to dispatch one of his agents to the location so certified and the agent shall destroy the stramonium. The prosecutor or his agent shall not be civilly responsible in any manner whatsoever for destruction of the stramonium.

c. As used in this section, "stramonium" means the plant Datura Stramonium Linné, including Datura Tatula Linné.

7. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 442

AN ACT consolidating and simplifying the requirements of the statutory law requiring the registration and disclosure of certain information by landlords, amending P. L. 1967, c. 76, amending and supplementing P. L. 1974, c. 50 and repealing section 13 of P. L. 1971, c. 224.

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

1. Section 1 of P. L. 1974, c. 50 (C. 46:8–27) is amended to read as follows:

C. 46:8-27 "Landlord," "project" defined.

1. The term "landlord", as used in this act, shall mean the person or persons who own or purport to own, or exercise control of any building or project in which there is rented or offered for rent housing space for living or dwelling purposes under either a written or oral lease, provided that this definition shall not include owner-occupied two unit premises. This definition shall include but not be limited to any multiple dwelling subject to the "Hotel and Multiple Dwelling Law" (P. L. 1967, c. 76; C. 55:13A–1 et seq.).

The term "project" as used in this act shall mean a group of buildings which are or are represented to be under common or substantially common ownership and which stand on a single parcel of land or parcels of land which are contiguous and which group of buildings is named, designated or advertised as a common entity. The contiguity of such parcels shall not be adversely affected by public rights-of-way incidental to such buildings.

2. Section 2 of P. L. 1974, c. 50 (C. 46:8–28) is amended to read as follows:

C. 46:8-28 Certificate of registration.

2. Every landlord shall, within 30 days following the effective date of this act, or at the time of the creation of the first tenancy in any newly constructed or reconstructed building, file with the clerk of the municipality in which the residential property is situated in the case of a one-dwelling unit rental or a two-dwelling unit non-owner occupied premises, or with the Bureau of Housing Inspection in the Department of Community Affairs in the case of a

multiple dwelling as defined in section 3 of the "Hotel and Multiple Dwelling Law" (C. 55:13A–3), a certificate of registration on forms prescribed by the Commissioner of Community Affairs, which shall contain the following information:

a. The name and address of the record owner or owners of the premises and the record owner or owners of the rental business if not the same persons. In the case of a partnership the names of all general partners shall be provided;

b. If the record owner is a corporation, the name and address of the registered agent and corporate officers of said corporation;

c. If the address of any record owner is not located in the county in which the premises are located, the name and address of a person who resides in the county in which the premises are located and is authorized to accept notices from a tenant and to issue receipts therefor and to accept service of process on behalf of the record owner;

d. The name and address of the managing agent of the premises, if any;

e. The name and address, including the dwelling unit, apartment or room number of the superintendent, janitor, custodian or other individual employed by the record owner or managing agent to provide regular maintenance service, if any;

f. The name, address and telephone number of an individual representative of the record owner or managing agent who may be reached or contacted at any time in the event of an emergency affecting the premises or any unit of dwelling space therein, including such emergencies as the failure of any essential service or system, and who has the authority to make emergency decisions concerning the building and any repair thereto or expenditure in connection therewith;

g. The name and address of every holder of a recorded mortgage on the premises;

h. If fuel oil is used to heat the building and the landlord furnishes the heat in the building, the name and address of the fuel oil dealer servicing the building and the grade of fuel oil used.

C. 46:8-28.1 Indexing, filing.

3. (New section) In the case of a filing under section 2 of P. L. 1974, c. 50 (C. 46:8–28) with the municipal clerk, the clerk shall index and file the certificate and make it reasonably available for public inspection. In the case of a filing with the Bureau of

Housing Inspection, the filing shall be accompanied by the filing fee required pursuant to section 12 of P. L. 1967, c. 76 (C. 55:13A–12). The bureau shall review the certificate and, if it found to be in conformity with this law and any regulations promulgated hereunder, validate the certificate and issue a validated copy to the landlord and a validated copy to the clerk of the municipality in which the building or project is located. The clerk shall index the validated certificates and make them available as with the certificates required of one and two dwelling unit nonowner occupied premises.

C. 46:8-28.2 Amendments.

4. (New section) Every landlord required to file a certificate of registration as described in section 2 of P. L. 1974, c. 50 (C. 46:8–28) shall file an amended certificate of registration within 20 days after any change in the information required to be included thereon. No fee shall be required for the filing of an amendment except where the ownership of the premises is changed.

5. Section 3 of P. L. 1974, c. 50 (C. 46:8–29) is amended to read as follows:

C. 46:8-29 Copies to tenants.

3. Within 30 days following the effective date hereof, and at the time of the creation of a new tenancy, every landlord shall provide each occupant or tenant in his building or project a copy of the certificate of registration required by section 2 of this act (C. 46:8–28). If an amended certificate is filed the landlord shall furnish each occupant or tenant with a copy of the amended certificate within 7 days after the amended certificate is filed with the municipal clerk in the case of a tenant occupied one family dwelling or a nonowner occupied two family dwelling and within 7 days of receipt of a validated certificate from the Bureau of Housing Inspection in the case of a building or project subject to the "Hotel and Multiple Dwelling Law" (P. L. 1967, c. 76; C. 55:13A–1 et seq.).

6. Section 12 of P. L. 1967, c. 76 (C. 55:13A–12) is amended to read as follows:

C. 55:13A-12 Filing by owners of hotels and multiple dwellings; agent for service of process; transfer of ownership; penalty for violation.

12. (a) The owner of each hotel, or of each multiple dwelling occupied or intended to be occupied by three or more persons living independently of each other, shall file with the commissioner, upon forms provided by the commissioner, a certificate of registration.

Each such certificate of registration shall be accompanied by a fee of $10.00 and shall include such information as the commissioner shall prescribe to enforce the provisions of this law; provided, however, that in the case of a multiple dwelling, the information required shall be at least that required pursuant to section 2 of P. L. 1974, c. 50 (C. 46:8–28). Upon the receipt of said certificate of registration and fee, the commissioner shall forthwith validate and issue to the owner of such hotel or multiple dwelling a validated copy of the certificate of registration, which validated copy shall be kept posted by the owner of such hotel or multiple dwelling at all times in the lobby or other conspicuous place on the premises. The posted certificate shall be reasonably protected from removal, alteration, defacement or damage by the elements in such manner as the commissioner may prescribe.

(b) The owner of each hotel, or of each multiple dwelling occupied or intended to be occupied by three or more persons living independently of each other shall appoint an agent for the purpose of receiving service of process and such orders or notices as may be issued by the commissioner pursuant to this act. Each such agent so appointed shall be a resident of the county in which the hotel or multiple dwelling is located or shall have an office in the county. If the agent is a corporation, it shall be licensed to do business in this State.

(c) In the case of any transfer of the ownership in any hotel, or of any multiple dwelling occupied or intended to be occupied by three or more persons living independently of each other, whether by sale, assignment, gift, intestate succession, testate devolution, reorganization, receivership, foreclosure or execution process, it shall be the duty of the new owner thereof to file with the commissioner, within 20 days of said transfer, a certificate of registration pursuant to subsection (a) of this section, and to appoint an agent for the service of process pursuant to subsection (b) of this section.

(d) In any case where the owner of a hotel or multiple dwelling subject to the provisions of this act has not fulfilled the requirements of this section, the commissioner shall notify the owner of the violation of this section and order that registration be accomplished within 30 days. The notice and order shall include an accurate restatement of the subsection with which the owner has not complied. If the owner has not complied with the order of the commissioner within 30 days, he shall be liable for a penalty of $200.00 for each registration which the commissioner shall have

ordered. The commissioner may issue a certificate to the clerk of the superior court that an owner is indebted for the payment of such penalty and thereupon the clerk shall immediately enter upon his record of docketed judgments the name of such owner, and of the State, a designation of the statute under which the penalty is imposed, the amount of the penalty so certified and the date such certification was made. The making of the entry shall have the same force and effect as the entry of the docketed judgment in the office of such clerk, and the commissioner shall have all of the remedies and maintain all of the proceedings for the collection thereof which may be had or taken upon the recovery of a judgment in a civil action, but without prejudice to the owner's right of appeal.

Repealer.

7. Section 13 of P. L. 1971, c. 224 (C. 2A:42–97) is repealed.

C. 46:8-28.3 Reregistration not required.

8. (New section) Nothing herein shall require a landlord who has heretofore complied with all provisions of P. L. 1974, c. 50 (C. 46:8–27 et seq.) or the "Hotel and Multiple Dwelling Law" (P. L. 1967, c. 76, C. 55:13A–1 et seq.), or both, applicable to any building or project to register the building or project again pursuant to this amendatory and supplementary act. Whenever, after the effective date of this amendatory and supplementary act, any owner or landlord shall be required to file an amended certificate of registration pursuant to the provisions of this amendatory and supplementary act, the "Hotel and Multiple Dwelling Law," or P. L. 1974, c. 50, then that filing shall be in accordance with this amendatory and supplementary act.

C. 46:8-28.4 Current proceedings unaffected.

9. (New section) This amendatory and supplementary act shall not affect any current proceedings, liabilities or penalties involving violations of the sections amended or repealed by this amendatory and supplementary act. All such proceedings, liabilities or penalties existing on the effective date of this amendatory and supplementary act shall be commenced or continued and be proceeded with in all respects as if the section had not been amended or repealed.

10. This act shall take effect on the one hundredth and eightieth day after enactment.

Approved January 9, 1982.

CHAPTER 443

AN ACT concerning certain fees charged by county clerks or registers of deeds and mortgages and amending section 2 of P. L. 1965, c. 123.

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

1. Section 2 of P. L. 1965, c. 123 (C. 22A:4-4.1) is amended to read as follows:

C. 22A:4-4.1 Fees of county clerks and registers.

2. County clerks and registers of deeds and mortgages, in counties having such office, shall charge for the services herein enumerated the following fees:

	Fee
For recording veteran's discharge papers	No fee
For recording any instrument:	
First page	$10.00
Each additional page or part thereof	$1.00
Each rider, insertion, addition, or any map, plat or sketch filed or recorded pursuant to paragraph (c) of section 2 of P. L. 1957, chapter 130	$1.00
For entering the marginal notation of an order, judgment, statement or warrant discharging, annulling a notice of lis pendens and for filing such order, judgment or statement	$2.00
For preparing and transmitting to the assessor, collector, or other custodian of the assessment map of any taxing district, the abstract of an instrument evidencing title to realty	$2.00
For entering the marginal notation of a discharge or release of a New Jersey building and loan or savings and loan mortgage and forwarding abstract	$2.00
For entering the marginal notation of a discharge, assignment, postponement or release of a mortgage, other than building and loan and savings and loan mortgages	$2.00
For the cancellation of any mortgage	$5.00

	Fee
For a marginal notation of the discharge of a mortgage in counties where mortgages are indexed under a system requiring a duplication of indices and description	$2.00
For filing and recording notices of Federal tax liens or certificates discharging such liens	$5.00
For filing each map, plat, plan or chart (except when presented by the State or its agencies or filed pursuant to paragraph (c) of section 2 of P. L. 1957, c. 130 (C. 48:3–17.3))	$12.00
For recording tax sale certificate, except by municipalities, or a redemption or assignment of tax sale certificate, first page	$10.00
Each additional page or part thereof	$1.00
Certified copy of veteran's discharge	$0.50
For indexing any recorded instrument in excess of 10 parties, per each name in excess of 10	$0.20
For recording tax sale certificate, lien, deed, or related instrument by a municipality	$3.00

2. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 444

A SUPPLEMENT to the "Department of the Public Advocate Act of 1974," approved May 13, 1974 (P. L. 1974, c. 27; C. 52:27E–1 et seq.).

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

C. 52:27E-41.1 Division of Advocacy for the Developmentally Disabled.

1. There is hereby established in the Department of the Public Advocate the Division of Advocacy for the Developmentally Disabled under the supervision of the Director of the Division of Advocacy for the Developmentally Disabled.

C. 52:27E-41.2 Hiring of attorneys.

2. The Director of the Division of Advocacy for the Developmentally Disabled may, with the approval of the Public Advocate, employ such assistants on a full-time basis as are necessary to protect the rights of developmentally disabled persons. When exceptional circumstances arise, the Director of the Division of Advocacy for the Developmentally Disabled, with the approval of the Public Advocate, may on a temporary basis retain such other expert assistants as are necessary pursuant to a reasonable fee schedule established in advance by the Public Advocate.

Cases shall be assigned to staff attorneys or attorneys hired by case on a basis calculated to provide competent representation in light of the nature of the case, the services to be performed, the experience of the particular attorney and other relevant factors.

C. 52:27E-41.3 Covered persons defined.

3. For purposes of this act, a developmentally disabled person is a person with a developmental disability as that term is defined in section 3 of the "Developmentally Disabled Rights Act," P. L. 1977, c. 82 (C. 30:6D–3).

C. 52:27E-41.4 Services to be provided.

4. The Division of Advocacy for the Developmentally Disabled may receive and investigate complaints and provide such legal representation and other advocacy services on an individual or class basis as the Public Advocate deems appropriate to protect and advocate the rights of developmentally disabled persons. The Division of Advocacy for the Developmentally Disabled may also, within the limits of available funding, provide services to other handicapped persons or classes of persons found by the Public Advocate to have needs similar to developmentally disabled people.

C. 52:27E-41.5 Eligibility of clients.

5. Eligibility for services by the Division of Advocacy for the Developmentally Disabled shall be determined on the basis of the need of the client and in a manner consistent with the conditions of any grant obtained by the Public Advocate to assist in implementing this act.

6. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 445

AN ACT to amend the "Senior Citizens and Disabled Protected Tenancy Act" (P. L. 1981, c. 226; C. 2A:18–61.22 et al.).

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

1. Section 3 of P. L. 1981, c. 226 (C. 2A:18–61.24) is amended to read as follows:

C. 2A:18-61.24 Definitions.

3. As used in this amendatory and supplementary act:

a. "Senior citizen tenant" means a person who is at least 62 years of age on the date of the conversion recording for the building or structure in which is located the dwelling unit of which he is a tenant, or the surviving spouse of such a person if the person should die after the owner files the conversion recording; provided that the building or structure has been the principal residence of the senior citizen tenant or the spouse for the 2 years immediately preceding the conversion recording or the death, as the case may be;

b. "Disabled tenant" means a person who is, on the date of the conversion recording for the building or structure in which is located the dwelling unit of which he is a tenant, totally and permanently unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, including blindness; provided that the building or structure has been the principal residence of the disabled tenant for the 2 years immediately preceding the conversion recording. For the purposes of this subsection, "blindness" means central visual acuity of 20/200 or less in the better eye with the use of correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered as having a central visual acuity of 20/200 or less;

c. "Tenant's annual household income" means the total income from all sources during the last full calendar year for all members of the household who reside in the dwelling unit at the time the tenant applies for protected tenant status, whether or not such income is subject to taxation by any taxing authority;

d. "Application for registration of conversion" means an application for registration filed with the Department of Community

Affairs in accordance with "The Planned Real Estate Development Full Disclosure Act," P. L. 1977, c. 419 (C. 45:22A–21 et seq.);

e. "Registration of conversion" means an approval of an application for registration by the Department of Community Affairs in accordance with "The Planned Real Estate Development Full Disclosure Act," P. L. 1977, c. 419 (C. 45:22A–21 et seq.);

f. "Convert" means to convert one or more buildings or structures or a mobile home park containing in the aggregate not less than 5 dwelling units or mobile home sites or pads from residential rental use to condominium, cooperative, planned residential development or separable fee simple ownership of the dwelling units or of the mobile home sites or pads;

g. "Conversion recording" means the recording with the appropriate county officer of a master deed for condominium or a deed to a cooperative corporation for a cooperative or the first deed of sale to a purchaser of an individual unit for a planned residential development or separable fee simple ownership of the dwelling units;

h. "Protected tenancy period" means, except as otherwise provided in section 11 of this amendatory and supplementary act, the 40 years following the conversion recording for the building or structure in which is located the dwelling unit of the senior citizen tenant or disabled tenant.

2. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 446

AN ACT concerining performance bonds or other securities for environmental violations and amending P. L. 1970, c. 33.

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

1. Section 12 of P. L. 1970, c. 33 (C. 13:1D–9) is amended to read as follows:

C. 13:1D-9 Powers of department.

12. The department shall formulate comprehensive policies for the conservation of the natural resources of the State, the promo-

tion of environmental protection and the prevention of pollution of the environment of the State. The department shall in addition to the powers and duties vested in it by this act or by any other law have the power to:

a. Conduct and supervise research programs for the purpose of determining the causes, effects and hazards to the environment and its ecology;

b. Conduct and supervise Statewide programs of education including the preparation and distribution of information relating to conservation, environmental protection and ecology;

c. Require the registration of persons engaged in operations which may result in pollution of the environment and the filing of reports by them containing such information as the department may prescribe to be filed relative to pollution of the environment, all in accordance with applicable codes, rules or regulations established by the department;

d. Enter and inspect any building or place for the purpose of investigating an actual or suspected source of pollution of the environment and ascertaining compliance or noncompliance with any code, rules and regulations of the department. Any information relating to secret processes concerning methods of manufacture or production obtained in the course of such inspection, investigation or determination, shall be kept confidential and shall not be admissible in evidence in any court or in any other proceeding except before the department as herein defined. If samples are taken for analysis, a duplicate of the analytical report shall be furnished promptly to the person suspected of causing pollution of the environment;

e. Receive or initiate complaints of pollution of the environment, including thermal pollution, hold hearings in connection therewith and institute legal proceedings for the prevention of pollution of the environment and abatement of nuisances in connection therewith and shall have the authority to seek and obtain injunctive relief and the recovery of fines and penalties in summary proceedings in the Superior Court;

f. Prepare, administer and supervise Statewide, regional and local programs of conservation and environmental protection, giving due regard for the ecology of the varied areas of the State and the relationship thereof to the environment, and in connection therewith prepare and make available to appropriate agencies in the State technical information concerning conservation and

environmental protection, cooperate with the Commissioner of Health in the preparation and distribution of environmental protection and health bulletins for the purpose of educating the public, and cooperate with the Commissioner of Health in the preparation of a program of environmental protection;

g. Encourage, direct and aid in coordinating State, regional and local plans and programs concerning conservation and environmental protection in accordance with a unified Statewide plan which shall be formulated, approved and supervised by the department. In reviewing such plans and programs and in determining conditions under which such plans may be approved, the department shall give due consideration to the development of a comprehensive ecological and environmental plan in order to be assured insofar as is practicable that all proposed plans and programs shall conform to reasonably contemplated conservation and environmental protection plans for the State and the varied areas thereof;

h. Administer or supervise programs of conservation and environmental protection, prescribe the minimum qualifications of all persons engaged in official environmental protection work, and encourage and aid in coordinating local environmental protection services;

i. Establish and maintain adequate bacteriological, radiological and chemical laboratories with such expert assistance and such facilities as are necessary for routine examinations and analyses, and for original investigations and research in matters affecting the environment and ecology;

j. Administer or supervise a program of industrial planning for environmental protection; encourage industrial plants in the State to undertake environmental and ecological engineering programs, and cooperate with the State Departments of Health and Labor in formulating rules and regulations concerning industrial sanitary conditions;

k. Supervise sanitary engineering facilities and projects within the State, authority for which is now or may hereafter be vested by law in the department, and shall, in the exercise of such supervision, make and enforce rules and regulations concerning plans and specifications, or either, for the construction, improvement, alteration or operation of all public water supplies, all public bathing places, landfill operations and of sewerage systems and disposal plants for treatment of sewage, wastes and other deleterious matter, liquid, solid or gaseous, require all such plans or specifica-

tions, or either, to be first approved by it before any work thereunder shall be commenced, inspect all such projects during the progress thereof and enforce compliance with such approved plans and specifications;

l. Undertake programs of research and development for the purpose of determining the most efficient, sanitary and economical ways of collecting, disposing or utilizing of solid waste;

m. Construct and operate, on an experimental basis, incinerators or other facilities for the disposal of solid waste, provide the various municipalities and counties of this State, the Board of Public Utilities, and the Division of Local Government Services in the Department of Community Affairs with statistical data on costs and methods of solid waste collection, disposal and utilization;

n. Enforce the State air pollution, water pollution, conservation, environmental protection, waste and refuse disposal laws, rules and regulations;

o. Acquire by purchase, grant, contract or condemnation, title to real property, for the purpose of demonstrating new methods and techniques for the collection or disposal of solid waste;

p. Purchase, operate and maintain, pursuant to the provisions of this act, any facility, site, laboratory, equipment or machinery necessary to the performance of its duties pursuant to this act;

q. Contract with any other public agency or corporation incorporated under the laws of this or any other state for the performance of any function under this act;

r. With the approval of the Governor, cooperate with, apply for, receive and expend funds from, the Federal Government, the State Government, or any county or municipal government or from any public or private sources for any of the objects of this act;

s. Make annual and such other reports as it may deem proper to the Governor and the Legislature evaluating the demonstrations conducted during each calendar year;

t. Keep complete and accurate minutes of all hearings held before the commissioner or any member of the department pursuant to the provisions of this act. All such minutes shall be retained in a permanent record, and shall be available for public inspection at all times during the office hours of the department;

u. Require any person subject to a lawful order of the department which provides for a period of time during which such person subject to the order is permitted to correct a violation, to post a

performance bond or other security with the department in such form and amount as shall be determined by the department. Such bond need not be for the full amount of the estimated cost to correct the violation but may be in such amount as will tend to insure good faith compliance with said order. The department shall not require such a bond or security from any public body, agency or authority. In the event of a failure to meet the schedule prescribed by the department, the sum named in the bond or other security shall be forfeited unless the department shall find that the failure is excusable in whole or in part for good cause shown in which case the department shall determine what amount of said bond or security, if any, is a reasonable forfeiture under the circumstances. Any amount so forfeited shall be utilized by the department for the correction of the violation or violations, or for any other action required to insure compliance with the order.

2. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 447

AN ACT concerning purchases, contracts, and agreements by the New Jersey Sports and Exposition Authority, supplementing P. L. 1971, c. 137 (C. 5:10–1 et seq.), and repealing section 21 of P. L. 1971, c. 137 (C. 5:10–21).

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

C. 5:10-21.1 Public advertisement for bids.

1. All purchases, contracts, or agreements where the cost or contract price exceeds the sum of $4,500.00 shall, except as otherwise provided in this act, be made, negotiated, or awarded only after public advertisement for bids therefor and shall be awarded to that responsible bidder whose bid, conforming to the invitation for bids, is most advantageous to the authority, in its judgment, upon consideration of price and other factors. Any bid may be rejected when the authority determines that it is in the public interest to do so.

Any purchase, contract, or agreement where the cost or contract price is $4,500.00 or less may be made, negotiated, or awarded by

the authority without advertising and in any manner which the authority, in its judgment, deems necessary to serve its unique interests and purposes and which promotes, whenever practicable, full and free competition by the acceptance of quotations or proposals or by the use of other suitable methods.

C. 5:10-21.2 Exceptions.

2. Any purchase, contract, or agreement where the cost or contract price exceeds $4,500.00 may be made, negotiated, or awarded by the authority without advertisement for bids when the subject matter is that described in section 3 of this act or when the purchase, contract, or agreement is made, negotiated, or awarded under the circumstances described in section 4 of this act. In any such instance, the authority may make, negotiate, or award the purchase, contract, or agreement in any manner which the authority deems necessary to serve its unique interests and purposes and which promotes, whenever practicable, full and free competition by the acceptance of quotations or proposals or by the use of other suitable methods.

C. 5:10-21.3 Subject matter.

3. Any purchase, contract, or agreement may be made, negotiated, or awarded pursuant to section 2 of this act when the subject matter consists of:

a. Services which are professional or technical in nature or services which are original and creative in character in a recognized field of artistic endeavor;

b. Items which are perishable or subsistence supplies;

c. Items which are specialized equipment or specialized machinery necessary to the conduct of authority business;

d. Items or services supplied by a public utility subject to the jurisdiction of the Board of Public Utilities, and tariffs and schedules of the charges made, charged or exacted by the public utility for those items or services are filed with the board;

e. Items which are styled or seasonal wearing apparel;

f. Items or services which, in order to compete successfully with other sports and entertainment facilities, the authority deems necessary to provide quality athletic contests, horse racing, or other spectator sporting events and trade shows, expositions, concerts, and other public events. These items and services shall include but not be limited to: food concessions; playing surfaces for football, soccer, tennis, or other athletic contests; indoor foot racing tracks; ice making and resurfacing equipment and services; matrix and

scoreboard systems; ticket printing and ticket selling services; materials, supplies, equipment and services for preparation and maintenance of horse racing or horse showing surfaces; horse race starting gates and equipment; program printing; pari-mutuel computer or totalisator equipment or services; horse racing teletimer equipment or services; horse racing photo finish equipment or services; and items or services which are part of or related to promotional or advertising efforts;

g. The lease of such office space, office machinery, specialized equipment, buildings or real property as may be required for the conduct of authority business; or

h. The sale or licensing of advertising rights.

C. 5:10-21.4 Special circumstances.

4. Any purchase, contract, or agreement may be made, negotiated, or awarded pursuant to section 2 of this act when:

a. Standardization of equipment and interchangeability of parts is in the public interest;

b. Only one source of supply or service is available;

c. The safety or protection of the authority's or other public property requires;

d. The exigency of the authority's service will not admit of advertisement;

e. More favorable terms can be obtained from a primary source of supply of an item or service;

f. Bid prices, after advertising, are not reasonable or have not been independently arrived at in open competition; but no negotiated purchase, contract, or agreement may be entered into under this subsection after the rejection of all bids received unless (1) notification of the intention to negotiate and reasonable opportunity to negotiate is given to each responsible bidder; (2) the negotiated price is lower than the lowest rejected bid price of a responsible bidder; and (3) the negotiated price is the lowest negotiated price offered by any responsible contractor;

g. The purchase is to be made from, or the contract is to be made with, the federal or any state government or agency or political subdivision thereof; or

h. Purchases made through or by the Director of the Division of Purchase and Property pursuant to section 1 of P. L. 1959, c. 40 (C. 52:27B–56.1).

C. 5:10-21.5 Resolution required.

5. In any case where the authority shall make, negotiate, or award a purchase, contract, or agreement without public advertisement pursuant to section 2 of this act, the authority shall, by resolution passed by the affirmative vote of a majority of its members, specify the subject matter or circumstances set forth in sections 3 and 4 of this act which permit the authority to take such action.

C. 5:10-21.6 Work by own employees.

6. Nothing herein shall prevent the authority from having any work done by its own employees.

Repealer.

7. Section 21 of P. L. 1971, c. 137 (C. 5:10–21) is repealed.

8. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 448

AN ACT concerning the printing and distribution of laws and other legislative printing and revising parts of the statutory law.

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

1. R. S. 1:2–1 is amended to read as follows:

Format for laws.

1:2–1. All laws of this State shall begin in the following style: "Be it enacted by the Senate and General Assembly of the State of New Jersey", after which shall follow the sections numbered consecutively 1, 2, 3, et cetera, with the Arabic numerals, each number being followed immediately by the significant words of the section, without the prefix of the word "that" or the words "and be it enacted", or any other formal prefix whatsoever. The Legislature shall see that all bills are engrossed in conformity to the provisions of this section and R. S. 1:2–2.

2. R. S. 1:3–1 is amended to read as follows:

Office of Legislative Services to prepare laws for printing.

1:3–1. The Legislative Services Commission shall direct the Office of Legislative Services that, as soon as practicable after any

law shall be enacted, it shall prepare the same for printing and in so doing, it shall make such corrections in the text thereof, as shall be directed by the Legislative Services Commission, and shall omit from the text thereof all material inserted therein, which is enclosed in bold-faced brackets, together with the brackets and all footnotes relating thereto, and shall cause material, appearing in the text underlined or printed in italics, to be printed in the same manner as other material is printed. The office shall cause the several acts of each year to be designated as chapters, numbered in Arabic according to the order of time when they respectively became laws; and shall cause headnotes, descriptive of the contents, to be printed at the beginning of such sections as it shall deem appropriate, and shall cause such sections of the several acts of each year to be marked with such compilation numbers as shall be appropriate in its judgment; and it shall, in like manner, cause the joint resolutions of the Senate and General Assembly and the concurrent resolutions of the Senate and General Assembly agreeing to any proposed amendment or amendments of the Constitution or providing for the publication and submission to the people of any such proposed amendment or amendments to be prepared for printing.

The Office of Legislative Services, through its Legislative Counsel, is authorized to correct in the text, but not in the title, of any law, such errors in references to other laws and in punctuation and spelling, and other obvious errors in form, which will not affect the substance of the law, as shall be concurred in by the Attorney General and shall make such corrections in preparing the law for printing.

The Office of Legislative Services, through its Legislative Counsel, is further authorized to correct errors caused when two or more amendments to the same section of law are enacted, at the same or different sessions of the Legislature, but such amendments inadvertently omit provisions of, and fail to refer to, one another. Only amendments that may be put into simultaneous operation may be reconciled. Corrections shall be concurred in by the Attorney General and, thereafter, the office shall prepare the law for printing.

The Office of Legislative Services shall also cause the proclamations of the Governor made during the previous year, which the Governor shall direct to be printed, to be copied and prepared for printing.

The Office of Legislative Services shall prepare but one index, alphabetically arranged, to all the acts and joint resolutions of the year and the proclamations of the previous year.

3. R. S. 1:3–2 is amended to read as follows:

Delivery to printer.

1:3–2. The Office of Legislative Services shall deliver a true copy of each law and joint resolution filed with the Secretary of State, prepared in accordance with the provisions of R. S. 1:3–1, to the printer having the contract to print the laws. The office shall also furnish to such printer copies of such proclamations of the Governor to be printed with the laws, and copy for the index prepared by it pursuant to R. S. 1:3–1, together with such analyses, tables and schedules indicating changes made in the statute law since the enactment of the Revised Statutes as it shall determine are appropriate, which shall be printed and distributed as part of the pamphlet laws.

4. R. S. 1:3–3 is amended to read as follows:

Direction and superintendence.

1:3–3. The Legislative Services Commission, through the Office of Legislative Services, shall direct and superintend the printing of the laws, joint resolutions and proclamations.

5. R. S. 1:3–4 is amended to read as follows:

Style; subject to modification.

1:3–4. The laws enacted at each session of the Legislature shall be printed in the same general style as heretofore, subject to such modifications and modernization as the Legislative Services Commission, through the Office of Legislative Services, shall from time to time direct. Preceding the first chapter of the pamphlet laws, there shall be printed the legislative list of members' names arranged by Senate and General Assembly districts. Following the last chapter of the pamphlet laws, there shall be printed first, the joint resolutions of the Senate and General Assembly arranged in numerical order, and such proclamations of the Governor made during the previous year as are to be printed with the laws.

6. R. S. 1:3–6 is amended to read as follows:

Governed by Title 52.

1:3–6. The general control and supervision of the printing of the laws, resolutions and proclamations shall be in the Legislative Services Commission, and the printing shall be subject to the provisions of R. S. 52:36–3 and R. S. 52:36–4.

7. R. S. 1:3–7 is amended to read as follows:

Binding and distribution of volumes.

1:3–7. The Office of Legislative Services shall, under the direction and control of the Legislative Services Commission, cause to be bound in plain and substantial binding so many of the paper volumes of the laws as the commission shall direct. The office shall distribute them in the manner that the commission prescribes.

8. R. S. 1:4–1 is amended to read as follows:

Senate Journal; Assembly Minutes.

1:4–1. The Senate Journal, the Assembly Minutes and the minutes of the joint meetings of both Houses of the Legislature shall be printed in such style as the Senate and General Assembly shall direct.

9. R. S. 1:4–2 is amended to read as follows:

Minutes of joint meetings.

1:4–2. The Secretary of the Senate shall cause to be prepared for printing copies of the Senate Journal in which shall be included the minutes of the joint meetings of the Legislature, as directed by the Senate; and the clerk of the General Assembly shall cause to be prepared like copies of the house minutes. The copies so prepared shall be delivered by the Office of Legislative Services to the person having the contract to print the same.

Immediately after each copy of the Senate Journal and Assembly Minutes has been made and prepared for printing as required by this section, the originals shall be deposited in the office of the Secretary of State, there to remain and by him be kept unaltered and undefaced.

10. R. S. 1:4–4 is amended to read as follows:

Indexes of journal and minutes.

1:4–4. The Secretary of the Senate and the Clerk of the General Assembly, respectively, shall prepare and deliver to the printer an index of the Senate Journal and Assembly Minutes for the entire session. The printer shall print as many copies as the Senate and General Assembly direct.

11. R. S. 1:4–5 is amended to read as follows:

Distribution of bound copies.

1:4–5. Upon receipt of the Senate Journal and Assembly Minutes, together with the indexes thereto, the Office of Legislative

Services shall cause to be bound in plain and substantial binding so many of such copies as the Senate and General Assembly shall determine, which bound copies shall be distributed by the office as directed by the Senate and General Assembly.

12. R. S. 1:4–6 is amended to read as follows:

Subscriptions; fees.

1:4–6. a. Any person desiring a complete set of the bills and resolutions introduced in any year in the Legislature, together with the usual index slips, daily memoranda, advance parts of the Journal of the Senate and Minutes of the Assembly and advance copies of laws, may file an application therefor with the Office of Legislative Services, accompanying the application with payment of an annual subscription fee in an amount to be fixed from time to time by the Legislative Services Commission. Upon receipt of the application and fee, the Office of Legislative Services shall cause the name and address of the applicant to be added to the printer's mailing list of members of the Legislature, and thereafter during the year such bills and resolutions, slips, daily memoranda, advance parts of the Journal and Minutes and advance copies of laws shall be mailed by the printer to such applicant as and when the same are mailed to members of the Legislature.

b. Any person desiring an advance copy of each law, to be published and distributed prior to the printing of the annual edition of the laws as provided in R. S. 1:3–1, may file an application therefor with the Office of Legislative Services accompanying the application with payment of an annual subscription fee to be fixed by the Legislative Services Commission in the manner provided in subsection a. of this section.

13. R. S. 1:4–7 is amended to read as follows:

Legislative Services Commission to supervise printing.

1:4–7. The general control and supervision of the printing of the Senate Journal, the Assembly Minutes and the current legislative printing shall be in the Legislative Services Commission, and the printing shall be subject to the provisions of R. S. 52:36–3 and R. S. 52:36–4.

14. R. S. 52:36–1 is amended to read as follows:

Division of Purchase and Property to exercise powers of printing board.

52:36–1. All the powers vested in and all the duties imposed on the state printing board and the comptroller in and by chapter three hundred and thirty-three of the laws of one thousand eight

hundred and ninety-five shall be vested in the Division of Purchase and Property in the Department of the Treasury, and the Director of the Division of Purchase and Property shall exercise all the powers and perform all the duties formerly exercised by or conferred and charged upon the state printing board and the comptroller by the aforesaid act.

The Division of Purchase and Property shall have the supervision and control of the printing of all such official reports and documents as the state librarian may require to be printed pursuant to R. S. 52:14–20 and such other State printing as it shall from time to time be directed to do.

Repealer.

15. The following sections are repealed:

R. S. 1:2–9;
R. S. 1:2–10;
R. S. 1:3–8 through R. S. 1:3–10;
R. S. 1:4–3 and
R. S. 52:36–2.

16. This act shall take effect January 12, 1982.

Approved January 9, 1982.

CHAPTER 449

AN ACT providing for the distribution and disposition of the parimutuel pool at horse race meetings, and amending P. L. 1940, c. 17, P. L. 1981, c. 118, and P. L. 1981, c. 154.

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

1. Section 46 of P. L. 1940, c. 17 (C. 5:5–66) is amended to read as follows:

C. 5:5-66 Disposition of deposits: harness, running races.

46. Every permitholder engaged in the business of conducting horse race meetings under this act, except the New Jersey Sports and Exposition Authority established pursuant to P. L. 1971, c. 137 (C. 5:10–1 et seq.), shall make disposition of the deposits remaining undistributed pursuant to section 44 as follows:

a. In the case of harness races:

(1) Pay to the commission 1.50% of so much of the total contributions to all parimutuel pools conducted or made during such calendar year on any and every horse race track granted a permit under this act. Notwithstanding the foregoing, for pools where the patron is required to select two horses, the permitholder shall pay to the commission 2.50% of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall pay to the commission 5.50% of the total contributions.

Payment on account of such sums to be paid to the commission shall be made every seventh day of any and every race meeting in the amount then due as determined in the manner provided above, and shall be accompanied by a report under oath showing the total of all such contributions, together with such other information as the commission may require. Except as otherwise provided by law, no admission or amusement tax, excise tax, license or horse racing fee of any kind shall be assessed or collected from any permitholder by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

(2) Hold and set aside in an account designated as a special trust account 1.15% of such total contributions in all pools to be used and distributed as hereinafter provided and as provided in section 5 of P. L. 1967, c. 40, for the following purposes and no other:

(a) 37% thereof to increase purses and grant awards for starting horses as provided or as may be provided by rules of the New Jersey Racing Commission with payment to be made in the same manner as payment of other purses and awards;

(b) 55% thereof for the establishment of a Sire Stakes Program for standardbred horses with payment to be made to the Department of Agriculture for administration as hereinbefore provided;

(c) 5% thereof for contributions and awards designed to improve and promote the standardbred breeding industry in New Jersey through payment of awards to owners and breeders of New Jersey bred horses which are registered with the Standardbred Breeders' and Owners' Association of New Jersey and which earn portions of purses in open events on New Jersey tracks, and to owners of stallions posted on the official stallions roster of the Standardbred Breeders' and Owners' Association of New Jersey which sire such registered New Jersey bred money earners;

(d) 3% thereof for other New Jersey horse breeding and promotion conducted by the New Jersey Department of Agriculture.

(3) Retain 7.20% of so much of such total contributions for his own uses and purposes. Notwithstanding the foregoing, for pools where the patron is required to select two horses, the permitholder shall retain 7.70% of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall retain 9.20% of the total contributions. Each permitholder shall contribute out of its 9.20% share of pools, where the patron is required to select three or more horses, a sum deemed necessary by the Racing Commission, to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of said commission.

(4) Distribute as purse money and for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey 7.15% of such total contributions. Expenditures for programs designed to aid the horsemen and the Standardbred Breeders' and Owners' Association of New Jersey shall not exceed 3.2% of the sum available for distribution as purse money. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the Standardbred Breeders' and Owners' Association of New Jersey and the tracks. Notwithstanding the foregoing, for pools where the patron is required to select two or more horses, the permitholder shall distribute as purse money 7.65% of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 9.15% of the total contributions. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, each permitholder shall retain out of the 9.15% to be distributed as purse money, a sum deemed necessary by the racing commission, for use by the commission to finance a prerace blood testing program, and such other testing programs which the commission shall deem proper and necessary and which shall be subject to the regulation and control of said commission.

b. In the case of running races:

(1) Where the amount derived from the parimutuel handle does not exceed $1 million per day based on such contributions accumulated and averaged during the calendar year, the permitholder shall:

(a) Pay to the commission 30% of 1% of so much of the total contributions to all parimutuel pools conducted or made during such calendar year; but notwithstanding the foregoing, for pools where the patron is required to select three or more horses, the permitholder shall pay to the commission 1.30% of the total contributions.

Payment on account of such sums to be paid to the commission shall be made every seventh day of any and every race meeting in the amount then due as determined in the manner provided above, and shall be accompanied by a report under oath showing the total of all such contributions, together with such other information as the commission may require. Except as otherwise provided by law, no admission or amusement tax, excise tax, license or horse racing fee of any kind shall be assessed or collected from any permitholder by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

(b) Hold and set aside in an account designated as a special trust account 23% of 1% of such total contributions to be used and distributed as hereinafter provided and as provided in section 5 of P. L. 1967, c. 40, for the following purposes and no other:

(i) 18% of 1% thereof for contributions and awards designed to improve and promote the thoroughbred breeding industry in New Jersey through payments of awards to owners and breeders of registered New Jersey bred horses which earn portions of purses in open events on New Jersey tracks, and to owners of stallions posted on the official stallion rosters of the Thoroughbred Breeders' Association of New Jersey which sire such registered New Jersey bred money winners;

(ii) 5% of 1% thereof for State horse breeding and development programs, research, fairs, horse shows, youth activities, promotion and administration.

(c) Retain 9.73% of such total contributions for his own uses and purposes. For pools where the patron is required to select two horses, the permitholder shall retain 10.80% of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall retain 13.21% of the total contributions.

(d) Distribute as purse money and for programs designed to aid the horsemen and the New Jersey Horsemen's Benevolent and Protective Association 6.00% of such contributions. Notwithstanding the foregoing, for pools where the patron is required to select

two horses, the permitholder shall distribute as purse money 6.93% of such contributions and for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 9.02% of the total contributions. Expenditures for programs designed to aid the horsemen and the New Jersey Horsemen's Benevolent and Protective Association shall not exceed 2.5% of the sum available for distribution as purse money from all parimutuel pools. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the New Jersey Horsemen's Benevolent and Protective Association and the permitholder.

(e) (i) 50% of 1% of all pools shall be deducted and set aside in a special trust account for the establishment and support by the commission of the thoroughbred breeding industry in New Jersey; to improve purses for closed races; to provide awards for owners and breeders of registered New Jersey bred horses who earn portions of purses in closed races at New Jersey race tracks and to owners of stallions posted on the official stallion rosters of the Thoroughbred Breeders' Association of New Jersey which sire such New Jersey bred money earners and awards to the New Jersey Thoroughbred Breeders' Association for programs beneficial to thoroughbred breeding in this State. The New Jersey thoroughbred award program shall be administered and disbursed by the commission while the thoroughbred open breeder awards shall be administered and disbursed by the New Jersey Department of Agriculture. The special trust account to be established pursuant to this paragraph shall be separate and apart from the special trust account established and maintained pursuant to subparagraph (b) of this paragraph.

(ii) 12% of 1% shall be deducted and set aside in a special trust account for the purpose of stabilizing the Thoroughbred Breeding Award Program. These funds shall be used by the New Jersey Racing Commission to supplement both the open and closed award programs. When necessary, the Racing Commission shall forward a portion of the funds to the Department of Agriculture for distribution to New Jersey bred horses that successfully compete in open races. Any sums not used shall revert to the State General Treasury.

(f) 12% of 1% shall be deposited in a separate special trust account for use by the commission in keeping thoroughbred tracks and stable facilities open during periods of time when they are not normally in operation when to do so would serve the public interest.

(g) Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, 50% of 1% of the total contributions shall be held and set aside in the special trust account referred to in subparagraph (e) (i) of this paragraph.

(2) Where the amount derived from the parimutuel handle exceeds $1 million per day based on such contributions accumulated and averaged during the calendar year, the permitholder shall:

(a) Pay to the commission 3.22% of so much of the total contributions to all parimutuel pools conducted or made during such calendar year; but, notwithstanding the foregoing, for pools where the patron is required to select three or more horses, the permitholder shall pay to the commission 4.22% of the total contributions.

Payment on account of such sums to be paid to the commission shall be made every seventh day of any and every race meeting in the amount then due as determined in the manner provided above, and shall be accompanied by a report under oath showing the total of all such contributions, together with such other information as the commission may require. Except as otherwise provided by law, no admission or amusement tax, excise tax, license or horse racing fee of any kind shall be assessed or collected from any permitholder by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

(b) Hold and set aside in an account designated as a special trust account 23% of 1% of such total contributions to be used and distributed as hereinafter provided and as provided in section 5 of P. L. 1967, c. 40, for the following purposes and no other:

(i) 18% of 1% thereof for contributions and awards designed to improve and promote the thoroughbred breeding industry in New Jersey through payments of awards to owners and breeders of registered New Jersey bred horses which earn portions of purses in open events on New Jersey tracks, and to owners of stallions posted on the official stallion rosters of the Thoroughbred Breeders' Association of New Jersey which sire such registered New Jersey bred money winners;

(ii) 5% of 1% thereof for State horse breeding and development programs, research, fairs, horse shows, youth activities, promotion and administration.

(c) Retain 6.81% of such total contributions for his own uses and purposes. For pools where the patron is required to select two horses, the permitholder shall retain 7.88% of the total contribu-

tions and for pools where the patron is required to select three or more horses, the permitholder shall retain 10.29% of the total contributions.

(d) Distribute as purse money and for programs designed to aid the horsemen and the New Jersey Horsemen's Benevolent and Protective Association 5.92% of such contributions. Notwithstanding the foregoing, for pools where the patron is required to select two horses, the permitholder shall distribute as purse money 6.85% of such contributions and for pools where the patron is required to select three or more horses, the permitholder shall distribute as purse money 8.94% of the total contributions. Expenditures for programs designed to aid the horsemen and the New Jersey Horsemen's Benevolent and Protective Association shall not exceed 2.5% of the sum available for distribution as purse money from all parimutuel pools. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the New Jersey Horsemen's Benevolent and Protective Association and the permitholder.

(e) (i) 50% of 1% of all pools shall be deducted and set aside in a special trust account for the establishment and support by the commission of the thoroughbred breeding industry in New Jersey; to improve purses for closed races; to provide awards for owners and breeders of registered New Jersey bred horses who earn portions of purses in closed races at New Jersey race tracks and to owners of stallions posted on the official stallion rosters of the Thoroughbred Breeders' Association of New Jersey which sire such New Jersey bred money earners and awards to New Jersey Thoroughbred Breeders' Association for programs beneficial to thoroughbred breeding in this State. The New Jersey thorougbred award program shall be administered and disbursed by the commission while the thoroughbred open breeder awards shall be administered and disbursed by the New Jersey Department of Agriculture. The special trust account to be established pursuant to this paragraph shall be separate and apart from the special trust account established and maintained pursuant to subparagraph (b) of this paragraph.

(ii) 20% of 1% shall be deducted and set aside in a special trust account for the purpose of stabilizing the Thoroughbred Breeding Award Program. These funds shall be used by the New Jersey Racing Commission to supplement both the open and closed award programs. When necessary, the Racing Commission shall forward a portion of the funds to the Department of Agriculture for distribution to New Jersey bred horses that successfully com-

pete in open races. Any sums not used shall revert to the State General Treasury.

(f) 12% of 1% shall be deposited in a separate special trust account for use by the New Jersey Racing Commission in keeping thoroughbred tracks and stable facilities open during periods of time when they are not normally in operation when to do so would serve the public interest.

(g) Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, 50% of 1% of the total contributions shall be held and set aside in the special trust account referred to in subparagraph (e) (i) of this paragraph.

Notwithstanding any other provision of this section, every harness permitholder engaged in the business of conducting harness race meetings shall retain from the funds designated in subsection a. (1) of this section an additional 20% of 1% of the total contributions to all parimutuel pools for his own uses and purposes, in addition to those sums herein mentioned in subsection a. (3) of this section, during the period of November 1 to March 31, referred to as winter racing days. Any running race permitholder operating pursuant to subsection b. (2) of this section shall retain from the funds designated in subsection b. (2) (a) an additional 1% of the total contributions to all parimutuel pools for his own uses and purposes, in addition to those sums herein mentioned in subsection b. (2) (c), for any winter racing days as herein defined; and commencing June 1, 1982, shall retain from the funds designated in subsection b. (2) (a) an additional 1% of the total contributions during the months of June, July and August to all parimutuel pools for his own uses and purposes, in addition to those sums herein mentioned in subsection b. (2) (c), when a harness race meeting, other than one conducted by the New Jersey Sports and Exposition Authority, is operating concurrently.

2. Section 4 of P. L. 1981, c. 118 is amended to read as follows:

4. Notwithstanding any other provisions of section 46 of P. L. 1940, c. 17 (C. 5:5–66), any permitholder conducting running race meetings prior to June 1, 1982 shall be considered as operating a special race meeting at which distribution of all parimutuel pools shall be as follows:

a. Pay to the commission 30% of 1% of so much of the total contributions to all parimutuel pools conducted or made during such calendar year; but, notwithstanding the foregoing, for pools where the patron is required to select three or more horses, the

permitholder shall pay to the commission 1.30% of the total contributions.

Payment on account of such sums to be paid to the commission shall be made every seventh day of any and every race meeting in the amount then due as determined in the manner provided above, and shall be accompanied by a report under oath showing the total of all such contributions, together with such other information as the commission may require. Except as otherwise provided by law, no admission or amusement tax, excise tax, license or horse racing fee of any kind shall be assessed or collected from any permitholder by the State of New Jersey, or by any county or municipality, or by any other body having power to assess or collect license fees or taxes.

b. Hold and set aside in an account designated as a special trust account 23% of 1% of such total contributions to be used and distributed as hereinafter provided in section 5 and as provided in section 2 of this act for the following purposes and no other:

(1) 18% of 1% thereof for contributions and awards designed to improve and promote the thoroughbred breeding industry in New Jersey through payments of awards to owners and breeders of registered New Jersey bred horses which earn portions of purses in open events on New Jersey tracks, and to owners of stallions posted on the official stallion rosters of the Thoroughbred Breeders' Association of New Jersey which sire such registered New Jersey bred money winners;

(2) 5% of 1% thereof for State horse breeding and development programs, research, fairs, horse shows, youth activities, promotion and administration.

c. Retain 9.73% of such total contributions for his own uses and purposes. For pools where the patron is required to select two horses, the permitholder shall retain 10.80% of the total contributions and for pools where the patron is required to select three or more horses, the permitholder shall retain 13.21% of the total contributions.

d. Distribute as purse money and for programs designed to aid the horsemen and the New Jersey Horsemen's Benevolent and Protective Association 5.92% of such contributions. Notwithstanding the foregoing, for pools where the patron is required to select two horses, the permitholder shall distribute as purse money 6.85% of such contributions and for pools where the patron is required to select three or more horses, the permitholder shall

distribute as purse money 8.94% of the total contributions. Expenditures for programs designed to aid the horsemen and the New Jersey Horsemen's Benevolent and Protective Association shall not exceed 2.5% of the sum available for distribution as purse money from all parimutuel pools. The formula for distribution of the purse money as either overnight purses or special stakes shall be determined by an agreement between the New Jersey Horsemen's Benevolent and Protective Association and the permitholder.

e. (1) 50% of 1% of all pools shall be deducted and set aside in a special trust account for the establishment and support by the commission of the thoroughbred breeding industry in New Jersey; to improve purses for closed races; to provide awards for owners and breeders of registered New Jersey bred horses who earn portions of purses in closed races at New Jersey race tracks and to owners of stallions posted on the official stallion rosters of the Thoroughbred Breeders' Association of New Jersey which sire such New Jersey bred money earners and awards to New Jersey Thoroughbred Breeders' Association for programs beneficial to thoroughbred breeding in this State. The New Jersey thoroughbred award program shall be administered and disbursed by the commission while the thoroughbred open breeder awards shall be administered and disbursed by the New Jersey Department of Agriculture. The special trust account to be established pursuant to this paragraph shall be separate and apart from the special trust account established and maintained pursuant to subsection b. of this section.

(2) 20% of 1% shall be deducted and set aside in a special trust account for the purpose of stabilizing the Thoroughbred Breeding Award Program. These funds shall be used by the New Jersey Racing Commission to supplement both the open and closed award programs. When necessary, the Racing Commission shall forward a portion of the funds to the Department of Agriculture for distribution to New Jersey bred horses that successfully compete in open races. Any sums not used shall revert to the State General Treasury.

f. 12% of 1% shall be deposited in a separate special trust account for use by the New Jersey Racing Commission in keeping thoroughbred tracks and stable facilities open during periods of time when they are not normally in operation when to do so would serve the public interest.

g. Notwithstanding the foregoing, for pools where a patron is required to select three or more horses, 50% of 1% of the total

contributions shall be held and set aside in the special trust account referred to in subsection e. of this section.

3. Section 1 of P. L. 1981, c. 154 is amended to read as follows:

1. Notwithstanding the provisions of section 44 of P. L. 1940, c. 17 (C. 5:5–64), every permitholder engaged in the business of conducting running race meetings where the amount derived from the parimutuel handle does not exceed $1 million per day based on such contributions accumulated and averaged during the calendar year 1982 shall retain the breaks during its 1982 meeting for use in supplementing the purses distributed by the permitholder up to a maximum average daily purse distribution of $65,000.00; and every permitholder engaged in conducting running race meetings wherein the amount derived from the parimutuel handle exceeds $1 million per day accumulated and averaged during calendar year 1982 shall retain the breaks during its 1982 meeting for use in supplementing the purses distributed by the permitholder up to a maximum average daily purse distribution of $85,000.00.

Any funds not used for such purse supplements shall be paid to the commission for the use of the State at the conclusion of the permitholder's 1982 meeting.

4. This act shall take effect immediately and shall be retroactive to May 1, 1981.

Approved January 9, 1982.

CHAPTER 450

AN ACT appropriating funds from the "Emergency Flood Control Fund" for the purpose of providing State grants to local units for the acquisition, development, construction and maintenance of flood control facilities.

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

1. There is appropriated to the Department of Environmental Protection from the "Emergency Flood Control Fund" created pursuant to the "Emergency Flood Control Bond Act," P. L. 1978, c. 78, the sum of $8,624,762.38* for the purpose of providing State

grants to local units for the acquisition, development, construction and maintenance of flood control facilities and for State administrative costs. The terms and conditions of these grants shall be specified by rule or regulation pursuant to section 5 of P. L. 1978, c. 78, but no such grant shall be for more than 50% of the cost of any project.

2. The expenditure of the sums appropriated by this act is subject to the provisions of P. L. 1978, c. 78 and P. L. 1979, c. 196.

3. This act shall take effect immediately.

Approved January 11, 1982.

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* Reduced to $2,277,058.38 by line item veto of the Governor. See statement following.

Statement to Senate Bill No. 3426 (OCR)

Pursuant to Article V, Section I, Paragraph 15 of the Constitution, I herewith append a statement of each item to which I object in Senate Bill No. 3426 (OCR).

This bill would appropriate to the Department of Environmental Protection from the "Emergency Flood Control Fund" created pursuant to the "Emergency Flood Control Bond Act," P. L. 1978, c. 78, the sum of $8,624,762.38 for the purpose of providing State grants to local units for the acquisition, development, construction and maintenance of flood control facilities and for State administrative costs.

This bill was intended to be the final appropriation from the fund, but the Department of Treasury informs me that the sum appropriated does not reflect the remaining balance. Accordingly, I am reducing the appropriated sum to $2,277,058.38.

Respectfully,

/s/ Brendan Byrne,
Governor.

[SEAL]
Attest:
/s/ Harold L. Hodes,
Chief of Staff, Secretary.

CHAPTER 451

A SUPPLEMENT to the "Public Employees' Retirement System Act," approved June 28, 1954 (P. L. 1954, c. 84, C. 43:15A-1 et seq.) as said short title was amended by P. L. 1971, c. 213.

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

C. 43:15A-60.1 Credit for military service.

1. A member who meets the definition of "veteran" as set out in paragraph p. of section 6 of P. L. 1954, c. 84 (C. 43:15A-6) may, upon filing an application with the board of trustees of the retirement system, purchase credit for all or a portion of the time spent in active military service prior to his enrollment in the retirement system, but not exceeding 5 years. No application shall be accepted for the purchase of credit for such service, however, if at the time of application, the member has a vested right to retirement benefits in another retirement system based in whole or in part upon his military service.

He may purchase credit for such service by paying into the annuity savings fund the amount required by applying the factor, supplied by the actuary, applicable to his age at the time of the purchase, to his salary at that time. Such purchase may be made in regular monthly installments or in a lump sum as he may elect and pursuant to rules and regulations as may be promulgated by the Division of Pensions. The employer of a member who applies to purchase credit under the provisions of this supplementary act shall not be liable for any payment to the retirement system on behalf of the member for the purchase of such credit.

Any member electing to contribute toward such service, who retires prior to completing payment as agreed with the retirement system for the purchase of such service will receive pro rata credit for service purchased prior to the date of retirement, but if he so elects at the time of retirement, he may make such additional lump sum payment at that time as will be necessary to provide full credit.

2. This act shall take effect immediately.

Approved January 11, 1982.

CHAPTER 452

AN ACT to provide civil penalties for engaging in unfair methods of competition or unfair or deceptive acts or practices under the Life and Health Insurance Code and Property-Casualty Insurance Code and amending N. J. S. 17B:30–17 and N. J. S. 17B:30–20 and P. L. 1947, c. 379.

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

1. N. J. S. 17B:30–17 is amended to read as follows:

Unfair methods of competition; cease and desist orders; modification.

17B:30–17. a. If the commissioner has reason to believe that any person has been engaged or is engaging in this State in any unfair method of competition, or any unfair or deceptive act or practice expressly prohibited in this chapter, and that a proceeding by him in respect thereto would be to the interest of the public, he shall issue and serve upon such person a statement of the charges in that respect and a notice of a hearing thereon as provided in the "Administrative Procedure Act" (P. L. 1968, c. 410; C. 52:14B–1 et seq.) and any rules adopted thereunder.

b. If, after such hearing, the commissioner shall determine that the method of competition or the act or practice in question is defined in this chapter and that the person complained of has engaged in such method of competition, act or practice in violation of this chapter, he shall make his findings in writing and shall issue and cause to be served upon the person charged with the violation an order requiring such person to cease and desist from engaging in such method of competition, act or practice and the commissioner may order payment of a penalty not to exceed $1,000.00 for each and every act or violation unless the person knew or reasonably should have known he was in violation of this chapter, in which case the penalty shall be not more than $5,000.00 for every act or violation. The penalty shall be collected by the commissioner in the name of the State in a summary proceeding in accordance with the "penalty enforcement law" (N. J. S. 2A:58–1 et seq.).

c. Until the expiration of the time limited for judicial review, if no proceeding for review has been instituted within such time or, if a proceeding for review has been instituted within such time,

then until the transcript of the record in the proceeding has been filed in the Superior Court, as hereinafter provided, the commissioner may at any time, upon such notice and in such manner as he shall deem proper, modify or set aside in whole or in part any order issued by him under this section.

d. After the expiration of the time limited for judicial review if no such proceeding has been instituted within such time, the commissioner may at any time, after notice and opportunity for hearing, reopen and alter, modify or set aside, in whole or in part, any order issued by him under this section, whenever in his opinion the facts or the laws have so changed as to require such action or if the public interest shall so require.

e. No order or proceeding, or absence of such order or proceeding of the commissioner pursuant to this chapter or order of court to enforce such order, if made, shall in any way relieve or absolve any person affected thereby from any other liability, penalty or forfeiture provided by another law.

2. N. J. S. 17B:30–20 is amended to read as follows:

Penalty for violation.

17B:30–20. Any person who violates a cease and desist order of the commissioner issued under this chapter shall be liable to a penalty not exceeding $5,000.00 for each violation, to be collected by the commissioner in the name of the State in a summary proceeding in accordance with the Penalty Enforcement Law (N. J. S. 2A:58–1 et seq.). The commissioner in his discretion may revoke or suspend the license or certificate of authority of any such person.

3. Section 7 of P. L. 1947, c. 379 (C. 17:29B–7) is amended to read as follows:

C. 17:29B-7 Order following hearing; modification.

7. (a) If, after such hearing, the commissioner shall determine that the method of competition or the act or practice in question is defined in section 4 and that the person complained of has engaged in such method of competition, act or practice in violation of this act, he shall make his findings in writing and shall issue and cause to be served upon the person charged with the violation an order requiring such person to cease and desist from engaging in such method of competition, act or practice and the commissioner may order payment of a penalty not to exceed $1,000.00 for each and every act or violation unless the person knew or reasonably should have known he was in violation of this chapter, in which

case the penalty shall be not more than $5,000.00 for every act or violation. The penalty shall be collected by the commissioner in the name of the State in a summary proceeding in accordance with "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.).

(b) Until the expiration of the time limited for judicial review, if no proceeding for review has been instituted within such time or, if a proceeding for review has been instituted within such time, then until the transcript of the record in the proceeding has been filed in the Superior Court, as hereinafter provided, the commissioner may at any time, upon such notice and in such manner as he shall deem proper, modify or set aside in whole or in part any order issued by him under this section.

(c) After the expiration of the time limited for judicial review if no such proceeding has been instituted within such time, the commissioner may at any time, after notice and opportunity for hearing, reopen and alter, modify or set aside, in whole or in part, any order issued by him under this section, whenever in his opinion the facts or the laws have so changed as to require such action or if the public interest shall so require.

4. This act shall take effect immediately.

Approved January 11, 1982.

CHAPTER 453

AN ACT concerning New Jersey Gross Income Tax credit for excess contributions to the State Disability Benefits Fund and the Unemployment Compensation Fund, amending N. J. S. 54A:7–2 and supplementing Title 54A of the New Jersey Statutes.

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

1. N. J. S. 54A:7–2 is amended to read as follows:

Information statement for employee.

54A:7–2. Information statement for employee. Every employer required to deduct and withhold tax under this act from the wages of an employee, or who would have been required so to deduct and withhold tax if the employee had claimed no more than one withholding exemption, shall furnish to each such employee in

respect of the wages paid by such employer to such employee during the calendar year on or before February 15 of the succeeding year, or, if his employment is terminated before the close of such calendar year, within 30 days from the date on which the last payment of the wages is made, a written statement as prescribed by the director showing the amount of wages paid by the employer to the employee, the amount deducted and withheld as tax, the amount deducted and withheld as worker contributions for unemployment and disability insurance as provided under the New Jersey Unemployment Compensation Law, and such other information as the director shall prescribe.

C. 54A:4-4 Credit on gross income tax; statements of director.

2. (New section) a. Any employee who is a taxpayer and entitled, pursuant to the provisions of R. S. 43:21–7 (d) (3) or section 1 of P. L. 1944, c. 81 (C. 43:21–14.1), to a refund of contributions deducted during a tax year from his wages shall, in lieu of such refund, be entitled to a credit in the full amount thereof against the tax otherwise due on his New Jersey gross income for that tax year if he submits his claim for the credit and accompanies that claim with evidence of his right to the credit in such manner as the Director of the Division of Taxation may by regulation provide. In any case in which the amount, or any portion thereof, of any credit allowed hereunder results in or increases an excess of income tax payment over income tax liability, the amount of such new or increased excess shall be considered an overpayment and shall be refunded to the taxpayer in the manner provided by subsection (a) of N. J. S. 54A:9–7.

b. On the first day of each month, or at such other time as the director shall determine, the director shall forward to the Division of Unemployment and Temporary Disability Insurance a statement of the total amount of credits actually allowed pursuant to subsection a. of this section during the preceding month or period covered by the statement. Such statement shall indicate the totals of credits allowed on claims and shall be accompanied by such documents as the director and the Director of the Division of Unemployment and Disability Insurance shall prescribe. Moneys reimbursed by the Division of Unemployment and Temporary Disability Insurance to the director shall be treated as taxes collected under the provisions of this Title.

C. 54A:4-5 Reimbursement within 5 days.

3. (New section) Upon receipt from the director of a statement of the total amount of State income tax credits allowed on claims,

the Division of Unemployment and Temporary Disability Insurance shall within 5 days reimburse to the director from the respective funds sums equal to the amounts so allowed. No interest shall be paid with respect to the sums reimbursed.

4. This act shall take effect immediately and be applicable to the tax years commencing with the first full tax year succeeding enactment.

Approved January 11, 1982.

CHAPTER 454

AN ACT prohibiting a seller, lessor, creditor, lender or bailee from offering or entering into certain consumer contracts or giving or displaying certain written consumer warranties, notices or signs which are in violation of the rights of consumers and providing for civil penalties for violations thereof.

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

C. 56:12-14 Short title.

1. This act shall be known and may be cited as the "Truth-in-Consumer Contract, Warranty and Notice Act."

C. 56:12-15 Prohibition of violative contracts; residential leases, real estate sales, new homes not covered.

2. No seller, lessor, creditor, lender or bailee shall in the course of his business offer to any consumer or prospective consumer or enter into any written consumer contract or give or display any written consumer warranty, notice or sign after the effective date of this act which includes any provision that violates any clearly established legal right of a consumer or responsibility of a seller, lessor, creditor, lender or bailee as established by State or Federal law at the time the offer is made or the consumer contract is signed or the warranty, notice or sign is given or displayed. Consumer means any individual who buys, leases, borrows, or bails any money, property or service which is primarily for personal, family or household purposes. The provisions of this act shall not apply to residential leases or to the sale of real estate, whether improved or not, or to the construction of new homes subject to "The New

Home Warranty and Builders' Registration Act,'' P. L. 1977, c. 467 (C. 46:3B–1 et seq.).

C. 56:12-16 Waiver of rights null and void.

3. No consumer contract, warranty, notice or sign, as provided for in this act, shall contain any provision by which the consumer waives his rights under this act. Any such provision shall be null and void. No consumer contract, notice or sign shall state that any of its provisions is or may be void, unenforceable or inapplicable in some jurisdictions without specifying which provisions are or are not void, unenforceable or inapplicable within the State of New Jersey; provided, however, that this shall not apply to warranties.

C. 56:12-17 Penalty for violation.

4. Any person who violates the provisions of this act shall be liable to the aggrieved consumer for a civil penalty of not less than $100.00 or for actual damages, or both at the election of the consumer, together with reasonable attorney's fees and court costs. This may be recoverable by the consumer in a civil action in a court of competent jurisdiction or as part of a counterclaim by the consumer against the seller, lessor, creditor, lender or bailee or assignee of any of the aforesaid, who aggrieved him. A consumer also shall have the right to petition the court to terminate a contract which violates the provisions of section 2 of this act and the court in its discretion may void the contract.

C. 56:12-18 Additional rights.

5. The rights, remedies and prohibitions accorded by the provisions of this act are hereby declared to be in addition to and cumulative of any other right, remedy or prohibition accorded by common law, Federal law or statutes of this State, and nothing contained herein shall be construed to deny, abrogate or impair any such common law or statutory right, remedy or prohibition.

6. This act shall take effect 30 days after enactment.

Approved January 11, 1982.

CHAPTER 455

AN ACT providing for the continuation of group health insurance benefits for certain disabled persons, and supplementing Title 17 of the Revised Statutes.

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

C. 17:48-6.10 Definitions.

1. As used in this act:

a. "Group policy" means a group contract or individual group certificate delivered or issued for delivery by a hospital service corporation, medical service corporation or similar corporation or organization.

b. "Insurer" means the entity issuing a group contract or an individual group certificate.

c. "Insurance", "Insures" and "Insured" refer to coverage under a group contract or individual group certificate on a premium-paying basis.

d. "Premium" includes any premium or other consideration payable for coverage under a group contract or individual group certificate.

e. "Medicare" means Title XVIII of the United States Social Security Act as amended or superseded.

f. "Total disability of an employee or member" exists only while the employee or member (1) is not engaged in any gainful occupation, and (2) is completely unable, due to sickness or injury or both, to engage in any and every gainful occupation for which the person is reasonably fitted by education, training, or experience.

C. 17:48-6.11 Continuation of coverage for disabled; conditions.

2. A group contract or individual group certificate delivered or issued for delivery in this State which covers employees or members and their dependents for hospital, medical-surgical or major medical coverage on an expense incurred or service basis, other than for specific diseases or for accidental injuries only, shall provide that employees or members whose coverage under the group contract or individual group certificate would otherwise terminate because of termination of employment or membership due to total disability of the employee or member shall be entitled

to continue their hospital, medical-surgical and major medical coverage under that group contract or individual group certificate for themselves and their eligible dependents, subject to all of the group contract's or individual group certificate's terms and conditions applicable to those forms of coverage and subject to the following conditions:

a. Continuation shall only be available to any employee or member who has been continuously covered under the group contract or individual group certificate during the entire 3-month period ending with such termination.

b. Continuation shall be available for any person who is covered by or eligible for Medicare, subject to any nonduplication of benefits provisions of the group contract or individual group certificate.

c. In addition to hospital, medical-surgical, or major medical benefits, continuation shall include any other health care expense benefit, including dental, vision care, or prescription drug benefits available through the insured group.

d. An employee or member electing continuation shall pay to the group contract holder or his employer, on a monthly basis in advance, the amount of contribution required by the contract holder or employer, but not more than the group rate for the coverage being continued under the group contract or individual group certificate on the due date of each payment. The employee's or member's written election for continuation, together with the first contribution required to establish contributions on a monthly basis in advance, shall be given to the contract holder or employer within 31 days of the date the employee's or member's coverage would otherwise terminate.

e. Continuation of coverage under the group contract or individual group certificate for any person shall terminate at the first to occur of the following:

(1) Failure of the former employee or member to make timely payment of a required contribution. Termination shall occur at the end of the period for which contributions were made.

(2) The date the employee again becomes employed and eligible for benefits under another group plan providing health care expense benefits, or in the case of a qualified eligible dependent, the date such dependent becomes employed and eligible for such benefits.

(3) The date on which the group contract or individual group certificate is terminated or, in the case of an employee, the date

his employer terminates participation under the group contract or individual group certificate, provided that

(a) the employee or member shall have the right to become covered under any new group contract or individual group certificate contracted for by the employer, for the balance of the period that he would have remained covered under the prior group contract or individual group certificate in accordance with this act had a termination of a group not occurred;

(b) the minimum level of benefits to be provided by the other group contract or individual group certificate shall be the applicable level of benefits of the prior group contract or individual group certificate reduced by any benefits payable under that prior group contract or individual group certificate, and

(c) the prior group contract or individual group certificate shall continue to provide benefits to the extent of its accrued liabilities and extensions of benefits, but only when replacement occurred.

f. A notification of the continuation privilege shall be included in any individual group certificate or employee booklet.

C. 17:48-6.12 Limitation.

3. The provisions of this act shall not apply to any contract or individual group certificate in which the insurer does not have the right to terminate the contract or individual group certificate without the consent of the insured.

4. This act shall take effect 180 days after enactment.

Approved January 11, 1982.

CHAPTER 456

A SUPPLEMENT to the "Spill Compensation and Control Act," approved January 6, 1977 (P. L. 1976, c. 141; C. 58:10–23.11 et seq.), establishing a Hazardous Waste Health Care Task Force, and appropriating $250,000.00 from the New Jersey Spill Compensation Fund.

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

C. 58:10-23.12 Findings and declarations.

1. The Legislature finds and declares that the incidence of hazardous waste discharges into the environment is increasing at an alarming rate; that public concern over the potential adverse health effects of exposure to such waste is growing; that estimation of risk to a community of exposure to toxic chemicals and the determination of any health consequences that may result from the exposure require sophisticated and costly biomedical and epidemiological investigation; that there is currently no Federal, State, or local program that provides the medical or financial assistance required to protect potential victims; and that a State program to conduct diagnostic examination of victims of exposure, evaluate the potential adverse health effects on affected communities of the exposure, and plan to reduce the risk of environmental contamination in areas with high potential for hazardous discharges is therefore necessary and appropriate.

C. 58:10-23.13 Hazardous Waste Health Care Task Force established.

2. There is established within the Division of Epidemiology and Disease Control in the Department of Health a Hazardous Waste Health Care Task Force. It shall be the duty of this task force to develop and implement a program to classify and evaluate the threats to health posed by exposure to hazardous discharges, to determine those at greatest risk, to conduct such initial diagnostic testing as may be necessary or appropriate to identify potential victims of any hazardous discharge, and to plan to reduce the dangers to communities at high risk.

C. 58:10-23.14 Rules and regulations.

3. The Commissioner of Health shall, within 45 days of the effective date of this supplementary act and in accordance with the provisions of the "Administrative Procedure Act" (P. L. 1968, c. 410; C. 52:14B–1 et seq.) adopt rules and regulations necessary to carry out the purposes of this supplementary act.

4. There is appropriated to the Department of Health from the New Jersey Spill Compensation Fund the sum of $250,000.00 to carry out the provisions of this supplementary act.

5. This act shall take effect immediately.

Approved January 11, 1982.

CHAPTER 457

AN ACT appropriating funds from the Public Purpose Buildings Construction Fund for a State grant to assist in the construction of a county correctional facility.

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

1. There is appropriated to the Department of Corrections from the "Public Purpose Buildings Construction Fund" created pursuant to the "New Jersey Public Purpose Buildings Construction Bond Act of 1980" (P. L. 1980, c. 119) the sum of $21,289,762.00 for State grants to assist in meeting the construction costs of county correctional facilities in the following counties:

Camden county	$10,089,762.00
Mercer county	2,860,000.00
Passaic county	3,600,000.00
Union county	4,740,000.00
Total Appropriation	$21,289,762.00

2. The Commissioner of the Department of Corrections is authorized to negotiate and enter into an agreement with the appropriate county officials regarding the terms and conditions upon which the grant may be made. At a minimum however, the terms and conditions shall provide for:

a. The availability and use of a specific number of beds to be reserved for prisoners remanded by the State, and

b. Per diem rates favorable to the State in recognition of its contribution to the construction costs of the facility.

3. In order to provide flexibility in administering the provisions of this act, the Commissioner of Corrections may apply to the Director of the Division of Budget and Accounting for permission to transfer a part of any item to any other item within the respective department accounts in the Public Purpose Buildings Construction Fund. The transfer shall be made upon the written approval of the director and of the Legislative Budget Officer in the Office of Legislative Services.

4. This act shall take effect immediately.

Approved January 11, 1982.

CHAPTER 458

AN ACT to amend the "Mine Safety Act," approved July 23, 1954 (P. L. 1954, c. 197).

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

1. Section 3 of P. L. 1954, c. 197 (C. 34:6–98.3) is amended to read as follows:

C. 34:6-98.3 Mine safety section.

3. Mine safety section.

a. There is hereby created within the bureau a mine safety section under the direction and general supervision of the deputy director.

b. The mine safety section shall be under the immediate supervision of a mine safety engineer, serving as section chief, who shall be responsible to the head of the bureau for the efficient, effective administration of the work of the section. The section chief shall be assisted by and supervise such other mine safety engineers, mine safety inspectors, technicians and other employees as may be necessary to perform the work.

c. Under the direction of the head of the bureau, the section chief shall personally or by assignment to employees of the section, inspect, investigate, inquire and examine into the operation, workings, methods, safety devices and appliances, machinery, sanitation, ventilation, means of ingress and egress, means taken to protect the lives and insure the safety and health of miners, together with the causes of accidents, injuries and fatalities and means taken to comply with the law; conduct scientific tests to determine amount and condition of air together with contaminants therein or for any purpose that shall provide for the maintenance of safe, sanitary and healthful conditions, furnish such reports and do other related work as the deputy director may require.

d. Employees of the bureau shall have the power and authority, upon exhibition of official credentials, at all reasonable hours to enter and examine any part of a mine, mining plant, equipment or workings. All operators and their employees shall render all assistance necessary to facilitate such examination.

e. The mine safety engineer, serving as section chief, shall be physically able to discharge his duties and shall have at least 4 years' experience in mining, including experience in quarry operations, mine safety work and accident prevention. He shall be a graduate engineer from a recognized school of engineering.

f. The qualifications for a mine safety engineer, other than the section chief, shall be the same, excepting that he shall have had a minimum of 3 years' experience in mining.

g. Mine safety inspectors shall have had at least 4 years' experience in mining.

h. No employee of the department shall make public, directly or indirectly to any person any knowledge or information obtained by him in the exercise of his official duties concerning ores, ore bodies or values of any mine or part thereof. Any employee who shall violate any of the provisions of this paragraph shall be guilty of a crime of the fourth degree and, on conviction, shall be punished by a fine of not less than $500.00 nor more than $1,000.00 or imprisonment in the county jail not to exceed 1 year, or both, and shall be dismissed from his position.

i. It shall be the duty of the bureau to cause to have inspected at least once in every 3 months, every underground mine in this State, and every other working mine at least twice each year, and oftener, if it is deemed necessary for the safety of the men employed in the mine.

j. After every inspection, the mine safety inspector shall enter forthwith in a book to be kept at the mine and designated as the "record of mine safety inspection," the portion of the mine inspected, the nature of the inspection and the dangers and defects observed. This record shall be open at all reasonable hours to the examination of the operator, any employee or the designated representative of the employees of the mine inspected. Nothing contained in or omitted from any entry in such record shall limit or affect the duty and obligations of the operator, superintendent or employee.

2. This act shall take effect immediately.

Approved January 11, 1982.

CHAPTER 459

AN ACT to establish an authority to operate certain convention centers and supplementing Title 52 of the Revised Statutes, and repealing P. L. 1967, c. 309 (C. 40:54B–1 et seq.).

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

C. 52:27H-29 Findings and declarations.

1. The Legislature finds that the tourist, resort and convention industry of Atlantic City has traditionally made an important contribution to the economic vitality of this State; that the recent revitalization of that industry as a result of the authorization of casino gaming in Atlantic City has resulted in significant economic benefits not only to the residents of the city and its immediate environs, but to all of the residents of the State in the form of increased business and employment opportunities and augumented State and local revenues; and that the future growth of this industry will depend in part upon the provision and operation of an attractive convention center in Atlantic City and the provision of an adequate mechanism whereby the interests and efforts of the State, the city and the private sector may be effectively coordinated and the financial soundness of a convention center assured.

To this end, the Legislature declares the establishment of an authority responsible for the promotion, operation and maintenance of a convention center in Atlantic City to be in the public interest of the citizens of this State.

C. 52:27H-30 Short title.

2. This act shall be known and may be cited as the "Atlantic City Convention Center Authority Act."

C. 52:27H-31 Atlantic City Convention Center Authority created.

3. There is created a public body corporate and politic, with corporate succession, to be known as the "Atlantic City Convention Center Authority." The authority is constituted as an instrumentality of the State exercising public and essential governmental functions, and the exercise by the authority of the powers conferred by this act shall be an essential government function of the State. For the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution,

the authority is allocated within the Department of Commerce and Economic Development, but, notwithstanding the allocation, the authority shall be independent of any supervision or control by the department or by the commissioner or any officer or employee thereof.

C. 52:27H-32 Membership; appointment.

4. a. The authority shall consist of seven members to be appointed as follows:

(1) One resident of the State, to be appointed by the Governor;

(2) One resident of the city of Atlantic City, to be appointed by the governing body of that city;

(3) Two public members, to be appointed by the Governor upon the nomination of the Casino Hotel Association of Atlantic City;

(4) Two public members, to be appointed by the Governor upon the nomination of the Hotel-Motel Association of Atlantic City; and

(5) One public member, to be appointed by the Governor upon the nomination of the Greater Atlantic City Chamber of Commerce, who shall not be an employee or associated with the operation of any casino hotel, hotel or motel.

b. Appointments of public members pursuant to paragraphs (3), (4) and (5) of subsection a. of this section shall be made from a list of three different names submitted to the Governor by the nominating entity for each appointment; except that for the first appointments to be made a list of four different names shall be submitted for the two public members to be appointed pursuant to paragraph (3) of that subsection, a list of four shall be submitted for the two members to be appointed pursuant to paragraph (4) of that subsection, and a list of three shall be submitted for the one member to be appointed pursuant to paragraph (5) of that subsection.

c. Members appointed pursuant to paragraph (1) or (2) of subsection a. of this section shall serve at the pleasure of the appointing authority. Public members appointed pursuant to paragraph (3), (4) or (5) of that subsection shall serve for a term of 5 years and until a successor shall have been appointed and qualified; except that of the public members first appointed, the Governor shall designate upon appointment: one member appointed pursuant to paragraph (3) of that subsection to serve for a term of 5 years and one for a term of 3 years; one member appointed pursuant to paragraph (4) of that subsection to serve for a term of 4 years and one for a term of 2 years; and the member appointed

pursuant to paragraph (5) of that subsection to serve for a term of 1 year.

C. 52:27H-33 Removal; vacancies; oath; not subject to conflicts of interest law.

5. a. Any public member of the authority may be removed by the appointing authority for cause. Any vacancy in the public membership shall be filled in the same manner as the appointment was made, but for the unexpired term.

b. Each member of the authority, before entering upon his duties, shall take and subscribe an oath to perform the duties of the office faithfully, impartially and justly to the best of his ability. A record of the oaths shall be filed with the office of the Secretary of State.

c. 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.

d. No member or employee of the authority shall be considered to be a State officer or employee or a special State officer or employee subject to the provisions of the "New Jersey Conflicts of Interest Law," P. L. 1971, c. 182 (C. 52:13D–12 et seq.) solely by virtue of that membership or employment.

C. 52:27H-34 Majority constitutes quorum; officers; executive director.

6. a. The authority shall not be constituted and shall not take action or adopt motions or regulations until all original authorized members shall have been appointed and qualified. The powers of the authority shall be vested in the members thereof and a majority of the total authorized membership of the authority shall constitute a quorum at any meeting. Action may be taken and motions and resolutions adopted by the authority at any meeting by the affirmative vote of a majority of the quorum, unless in any case the bylaws of the authority or any of the provisions of this act shall require a larger number. The authority may designate one or more of its agents, officers or employees to exercise, under its supervision and control, such administrative functions, powers and duties as it may deem proper, consistent with the provisions of this act and with the bylaws of the authority. No vacancy in the membership of the authority shall affect the right of the quorum to exercise all the rights and perform all the duties of the authority.

b. The authority shall designate one of its members to serve as the chairman of the authority, and one to serve as vice-chairman.

The authority shall appoint an executive director who shall serve as its chief administrative officer. The executive director shall serve at the pleasure of the authority, and shall be a person qualified by training and experience to perform the duties of his office, as those duties shall be prescribed by the bylaws of the authority.

C. 52:27H-35 Dissolution.

7. The authority may be dissolved by law on condition that the authority has no debts, obligations or contractual commitments, or on condition that provision has been made for the payment or retirement of debts and obligations and for the release from or satisfaction of contractual commitments. Upon dissolution of the authority all property, funds and assets thereof shall be vested in the political subdivision with which the authority is currently under contract pursuant to section 9 of this act at the time of dissolution.

C. 52:27H-36 Minutes of meetings.

8. A true copy of the minutes of every meeting of the authority shall be forthwith transmitted to the Governor, the presiding officers of each house of the Legislature, and the respective clerks of the city of Atlantic City and the county of Atlantic.

C. 52:27H-37 Contract for convention center.

9. The authority shall enter into a contract with any political subdivision of the State which owns or leases any convention center, convention hall and related or ancillary facilities for the operation thereof. The convention center, convention hall and related or ancillary facilities shall be in a municipality wherein casino gambling has been duly authorized, except that the authority may operate, pursuant to contract, related or ancillary facilities necessary to the operation of a convention center or hall, which are not located within the borders of a municipality wherein casino gambling is authorized, but which are located within the same county as that municipality.

Any contract entered into pursuant to this section shall not exceed 5 years in duration. The first contract so entered into shall have an effective date of July 1, 1982. A contract shall prescribe the use or disposition of any revenues resulting from the operation of any convention center, convention hall and related or ancillary facilities. The provisions of any contract entered into shall not conflict with any bond resolution or trust agreement relating to any facilities subject to the terms of the contract.

C. 52:27H-38 Schedule of rents, fees, other charges.

10. Upon entering into any contract authorized pursuant to section 9 of this act, the authority shall by resolution establish a schedule of rents, admission fees, or other charges for occupancy, use or services of, or admission to, any facilities it shall operate under the contract, and provide for the collection and enforcement of those charges. The resolution shall not become effective until it has been submitted to, reviewed and approved by the governing body of the political subdivision or subdivisions being party to the contract, approval to be by resolution or ordinance, as appropriate. No resolution of the authority shall be approved unless an opinion has been rendered by the political subdivision's legal counsel stating its validity and compliance with the terms of the contract entered into pursuant to section 9 of this act, and an opinion has been rendered by a bond counsel stating its validity and compliance with the terms of any bond resolution or trust agreement relative to the financing of the facilities which the authority has undertaken to operate pursuant to the contract or this act.

Any resolution so approved may be amended or repealed by a resolution adopted in the same manner and under the same conditions and requirements.

C. 52:27H-39 Charges to be paid by hotels.

11. Upon entering into any contract authorized pursuant to section 9 of this act, the authority may adopt by resolution a schedule of charges to be paid to the authority by each casino hotel, hotel and motel located in the city of Atlantic City. The schedule shall take effect upon the final adoption of the first operating budget by the authority pursuant to this act, and may thereafter be amended, from time to time, by resolution of the authority.

The total charges imposed by the schedule shall assure that the authority shall receive revenues from those charges in an amount which, when added to other anticipated authority revenues, shall be reasonably expected to meet the authority's operating budget for the fiscal year to which the schedule applies. The schedule shall provide that each casino hotel, hotel and motel in the city shall pay, of the total amount of charges to be paid under the schedule, an amount equal in percentage to that which that casino hotel, hotel or motel's rooms available for hire in excess of 25 rooms represents of the total number of rooms

available for hire in all casino hotels, hotels and motels in the city, after deducting from that total the number of rooms which each casino hotel, hotel or motel has available for hire in a number of 25 or less. For the purposes of computing the above schedule, each room available for hire in a casino hotel in excess of 25 rooms shall first be multiplied by a factor of 1.5 before computing the total number of rooms available for hire in the city, and before computing the amount of charge to be paid by each casino hotel, hotel or motel in the city.

The annual payment of the charge, if any, imposed by this section shall be a condition for the issuance to a casino hotel, hotel or motel of a mercantile license by the city of Atlantic City and for the continued operation of a casino hotel under the provisions of the "Casino Control Act," P. L. 1977, c. 110 (C. 5:12–1 et seq.).

C. 52:27H-40 Additional powers.

12. In addition to the powers granted to the authority in sections 10 and 11 of this act, the authority may:

a. Make and alter bylaws for its organization and internal management and, subject to the restrictions of any contract entered into pursuant to section 9 of this act, make rules and regulations with respect to its operations;

b. Adopt an official seal and alter the same at its pleasure;

c. Sue and be sued in its own name;

d. Make and enter into all contracts or agreements necessary or incidental to the performance of its duties;

e. Enter into agreements or other transactions with and accept grants and the cooperation of the United States or any agency thereof or any State or local agency in furtherance of the purposes of this act, and do anything necessary in order to avail itself of this aid and cooperation;

f. Solicit, receive and accept aid, loans or contributions from any source of money, property, labor or other things of value, to be held, used and applied to carry out the purposes of this act subject to the conditions upon which this aid, these loans and contributions shall be made, including but not limited to grants from any department or agency of the United States or any State or local agency for any purpose consistent with this act;

g. Acquire, own, hold, sell, exchange, lease or otherwise dispose of real or personal property or any interest therein in the exercise of its powers and the performance of its duties under this act;

h. Appoint such officers, employees, and agents as it may require for the performance of its duties, and fix their compensation, promote and discharge them, all without regard to the provisions of Title 11 of the Revised Statutes;

i. Provide advisory, consultative and 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;

j. Subject to the provisions of any contract entered into pursuant to section 9 of this act, to invest moneys of the authority not required for immediate use in those obligations, securities and other investments as the authority shall deem prudent;

k. Procure insurance coverage in such types and amounts and from such insurers as may be advisable;

l. Engage the services of attorneys, accountants, marketing analysts and financial experts and such other advisors, consultants and agents as may be necessary in its judgment, and fix their compensation;

m. Maintain an office at such place or places in the city of Atlantic City as it may designate;

n. Advertise and promote the tourist, resort, convention and casino gaming industries of Atlantic county; and

o. Do any act necessary to the exercise of these powers or reasonably implied therefrom.

C. 52:27H-41 No bonds permitted.

13. The authority shall not issue bonds or other obligations for the acquisition of real property or for capital construction.

C. 52:27H-42 Annual budget.

14. a. As soon as it is practicable after the appointment and qualification of the members of the authority, and annually thereafter, at least 45 days preceding the commencement of the authority's fiscal year on July 1 of each year, the authority shall prepare a budget for its operations and activities for the ensuing fiscal year and introduce the budget by resolution. The budget shall become effective as provided in section 15 of this act.

b. The budget shall set forth anticipated revenues for the ensuing fiscal year and the sources thereof, and appropriations for the same period, which appropriations shall not exceed the anticipated revenues. No revenue from any source shall be anticipated unless it can be reasonably expected to be realized during the fiscal year

to which the budget applies. Appropriations shall be segregated as salaries and wages, contractual other expenses, and noncontractual other expenses.

c. An appropriation for "anticipated operating deficit of preceding year" shall appear in each annual budget in the amount by which the liabilities and disbursements of the authority for expenditures in the next preceding fiscal year exceed or are likely to exceed receipts and other revenue in that year, subtracting any expenditures provided for by surplus anticipated in the budget.

d. No budget required pursuant to this section shall be approved as provided in section 15 of this act, unless it is in compliance with the terms of any contract authorized pursuant to section 9 of this act and with the terms of any bond resolution or trust agreement relating to the financing of facilities operated by the authority.

C. 52:27H-43 Submission to governing body of city; review by Division of Local Government Services; no expenditures outside budget.

15. a. The budget as introduced by the authority shall be submitted to the governing body of the city of Atlantic City prior to adoption by the authority. Within 5 days following its receipt of the budget the governing body shall introduce, and within 20 days after introduction shall adopt, an ordinance approving or disapproving the budget. The ordinance shall be an emergency measure and shall not require any action or vote of the governing body to declare it so.

(1) Upon approval, the governing body of the city shall immediately forward the introduced budget and a copy of the approving ordinance to the Director of the Division of Local Government Services in the Department of Community Affairs, and shall also forward a copy of the approving ordinance to the authority.

(2) Any ordinance disapproving the introduced budget shall set forth the reasons for disapproval and the conditions upon which approval shall be granted, and shall immediately be forwarded to the authority. The authority shall, within 10 days of its receipt amend the introduced budget in accordance with the ordinance of disapproval and resubmit the budget to the governing body for approval. Upon adoption of the resolution, the authority shall immediately forward a copy to the governing body of the city, and shall forward the introduced budget and a copy of any amendments adopted pursuant to this paragraph to the director.

b. Upon receipt of an introduced budget pursuant to subsection a. of this section, the director shall immediately review the budget

to determine its compliance with the requirements of section 14 of this act. The director shall also forward a copy of the introduced budget and all relevant resolutions to any political subdivision with which the authority has entered into a contract pursuant to section 9 of this act.

(1) Prior to his approval of the introduced budget, the director shall convene and hold a public meeting, which shall be not later than 5 days prior to the commencement of the authority's fiscal year, to which he shall summon the executive director or other duly authorized official of the authority; the chief executive officer or other duly authorized officer of any political subdivision with which the authority has entered into a contract pursuant to section 9 of this act; and the mayor or other duly authorized official of the city of Atlantic City, each of whom shall be entitled to be heard by the director on the introduced budget. The director may also permit any person to be heard on the budget whom he shall deem appropriate.

(2) Thereafter, the director shall approve in writing the introduced budget if he finds it to accord with the provisions of section 14 of this act. If the director finds that the introduced budget does not accord with that section, he shall disapprove it in writing, and set forth the reasons for his disapproval and the conditions on which approval shall be granted. The authority shall amend the introduced budget in accordance with the director's determination and resubmit it to him for approval not more than 5 days after disapproval, unless prior to that date it appeals the decision of the director in the manner generally provided by law. On any appeal the governing body of Atlantic City shall be entitled to be represented and heard on the matter which is appealed.

(3) Any amendments to the introduced budget occurring after completion of review as provided in subsection a. of this section, but prior to approval by the director, shall be submitted directly to the director after adoption by the authority.

c. The authority is prohibited from expending, encumbering or otherwise committing any revenues except in accordance with a budget adopted pursuant to this section; except that, with the prior written consent of the director, the authority shall be authorized to expend revenues when it is necessary to do so pursuant to the terms of any contract entered into pursuant to section 9 of this act.

C. 52:27H-44 Annual report; operating and financial statement; audit.

16. On or before the last day of the third month following the close of each fiscal year, the authority shall make an annual report

of its activities for the preceding fiscal year to the Governor, the Legislature, the chief executive officer and the governing body of the county of Atlantic and any political subdivision with which a contract has been entered into pursuant to section 9 of this act. The report shall set forth a complete operating and financial statement covering its operations during the year. The director shall audit the books and accounts of the authority for each fiscal year, and a copy of that audit shall be filed with the Governor, the Legislature, the chief executive officer and the governing body of the county of Atlantic and any political subdivision with which a contract has been entered into pursuant to section 9 of this act.

Repealer.

17. P. L. 1967, c. 309 (C. 40:54B–1 et seq.) is repealed.

18. There is appropriated to the authority from the General State Fund the sum of $90,000.00 or so much thereof as may be necessary for the purposes of carrying out its functions and duties pursuant to this act.

19. This act shall take effect immediately.

Approved January 8, 1982.

CHAPTER 460

AN ACT concerning county improvement authorities, amending P. L. 1960, c. 183 and P. L. 1979, c. 275 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:*

1. Section 11 of P. L. 1960, c. 183 (C. 40:37A–54) is amended to read as follows:

C. 40:37A-54 Purposes of every authority.

11. The purposes of every authority shall be (a) provision within the county of public buildings for use by the State, the county, or any municipality in the county, or any two or more or any subdivisions, departments, agencies or instrumentalities of any of the foregoing, including buildings for use in any municipality bordering on the Atlantic ocean, by the municipality, county, or any

other public body authorized by law to operate such facilities, as convention halls, or as enlargements or parts of or supplements to any convention hall, including appropriate and desirable appurtenances thereto, including but not limited to office facilities, commercial facilities, community service facilities, parking facilities, and facilities for the accommodation and entertainment of tourists and visitors, (b) provision within the county of structures, franchises, equipment and facilities for operation of public transportation or for terminal purposes, including development and improvement of port terminal structures, facilities and equipment for public use in counties in, along or through which a navigable river flows, (c) provision within the county of structures or other facilities used or operated by the authority or any governmental unit in connection with, or relative to development and improvement of, aviation for military or civilian purposes, including research in connection therewith, and including structures or other facilities for the accommodation of passengers, (d) provision within the county of a public facility for a combination of governmental and nongovernmental uses; provided that not more than 50% of the usable space in any such facility shall be made available for nongovernmental use under a lease or other agreement by or with the authority, (e) acquisition of any real property within the county, with or without the improvements thereof or thereon or personal property appurtenant or incidental thereto, from the United States of America or any department, agency or instrumentality heretofore or hereafter created, designated or established by or for it, and the clearance, development or redevelopment, improvement, use or disposition of the acquired lands and premises in accordance with the provisions and for the purposes stated in this act, including the construction, reconstruction, demolition, rehabilitation, conversion, repair or alteration of improvements on or to said lands and premises, and structures and facilities incidental to the foregoing as may be necessary, convenient or desirable, (f) acquisition, construction, maintenance and operation of garbage and solid waste disposal systems for the purpose of collecting and disposing of garbage, solid waste or refuse matter, (g) the improvement, furtherance and promotion of the tourist industries and recreational attractiveness of the county through the planning, acquisition, construction, improvement, maintenance and operation of facilities for the recreation and entertainment of the public, which facilities may include, without being limited to, a center for the performing and visual arts, (h) provision of loans and other financial assistance and

technical assistance for the construction, reconstruction, demolition, rehabilitation, conversion, repair or alteration of buildings or facilities designed to provide decent, safe and sanitary dwelling units for persons of low and moderate income in need of housing, including land, equipment or other real or personal properties which the authority determines to be necessary, convenient or desirable appurtenances, all in accordance with the provisions of this act, as amended and supplemented, (i) planning, initiating and carrying out redevelopment projects for the elimination, and for the prevention of the development or spread of blighted, deteriorated or deteriorating areas and the disposition, for uses in accordance with the objectives of the redevelopment project, of any property or part thereof acquired in the area of such project, and (j) any combination or combinations of the foregoing.

2. Section 37 of P. L. 1960, c. 183 (C. 40:37A–80) is amended to read as follows:

C. 40:37A-80 County may guarantee principal of and interest on authority bonds.

37. For the purpose of aiding an authority in the planning, undertaking, acquisition, construction, financing or operation of any facility which the authority is authorized to undertake pursuant to section 11 of P. L. 1960, c. 183 (C. 40:37A–54), the county may, pursuant to resolution duly adopted by its governing body in the manner provided for adoption of a bond ordinance as provided in the local bond law and with or without consideration and upon such terms and conditions as may be agreed to by and between the county and the authority, unconditionally guarantee the punctual payment of the principal of and interest on any bonds of the authority. Any guaranty of bonds of an authority made pursuant to this section shall be evidenced by endorsement thereof on such bonds, executed in the name of the county and on its behalf by such officer thereof as may be designated in the resolution authorizing such guaranty, and such county shall thereupon and thereafter be obligated to pay the principal of and interest on said bonds in the same manner and to the same extent as in the case of bonds issued by it. Any such guaranty of bonds of an authority may be made, and any resolution authorizing such guaranty may be adopted, notwithstanding any statutory debt or other limitations, including particularly any limitation or requirement under or pursuant to the local bond law, but the principal amount of bonds so guaranteed, shall, after their issuance, be included in the gross debt of such county for the purpose of determining the indebtedness of such

county under or pursuant to the local bond law. The principal amount of said bonds so guaranteed and included in gross debt shall be deducted and is hereby declared to be and to constitute a deduction from such gross debt under and for all the purposes of said local bond law (a) from and after the time of issuance of said bonds until the end of the fiscal year beginning next after the completion of acquisition or construction of the public facility to be financed from the proceeds of such bonds and (b) in any annual debt statement filed pursuant to said local bond law as of the end of said fiscal year or any subsequent fiscal year if the revenues or other receipts or moneys of the authority in such year are sufficient to pay its expenses of operation and maintenance in such year and all amounts payable in such year on account of the principal and interest on all such guaranteed bonds, all bonds of the county issued as provided in section 36 of this act (C. 40:37A–79), and all bonds of the authority issued under this act.

3. Section 26 of P. L. 1979, c. 275 (C. 40:37A–131) is amended to read as follows:

C. 40:37A-131 Authority powers.

26. In order to carry out the purposes and provisions of this act, the authority in addition to any powers granted to it elsewhere in this act or the "county improvement authorities law," P. L. 1960, c. 183 (C. 40:37A–44 et seq.), shall have the following powers:

a. To conduct examinations and hearings and to hear testimony and take proof, under oath or affirmation, at public or private hearings, on any matter material for its information and necessary to carry out the provisions of this act;

b. To issue subpenas requiring the attendance of witnesses and the production of books and papers pertinent to any hearing before such authority or before one or more of the members of the authority appointed by it to conduct such hearing;

c. To apply to any court, having territorial jurisdiction of the offense, to have punished for contempt any witness who refuses to obey a subpena, or who refuses to be sworn or affirmed to testify, or who is guilty of any contempt after summons to appear;

d. To acquire by purchase, gift, foreclosure or condemnation any real or personal property, or any interest therein, to enter into any lease of property and to hold, sell, assign, lease, encumber, mortgage or otherwise dispose of any real or personal property, or any interest therein, or mortgage lien interest owned by it or under its control, custody or in its possession and release or

relinquish any right, title, claim, lien, interest, easement or demand however acquired, including any equity or right of redemption, in property foreclosed by it and to do any of the foregoing by public or private sale, with or without public bidding, notwithstanding the provisions of any other law;

e. To adopt such rules and regulations as shall be expressly authorized by this act and such additional rules and regulations as shall be necessary or desirable to carry out the purposes of this act;

f. To borrow money or secure credit on a temporary, short-term, interim or on a long-term basis, and to issue negotiable bonds, bond anticipation notes or other notes or obligations and to provide for and secure the payment thereof and to provide for the rights of the holders thereof;

g. To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, including contracts or agreements with qualified financial institutions for the servicing and processing of mortgage loans pursuant to this act;

h. To do and perform any acts and things authorized by this act under, through, or by means of its officers, agents or employees or by contract with any person, firm or corporation;

i. To finance by mortgage loans or otherwise the construction or rehabilitation of housing projects and to make temporary loans or advances in anticipation of permanent loans, and to make funds for mortgage and other loans available to appropriate and qualified entities as may be designated by the authority;

j. To receive and accept aid or contributions from any source of money, property, labor or other things of value, to be held, used and applied to carry out the purposes of this act subject to such conditions upon which such grants and contributions may be made, including, but not limited to, gifts or grants from any department or agency of the United States or this State for payment of rent supplements or rental assistance to eligible families or for the payment in whole or in part of the interest expense for a housing project or for any other purpose consistent with this act;

k. To enter into agreements to pay annual sums in lieu of taxes to any political subdivision of the State with respect to any real property owned or operated directly by the authority for purposes of this act;

l. To procure insurance against any loss in connection with its property, operations and assets (including mortgages and loans) in such amounts and from such insurers as it deems desirable;

m. To the extent permitted under its contract with the holders of bonds, bond anticipation notes and other notes or obligations of the authority, to consent to any modification with respect to rate of interest, time and payment of any installment of principal or interest, security or any other term of any mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind to which the authority is a party;

n. To the extent permitted under its contract with the holders of bonds, bond anticipation notes and other notes or obligations, to enter into contracts with any qualified housing sponsor containing provisions enabling the said qualified housing sponsor to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges where by reason of other income or payment from the authority, any department or agency of the United States or this State, such reductions can be made without jeopardizing the economic stability of the housing project;

o. To establish and revise from time to time and charge and collect such fees and charges including, but not limited to, payment for all costs of financing by the authority, services, mortgage insurance premiums, reserves against losses, reimbursement for advances made to the authority, as the authority shall determine are reasonable to enable the authority, to the extent feasible to be self-sustaining;

p. Subject to any agreement with holders of bonds, bond anticipation notes or other notes or obligations, to invest and reinvest any moneys of the authority not required for immediate use or disbursement, including proceeds from the sale of any bonds, bond anticipation notes or other notes or obligations and any moneys held in the housing finance funds, reserve funds or sinking funds, in such obligations, securities and other investments as the authority shall deem prudent;

q. Subject to any agreement with the holders of bonds, bond anticipation notes or other notes or obligations, to purchase bonds, bond anticipation notes or other notes or obligations of the authority out of any funds or money of the authority available therefor, and to hold, cancel to resell such bonds, bond anticipation notes or other notes or obligations;

r. To provide, contract or arrange for, where by reason of the financing arrangement, review of the application and proposed con-

struction of a project is required by or in behalf of any department or agency of the United States, consolidated processing of any such application or supervision to avoid duplication thereof by either undertaking the processing in whole or in part for any such department or agency or, in the alternative, delegating the processing in whole or in part to any such department or agency;

s. To make mortgage loans and to participate with any department or agency of the United States, this State, a municipality, or any banking institution, foundation, labor union, insurance company, trustee or fiduciary in a loan to a qualified housing sponsor secured by a single participating mortgage or by separate mortgages, the interest of each having equal priority as to lien in proportion to the amount of the loan so secured, but need not be equal as to interest rate, time or rate of amortization or otherwise and to undertake commitments to make such loans;

t. To sell, at public or private sale, with or without bidding, any mortgage or other obligation securing a mortgage loan made by the authority;

u. To make commitments to purchase, and to purchase, service and sell, mortgages insured by any department or agency of the United States, and to make loans directly upon the security of any such mortgage;

v. To provide qualified housing sponsors and other individuals and organizations with such advisory consultation, training and educational services as will increase the availability and supply of housing and increase housing opportunities for low and moderate income families, including but not limited to assistance in community development and organization, home management and advisory services for the residents of the housing projects, and to encourage community organizations to assist in developing such projects;

w. To administer funds established for the provision of loans and grants, including but not limited to revolving loan funds established pursuant to P. L. 1947, c. 71 (C. 40:48–8.15 et seq.), to qualified housing sponsors and other individuals and organizations, for the purpose of increasing the availability and supply of housing for low and moderate income families;

x. To encourage research in, and demonstration projects to develop, new and better techniques and methods for increasing the supply of housing for moderate income families and to engage in such research and demonstration projects and to receive and accept

contributions, grants or aid, from any source, public or private, including, but not limited to the United States and this State, for carrying out this purpose;

y. To provide to qualified housing sponsors through mortgage loans or otherwise, financing or refinancing of fully completed, as well as partially completed, projects which may or may not be occupied, provided that said projects meet all the requirements of the act; and

z. To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in the act.

4. Section 36 of P. L. 1979, c. 275 (C. 40:37A-56.1) is amended to read as follows:

C. 40:37A-56.1 Preconditions for redevelopment plans.

36. No authority shall proceed with a redevelopment plan unless: (a) the municipality has first determined that the area to which said plan refers is blighted, which determination shall be made by the governing body of said municipality as provided by P. L. 1949, c. 187 (C. 40:55–21.1 et seq.), or an area in need of rehabilitation, which determination shall be made by the governing body of the municipality as provided by section 17 of P. L. 1949, c. 306 (C. 40:55C-17); and

(b) The governing body of the municipality has first, by ordinance, approved a redevelopment plan after study and recommendation of its planning board, if any, and finds that said plan conforms to the definition of "redevelopment plan" in section 2 of the "county improvement authorities law," P. L. 1960, c. 183 (C. 40:37A–45).

C. 40A:4-45.11 Exemption from spending limitations.

5. (New section) Notwithstanding the provisions of P. L. 1976, c. 68 (C. 40A:4–45.1 et seq.), there shall be exempted from the final appropriations of a county or a municipality subject to the spending limitations imposed by that act, that portion of any lease payment made by the county or municipality to a county improvement authority pursuant to the "county improvement authorities law," P. L. 1960, c. 183 (C. 40:37A–44 et seq.) which represents a proportionate amount necessary to amortize the debt incurred by the authority in providing the facility which is leased in whole or part by the county or municipality.

6. This act shall take effect immediately.

Approved January 8, 1982.

CHAPTER 461

AN ACT to establish a development fund within the State Treasury, to provide for State aid for county improvement authority bonds for the improvement of certain convention halls, amending and supplementing P. L. 1947, c. 71, and amending P. L. 1979, c. 273 and P. L. 1980, c. 105.

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

C. 40:48-8.16a Definitions.

1. (New section) As used in this act:

a. "Convention hall" means a convention hall facility provided by a county improvement authority pursuant to the provisions of subsection (a) of section 11 of P. L. 1960, c. 183 (C. 40:37A–54 (a)), and shall include all facilities, including commercial, office, community service and parking facilities, and facilities constructed for the accommodation and entertainment of tourists and visitors, constructed in conjunction with the convention hall and forming reasonable appurtenances thereto;

b. "Development fund" means the fund created pursuant to subsection b. of section 5 of this act (C. 40:48–8.30a), that shall be established only in the event that a convention hall facility is constructed in the manner prescribed in this act;

c. "Luxury tax fund" means the fund created by the State Treasurer pursuant to section 5 of P. L. 1979, c. 273 (C. 40:48–8.30) into which revenues collected under the provisions of this act shall be deposited, and used for the purposes prescribed; and

d. "Revolving fund" means a separate fund for the conduct of activities designed to increase housing opportunities for low and moderate income families located in eligible municipalities, to be established and administered by a county improvement authority pursuant to subsection a. of section 5 of this act (C. 40:48–8.30a), and section 26 of P. L. 1979, c. 275 (C. 40:37A–131).

2. Section 3 of P. L. 1947, c. 71 (C. 40:48–8.17) is amended to read as follows:

C. 40:48-8.17 Tax permitted.

3. Any such ordinance may impose such tax at a rate not to exceed 3% from July 1, 1981 through December 31, 1981; and at a rate not

to exceed 7% on and after January 1, 1982; except that the sale of alcoholic beverages shall continue to be taxed under subsection (1) of section 2 of P. L. 1947, c. 71 (C. 40:48–8.16) at a rate not to exceed 3% on and after January 1, 1982.

C. 40:48-8.29a New referendum not required.

3. (New section) In any municipality in which the provisions of P. L. 1947, c. 71 (C. 40:48–8.15 et seq.) are presently operative pursuant to an ordinance and referendum thereon approving the same heretofore adopted and held in accordance with the provisions of that act, any ordinance to adopt the provisions of this amendatory and supplementary act shall, upon adoption, become operative within the municipality without any requirement to submit the same to the voters for their approval or disapproval. Such municipality may also provide and covenant by ordinance that the ordinance authorizing such tax will not be amended so as to repeal or reduce such tax while bonds entitled to the benefits of this act are outstanding with the holders of such bonds, unless the resolution authorizing such bonds shall provide otherwise. Such covenant shall constitute a valid and legally binding contract between such municipality and such holders.

4. Section 7 of P. L. 1947, c. 71 (C. 40:48–8.21) is amended to read as follows:

C. 40:48-8.21 Apportionment of revenues.

7. All revenues collected under any such ordinance by the Director of the Division of Taxation pursuant to section 1 of P. L. 1980, c. 60 (C. 54:32B–24.1) shall be apportioned according to the following schedule:

(a) Through June 30, 1981, all such revenues shall be deposited in the general fund of the municipality and may be used for general municipal purposes, including the reduction and liquidation of bonded indebtedness, the payment of salaries, construction, reconstruction, maintenance and repair of municipal buildings, installations and properties, and for such other purposes as may be provided by existing ordinance or ordinances hereafter enacted for general municipal purposes;

(b) For revenues collected during the period from July 1, 1981 through December 31, 1981 66⅔% of such revenues shall be paid to the municipality and deposited and used as provided in subsection (a) of this section and 33⅓% of such revenues shall be retained by the State Treasurer for deposit in the fund established pursuant to

the provisions of section 5 of P. L. 1979, c. 273 (C. 40:48–8.30), to be used and distributed according to the terms herein provided;

(c) For revenues collected during the period from January 1, 1982 through June 30, 1982, 2/7 of such revenues shall be paid to the municipality and deposited and used as provided in subsection (a) of this section, and 5/7 of such revenues shall be retained by the State Treasurer for deposit in the fund established pursuant to section 5 of P. L. 1979, c. 273 (C. 40:48–8.30) and be distributed according to the terms of this amendatory and supplementary act;

(d) On and after July 1, 1982, all such revenues shall be retained by the State Treasurer for deposit in the fund established pursuant to section 5 of P. L. 1979, c. 273 (C. 40:48–8.30) and distributed according to the terms herein provided.

C. 40:48-8.30a Revenues to finance and maintain facilities.

5. (New section) a. Beginning July 1, 1981, and until such time as the conditions set forth in subsection b. of this section are met, the revenues deposited by the State Treasurer in the fund created in section 5 of P. L. 1979, c. 273 (C. 40:48–8.30), shall be applied for the purposes of financing and maintaining facilities authorized pursuant to section 11 of P. L. 1960, c. 183 (C. 40:37A–54) located in any eligible municipality, to be limited to:

(1) Payment of all or any part of principal and interest on bonds issued for low and moderate income housing pursuant to sections 1 through 26 of P. L. 1979, c. 275 (C. 40:37A–106 through 40:37A–131);

(2) Establishment of funds to provide security for bonds, notes or other obligations, or loans made from the proceeds of those obligations, pursuant to sections 1 through 26 of P. L. 1979, c. 275 (C. 40:37A–106 through 40:37A–131);

(3) Establishment of revolving loan and grant funds for the purpose of increasing housing opportunities for low and moderate income families consistent with the purposes of sections 1 through 26 of P. L. 1979, c. 275 (C. 40:37A–106 through 40:37A–131).

b. Commencing on that date which is the later of January 1, 1984 or 6 months prior to the due date of the first payment of principal and interest on any bonds or notes issued after the effective date of this act for the construction of a convention hall facility by a county improvement authority in an eligible municipality pursuant to subsection (a) of section 11 of P. L. 1960, c. 183 (C. 40:37A–54(a)), the revenues thereafter retained by the State Treasurer pursuant to section 7 of P. L. 1947, c. 71 (C. 40:40–8.21)

shall be applied exclusively to the payment of principal and interest on the bonds issued by that authority for that facility, and for no other purpose, except as set forth in subsection c. or d. of this section. At the time that this subsection takes effect, all moneys then accumulated in the fund created pursuant to section 5 of P. L. 1979, c. 273 (C. 40:48–8.30) shall be removed by the State Treasurer and deposited in a separate account to be known as the development fund, which proceeds, with the interest thereon, shall be used for any of the purposes set forth in subsection a. of this section.

c. At the end of any full calendar year occurring after the date on which the provisions of subsection b. of this section take effect, and after all payments coming due during that calendar year of principal and interest on authority bonds issued for a convention hall facility have been made, and all obligations to the holders of those bonds have been met, including the maintenance of necessary reserves and the allocation of moneys for future debt service payments, any balance remaining in the luxury tax fund in that calendar year shall be applied to any deficiency between the operating expense budget and the anticipated operating revenues available for the following fiscal year to the public agency operating the convention hall facility, subject to the provisions of any statute establishing that public agency.

d. At the end of any full calendar year occurring after the date on which the provisions of subsections b. and c. of this section take effect, and after all payments have been made from the luxury tax fund pursuant to subsections b. and c., any moneys remaining in the luxury tax fund in that calendar year shall be deposited in the development fund and used for the purposes set forth in subsection a. of this section.

e. Pending application to the purposes for which moneys deposited in the development fund or the luxury tax fund may be used, the moneys in these funds shall be invested by the State Treasurer pursuant to applicable regulations prescribed for the investment of State moneys. Any income received from these investments shall be added to the fund from which earned, and used only for the purposes of that fund.

6. Section 8 of P. L. 1979, c. 273 (C. 40:48–8.33) is amended to read as follows:

C. 40:48-8.33 Local Finance Board review.

8. (a) Prior to the adoption of any resolution of a county improvement authority authorizing the issuance of notes or bonds

for an authorized facility located in an eligible municipality, or authorizing establishment of a revolving fund, and with respect to which an application for financing pursuant to the provisions of this act is to be made, an application for the proposed project financing shall be submitted to the Local Finance Board for review and approval of a single revolving fund payment, or of estimated annual payments on behalf of said project for all or a portion of its annual debt service covering principal and interest. The Local Finance Board shall, in connection with such review and approval, give consideration to the engineering and feasibility studies prepared in connection with the project financing and the terms and provisions of the proposed financing agreements including any reserve funds required by the resolution and security agreements, and the amounts of State revenues expected to be paid pursuant to the provisions of this act. In connection with its review, the Local Finance Board may consider any estimates, computations or calculations made in connection with such submission, may require the production of any papers, documents, witnesses or information to be made, any audit or investigation, and may take any action which it may determine advisable.

(b) The Local Finance Board shall approve the proposed revolving fund payment or the proposed project financing and annual payments from the funds created herein if it finds (i) that such proposal is an improvement or betterment advancing the health, safety and welfare of the persons served by said county improvement authority; (ii) that the project cost has been accurately calculated, that the terms and provisions of the proposed financing agreements are fair, reasonable and feasible and would not impose an undue burden on the persons served by the county improvement authority; (iii) that the payment or payments to be provided pursuant to this act for said project in addition to whatever funds, if any, are to be provided from the revenues realized from said project, or from any other authorized revenue or funding sources, are adequate to meet the debt service obligations for said project as approved pursuant to this act; (iv) that such agreement will not materially impair the ability of the county improvement authority to pay promptly the principal and interest on its outstanding indebtedness or to provide essential public services to the persons which said authority is required to support and to advance the objects and purpose of the authority or either of the aforesaid; (v) that the amounts to be expended for the facilities to be financed pursuant to such resolution are not unreasonable or exorbitant;

and (vi) that issuance of the bonds to be authorized by such resolution will not materially impair the credit of any municipality within the jurisdiction of the authority, or substantially reduce its ability, during the ensuing 10 years, to pay punctually the principal and interest on its debts and supply essential public improvements and service. In addition, the Local Finance Board shall, in its review of the proposed financing agreement or agreements, give consideration to the nature and purpose of the revolving fund or project financing, the amounts, terms and schedule of payments required and the impact of such agreement on the budget and financial condition of the county improvement authority.

(c) Any approval granted by the Local Finance Board shall be in writing and shall be filed with the secretary of the authority. Such approval may contain such conditions as the Local Finance Board may consider to be appropriate under the circumstances. Said approval shall include a statement of the principal amount of the bonds, or percentage thereof, for which payments will be made and the maturity schedule for such principal amount of bonds approved by said board. The Local Finance Board, in considering such copy of the resolution submitted to it and before endorsing its consent thereon may require the county improvement authority or the governing body of any eligible municipality served by such county improvement authority to adopt resolutions restricting or limiting any future proceedings therein or other matters or things deemed by the Local Finance Board to affect any estimate made or to be made by it in accordance with this section, and every such resolution so adopted shall constitute a valid and binding obligation of such county improvement authority or municipality, as the case may be, running to and enforceable by, and releasable by, the Local Finance Board.

C. 40:48-8.33a Report on financing.

7. (New section) a. Within 30 days after the issuance of any bonds or notes for the construction of a convention hall facility by a county improvement authority as set forth in subsection b. of section 5 of this act (C. 40:48–8.30a), the authority shall file a report with the Local Finance Board setting forth the principal amount of bonds issued for that project, the annual payments of principal and interest to be made respecting that project, the terms and provisions of the financing undertaken for the project, and such engineering and feasibility studies as may have been commissioned and used by the authority in connection with financing the project.

b. At least 90 days prior to the date set forth in subsection b. of section 5 of this act (C. 40:48–8.30a), the chief financial officer of the county improvement authority issuing bonds for the construction of the convention hall facility shall notify the Director of the Division of Local Government Services in the Department of Community Affairs of the precise date on which the provisions of that subsection shall take effect, the amounts payable thereafter on account of the principal and interest on those bonds, and the name and address of the paying agent or agents for the bonds. The director shall, upon the receipt of that notice, verify the facts contained therein, and certify the same to the State Treasurer.

c. Following that certification and upon the date set forth therein, the State Treasurer shall transfer all moneys accumulated in the fund to the development fund as provided in subsection b. of section 5 of this act (C. 40:48–8.30a), and shall thereafter pay from the luxury tax fund to the paying agent or agents specified in the certification the amounts certified to be paid for the principal and interest on the bonds, to the maximum amount available for this purpose in the luxury tax fund on each payment date.

8. Section 9 of P. L. 1979, c. 273 (C. 40:48–8.34) is amended to read as follows:

C. 40:48-8.34 Establishment of a revolving fund.

9. At any time within 1 year after an approval by the Local Finance Board pursuant to section 8 of P. L. 1979, c. 273 (C. 40:48–8.33) with respect to a county improvement authority, said authority shall submit to the Director of the Division of Local Government Services a copy of a resolution authorizing the issuance of bonds for the establishment of a revolving fund, entitled to the benefits of this act in accordance with said approval. If no such resolution is submitted within 1 year, said approval shall be of no further force and effect and the director shall so notify said authority. The Director of Local Government Services shall be and is hereby authorized to endorse upon any copy of such resolution a certification thereof as being the resolution to which a determination of the Local Finance Board has been made, and the endorsement shall be made in such form or manner as the director shall determine.

9. Section 13 of P. L. 1979, c. 273 (C. 40:48–8.38) is amended to read as follows:

C. 40:48-8.38 Temporary notes.

13. Any county improvement authority which has authorized bonds which are entitled to the benefits of this act may issue temporary notes or loan bonds, hereinafter called "notes," to the extent permitted or provided by or pursuant to the provisions of the "county improvement authorities law" (P. L. 1960, c. 183) or any other applicable laws, subject to such additional terms or conditions with respect to such notes as may be fixed or required by the Director of the Division of Local Government Services to insure that funds are borrowed only for those purposes and in the manner specified in the "county improvement authorities law," P. L. 1960, c. 183 (C. 40:37A–44 et seq.).

10. Section 15 of P. L. 1979, c. 273 (C. 40:48–8.40) is amended to read as follows:

C. 40:48-8.40 Payment of debt service.

15. a. All amounts to be paid from the fund established herein under the provisions of this act with respect to any county improvement authority for debt service covering principal or interest on bonds or notes entitled to the benefits of this act, or for funding any reserve fund required by such resolution, shall, on or before the date for such payment of interest and principal, be paid on behalf of the county improvement authority to the paying agent or paying agents for such bonds or notes in the amount with respect to such date as reflects the amount of principal or interest, respectively, payable as to such date with respect to such authority. Amounts so paid to such paying agent or paying agents shall be applied to the payment of debt service covering principal and interest on such bonds or notes, or to fund such reserve, and for no other purpose.

b. All amounts to be paid from the luxury tax fund or development fund with respect to any county improvement authority for the establishment of a revolving fund shall be paid on behalf of the county improvement authority to the agent or agents designated by the authority as the depository and paying agent or agents for those moneys, from which the authority may withdraw such amounts, for such purposes, and in such manner as shall be consistent with the terms and conditions set forth in the Local Finance Board's approval of that revolving fund.

11. Section 16 of P. L. 1979, c. 273 (C. 40:48–8.41) is amended to read as follows:

C. 40:48-8.41 Short-term investment.

16. Pending application to the purposes for which revolving funds are established or for which bonds or notes are issued, entitled to benefits of this act, the moneys in such fund shall be invested or deposited subject to regulations prescribed by the State Treasurer for the deposit of State funds. Any income from such investment shall be added to such fund.

12. Section 31 of P. L. 1980, c. 105 (C. 54:32B–8.19) is amended to read as follows:

C. 54:32B-8.19 Exemptions from Sales and Use Tax Act; conditions.

31. Receipts from sales of tangible personal property and services taxable under any municipal ordinance which was adopted pursuant to P. L. 1947, c. 71 (C. 40:48–8.15 et seq.) and was in effect on April 27, 1966 are exempt from the tax imposed under the Sales and Use Tax Act subject to the following conditions:

a. To the extent that the tax that is or would be imposed under section 3 of P. L. 1966, c. 30 (C. 54:32B–3) is greater than the tax imposed by such ordinance, such sales shall not be exempt under this section; and

b. To the extent permitted in the following schedule, irrespective of the rate of tax imposed by such ordinance:

(1) From July 1, 1981 through December 31, 1981, such sales shall not be exempt from this act; and

(2) From January 1, 1982 and thereafter, such sales shall be exempt only to the extent that the rate of taxation imposed by the ordinance exceeds the rate of taxation otherwise imposed pursuant to P. L. 1966, c. 30 (C. 54:32B–1 et seq.).

13. This act shall take effect immediately.

Approved January 8, 1982.

CHAPTER 462

AN ACT concerning the effects of the 1980 federal census on statutes pertaining to local governmental units of this State, and revising and repealing parts of the statutory law.

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

1. N. J. S. 2A:4–4 is amended to read as follows:

Juvenile and domestic relations court judges.

2A:4–4. The Governor, with the advice and consent of the Senate,

(1) Shall appoint six attorneys-at-law in each county of the first class having a population of more than 850,000 and four attorneys-at-law in each county of the first class, having a population of less than 850,000,

(2) Shall appoint four attorneys-at-law in each county not of the first class having population of more than 500,000,

(3) Shall appoint two attorneys-at-law in each county having a population of more than 400,000 and less than 500,000,

(4) Shall appoint one attorney-at-law in each county of the second class having a population of less than 400,000, and in each county of the fifth class having a population of less than 300,000, to be the judges or judge of the juvenile and domestic relations court of the county.

The judges shall devote their entire time to their judicial duties and shall not engage in the practice of law.

Each judge of the juvenile and domestic relations court of a county who is required to devote his entire time to his judicial duties may be assigned by the Chief Justice of the Supreme Court to hold temporarily the Superior Court or county district court of that county and, upon such assignment, shall have all the power, authority and jurisdiction of a judge of the Superior Court or county district court.

2. N. J. S. 2A:6–3 is amended to read as follows:

County district court judges.

2A:6–3. The county district courts enumerated herein shall have, respectively, the following number of judges: Atlantic, 1 judge; Bergen, 6 judges; Camden, 2 judges; Essex, 6 judges; Hudson, 4 judges; Mercer, 1 judge; Middlesex, 4 judges; Morris, 3 judges; Passaic, 4 judges; Sussex, 1 judge; Union, 4 judges; and Warren, 1 judge.

3. N. J. S. 2A:6–12 is amended to read as follows:

Full-time positions.

2A:6–12. Judges of the county district court shall devote their entire time to their duties and shall not engage in the practice of law.

4. Section 1 of P. L. 1968, c. 293 (C. 2A:8–6.1) is amended to read as follows:

C. 2A:8-6.1 Additional municipal court judges.

1. In every municipality having a population of not less than 82,000 nor more than 200,000, the governing body of such municipality may provide for the appointment as the need may appear, of an additional judge of the municipal court of such municipality.

5. Section 1 of P. L. 1975, c. 395 (C. 2A:8-6.3) is amended to read as follows:

C. 2A:8-6.3 Two additional judges.

1. The governing body of every municipality having a population of not less than 72,000 nor more than 103,000 inhabitants in a county of the second class may provide for the appointment, as the need may appear, of two additional judges of the municipal court of such municipality; provided, however, that this provision shall not limit the appointment of additional judges in municipalities included within the provisions of any other law.

6. Section 1 of P. L. 1979, c. 357 (C. 2A:8-6.4) is amended to read as follows:

C. 2A:8-6.4 One additional judge.

1. The governing body of every municipality having a population of not less than 37,000 nor more than 47,000 inhabitants in a county of the first class having a population in excess of 850,000 inhabitants may provide for the appointment, as the need may appear, of one additional judge of the municipal court of such municipality; provided, however, that this provision shall not limit the appointment of additional judges in municipalities included within the provisions of any other law.

7. Section 1 of P. L. 1953, c. 310 (C. 2A:11-36.1) is amended to read as follows:

C. 2A:11-36.1 Supervisors of court attendants.

1. The sheriff, of each county of the second or fifth class having a population of not less than 300,000 nor more than 600,000 inhabitants, shall have power by and with the consent of the county governing body to appoint in accordance with Title 11 (Civil Service) of the Revised Statutes two of the permanent court attendants as supervisors of court attendants, who shall be in charge of court attendants.

8. N. J. S. 2A:157-4 is amended to read as follows:

County detectives.

2A:157-4. a. In counties of the second class having a population in excess of 500,000 there may be appointed not in excess of 28

county detectives, of whom one may be designated chief of county detectives, one deputy chief of county detectives, one captain of county detectives, six lieutenants of county detectives and four sergeants of county detectives.

b. In counties of the second class having a population between 460,000 and 500,000 there may be appointed not in excess of 24 county detectives, of whom one may be designated chief of county detectives, one deputy chief of county detectives, four captains of county detectives and six lieutenants of county detectives.

c. In counties of the second class having a population between 410,000 and 460,000, there may be appointed not in excess of 28 county detectives, of whom one may be designated chief of county detectives, one captain of county detectives, four lieutenants of county detectives, and two sergeants of county detectives.

d. In the counties of the second class having a population of 410,000 or under, there may be appointed not in excess of 12 county detectives of whom one may be designated chief of county detectives, one captain of county detectives, and three lieutenants of county detectives.

e. Their annual salaries shall be fixed as follows: chief of county detectives, not less than $9,500.00; deputy chief of county detectives, not less than $9,000.00; captain of county detectives, not less than $8,000.00; lieutenant of county detectives, not less than $7,000.00; sergeant of county detectives, not less than $6,500.00; and other county detectives, not less than $6,000.00.

9. N. J. S. 2A:157–15 is amended to read as follows:

County investigators.

2A:157–15. In counties of the fifth class there may be appointed not in excess of 12 county investigators, who shall be paid annual salaries of not less than $5,500.00.

10. Section 1 of P. L. 1970, c. 6 (C. 2A:158–1.1) is amended to read as follows:

C. 2A:158-1.1 Full-time county prosecutors.

1. Any person appointed to the office of county prosecutor shall devote his entire time to the duties of his office and shall not engage in the practice of law or other gainful employment, except those appointed to that office in counties of the third class having a population between 65,000 and 85,000 or between 90,000 and 130,000.

11. N. J. S. 2A:158–10 is amended to read as follows:

Annual salaries.

2A:158–10. County prosecutors not required by law to devote full-time to their duties shall receive annual salaries to be fixed by the governing body of the county at not less than $8,500.00 nor more than $24,000.00.

12. N. J. S. 2A:158–15 is amended to read as follows:

Assistant prosecutors.

2A:158–15. Assistant prosecutors in and for the respective counties may be appointed by the prosecutors of such counties as hereinafter provided, who shall hold their appointments at the pleasure of the respective prosecutors, and shall, before entering upon the performance of the duties of their appointments, take, before a judge of the Superior Court or the Clerk of the Superior Court of the county in and for which they are appointed, an oath or affirmation to faithfully perform the duties of the office to the best of their ability.

a. In counties of the first class, the county prosecutor may appoint 15 assistant prosecutors, one of whom shall be designated as first assistant prosecutor.

b. In counties of the second class, the county prosecutor may appoint six assistant prosecutors, one of whom shall be designated as first assistant prosecutor.

c. In counties of the fifth class and counties of the third class having a population in excess of 120,000, the county prosecutor may appoint three assistant prosecutors, one of whom may be designated as first assistant prosecutor.

d. In all other counties the prosecutor may appoint one assistant prosecutor who may be designated first assistant prosecutor.

Creation of new or additional positions of assistant prosecutor as authorized by paragraphs a. through d. of this section, as hereby amended, shall require authorization by the governing body of the county.

Assistant prosecutors in addition to those provided for in paragraphs a. through d. of this section may be appointed by the county prosecutor in any county of the State where there appears to be a reasonable necessity therefor, if approved by order of the assignment judge and by resolution of the governing body of the county.

13. Section 2 of P. L. 1976, c. 15 (C. 2A:158–15.1a) is amended to read as follows:

C. 2A:158-15.1a Exceptions.

2. The provisions of P. L. 1970, c. 6, s. 3 (C. 2A:158–15.1) shall not apply to any assistant prosecutor in a county of the fifth class having a population between 300,000 and 500,000 or to any assistant prosecutor in a county of the sixth class, or to any assistant prosecutor in a county of the third class having a population of less than 80,000, or to any assistant prosecutor in a county of the third class having a population in excess of 120,000; provided, however, that the county prosecutor of any such county, whether or not such county prosecutor is required to devote his entire time to the duties of such office, where there appears to be a reasonable necessity therefor and where approved by order of the assignment judge, may direct that any assistant prosecutor devote his entire time to the duties of such office and not engage in the practice of law or other gainful employment.

14. R. S. 11:22–2 is amended to read as follows:

Unclassified service.

11:22–2. The unclassified service shall not be subject to the provisions of this subtitle and shall include the following:

a. Officers elected by popular vote;

b. Members of district boards of elections; employees in voting machine departments and the chief deputy, chief clerk, secretary, clerical and other assistants or employees appointed by the superintendents of elections and commissioners of registration in counties of the first class having less than 800,000 inhabitants, and by the county boards of elections in all other counties and such of said officers, assistants and employees as are appointed by superintendents of elections in counties of the first class having more than 800,000 inhabitants to serve for terms of 6 months or less in any 1 year;

c. Appointments of the mayor;

d. Heads of municipal departments, the members of commissions and boards elected by the board of aldermen, common council or other governing body of any county, municipality or school district operating under this subtitle;

e. Heads of such county departments as are created by the administrative code of any county organized pursuant to any of the plans contained in the Optional County Charter Law (P. L. 1972, c. 154; C. 40:41A–1 et seq.), which departments shall not exceed 12 in number, and the heads of any divisions created within such departments; provided, however, that the total number of positions

created pursuant to this subsection by the administrative code shall not exceed 20 in number;

f. Law officers of a county, municipality or school district operating under this subtitle;

g. Teaching staff members, as defined in N. J. S. 18A:1–1, in the public schools and county superintendents and members and business managers of boards of education;

h. Police magistrates appointed by the mayor or other head officer of the municipality operating under this subtitle;

i. Officers and employees of county park commissioners in counties of the second class appointed under the provisions of sections 40:37–96 to 40:37–174 of the Title, Municipalities and Counties;

j. The superintendent of a county hospital for persons suffering from communicable diseases appointed under the provisions of R. S. 30:9–61 and 30:9–69; and

k. The deputy or first assistant of principal executive officers authorized by law to act generally for and in place of his principal;

l. The legal assistants of the law departments of the counties, municipalities or school districts operating under this subtitle except as herein otherwise provided;

m. One secretary, clerk or executive director of each department, appointed board or commission authorized by law to appoint a secretary, clerk or executive director;

n. One secretary or confidential aide, if so provided in the administrative code of any county organized pursuant to any of the plans contained in the Optional County Charter Law, to be appointed by each head of any county department or of any designated division within such department, when the head of any such division is an unclassified position;

o. One private secretary or clerk or stenographer of each judge or principal executive officer;

p. All officials of county or municipal institutions who must of necessity be physicians;

q. Offices or positions whose incumbents by specific statute serve for fixed terms, or whose incumbents by specific statute serve at the pleasure of the appointing authority;

r. One council secretary to the municipal council appointed by the council in any city of the first class with a population of less than 300,000;

s. All directors of municipal free public libraries in cities of the first class having a population of not less than 300,000 inhabitants;

t. The following positions in school districts which have been reorganized pursuant to P. L. 1975, c. 169 (C. 18A:17–1 et seq.):
Executive director of board affairs;
Executive director of personnel;
Executive director of the budget;
Executive director of purchasing;
Executive director of physical facilities;
Executive director of data processing;
Executive director of financial affairs;
Executive controller;
Executive director of internal audit; and
Public information officer; and

u. One confidential secretary, for each member of the board of freeholders of any county which has not adopted the provisions of the Optional County Charter Law (P. L. 1972, c. 154, C. 40A:41A–1 et seq.); provided, however, that this subsection shall not be construed so as to authorize a board of chosen freeholders to increase the number of secretaries attached to such board of chosen freeholders upon the effective date of this amendatory act;

v. Such other officers and positions not now included in the unclassified service by this section or by any other statute, as the Civil Service Commission shall, from time to time, determine, according to law, to be in the unclassified service.

15. Section 2 of P. L. 1978, c. 81 (C. 11:22–2.1) is amended to read as follows:

C. 11:22-2.1 Library director.

2. Any person appointed as a director of a municipal free public library in a city of the first class having a population of not less than 300,000 inhabitants shall be a graduate of an accredited university or college and shall, prior to his appointment, have graduated from a school of library service accredited by the American Library Association, and have had at least 4 years of library experience in a responsible administrative capacity.

16. N. J. S. 18A:24–19 is amended to read as follows:

School district bonds.

18A:24–19. Except as otherwise provided in sections 18A:24–20 to 18A:24–27, no bonds shall be authorized for the purposes of any school district if the principal amount thereof shall, when added to the net school debt of the district exceed the percentage of the average equalized valuation of taxable property in such district as herein provided:

(1) From kindergarten grade (or grade 1) through grade 6	2½%
(2) From kindergarten grade (or grade 1) through grade 8	3 %
(3) From kindergarten grade (or grade 1) through grade 9	3½%
(4) From kindergarten grade (or grade 1) through grade 12	4 %
(5) From grade 7 through grade 9	1½%
(6) From grade 10 through grade 12	2 %
(7) From grade 9 through grade 12	3 %
(8) From grade 7 through grade 12	3½%

Each school district prior to the issuance of bonds shall secure from the State Commissioner of Education a certificate of the grade levels of instruction provided or to be provided by said school district.

Provided, however, that except as otherwise provided in sections 18A:24–20 to 18A:24–27, bonds may be authorized for the purposes of a school district in a city of the first class if the principal amount thereof shall, when added to the net school debt of the district, not exceed 8% of the average equalized valuation of taxable property in such district.

Further provided, that except as otherwise provided in sections 18A:24–20 to 18A:24–27, bonds may be authorized for the purposes of a school district in a city of the second class with a population in excess of 80,000, according to the latest federal decennial census if the principal amount thereof shall, when added to the net school debt of the district, not exceed 6% of the average equalized valuation of taxable property in such district.

17. Section 1 of P. L. 1973, c. 365 (C. 18A:54–11.4) is amended to read as follows:

C. 18A:54-11.4 County vocational school districts.

1. The board of education of each school district or regional school district in any county of the second class having a population of not less than 410,000 nor more than 470,000 according to the latest federal decennial census in which there is a county vocational school district referred to in section 18A:54–11.1 shall send to any of the schools of such county vocational school district all pupils residing in such school district or regional school district who have applied for admission to and have been accepted by any of the

schools of such county vocational school district and each such board of education shall pay tuition for said pupils to such county vocational school district pursuant to N. J. S. 18A:54–23. The provisions of this section shall not apply to any board of education of a school district or regional school district maintaining a vocational school or schools pursuant to article 2 of chapter 54 of Title 18A of the New Jersey Statutes.

18. N. J. S. 18A:54–16 is amended to read as follows:

Vocational school boards.

18A:54–16. For each county system of vocational schools established in accordance with this chapter, there shall be a board of education consisting of the county superintendent of schools and four persons to be appointed; provided, however, that a county of the first class which has adopted a form of government pursuant to the provisions of the "Optional County Charter Law" (P. L. 1972, c. 154, C. 40:41A–1 et seq.) may, by ordinance, establish a board of education consisting of seven persons to be appointed.

In counties of the first class which, by ordinance, have established a board consisting of seven persons to be appointed, the seven appointive members shall be appointed by the chief elected executive officer of the county. In all other counties of the first class, in all counties of the second class, and in counties of the third and fifth classes having populations in excess of 125,000, the four appointive members of the board shall be appointed by the chief elected executive officer of the county, or the director of the board of chosen freeholders, with the advice and consent of that board, as appropriate to the appointment procedures established by the form of government of the county. Not more than two members appointed in any such county of the second, third or fifth class shall be members of the same political party, but no changes for adjustment of party representation shall be made in a board except as vacancies occur. In other counties, the four appointive members of the board shall be appointed by the judge of the Superior Court sitting therein or in counties where there is more than one judge by a majority of them.

In making the first appointments to a board, one person shall be appointed to serve for 1 year, one for 2 years, one for 3 years and one for 4 years from November 1 next succeeding the date of their respective appointments. In a county of the first class which, by ordinance, has established a board with seven appointive members, the chief elected executive officer shall make the first appointments

to the board in the following manner: two shall be appointed to serve for 1 year, two for 2 years, two for 3 years, and one for 4 years from November 1 next succeeding the date of their respective appointments. The persons so appointed shall also serve from the date of their respective appointments until November 1 next ensuing.

Annually during the month of October a member or members, as the case may be, of the board shall be appointed to serve for a term of 4 years, and thereafter until the appointment and qualification of his respective successor, to take the place of the member or members, as the case may be, whose term or terms shall expire on November 1 then next ensuing.

A vacancy in the board shall be deemed to exist, and shall be filled, in the manner prescribed in P. L. 1979, c. 302 (C. 40A:9–12.1).

19. N. J. S. 18A:54–23 is amended to read as follows:

Tuition for out-of-county pupils.

18A:54–23. The boards of education of schools established under the provisions of section 18A:54–12 in any county of the third class with a population not less than 65,000 nor more than 85,000 according to the latest federal decennial census, and the boards of education of schools established under the provisions of section 18A:54–13, shall receive pupils from districts without the county so far as their facilities will permit, provided a rate of tuition not exceeding the cost of such education as prescribed by rule of the commissioner, approved by the State board, is paid by the sending districts.

The board of education of any county vocational school district referred to in section 18A:54–11.1 and the board of education of any other school district within the county thereof are each hereby authorized and empowered to undertake and to enter into agreements with respect to the attendance at schools of the county vocational school district, of residents or pupils of such other school district who are students attending the schools of the county vocational school district and as to the payments to be made or the rate of tuition to be charged on account of such students. The payment or rate of tuition per student shall be 50% of the pro rata annual cost of the operation and maintenance of the county vocational school district remaining after deduction from such cost of all amounts of aid received by the county vocational school district or the county thereof on account of such district or credited thereto

from the State of New Jersey or the United States of America or agencies thereof, but excluding from such cost any amounts on account of required payments of interest on or principal of bonds or notes of the county issued for the purposes of such district. The annual aggregate amount of all of such payments or tuition may be anticipated by the board of education of the county vocational school district and by the governing body of the county with respect to the annual budget of the county vocational school district. The amounts of all annual payments or tuition to be paid by any such other school district shall be raised in each year in the annual budget of such other school district and paid to the county vocational school district.

20. Section 1 of P. L. 1973, c. 305 (C. 18A:54–37) is amended to read as follows:

C. 18A:54-37 Exemption.

1. Notwithstanding any of the provisions of chapter 54 of Title 18A of the New Jersey Statutes, in any county of the first class having a population of not more than 700,000 according to the latest federal decennial census, each municipality included within a school district which has maintained for a minimum of 20 years a vocational education program approved for the purposes of federal or State allotment of vocational funds by the Commissioner of Education under the regulation of the State Board of Education shall be exempt from assessment, levy or collection of taxes based on any apportionment of amounts appropriated for the use of a county vocational school district.

21. Section 1 of P. L. 1945, c. 68 (C. 19:23–22.1) is amended to read as follows:

C. 19:23-22.1 Certification of candidates.

1. In counties having a population of 700,000 or more inhabitants and in second class counties having a population of not less than 300,000 or more than 425,000 inhabitants and in counties having a population of not less than 150,000 or more than 300,000 inhabitants, each municipal clerk shall, on or before the sixth day following the last day for the filing of petitions for the primary election in each year, certify to the county clerk the full and correct names and addresses of all candidates for nomination for public and party office, and the name of the political party of which such persons are candidates, together with their slogan and designation, and the order in which their names were drawn in accordance with the provisions of Title 19 of the Revised Statutes.

22. Section 3 of P. L. 1965, c. 29 (C. 19:23–22.5) is amended to read as follows:

C. 19:23-22.5 Payment of printing costs.

3. In counties having a population of 700,000 or more inhabitants and in second class counties having a population of not less than 300,000 or more than 425,000 inhabitants and in counties having a population of not less than 150,000 or more than 300,000 inhabitants, the cost of printing of the official primary election ballots and primary election sample ballots shall be paid by the county but the county shall be reimbursed by the municipalities, each municipality paying such amount as shall be apportioned to it by the county clerk based on the proportion of the number of such official primary election ballots and primary election sample ballots required for use in such municipality.

23. R. S. 19:31–1 is amended to read as follows:

Permanent registration.

19:31–1. No person shall be permitted to vote at any election unless such person shall have been permanently registered in the manner hereinafter in this chapter provided.

24. R. S. 19:31–2 is amended to read as follows:

Commissioner of registration.

19:31–2. In all counties having a superintendent of elections, the superintendent of elections is hereby constituted the commissioner of registration and in all other counties the secretary of the county board is hereby constituted the commissioner of registration.

The commissioner of registration in all counties having a superintendent of elections, and the county board in all other counties, shall have complete charge of the permanent registration of all eligible voters within their respective counties.

The commissioner of registration in counties of the first class having a superintendent of elections and having less than 800,000 inhabitants, and the county board in all other counties, shall have power to appoint temporarily, and the commissioner of registration in counties of the first class having more than 800,000 inhabitants shall have power to appoint on a permanent, or temporary basis, such number of persons, as in his or its judgment may be necessary in order to carry out the provisions of this Title. All persons appointed by the commissioner of registration in counties of the first class having more than 850,000 inhabitants according to the latest

federal decennial census to serve for terms of more than 6 months in any 1 year shall be in the classified service of the civil service and shall be appointed, and hold their positions, in accordance with the provisions of Title 11, Civil Service. All persons appointed by the commissioner of registration in counties of the first class having more than 600,000 but less than 850,000 inhabitants according to the latest federal decennial census to serve for terms of more than 6 months in any 1 year, other than the chief deputy and chief clerk and confidential secretary and chief custodian, shall be in the classified service of the civil service and shall be appointed and hold their positions, in accordance with the provisions of Title 11, Civil Service. Persons appointed by the commissioner of registration in such counties to serve for terms of 6 months or less in any 1 year and persons appointed by the commissioner of registration, or by the county board of elections, in other counties, shall not be subject to any of the provisions of Title 11, Civil Service, but shall be in the unclassified service.

In each county the commissioner of registration shall submit to the Secretary of State on or before February 15 of each year a plan providing for evening registration for the primary election and on or before July 1 plans providing for evening and out-of-office registration for the general election, which plans shall be subject to approval by the Secretary of State. Evening registration shall be made available in the office of each commissioner of registration between the hours of 4 p.m. and 9 p.m. for at least 6 working days immediately preceding the close of registration, in each municipality having a population in excess of 12,000 persons according to the most recent United States census between the hours of 4 p.m. and 9 p.m. for at least 3 working days immediately preceding the close of registration, and in each municipality having a population of less than 12,000 persons between the hours of 4 p.m. and 9 p.m. on the day of the close of registration for the primary and general elections and for municipal elections. Such plan for out-of-office registration may include door-to-door registration, and shall include the schedule and route to be followed by any out-of-office registration units, as well as a description of the number and nature of units to be used, and such further pertinent information as the Secretary of State may by rule or regulation require. Out-of-office registration shall be made available pursuant to such plan in each municipality having a population in excess of 12,000 persons according to the most recent United States census. Nothing in this section shall preclude the commissioner from pro-

viding pursuant to plan evening registration or out-of-office registration in excess of the requirements of this section, or shall preclude or in any way limit out-of-office registration conducted by persons or groups other than the commissioner.

During the month of March of each year the commissioner of registration in all counties shall arrange for and conduct registration in each public and nonpublic high school in the county, of all students who are eligible to register to vote in the ensuing election. School officials shall cooperate with efforts to register students in such schools. The commissioner of registration shall complete, on a form prescribed by the Secretary of State, a report concerning the number of students registered during the designated month. Copies of such report shall be forwarded to the Secretary of State.

The commissioner of registration in counties having a superintendent of elections, and the county board in all other counties, shall provide such printed forms, blanks, supplies and office telephone and transportation equipment and shall prescribe such reasonable rules and regulations not inconsistent with those of the Secretary of State as are necessary in the opinion of the commissioner or county board to carry out the provisions of this Title and any amendments or supplements thereto.

Subject to the limitations set forth in chapter 32 of this Title as hereby amended all necessary expenses incurred, as and when certified and approved by the commissioner of registration in counties having a superintendent of elections, and by the county board in all other counties, shall be paid by the county treasurer of the county.

Nothing in the provisions of subtitle 2 of the Title, Municipalities and Counties (40:16–1 et seq.), shall in anywise be construed to affect, restrict or abridge the powers herein conferred on the commissioners in counties having a superintendent of elections, and upon the county boards in all other counties.

All powers granted to the commissioner in all counties not having superintendents of elections by the provisions of this Title are hereby conferred on the county board in such counties and any and all duties conferred upon the commissioner in all counties not having a superintendent of elections by the provisions of this Title shall only be exercised and performed by such commissioner under the instructions and directions of and subject to the approval of the county board of such counties.

25. R. S. 19:32–2 is amended to read as follows:

Appointment of assistants.

19:32–2. Each superintendent may appoint a chief deputy, a chief clerk, a secretary, such personnel as is authorized under section 19:48–6 of this Title, and any other assistants he considers necessary to carry out the provisions of this Title, and, except as hereinafter provided, may remove the same whenever he deems it necessary and all persons so appointed, by superintendents of elections in counties of the first class having more than 850,000 inhabitants, according to the latest federal decennial census, to serve for terms of more than 6 months in any 1 year, shall be in the classified service of the civil service and shall be appointed in accordance with and shall be subject to the provisions of Title 11, Civil Service, but all other persons so appointed shall not be subject to any of the provisions of Title 11, Civil Service, but shall be in the unclassified service. All persons appointed by the commissioner of registration in counties of the first class having more than 600,000 but less than 850,000 inhabitants according to the latest federal decennial census to serve for terms of more than 6 months in any 1 year, other than the chief deputy and chief clerk and confidential secretary and chief custodian, shall be in the classified service of the civil service and shall be appointed, and hold their positions, in accordance with the provisions of Title 11, Civil Service, but all other persons so appointed shall not be subject to any of the provisions of Title 11, Civil Service, but shall be in the unclassified service. Each superintendent shall fix the salaries of the persons so appointed and such salaries certified to and approved under his hand shall be paid semimonthly by the county treasurer of the county in which such persons are so engaged. All other necessary expenses incurred in carrying out the provisions of this Title when certified to and approved by the superintendent shall be paid by the county treasurer of the county in which the superintendent shall maintain his office; provided, however, that all necessary expenses incurred by the commissioner of registration, the superintendent of elections, and the custodian of voting machines in the counties of the first class for the proper performance of all of his duties of all his offices as set forth in Title 19, shall not exceed, in the aggregate, the sum of $1,250,000.00 per annum.

26. Section 1 of P. L. 1947, c. 167 (C. 19:32–26) is amended to read as follows:

C. 19:32-26 Superintendent of elections.

1. In any county of the second class and in any county of the fifth class, the governing body may establish, by ordinance or resolution, as appropriate, the office of superintendent of elections for the county, and said office when once established shall not be altered or abolished.

The governing body shall file a certified copy of such ordinance or resolution, attested by the chief elected executive officer or director of the board of freeholders, if appropriate and clerk of the board, in the office of the Secretary of State within 10 days after adoption, and the ordinance or resolution shall take effect at the expiration of 30 days after the next primary election for the general election, or the next general election, after adoption whichever shall occur first.

The office so established shall be filled by some suitable person who shall be nominated by the Governor with the advice and consent of the Senate for a term of 5 years from the date of his appointment and until his successor is appointed and shall have qualified. In the event that no such appointment to such office is made within 30 days following the taking effect of the ordinance or resolution, heretofore or hereafter adopted, of the governing body of the county, as herein provided, then the governing body of the county shall appoint some suitable person to fill such office for a term of 5 years from the date of appointment and until the successor of such person is in the same manner appointed and shall have qualified. The governing body shall file notice of such appointment in the office of the Secretary of State.

Each superintendent so appointed in a county of the fifth class shall receive a salary of $4,000.00 per annum and each superintendent so appointed in a county of the second class shall receive a salary in such amount, not less than $4,000.00 per annum, as shall be fixed by the county governing body; such salaries shall be paid by the county treasurer and the superintendent shall have his office in the county for which he is appointed.

Any vacancy occurring in such office of superintendent of elections shall be filled in the same manner as the original appointment to such office was made, but for the unexpired term.

27. R. S. 19:45–7 is amended to read as follows:

Compensation of members of county boards.

19:45–7. The compensation of the members of the several county boards shall be as follows:

County Population	Minimum Salary	Maximum Salary
Over 550,000	$8,700.00	$10,600.00
300,000 to 550,000	$6,000.00	$ 8,000.00
150,000 to 300,000	$4,500.00	$ 6,000.00
120,000 to 150,000	$3,700.00	$ 5,000.00
Under 120,000	$3,200.00	$ 4,500.00

provided, however, that any increases herein granted shall be effected only upon the approval of the governing body in the county affected.

The compensation fixed and determined under any of the foregoing classifications shall include all services rendered by any county board in conducting all elections, and in connection with any recount or recheck after any such election.

The members of the county board in counties other than counties of the first class and in counties of the first class not having a superintendent of elections who shall be elected as chairman and secretary thereof and who shall perform the duties of chairman and secretary thereof shall each receive an additional compensation of one-half of the compensation of the individual members of the board.

The commissioner of registration in a county of the first class having a superintendent of elections shall receive not less than $10,000.00 nor more than $12,500.00, as shall be determined by the governing body, for services performed as such commissioner of registration, and the commissioner of registration in a county of the second class having a superintendent of elections shall receive $2,500.00 per annum for services performed as such commissioner of registration, and for such services performed by a commissioner of registration in a county not having a superintendent of elections additional compensation shall be paid to such commissioner in an amount equal to 50% of his salary as member and secretary of the county board. In counties of the second class and in counties of the first class not having a superintendent of elections where a member of the county board serves as commissioner of registration, he shall receive no additional compensation for the performance of his duties as such commissioner unless he shall devote his full time to the performance of his duties as member of the county board, secretary thereof, and commissioner of registration. "Full time" as here used means such time as is duly required of employees in the office of the county board. Notwithstanding the

above, the commissioner of registration in a county having a superintendent of elections, upon the approval of the governing body of the county, shall receive a salary not less than the maximum which the secretary of a county board of elections in a county of the same class, not having a superintendent of elections, would receive for performing the duties of secretary and commissioner of registration. This minimum does not reduce the current base salary for any superintendent who also serves as commissioner of registration.

28. R. S. 26:3–3 is amended to read as follows:

Board membership.

26:3–3. The local board in every municipality, other than a township, which is subject to the provisions of subdivision C of this article, shall be composed of not less than five nor more than seven members, except that in a city of the first class the board shall consist of 10 members, and in a city having a population of over 80,000, but not of the first class, the board shall consist of not less than five nor more than 10 members.

29. R. S. 26:3–6 is amended to read as follows:

Terms of members.

26:3–6. The members of the local board in every municipality, other than a township, which is subject to the provisions of subdivision C of this article, shall serve for such term as the governing body may by ordinance provide, but, except in a city having a population of over 80,000 but not of the first class, no term shall exceed 4 years, and in a city of the first class the term shall be 3 years. The terms shall be so arranged that the terms of not more than three members shall expire in any 1 year, except that in a city of the first class the terms of three members shall expire in 1 year, the terms of an additional three members in the next succeeding year, and the terms of the remaining members in the second succeeding year.

30. R. S. 26:3–32 is amended to read as follows:

Health-related licenses and permits.

26:3–32. Local boards of health in cities having a population of more than 80,000 inhabitants may grant and regulate licenses and permits incident to health matters and charge a reasonable fee for any such license or permit, but this provision shall not apply to any fee otherwise specifically provided for.

31. Section 5 of P. L. 1974, c. 80 (C. 34:1B–5) is amended to read as follows:

C. 34:1B-5 Powers of authority.

5. The authority shall have the following powers:

a. To adopt bylaws for the regulation of its affairs and the conduct of its business;

b. To adopt and have a seal and to alter the same at pleasure;

c. To sue and be sued;

d. To acquire in the name of the authority by purchase or otherwise, on such terms and conditions and such manner as it may deem proper, or by the exercise of the power of eminent domain in the manner provided by the Eminent Domain Act of 1971, P. L. 1971, c. 361 (C. 20:3–1 et seq.), any lands or interests therein or other property which it may determine is reasonably necessary for any project; provided, however, that the authority shall not take by exercise of the power of eminent domain any real property except upon consent thereto given by resolution of the governing body of the municipality in which such real property is located; and provided further that the authority shall be limited in its exercise of the power of eminent domain to municipalities receiving State aid under the provisions of P. L. 1978, c. 14 (C. 52:27D–178 et seq.), or to municipalities which had a population, according to the latest federal decennial census, in excess of 10,000;

e. To enter into contracts with a person upon such terms and conditions as the authority shall determine to be reasonable, including but not limited to reimbursement for the planning, designing, financing, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of the project and to pay or compromise any claims arising therefrom;

f. To establish and maintain reserve and insurance funds with respect to the financing of the project;

g. To sell, convey or lease to any person all or any portion of a project, for such consideration and upon such terms as the authority may determine to be reasonable;

h. To mortgage, pledge or assign or otherwise encumber all or any portion of a project or revenues whenever it shall find such action to be in furtherance of the purposes of this act;

i. To grant options to purchase or renew a lease for any of its projects on such terms as the authority may determine to be reasonable;

j. To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the United States of America or any agency or instrumentality thereof, or from the State or any agency, instrumentality or political sub-

division thereof, or from any other source and to comply, subject to the provisions of the act, with the terms and conditions thereof;

k. In connection with any application for assistance under this act or commitments therefor, to require and collect such fees and charges as the authority shall determine to be reasonable;

l. To adopt, amend and repeal regulations to carry out the provisions of this act;

m. To acquire, purchase, manage and operate, hold and dispose of real and personal property or interests therein, take assignments of rentals and leases and make and enter into all contracts, leases, agreements and arrangements necessary or incidental to the performance of its duties;

n. To purchase, acquire and take assignments of notes, mortgages and other forms of security and evidences of indebtedness;

o. To purchase, acquire, attach, seize, accept or take title to any project by conveyance or by foreclosure, and sell, lease, manage or operate any project for a use specified in this act;

p. To borrow money and to issue bonds of the authority and to provide for the rights of the holders thereof as provided in this act;

q. To extend credit or make loans to any person for the planning, designing, acquiring, constructing, reconstructing, improving, equipping and furnishing of a project which credits or loans may be secured by loan and security agreements, mortgages, leases, and any other instruments, upon such terms and conditions as the authority shall deem reasonable, including provision for the establishment and maintenance of reserve and insurance funds, and to require the inclusion in any mortgage, lease, contract, loan and security agreement or other instrument, such provisions for the construction, use, operation and maintenance and financing of a project as the authority may deem necessary or desirable;

r. To employ consulting engineers, architects, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the authority to carry out the purposes of the act, and to fix and pay their compensation from funds available to the authority therefor, all without regard to the provisions of Title 11, Civil Service, of the Revised Statutes;

s. To do and perform any acts and things authorized by this act under, through or by means of its own officers, agents and employees, or by contract with any person;

t. To procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as it deems desirable;

u. To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in the act;

v. To construct, reconstruct, rehabilitate, improve, alter, equip, maintain or repair or provide for the construction, reconstruction, improvement, alteration, equipment or maintenance or repair of any development property and lot, award and enter into construction contracts, purchase orders and other contracts with respect thereto upon such terms and conditions as the authority shall determine to be reasonable, including but not limited to reimbursement for the planning, designing, financing, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of any such development property and the settlement of any claims arising therefrom and the establishment and maintenance of reserve funds with respect to the financing of such development property; and

w. When authorized by the governing body of a municipality exercising jurisdiction over an urban growth zone, to construct, cause to be constructed or to provide financial assistance to projects in an urban growth zone which shall be exempt from the terms and requirements of the land use ordinances and regulations, including but not limited to the master plan and zoning ordinances, of such municipality.

32. R. S. 40:10–2 is amended to read as follows:

Permanent memorial.

40:10–2. Any municipality having a population in excess of 80,000 inhabitants and which is the county seat, may, jointly with the county, erect and maintain a suitable building or buildings for public use, as a permanent memorial commemorative of the services of the soldiers and sailors of the United States in any war in which the United States has been engaged or participated.

33. Section 4 of P. L. 1948, c. 198 (C. 40:11A–4) is amended to read as follows:

C. 40:11A-4 Parking authorities.

4. The governing body of any county or municipality may, by resolution or ordinance, as appropriate, create a public body corporate and politic and a political subdivision of the State to be

known as the "Parking Authority of the .....," inserting all or any significant part of the name of the municipality or county creating such authority. The creating resolution or ordinance, as the case may be, may provide that no real property shall be acquired by the power of eminent domain without the consent of the governing body. Such authority shall constitute an agency and instrumentality of the municipality or county creating it. Thereupon the governing body shall, by resolution or ordinance, as appropriate, appoint five persons as commissioners of the authority. The commissioners who are first appointed shall be designated to serve for terms of 1, 2, 3, 4 and 5 years, respectively, from the date of their appointment, but thereafter commissioners shall be appointed as aforesaid for a term of 5 years, except that all vacancies shall be filled for the unexpired term.

The governing body of any county, or of any municipality with a population of 80,000 or more, may by resolution or ordinance, as appropriate, provide for the appointment of two additional commissioners who shall serve 1- and 2-year terms respectively, from the date of their appointment, but thereafter, such commissioners shall be appointed to terms of 5 years, except that all vacancies shall be filled for the unexpired term.

No municipality the area of which has been included (with its consent) within the area of operation of a parking authority created by a county shall thereafter create a parking authority.

Upon the creation of any such authority, the clerk shall certify a copy of the ordinance or resolution creating the parking authority, and also a copy of the resolution or ordinance appointing the first commissioners thereof, which documents shall be filed with the clerk of the county and be recorded in records of certificates of incorporation, and the clerk of the county shall cause duplicate certified copies of said documents to be filed forthwith with the Secretary of State.

34. R. S. 40:20–20 is amended to read as follows:

Boards of chosen freeholders.

40:20–20. The board of chosen freeholders in each county shall consist of that number of members authorized for the county immediately prior to the effective date of this 1981 amendatory act. At any time after that date, a proposition may be submitted to the voters of the county to increase or decrease the number of members of the board of chosen freeholders to three, five, seven or nine. The proposition shall be submitted either upon adoption of a resolution

by the county governing body after a public hearing thereon, or upon submission to the county clerk of a petition signed by a number of the legal voters of the county equal in number to at least 15% of the total votes cast in the county at the last election at which members of the General Assembly were elected. The proposition shall not be submitted more than once in any 3-year period.

A petition submitted pursuant to this section shall be verified, inspected and certified as to the authenticity of the signatures attached thereto by the county clerk within 20 days of submission, and shall be submitted at the next general election occurring at least 40 days after certification.

The question of the increase or decrease in the number of members of the board of chosen freeholders shall be submitted to the voters at the election in substantially the following form:

"Shall the membership of the board of chosen freeholders of ..... be ..... (insert name of county) (insert "increased" or "decreased" as appropriate) ..... from ..... to ..... (insert current number) (insert proposed number) ..... members?"

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 voters shall have voted to increase or decrease the membership of the board of chosen freeholders as provided in this section, the increase or decrease shall take effect for the next general election of chosen freeholders.

Nothing in this section shall apply to any county that has adopted a charter pursuant to the "Optional County Charter Law," P. L. 1972, c. 154 (C. 40:41A–1 et seq.).

35. R. S. 40:20–72 is amended to read as follows:

Salaries of freeholders.

40:20–72. The salaries of the members of the boards of chosen freeholders in counties not governed by the "Optional County Charter Law," P. L. 1972, c. 154 (C. 40:41A–1 et seq.), shall be fixed by the respective boards by resolution as follows:

a. The procedure for introduction, publication, hearing and adoption of said resolution shall be the same as the procedure established by N. J. S. 40A:4–4 for the adoption of a county budget resolution. No such resolution shall take effect earlier than 20 days from the time of adoption;

b. If within 20 days after the adoption of the resolution, a petition, signed by the registered voters of the county, equal in number to at least 15% of the total votes cast in the county at the last election at which members of the General Assembly were elected, protesting against the adoption of the resolution, shall be presented to the county clerk, the resolution shall remain inoperative unless a proposition for the ratification of the resolution shall be adopted at an election by a majority of the voters voting on the proposition. A petition submitted pursuant to this subsection shall be inspected, verified and certified as to the authenticity of the signatures attached thereto by the county clerk within 20 days of submission. The question shall be submitted at the next general election, occurring not less than 40 days after the date of the certification of the petition; and

c. The director of the board of chosen freeholders shall receive, in addition to his salary as a member, a sum not to exceed $1,000.00 per annum as fixed by resolution of the board.

The salaries of members of boards of chosen freeholders referred to in this section, including any additional compensation to directors thereof, shall be in lieu of all fees or other compensation, excepting additional compensation for premiums on group insurance authorized under N. J. S. 40A:10–21, and shall be paid in equal installments by the county treasurer as in the case of other county salaries.

36. Section 3 of P. L. 1973, c. 67 (C. 40:48–4.3) is amended to read as follows:

C. 40:48-4.3 Bus service for senior citizens.

3. The governing body of any municipality having a population of more than 200,000 and less than 300,000 may enter into contracts with any motor bus carrier to provide passenger service for senior citizens who are residents of such municipality on the established motor bus routes of said carriers within such municipality at rates not to exceed one-half of the usual and ordinary fare for such service during off-peak times.

37. Section 7 of P. L. 1973, c. 67 (C. 40:48–4.7) is amended to read as follows:

C. 40:48-4.7 Financing of contracts.

7. The governing body of any municipality having a population of more than 200,000 and less than 300,000 which enters into such contracts may make appropriations from its own revenue sources and may apply for and receive grants from any federal, State and private source for the financing of such contracts.

38. Section 1 of P. L. 1970, c. 326 (C. 40:48C–1) is amended to read as follows:

C. 40:48C-1 Imposition of taxes.

1. Any municipality having a population in excess of 300,000 hereinafter referred to as "municipality," is hereby authorized and empowered to enact an ordinance or ordinances imposing any of the taxes hereinafter provided for at the rates and in the manner hereinafter provided.

39. Section 3-13 of P. L. 1950, c. 210 (C. 40:69A–43) is amended to read as follows:

C. 40:69A-43 Municipal departments.

3–13. (a) The municipality shall have a department of administration and such other departments, not exceeding nine in number, as council may establish by ordinance. All of the administrative functions, powers and duties of the municipality, other than those vested in the offices of the municipal clerk and the municipal tax assessor, shall be allocated and assigned among and within such departments.

The offices of the municipal clerk and the municipal tax assessor shall be subject to such general administrative procedures and requirements as are departments of the municipal government, including, but not limited to, the preparation and submission of an annual budget and of such periodic budget reports as are generally required of departments, and such accounting controls, central purchasing practices, personnel procedures and regulations, and central data processing services as are generally required of departments.

(b) Each department shall be headed by a director, who shall be appointed by the mayor with the advice and consent of the council. Each department head shall serve during the term of office of the mayor appointing him, and until the appointment and qualification of his successor.

(c) The mayor may in his discretion remove any department head after notice and an opportunity to be heard. Prior to re-

moving a department head the mayor shall first file written notice of his intention with the council, and such removal shall become effective on the twentieth day after the filing of such notice unless the council shall prior thereto have adopted a resolution by a ⅔ vote of the whole number of the council, disapproving the removal.

(d) Department heads shall appoint subordinate officers and employees within their respective departments and may, with approval of the mayor, remove such officers and employees subject to the provisions of the Revised Statutes, Title 11, Civil Service, where that Title is effective in the municipality, or other general law; provided, however, that council may provide by ordinance for the appointment and removal of specific boards or commissions by the mayor.

(e) Notwithstanding the foregoing provisions of this section in any city of the first class, there shall be, and in any municipality having a population of 15,000 or more, there may be, a board of alcoholic beverage control which shall exercise the powers conferred upon municipal boards of alcoholic beverage control under Title 33 of the Revised Statutes. Such board shall be comprised of three members, no more than two of whom shall be of the same political party, who shall be appointed by the mayor, with the advice and consent of the council, each to serve for a term of 3 years, provided that of those first appointed, one shall be appointed to serve for a term of 1 year, one for 2 years, and one for 3 years. Any vacancy in such office shall be filled in the same manner as the original appointment for the balance of the unexpired term. Except in cities of the first class the members of such board shall serve without compensation but may be reimbursed for necessary expenses incurred in the performance of their duty; in cities of the first class, the members of such board shall receive such compensation as shall be established by ordinance of the municipality. They shall be removable by the mayor for cause. Any person appointed hereunder shall not be subject to the provisions of Title 11 of the Revised Statutes, Civil Service, and no such person shall be a member of the city council.

Nothing in this subsection shall be construed to limit the general power of the municipal council under this act to establish, alter and abolish offices, boards and commissions in any municipality other than a city of the first class.

(f) Whenever in any city of the first class the governing body is authorized by any provision of general law to appoint the members of any board, authority or commission, such power of appoint-

ment shall be deemed to vest in the mayor with the advice and consent of the council.

40. Section 3–14 of P. L. 1950, c. 210 (C. 40:69A–44) is amended to read as follows:

C. 40:69A-44 Business administrator.

3–14. The department of administration shall be headed by a director who shall be known and designated as business administrator. He shall be chosen solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as hereinafter set forth. At the time of his appointment, he need not be a resident of the municipality or State, but during his tenure of office he may reside outside the municipality only with the approval of council. He shall have, exercise and discharge the functions, powers and duties of the department. The department, under the direction and supervision of the mayor shall:

(a) assist in the preparation of the budget;

(b) administer a centralized purchasing system;

(c) be responsible for the development and administration of a sound personnel system; and

(d) perform such other duties as council may prescribe.

(e) The governing body of the municipality may provide, by ordinance, that the business administrator also shall, subject to the direction of the mayor, supervise the administration of each of the departments established by ordinance. For this purpose, he shall have power to investigate the organization and operation of any and all departments, to prescribe standards and rules of administrative practice and procedure, and to consult with the heads of the departments under his jurisdiction; provided that with respect to any department of law or department of audit, accounts or control, the authority of the business administrator under this subsection shall extend only to matters of budgeting, personnel and purchasing.

41. R. S. 40:146–1 is amended to read as follows:

Township committee.

40:146–1. The township committee shall consist of three or five members who shall hold office for 3 years. In each township hereafter created, if the committee is to consist of three members, at the first election one member shall be elected for 1 year, one for 2 years, and one for 3 years, and the ballots voted shall designate

which one is to serve for 1 year, which one for 2 years, and which one for 3 years. If the committee is to consist of five members, at the first election one member shall be elected for 1 year, two members shall be elected for 2 years, and two members shall be elected for 3 years, as shall be designated on the ballot. At each succeeding township election thereafter in such township one or two members, as appropriate, shall be elected for 3 years.

42. R. S. 40:146–2 is amended to read as follows:

Number of members.

40:146–2. In every township, the township committee shall consist of three or five members, who shall each hold office for 3 years except as otherwise provided in R. S. 40:146–1 or R. S. 40:146–3 for members first elected. Each township shall, on and after the effective date of this 1981 amendatory act, have that number of committee members it had immediately prior to that date, until such time as the membership shall be increased or decreased pursuant to R. S. 40:146–3. No ordinance shall require the vote of more than three members of the committee on its passage, unless otherwise provided by law.

43. R. S. 40:146–3 is amended to read as follows:

Increase or decrease in membership.

40:146–3. The legal voters of any township may elect to increase or decrease the membership of the township committee of such township to either three or five members. An election upon the proposition, to be held at the next general election, shall be ordered by the township committee on the petition of a number of the legal voters of the township equal in number to at least 15% of the total votes cast in the township at the last election at which members of the General Assembly were elected. The proposition shall not be submitted more than once in any 3-year period.

The notice, advertisement and conduct of the election shall be the same as for officers voted for at the general election.

The proposition shall be submitted to the voters at the election in substantially the following form:

"Shall the membership of the township committee of ..... be .....
(insert name of township) (insert "increased" or "decreased")
..... to ..... members?"
(insert current number) (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 township committee as provided in this section, the increase or decrease shall take effect for the next general election. At that election, if two additional committee members are to be elected, one shall be elected for a term of 2 years and one for a term of 3 years. If the voters shall have voted to decrease the membership of the township committee, the terms of all committee members currently serving on the date of the election at which the decrease was adopted, and all committee members elected at that election, shall terminate on December 31 next following the next general election. At the next general election, one committee member shall be elected for a term of 3 years; one for a term of 2 years; and one for a term of 1 year.

44. N. J. S. 40A:6-1 is amended to read as follows:

Classification of counties for legislative purposes.

40A:6-1. Classification of counties for legislative purposes. For legislative purposes, counties are classified as follows based upon their population as ascertained by the most recent federal decennial census:

a. First class—counties having a population of more than 550,000 and a population density of more than 3,000 persons per square mile;

b. Second class—all other counties having a population of more than 200,000 except such counties bordering on the Atlantic ocean;

c. Third class—counties having a population of not less than 50,000 but not more than 200,000 except such counties bordering on the Atlantic ocean;

d. Fourth class—counties having a population of less than 50,000 except such counties bordering on the Atlantic ocean;

e. Fifth class—counties bordering on the Atlantic ocean having a population of more than 100,000;

f. Sixth class—counties bordering on the Atlantic ocean having a population of not more than 100,000.

45. N. J. S. 40A:6-2 is amended to read as follows:

When change in classification effective.

40A:6–2. When change in classification effective. Whenever the classification of any county is changed by reason of increase of population as shown by any future federal decennial census, the change in class shall be deemed to take effect on July 1 following the promulgation thereof pursuant to R. S. 52:4–1.

46. N. J. S. 40A:6–6 is amended to read as follows:

Time when census shall affect classification.

40A:6–6. Time when census shall affect classification. A federal decennial census shall take effect and be applicable to the classification of all cities within 90 days after its official promulgation pursuant to R. S. 52:4–1.

47. Section 1 of P. L. 1975, c. 272 (C. 40A:9–117.2) is amended to read as follows:

C. 40A:9-117.2 Deputy sheriffs.

1. In addition to the deputies authorized to be appointed pursuant to N. J. S. 40A:9–117, the sheriff of any county having a population of more than 850,000 inhabitants, according to the latest federal decennial census, may designate and appoint to serve at the pleasure of the sheriff without compensation up to 85 persons to the positions of deputy sheriffs. As an auxiliary force of the sheriff's office, they shall assist in providing for the health, safety and welfare of the people of the State of New Jersey and aid in the prevention of damage to and the destruction of property during any emergency and such other duties as may be prescribed and directed by the sheriff.

48. Section 1 of P. L. 1976, c. 85 (C. 40A:9–117.5) is amended to read as follows:

C. 40A:9-117.5 Chief warrant officer.

1. In counties of the first class with a population of less than 700,000, according to the latest federal decennial census, the sheriff may appoint a chief warrant officer to serve for a term of 1 year without having to take a civil service examination. The chief warrant officer shall have such full police officer status as is granted to other sheriff's officers, and shall attain tenure upon completion of the second consecutive appointment.

49. Section 2 of P. L. 1978, c. 69 (C. 40A:14–106.1) is amended to read as follows:

C. 40A:14-106.1 County police departments.

2. The governing body of any first or second class county may, by ordinance or resolution, as appropriate, provide that the county police department and force shall have general authority, without limitation, to exercise police powers and duties as generally provided by law for police officers and law enforcement officers.

50. Section 1 of P. L. 1944, c. 255 (C. 43:16A–1) is amended to read as follows:

C. 43:16A-1 Police and Firemen's Retirement System definitions.

1. As used in this act:

(1) "Retirement system" shall mean the Police and Firemen's Retirement System of New Jersey as defined in section 2 of this act.

(2) "Policeman or fireman" shall mean any permanent and full-time active uniformed employee, and any active permanent and full-time employee who is a detective, lineman, fire alarm operator or inspector of combustibles of any police or fire department. It shall also mean any permanent, active, and full-time firefighter or officer employee of the State of New Jersey, or any political subdivision thereof, with police powers and holding one of the following titles: motor vehicles officer, motor vehicles sergeant, motor vehicles lieutenant, motor vehicles captain, assistant chief, bureau of enforcement, and chief, bureau of enforcement in the Division of Motor Vehicles, alcoholic beverage control investigator, alcoholic beverage control inspector, assistant deputy director, bureau of enforcement and deputy director, bureau of enforcement in the Division of Alcoholic Beverage Control, conservation officer, assistant district conservation officer, district conservation officer, and chief conservation officer, in the Division of Fish, Game, and Shell Fisheries, ranger, and chief ranger in the Bureau of Parks, State fire warden and chief, assistant chief, division fire warden, assistant division fire warden, staff section fire warden, and field section fire warden, in the Forest Fire Service, Department of Environmental Protection, marine patrolman, senior marine patrolman, principal marine patrolman, and chief, bureau of marine law enforcement, State fire marshal, deputy State fire marshal, and inspector fire safety, Department of Law and Public Safety, institution fire chief, and assistant institution fire chief, Department of Human Services, correction officer, senior correction officer, correction officer sergeant, correction officer lieutenant, correction officer captain, and deputy keeper in the Department of Corrections, medical security officer, assistant supervising medical security officer, and supervising medical security officer in the Department of Human Services,

county detective, lieutenant of county detectives, captain of county detectives, deputy chief of county detectives, chief of county detectives, supervising auditor-investigator, auditor/investigator, electronics specialist, traffic safety coordinator/investigator and supervisor of electronics and investigations, county investigator in the office of the county prosecutors, sheriff's officer, sergeant sheriff's officer, lieutenant sheriff's officer, captain sheriff's officer, chief sheriff's officer, and sheriff's investigator in the office of the county sheriffs, county correction officer, county correction sergeant, county correction lieutenant, county correction captain, and county deputy warden in the several county jails, industrial trade instructor and identification officer in a county of the first class having a population of more than 850,000 inhabitants, cottage officer, head cottage officer, interstate escort officer, juvenile officer, head juvenile officer, assistant supervising juvenile officer, supervising juvenile officer, patrolman capitol police, patrolman institutions, sergeant patrolman institutions, and supervising patrolman institutions and patrolman or other police officer of the Board of Commissioners of the Palisades Interstate Park appointed pursuant to R. S. 32:14–21.

(3) "Member" shall mean any policeman or fireman included in the membership of the retirement system as provided in section 3 of this act.

(4) "Board of trustees" or "board" shall mean the board provided for in section 13 of this act.

(5) "Medical board" shall mean the board of physicians provided for in section 13 of this act.

(6) "Employer" shall mean the State of New Jersey, the county, municipality or political subdivision thereof which pays the particular policeman or fireman.

(7) "Service" shall mean service as a policeman or fireman paid for by an employer.

(8) "Creditable service" shall mean service rendered for which credit is allowed as provided under section 4 of this act.

(9) "Regular interest" shall mean interest as determined annually by the State Treasurer after consultation with the Directors of the Divisions of Investment and Pensions and the actuary of the system. It shall bear a reasonable relationship to the percentage rate of earnings on investments but shall not exceed 105% of such percentage rate.

(10) "Aggregate contributions" shall mean the sum of all the amounts, deducted from the compensation of a member or con-

tributed by him or on his behalf, standing to the credit of his individual account in the annuity savings fund.

(11) "Annuity" shall mean payments for life derived from the aggregate contributions of a member.

(12) "Pension" shall mean payments for life derived from contributions by the employer.

(13) "Retirement allowance" shall mean the pension plus the annuity.

(14) "Earnable compensation" shall mean the full rate of the salary that would be payable to an employee if he worked the full normal working time for his position. 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.

(15) "Average final compensation" shall mean the average annual salary upon which contributions are made for the 3 years of creditable service immediately preceding his retirement or death, or it shall mean the average annual salary for which contributions are made during any 3 fiscal years of his or her membership providing the largest possible benefit to the member or his beneficiary.

(16) "Retirement" shall mean the termination of the member's active service with a retirement allowance granted and paid under the provisions of this act.

(17) "Annuity reserve" shall mean the present value of all payments to be made on account of any annuity or benefit in lieu of any annuity computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(18) "Pension reserve" shall mean the present value of all payments to be made on account of any pension or benefit in lieu of any pension computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(19) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(20) "Beneficiary" shall mean any person receiving a retirement allowance or other benefit as provided by this act.

(21) "Child" shall mean a deceased member's or retirant's unmarried child either (a) under the age of 18 or (b) of any age who, at the time of the member's or retirant's death, is disabled

because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his 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.

(22) "Parent" shall mean the parent of a member who was receiving at least one-half 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 parent will be considered terminated by marriage of the parent subsequent to the death of the member.

(23) "Widower" shall mean the man to whom a member or retirant was married at least 2 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 one-half of his support from the member or retirant in the 12-month period immediately preceding the member's or retirant'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 the widower subsequent to the death of the member or retirant. In the event of the payment of an accidental death benefit, the 2-year qualification shall be waived.

(24) "Widow" shall mean the woman to whom a member or retirant was married at least 2 years before the date of his death and to whom he continued to be married until the date of his death and who has not remarried. In the event of the payment of an accidental death benefit, the 2-year qualification shall be waived.

(25) "Fiscal year" shall mean any year commencing with July 1, and ending with June 30, next following.

(26) "Compensation" shall mean the base salary, for services as a member as defined in this act, 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 duties beyond the regular work day.

(27) "Department" shall mean any police or fire department of a municipality or a fire department of a fire district located in a township or a county police or park police department or the appropriate department of the State or instrumentality thereof.

51. R. S. 44:5–16 is amended to read as follows:

County hospitals.

44:5–16. A. Any county having a population less than 850,000 according to the latest federal decennial census may make annual appropriations not exceeding in the aggregate 1/10 of 1% of the total assessed valuations of real and personal property of the county, or a sum of money not in excess of the amount which might be raised at that rate, in the manner in which other appropriations for county purposes are made, for the maintenance of a charitable hospital or hospitals the facilities of which are used by the poor or indigent residents of the county, to an amount not exceeding the estimated annual deficit in operating expenses of the hospital, which sum, so appropriated, shall be included in the annual tax levy of the county and collected in the same manner and at the same time as other county taxes.

The amount so appropriated when paid over to a charitable hospital shall be used towards the current maintenance and expense of operation thereof. The appropriation may be made for a specifically named hospital or it may be made generally and in such case, the county governing body may, by ordinance or resolution, as appropriate, apportion the amount so appropriated to any such hospital in the manner which in their judgment may be deemed for the best interest of the county, but in no case shall a hospital receive more than the amount of its actual deficit in operating expenses.

The officials and auditors of the county shall have access at all reasonable times to the books and records of a hospital which shall receive the appropriation or part thereof, for the purpose of ascertaining the deficit in operating expenses and the application of the moneys so appropriated or apportioned and the financial needs or requirements of the hospital.

B. Any county having a population less than 850,000 according to the latest federal decennial census may make annual appropriations, for the medical care, treatment and maintenance of the poor and indigent residents of the county in any charitable hospital or hospitals in a sum not exceeding in the aggregate for all such hospitals, 1/10 of 1% of the total assessed valuations of real and personal property of the county, or a sum of money not in excess of the amount which might be raised at that rate in the manner in which other appropriations for the county are made, regardless of whether the hospital or hospitals to which such moneys are paid, shall have an annual deficit in operating expenses of such hospital,

which appropriation shall be included in the annual tax levy of the county and collected in the same manner and at the same time as other county taxes.

No such hospital shall receive any payment pursuant to this subsection at a rate in excess of the average cost per patient in any county hospital operated by the county making the payment and provided further that no person shall be considered poor and indigent for the purpose of this subsection unless such status is established to the satisfaction of the governing body of such county.

C. Subsections A. and B. of this act are mutually exclusive and no hospital shall receive payment under both subsections.

52. R. S. 44:5–17 is amended to read as follows:

Support of indigent patients.

44:5–17. The governing body of a county having a population of 850,000 or more according to the latest federal decennial census may make provision for the support of resident indigent patients, who cannot be maintained by private means, in a hospital or hospitals having 50 or more beds of which 20 or more are open to the public at all times.

Provision for the maintenance and treatment of an individual patient in the hospital shall be made by the county upon the certification by the county physician of the name of the person and upon the approval of the county governing body; but the certification shall not be approved unless there is attached thereto a verified bill to the governing body for that maintenance and treatment, signed by the head officer and chief physician of the hospital and stating that the patient was in need of such maintenance and medical treatment for the time charged for and no longer. The amount to be paid shall not exceed the sum charged in the hospital in which the resident indigent is placed for patients occupying beds in wards open to the public.

53. R. S. 44:5–18 is amended to read as follows:

Appropriations for hospitals.

44:5–18. The governing body of a county having a population of 850,000 or more according to the latest federal decennial census may make for the purposes of R. S. 44:5–17 an annual appropriation of not more than $10,000.00 for each hospital, to pay for the support and maintenance of such persons therein, which sum shall be included in the annual tax levy and collected in the same manner and at the same time as the other county taxes; but that sum or

so much thereof as may be unexpended at the end of the fiscal year in the county shall become a part of the sum authorized to be appropriated for the next fiscal year and be deducted from the amount authorized by R. S. 44:5–17 to be appropriated and collected for the succeeding year.

54. Section 6 of P. L. 1943, c. 149 (C. 54:5–114.7) is amended to read as follows:

C. 54:5-114.7 Tax sale certificates.

6. The collector shall not deliver up or give possession of the tax sale certificate or certificates to the purchaser, or his agents, or nominees prior to the recordation of a final judgment in the Superior Court, as hereinabove provided for; provided, however, that after said sale has been approved and the purchase price paid, the purchaser shall receive a properly executed written assignment of the tax sale certificate or certificates, executed by the mayor or chief finance officer and attested by the municipal clerk, certifying to the sale of the certificate or certificates, and the proceedings relating to the said sale, said assignment shall specifically state that the assignee's title to said certificate or certificates is subject to forfeiture upon his failure to foreclose within the time limited by this statute. The tax collector of the municipality shall not be obliged to produce the original certificate in the tax foreclosure proceedings; provided, it has been properly recorded in the office of the county clerk or the office of the register of deeds in the county where such office exists. When the certificate or certificates are recorded, the assignee shall submit certified copies of the record in evidence in place of the original certificate.

Upon the recordation of a final judgment of the Superior Court, as hereinabove provided for, within the time limited by this statute, the collector shall deliver the tax sale certificate or certificates to the purchaser, or his agents or nominees, and shall certify, by endorsement on the assignment previously executed pursuant to this section or by the execution of a certificate, that the assignee's title to said certificate or certificates is no longer subject to forfeiture for failure to foreclose and that such foreclosure has been completed within the time limited by this statute. Thereupon the purchaser may dispose of the tax sale certificate or certificates in the same manner as, and as fully as if such assignment were absolute and unconditional and the tax sale certificate or certificates had been delivered at the time of the execution of said assignment.

55. R. S. 55:14A–3, added to the Revised Statutes by P. L. 1938, c. 19, is amended to read as follows:

Definitions.

55:14A–3. The following terms, wherever used or referred to in this chapter, shall have the following respective meanings, unless a different meaning clearly appears from the context:

(a) "Authority" or "housing authority" or "authorities" or "housing authorities" shall mean any of the public corporations created by this chapter.

(b) "Municipality" shall mean any city of any class, any town, township, village, borough or any municipal subdivision of this State. "County" shall mean any county in the State. "The municipality" shall mean the particular municipality or municipalities for which a particular housing authority is created. "The county" shall mean the particular county for which a particular housing authority is created.

(c) "Governing body" shall mean the body exercising general legislative powers in the county or municipality according to the terms and procedural requirements set forth in the form of government adopted by the county or municipality.

(d) "Clerk" shall mean the clerk of the municipality or the clerk of the county, as the case may be, or the officer charged with the duties customarily imposed on such clerk.

(e) "Area of operation": (1) in the case of a housing authority of a municipality shall include the area of such municipality; provided, however, with respect to any municipality which has not created or joined in the creation of an authority, the area of operation of a housing authority of a municipality shall, upon approval of any contiguous municipality (such approval to be evidenced by a resolution adopted by the governing body of the municipality), include the entire area of such contiguous municipality; (2) in the case of a regional housing authority of a group of two or more municipalities, shall include such municipalities; (3) in the case of a housing authority of a county, shall include all of the county except that portion which lies within the territorial limits of a municipality or group of municipalities for which a housing authority has been created; with respect to any municipality which has not created or joined in the creation of an authority, a housing authority of a county shall not include such municipality within its area of operation, unless it has first secured the approval of such action by said municipality (such approval to be evidenced by an ordinance adopted by the governing body of the municipality).

(f) "Federal Government" shall include the United States of America, the United States Housing Authority, the Public Housing Administration, or any other agency or instrumentality, corporate or otherwise, of the United States of America.

(g) "Public body" shall mean the State, or any county, city, town, township, borough, village, school district, authority or any other political subdivision of the State.

(h) "Slum" shall mean any area where dwellings predominate which, by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light or sanitation facilities, or any combination of these factors, are detrimental to safety, health or morals.

(i) "Housing project" shall mean any work or undertaking: (1) to demolish, clear or remove buildings from any slum area; such work or undertaking may embrace the adaption of such area to public purposes, including parks or other recreational or community purposes; (2) to provide decent, safe and sanitary urban or rural dwellings, apartments or other living accommodations for persons of low income; such work or undertaking may include buildings, land, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, educational, welfare or other purposes; or (3) to accomplish a combination of the foregoing. The term "housing project" also may be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other work in connection therewith; provided, nothing in this chapter shall authorize the construction of any public utility service or facility which would be competitive with any existing public utility as the same is defined by R. S. 48:2–13.

(j) "Persons of low income" shall mean persons or families who are in the lowest income group and who cannot afford to pay enough to cause private enterprise in their locality to build or furnish an adequate supply of decent, safe and sanitary dwellings so as to enable them, without financial assistance, to live in such dwellings, without overcrowding.

(k) "Bonds" shall mean any bonds, notes, interim certificates, debentures, or other obligations issued by an authority pursuant to this chapter.

(l) "Real property" shall include all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of adjudgment, mortgage or otherwise and indebtedness secured by such liens.

(m) "Obligee of the authority" or "obligee" shall include any bondholder, trustee or trustees for any bondholders, or lessor demising to the authority property used in connection with a housing project, or any assignee or assignees of such lessor's interest or any part thereof, and the Federal Government when it is a party to any contract with the authority.

(n) "Director" shall mean the executive officer of the Public Housing and Development Authority in the State Department of Community Affairs.

56. Section 3 of P. L. 1949, c. 184 (C. 55:16–3) is amended to read as follows:

C. 55:16-3 Definitions.

3. The following terms wherever used or referred to in this act shall have the following respective meanings, unless a different meaning clearly appears from the context:

(1) The term "authority" means the public housing and development authority in the Department of Community Affairs.

(2) The term "administrator" means the Commissioner of Community Affairs, who is and shall be the administrator of the public housing and development authority.

(3) The term "council" means the Commissioner of Community Affairs.

(4) The term "municipality" shall mean any city of any class, any town, township, village, borough, or any municipal subdivision of the State.

(5) The term "governing body" shall mean, in the case of a municipality, the common council, or the board of commissioners, or the body managing its affairs.

(6) The term "housing project" or "project" shall mean any work or undertaking to provide decent, safe, and sanitary dwellings for families in need of housing; such undertaking may include any buildings, land (including demolition, clearance or removal of buildings from land), equipment, facilities, or other real or personal properties or interests therein which are necessary, convenient or desirable appurtenances of said undertaking, such as,

but not limited to, streets, sewers, water, utilities, parks; site preparation; landscaping, and administrative, community, health, recreational, educational, welfare, commercial, or other facilities, or to provide any part or combination of the foregoing. The term "housing project" or "project" shall be deemed to include veterans' housing projects constructed under the authority of an act entitled "An act providing for housing for veterans of World War II and other people of the State and declaring an emergency in respect thereto" (P. L. 1946, c. 323).

(7) The term "housing corporation" means any private, limited-dividend or nonprofit housing corporation organized in accordance with the provisions of this act.

(8) The term "bonds" shall mean any bonds, notes, interim certificates, debentures, or obligations issued pursuant to the provisions of this act.

(9) The term "Federal Government" means the United States of America or any department, administration, authority, instrumentality, agency, agent or officer thereof, or any corporation created thereby.

(10) The term "State" means the State of New Jersey or any department, authority, agency or officer thereof.

(11) The term "gross shelter rent" shall mean the gross rent or carrying charge less the cost of utilities furnished by the project. These utilities shall include gas and electricity if supplied by the project; cost of heating fuel; cost of water supplied and sewage charges, if any.

(12) The term "housing association" means any limited-distribution or nonprofit partnership, limited partnership, limited partnership association, trust, single proprietorship or other unincorporated association organized in accordance with the provisions of this act or the act to which this is a supplement.

Repealer.

57. The following are repealed:

R. S. 19:4–2;
R. S. 19:4–3;
R. S. 40:72–8;
R. S. 40:87–27;
R. S. 40:88–12;
R. S. 40:146–4 through 40:146–12;
R. S. 40:174–6 through 40:174–26;
R. S. 40:175–9 through 40:175–21;
R. S. 40:186–5 through 40:186–16;

N. J. S. 2A:3–13;
N. J. S. 2A:4–5;
N. J. S. 2A:4–6;
N. J. S. 2A:6–14;
N. J. S. 2A:7–1 through 2A:7–3;
N. J. S. 2A:7–5 through 2A:7–26;
N. J. S. 2A:11–39 through 2A:11–44;
N. J. S. 2A:157–7;
N. J. S. 2A:157–14;
N. J. S. 40A:9–11.1;
N. J. S. 40A:9–21;
N. J. S. 40A:9–79;
N. J. S. 40A:9–166;
P. L. 1939, c. 223 (C. 40:38–25.1);
P. L. 1940, c. 63 (C. 33:1–5.1 through 33:1–5.3);
P. L. 1941, c. 43 (C. 40:23–8.2);
P. L. 1945, c. 156 (C. 40:48–8.1 through 40:48–8.14);
P. L. 1945, c. 266 (C. 40:48–2.15);
P. L. 1951, c. 247 (C. 27:14–24.1);
P. L. 1952, c. 165 (C. 2A:7–27 through 2A:7–36);
P. L. 1953, c. 455 (C. 2A:6–3.1 through 2A:6–3.3);
P. L. 1954, c. 1 (C. 2A:7–37 through 2A:7–45);
P. L. 1954, c. 10 (C. 40:11–17.5);
Sections 1, 2, 3, 4 and 7 of P. L. 1955, c. 17 (C. 2A:6–3.4, 2A:3–13.1, 2A:6–3.5, 2A:6–3.6 and 2A:6–18.1);
P. L. 1955, c. 77 (C. 2A:7–46 through 2A:7–53);
P. L. 1955, c. 197 (C. 2A:6–12.2 through 2A:6–12.4);
P. L. 1955, c. 270 (C. 2A:6–2.1 and 2A:6–2.2);
P. L. 1955, c. 271 (C. 2A:6–14.7 through 2A:6–14.9);
Sections 1, 4 and 5 of P. L. 1955, c. 273 (C. 2A:6–14.10, 2A:6–14.13 and 2A:6–14.14);
Sections 1, 2 and 3 of P. L. 1956, c. 36 (C. 2A:3–13.2 through 2A:3–13.4);
P. L. 1958, c. 129 (C. 2A:4–4.3);
P. L. 1960, c. 131 (C. 2A:6–3.8 through 2A:6–3.10);
P. L. 1961, c. 1 (C. 52:10–3 through 52:10–10);
Section 2 of P. L. 1962, c. 143 (C. 40:87–60.2);
Section 3 of P. L. 1962, c. 144 (C. 40:46–26.1);
P. L. 1964, c. 97 (C. 2A:4–4.4);
P. L. 1964, c. 122 (C. 2A:4–4.5 and 2A:4–4.6);
P. L. 1964, c. 183 (C. 40:146–2.1);
Section 6 of P. L. 1965, c. 74 (C. 2A:4–4.7);

P. L. 1965, c. 109 (C. 40:23-8.12);
P. L. 1965, c. 196 (C. 2A:6-3.12);
P. L. 1965, c. 201 (C. 2A:6-3.11);
P. L. 1968, c. 62 (C. 2A:3-13.6);
Sections 2 and 3 of P. L. 1968, c. 440 (C. 2A:4-4.3a and 2A:4-4.3b);
P. L. 1969, c. 200 (C. 54:15A-1 through 54:15A-4);
P. L. 1970, c. 303 (C. 40:46-14.1);
P. L. 1971, c. 43 (C. 2A:3-13.7);
P. L. 1971, c. 107 (C. 40:20-20.3);
Sections 1, 2 and 3 of P. L. 1971, c. 465 (C. 2A:3-13.8 through 2A:3-13.10);
P. L. 1971, c. 467 (C. 2A:4-4.9);
P. L. 1971, c. 470 (C. 2A:3-13.12);
P. L. 1973, c. 159 (C. 2A:3-13.13);
P. L. 1975, c. 20 (C. 40:48D-1 through 40:48D-10);
P. L. 1976, c. 70 (C. 2A:4-4.10);
P. L. 1977, c. 73 (C. 2A:3-13.14);
P. L. 1977, c. 86 (C. 2A:3-13.15);
P. L. 1977, c. 153 (C. 2A:3-13.16);
P. L. 1978, c. 105 (C. 2A:3-13.17); and
P. L. 1978, c. 149 (C. 2A:4-4.11).

58. This act shall take effect January 1, 1982.

Approved January 9, 1982.

CHAPTER 463

AN ACT concerning certain roadside signs along the Garden State Parkway.

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

C. 27:12B-20a Advertising signs on Parkway.

1. Notwithstanding any other law, rule, or regulation to the contrary, the New Jersey Highway Authority, established pursuant to section 4 of P. L. 1952, c. 16 (C. 27:12B-4), may issue a permit for off-premise advertising on any roadside sign which has been located for a period of at least 25 years as of the effective date of this act along the route of "The Garden State Parkway," con-

structed pursuant to section 20 of P. L. 1952, c. 16 (C. 27:12B–20); provided, however, that such off-premise advertising shall terminate 10 years following the effective date of this act; and provided further, however, that such roadside sign shall be removed at that time unless on-premise advertising is placed upon the roadside sign. For the purposes of this act, "off-premise advertising" means the display of the name, symbol, mark, product, service, or advertisement of any industry, commerce, business, occupation, trade, or service not conducted on the property on which the sign is located, and "on-premise advertising" means such a display in connection with any industry, commerce, business, occupation, trade, or service conducted on the property on which the sign is located.

2. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 464

AN ACT to amend and supplement "An act concerning simple, clear, understandable and easily readable language in consumer contracts," approved October 16, 1980 (P. L. 1980, c. 125).

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

1. Section 1 of P. L. 1980, c. 125 (C. 56:12–1) is amended to read as follows:

C. 56:12-1 Consumer contract defined.

1. As used in this act:

"Consumer contract" means a written agreement in which an individual:

a. Leases or licenses real or personal property;

b. Obtains credit;

c. Obtains insurance coverage, except insurance coverage contained in policies subject to the "Life and Health Insurance Policy Language Simplification Act" (P. L. 1979, c. 167, C. 17B:17–17 et seq.);

d. Borrows money;

e. Purchases real or personal property;

f. Contracts for services including professional services, for cash or on credit and the money, property or services are obtained for personal, family or household purposes. "Consumer contract" includes writings required to complete the consumer transaction.

2. Section 2 of P. L. 1980, c. 125 (C. 56:12–2) is amended to read as follows:

C. 56:12-2 Requirements.

2. A consumer contract entered into on or after the effective date of this amendatory and supplementary act shall be written in a simple, clear, understandable and easily readable way. In determining whether a consumer contract has been written in a simple, clear, understandable and easily readable way as a whole, a court or the Attorney General shall take into consideration the guidelines set forth in section 10 of this act. Use of technical terms or words of art shall not in and of itself be a violation of this act.

3. Section 3 of P. L. 1980, c. 125 (C. 56:12–3) is amended to read as follows:

C. 56:12-3 Liability for damages.

3. A creditor, seller, insurer or lessor who fails to comply with section 2 of this act shall be liable to a consumer who is a party to the consumer contract for actual damages sustained, if the violation caused the consumer to be substantially confused about the rights, obligations or remedies of the contract, plus punitive damages in an amount up to $50.00. The creditor, seller, insurer or lessor shall also be liable for the consumer's reasonable attorney's fees and costs, not to exceed $2,500.00.

4. Section 4 of P. L. 1980, c. 125 (C. 56:12–4) is amended to read as follows:

C. 56:12-4 Class actions.

4. Class actions may be brought under the provisions of this act, but the amount of punitive damages shall be limited to $10,000.00 against any one seller, lessor, insurer or creditor and the amount of attorney's fees may not exceed $10,000.00.

5. Section 5 of P. L. 1980, c. 125 (C. 56:12–5) is amended to read as follows:

C. 56:12-5 No liability.

5. There shall be no liability under sections 3 and 4 if: a. both parties to the contract have performed their obligations under the

contract, b. the creditor, seller, insurer or lessor attempts in good faith to comply with this act in preparing the consumer contract, c. the contract is in conformity with a rule, regulation, or the opinion or interpretation of the Attorney General, or d. the consumer supplied the contract or the portion of the contract to which the consumer objects.

6. Section 8 of P. L. 1980, c. 125 (C. 56:12-8) is amended to read as follows:

C. 56:12-8 Review by Attorney General.

8. a. A creditor, seller, insurer, lessor or any person in the business of preparing and selling forms of consumer contracts may request an opinion from the Attorney General as to whether a consumer contract complies with this act.

The Attorney General shall furnish the opinion within a reasonable period of time.

b. After reviewing the contract the Attorney General shall: (1) certify that the contract complies with this act; (2) decline to certify that the contract complies with this act and note his objections to the contractual language; (3) decline to review the contract and refer the party submitting the contract to other previously certified contracts of the same type; (4) decline to review the contract because the contract's compliance with this act is the subject of pending litigation; or (5) decline to review the contract because the contract is not subject to this act.

c. Actions of the Attorney General pursuant to this section are not appealable.

d. Any consumer contract certified pursuant to this section is deemed to comply with this act. Certification of a consumer contract pursuant to this section is not otherwise an approval of the contract's legality or legal effect.

e. Failure to submit a contract to the Attorney General for review pursuant to this section does not show a lack of good faith nor does it raise a presumption that the contract violates this act. If pursuant to this section the Attorney General refers a party to a previously certified contract, that the party chooses not to use the contract does not show a lack of good faith nor does it raise a presumption that a contract used by that party violated this act.

f. The Attorney General may charge a fee, not to exceed $50.00, for the costs of reviewing a consumer contract pursuant to this section.

7. Section 10 of P. L. 1980, c. 125 (C. 56:12–10) is amended to read as follows:

C. 56:12-10 Guidelines.

10. a. To insure that a consumer contract shall be simple, clear, understandable and easily readable, the following are examples of guidelines that a court or the Attorney General may consider in determining whether a consumer contract as a whole complies with this act:

(1) Cross references that are confusing;

(2) Sentences that are of greater length than necessary;

(3) Sentences that contain double negatives and exceptions to exceptions;

(4) Sentences and sections that are in a confusing or illogical order;

(5) The use of words with obsolete meanings or words that differ in their legal meaning from their common ordinary meaning;

(6) Frequent use of Old English and Middle English words and Latin and French phrases.

b. The following are examples of guidelines that a court or the Attorney General may consider in determining whether the consumer contract as a whole complies with this act:

(1) Sections shall be logically divided and captioned;

(2) A table of contents or alphabetical index shall be used for all contracts with more than 3,000 words;

(3) Conditions and exceptions to the main promise of the agreement shall be given equal prominence with the main promise, and shall be in at least 10 point type.

8. Section 12 of P. L. 1980, c. 125 (C. 56:12–12) is amended to read as follows:

C. 56:12-12 Injunctive relief.

12. The Office of the Attorney General, the Division of Consumer Affairs, the Department of the Public Advocate, or any interested person may seek injunctive relief. The court may authorize reasonable attorney's fees, not to exceed $2,500.00, and court costs in such a proceeding.

C. 56:12-4.1 Reformation or limitation of provision.

9. (New section) In addition to the remedies provided in this act, a court reviewing a consumer contract may reform or limit a provision so as to avoid an unfair result if it finds that:

a. a material provision of the contract violates this act;

b. the violation caused the consumer to be substantially confused about any of the rights, obligations or remedies of the contract; and

c. the violation has caused or is likely to cause financial detriment to the consumer.

If the court reforms or limits a provision of a consumer contract, the court shall also make orders necessary to avoid unjust enrichment. Bringing a claim for relief pursuant to this section does not entitle a consumer to withhold performance of an otherwise valid contractual obligation. No relief shall be granted pursuant to this section unless the claim is brought before the obligations of the contract have been fully performed.

Repealer.

10. P. L. 1981, c. 274 (C. 56:12–8.1) is repealed.

11. This act shall take effect April 15, 1982, but with respect to consumer contracts which are subject to the Federal Truth in Lending Act (P. L. 90–321, 15 U. S. C. s. 1601 et seq.), this act shall take effect 60 days after the next revision of regulations made pursuant to that act or April 15, 1982, whichever is later. This act shall remain inoperative until October 16, 1982 with regard to all contracts of insurance during which time the Attorney General may receive and process requests for and render opinions as to whether those contracts comply with this act.

Approved January 11, 1982.

CHAPTER 465

AN ACT to amend and supplement the "Optional Municipal Charter Law," approved June 8, 1950 (P. L. 1950, c. 210), and revising parts of the statutory law pertaining thereto.

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

1. Section 1–12 of P. L. 1950, c. 210 (C. 40:69A–12) is amended to read as follows:

C. 40:69A-12 Charter commission recommendations.

1–12. The charter commission may report and recommend:

(a) That a referendum shall be held to submit to the qualified voters of the municipality the question of adopting one of the

plans of government authorized in this act, and such of the alternative provisions as permitted thereunder, to be specified by the commission; or

(b) That the governing body shall petition the Legislature for the enactment of a special charter or for one or more specific amendments of or to the charter of the municipality, the text of which shall be appended to the charter commission's report pursuant to Article IV, Section VII, Paragraph 10, of the Constitution of 1947 and to the enabling legislation enacted thereunder to the extent that such legislation is not inconsistent herewith; or

(c) That the form of government of the municipality shall remain unchanged; or

(d) Such other action as it may deem advisable consistent with its functions as set forth in section 1–7 of this article.

2. Section 1–13 of P. L. 1950, c. 210 (C. 40:69A–13) is amended to read as follows:

C. 40:69A-13 Membership of municipal council; division into wards.

1–13. (a) If the charter commission shall recommend the adoption of the mayor-council plan of government or the council-manager plan of government, it may also specify that the municipal council shall consist of seven or nine members instead of five members as provided therein; or if the charter commission shall recommend the adoption of the small municipality plan of government, it may also specify that the council shall consist of five or seven members instead of three members as provided therein.

(b) If the charter commission shall recommend the adoption of the mayor-council plan of government or the council-manager plan of government it may further specify that the municipality shall be divided into two, three, four, five or six wards within the limitations hereinafter provided:

(1) Where the council is to consist of five members, the municipality may be divided into two or three wards;

(2) Where the charter commission specifies that the council shall consist of seven members, the municipality shall be divided into four wards; and

(3) Where the charter commission specifies that the council shall consist of nine members, the municipality shall be divided into five or six wards.

3. Section 1–14 of P. L. 1950, c. 210 (C. 40:69A–14) is amended to read as follows:

C. 40:69A-14 Form of question.

1–14. The question to be submitted to the voters for the adoption of any of the optional plans of government authorized by this act, including any of the alternatives contained in this act, shall be submitted in the following form or such part thereof as shall be applicable:

"Shall ..... of the
(insert name of plan)
Optional Municipal Charter Law, providing for (a division of the municipality into ..... wards, with)
(insert number)
..... councilmen (one to be elected from each
(insert number)
ward and ..... to be elected at large) at elec-
(insert number)
tions held in .....,
(insert May or November)
(insert, if appropriate) with run-off elections to be held thereafter if a sufficient number of candidates fail to attain a majority of votes, be adopted by .....?"
(insert name of municipality)

4. Section 1–15 of P. L. 1950, c. 210 (C. 40:69A–15) is amended to read as follows:

C. 40:69A-15 Submission to voters.

1–15. If the charter commission shall recommend that the question of adopting one of the optional plans of government authorized by this act shall be submitted to the voters of the municipality, it shall be the duty of the municipal clerk to cause the question of adoption or rejection to be placed upon the ballot at such time as the commission shall in its report specify. The commission may cause the question to be submitted to the people at the next general or regular municipal election, occurring not less than 60 days following the filing of a copy of the commission's report with the clerk, or at a special election occurring not less than 60 days or more than 120 days after the filing of the report, at such time as the commission's report shall direct. At such election the question of adopting that plan of government recommended by the charter commission shall be submitted to the voters of the municipality in the same manner as other public questions to be voted upon by the voters of a single municipality. The charter commission shall frame the question to be placed upon the ballot as provided in section 1–14 and, if it

deems appropriate, an interpretative statement to accompany such question.

5. Section 1–18 of P. L. 1950, c. 210 (C. 40:69A–18) is amended to read as follows:

C. 40:69A-18 Petition and referendum.

1–18. The legally qualified voters of any municipality may adopt any of the optional plans provided in this act upon petition and referendum, without a charter commission, hereinafter provided.

6. Section 1–19 of P. L. 1950, c. 210 (C. 40:69A–19) is amended to read as follows:

C. 40:69A-19 Required signatures.

1–19. Upon petition of the registered voters of any municipality, an election shall be held in the municipality upon the question of adopting any of the optional plans of government provided in this act. The petition calling for such election shall be subject to the provisions of section 1–1(b) hereof and shall be signed by the following per centum of registered voters of the municipality:

(a) 25% in municipalities of 7,000 or less inhabitants;

(b) 20% in municipalities of more than 7,000 and less than 70,000 inhabitants;

(c) 10% in municipalities of 70,000 or more inhabitants.

The petition shall designate the plan to be voted upon, which may include any of the alternatives provided in this act and the question to be placed upon the ballot shall be in the same form as is required by section 1–14 of this article.

C. 40:69A-25.1 Adoption of alternative plan.

7. (New section) a. Any municipality governed by a plan of government adopted pursuant to P. L. 1950, c. 210 (C. 40:69A–1 et seq.) may, by referendum, amend its charter to include any alternative permitted under that plan of government. The question of adopting an alternative may be initiated by the voters pursuant to, and subject to the pertinent provisions of, sections 17–35 through 17–47 (C. 40:69A–184 through 40:69A–196); or may be submitted to the voters by ordinance adopted by the governing body, in which case the question and ordinance shall be subject to the pertinent provisions of sections 17–42 through 17–47 (C. 40:69A–191 through 40:69A–196), except that no petition of the voters shall be necessary in order to submit the question.

b. At any election at which the question of adopting an alternative is to be submitted to the voters pursuant to this section, the question shall be submitted in substantially the following form:

"Shall the charter of .....
(insert name of municipality)
governed by ..... be amended,
(insert plan of government)
as permitted under that plan, to provide for .....
(insert appropriate
.....?"
language from below for the alternative to be voted upon)

GROUP A.

(1) "the holding of regular municipal elections in May;"
(2) "the holding of general elections in November;"

GROUP B.

(3) "the election of all council members at large;"
(4) "the division of the municipality into .....
(insert number)
wards with ..... council members to be elected
(insert number)
at large and one from each ward;"

GROUP C.

(5) "the election of all council members for concurrent terms;"
(6) "the election of council members for staggered terms;"

GROUP D.

(7) "the election of the mayor by the members of the council from among their own number;"
(8) "the election of the mayor directly by the voters of the municipality;"

GROUP E.

(9) "a municipal council to consist of three members;"
(10) "a municipal council to consist of five members;"
(11) "a municipal council to consist of seven members;"
(12) "a municipal council to consist of nine members."

If more than one alternative is to be submitted to the voters at the same time, each alternative shall be separately stated on the ballot in the form of a question as set forth above. If the pro-

visions of two or more alternatives adopted at the same election conflict, then that receiving the greatest affirmative vote shall control. Nothing contained in this section shall authorize the submission to the voters of the question of adopting any alternative not authorized by the plan of government under which the municipality is governed. No question shall be submitted to the voters pursuant to this section within 4 years next following the adoption by the municipality of a plan of government authorized by P. L. 1950, c. 210 (C. 40:69A–1 et seq.) or this act, or within 4 years next following the date on which the question of adopting it or any alternative in the same group was last submitted to the voters pursuant to this section.

c. In any municipality having adopted a charter providing for the division of the municipality into wards, the question of increasing or decreasing the number of council members to be elected in the municipality shall be submitted to the voters in the manner set forth in alternative (4) of Group B. of subsection b. of this section. None of the alternatives set forth in Group E. of that subsection shall be submitted to the voters in any municipality divided into wards, unless at the same election alternative (3) of Group B. of that subsection is also submitted, in which case both alternatives shall be approved by the voters in order for either to take effect.

C. 40:69A-25.2 Termination of terms.

8. (New section) Whenever any municipality, pursuant to the authority granted in section 7 of this act, shall amend its charter to include an alternative permitted under its plan of government and included in either Group A. or Group B. of subsection b. of section 7 of this act, the terms of all council members, and directly elected mayor if affected, currently serving in the municipality on the date of the election at which the amendment was adopted, and of all affected officers elected at that election, shall terminate on June 30, or December 31, as appropriate to the election provisions of the amended charter, next following the date of the first election of officers under the amended charter. The nomination and election of those municipal officers as are required shall be conducted in accordance with the provisions of the amended charter and appropriate law for the election to be held on the second Tuesday in May next following the date of adoption, or on the first Tuesday after the first Monday in November next following the date of adoption. If the amendment adopted to the charter shall provide for the division of the municipality into

wards, or by its terms require an increase or decrease in the number of wards into which the municipality is divided, the ward boundaries required by the amended charter shall be fixed and determined pursuant to law within 90 days of the date of adoption.

If the municipality shall at the same time amend its charter to include an alternative permitted under its plan of government and included in Group C., Group D. or Group E. of subsection b. of section 7 of this act, the transitional provisions of this section shall apply and the provisions of all amendments shall take effect for the election to be held pursuant to this section.

C. 40:69A-25.3 Transitional provisions to apply.

9. (New section) Whenever any municipality shall, pursuant to the authority granted in section 7 of this act, amend its charter only to include an alternative permitted under its plan of government and included in group C. of subsection b. of section 7 of this act, the transitional provisions of this section shall apply.

a. If the amended charter shall provide for the election of all council members for concurrent terms in a municipality where prior to the amendment council members were elected for staggered terms, at the next election at which municipal officers are elected, and at each succeeding municipal election thereafter until such time as it shall occur that all council members shall be elected at the same election, council members elected at that election shall serve for a term equal in years to the number which the council member currently serving and having the greatest number of years remaining of his term has yet to serve of his term. At the election that it shall occur that all council members shall be elected at the same time, each council member shall be elected for the term of years provided in the amended charter.

b. If the amended charter shall provide for the election of council members for staggered terms in a municipality where prior to the amendment council members were elected for concurrent terms, the amendment to the charter shall take effect for the next election at which municipal officers are elected in the municipality.

C. 40:69A-25.4 Election of mayor.

10. (New section) Whenever any municipality shall, pursuant to the authority granted in section 7 of this act, amend its charter only to include an alternative permitted under its plan of government and included in group D. of subsection b. of section 7 of this act, the transitional provisions of this section shall apply.

a. If a municipality in which the mayor is elected by the members of the council shall adopt an amendment to its charter providing for the election of the mayor directly by the voters of the municipality, the amendment shall take effect for the next election held in the municipality at which municipal officers are elected, in accordance with the provisions of the amended charter. Any mayor currently serving on the date of that election shall, upon and after the date of the commencement of the term of the mayor elected at that election, serve as a member of the council for the remainder of his term but shall not exercise the powers or duties of mayor.

b. If a municipality in which the mayor is elected directly by the voters of the municipality shall adopt an amendment to its charter providing for the election of the mayor by the members of the council, the amendment shall take effect the first day of the next full month after adoption. On that date the members of the council currently serving shall meet and elect one of their number as mayor to serve until the first day of July, or January, as appropriate, next, at which time the members shall elect one of their number to serve a full term as mayor, pursuant to the amended charter. Any mayor serving on the effective date of the amendment shall, on and after that date, serve as a member of the council for the remainder of his term, but shall not exercise the powers or duties of mayor unless elected by the council.

C. 40:69A-25.5 Increase or decrease in number of council members.

11. (New section) Whenever any municipality shall, pursuant to the authority granted in section 7 of this act, amend its charter only to include an alternative permitted under its plan of government and included in group E. of subsection b. of section 7 of this act, the transitional provisions of this section shall apply.

a. If the amended charter shall provide for the election of council members at large for concurrent terms, the increase or decrease in the number of council members shall take effect for the next election at which municipal officers are elected in the municipality.

b. If the amended charter shall provide for the election of council members at large for staggered terms, an increase in the number of council members shall take effect as follows:

(1) If the plan of government requires generally a 3-year term for council members:

(a) And the increase is from three to five council members, at the next election at which municipal officers are elected, one additional council member shall be elected for a term of 1 year and one for a term of 2 years;

(b) And the increase is from three to seven council members, at the next election at which municipal officers are elected, two additional council members shall be elected for terms of 1 year, one for a term of 2 years, and one for a term of 3 years; or

(c) And the increase is from five to seven council members, at the next election at which municipal officers are elected, one additional council member shall be elected for a term of 1 year and one for a term of 3 years;

(2) If the plan of government requires generally a 4-year term for council members:

(a) And the increase is from five to seven council members, at the next election at which municipal officers are elected, one additional council member shall be elected for a term of 2 years and one for a term of 4 years;

(b) And the increase is from five to nine council members, at the next election at which municipal officers are elected, two additional council members shall be elected for terms of 2 years and two for terms of 4 years; or

(c) And the increase is from seven to nine council members, at the next election at which municipal officers are elected, one additional council member shall be elected for a term of 2 years and one for a term of 4 years.

c. If the amended charter shall provide for the election of council members at large for staggered terms, and the adopted amendment requires a decrease in the number of council members, the terms of all council members currently serving in the municipality on the date of the election at which the amendment was adopted, and of all council members elected at that election, shall terminate on June 30, or December 31, as appropriate to the election provisions of the amended charter, next following the date of the first election of officers under the amended charter. The nomination and election of council members shall be conducted in accordance with the provisions of the amended charter and appropriate law for the election to be held on the second Tuesday in May next following the date of adoption, or on the first Tuesday after the first Monday in November next following the date of adoption.

12. Section 1–24 of P. L. 1950, c. 210 (C. 40:69A–24) is amended to read as follows:

C. 40:69A-24 Each plan complete and separate form of government.

1–24. For the purposes of this act each of the optional plans of government provided in this act, and each of said optional plans as modified by any available provisions concerning the time of elections, size and terms of council and number of wards, is hereby declared to be a complete and separate form of government provided by the Legislature for submission to the voters of the municipality.

13. Section 3–1 of P. L. 1950, c. 210 (C. 40:69A–31) is amended to read as follows:

ARTICLE 3
MAYOR-COUNCIL PLAN
A. Form of Government

C. 40:69A-31 Mayor-council plan.

3–1. The form of government provided in this article shall be known as the "mayor-council plan" and shall, together with articles 2 and 17, govern any municipality the voters of which have adopted it pursuant to this act.

14. Section 3–3 of P. L. 1950, c. 210 (C. 40:69A–33) is amended to read as follows:

C. 40:69A-33 Election of mayor.

3–3. The mayor shall be elected by the voters of the municipality, and shall serve for a term of 4 years.

15. Section 3–4 of P. L. 1950, c. 210 (C. 40:69A–34) is amended to read as follows:

C. 40:69A-34 Terms of council members.

3–4. The council shall consist of five members, unless otherwise provided in the municipal charter, who shall serve for a term of 4 years.

C. 40:69A-34.1 Date of election.

16. (New section) Any municipality adopting a mayor-council plan of government shall provide in its charter that the mayor and council shall be elected by the voters of the municipality either:

a. At a regular municipal election held on the second Tuesday in May in the years in which municipal officers are to be elected, in which case the term of office of the mayor and council members shall begin on July 1 next following their election; or

b. At the general election held on the first Tuesday after the first Monday in November or at such other time as may be provided by

law for holding general elections, in which case the term of office of the mayor and council members shall begin on January 1 next following their election.

C. 40:69A-34.2 Election of council.

17. (New section) Any municipality adopting a mayor-council plan of government shall provide in its charter either:

a. That the council members shall be elected at large by the voters of the municipality at the regular municipal election, or general election, as the charter shall provide; or

b. That the municipality shall be divided into wards pursuant to the authority granted in section 1–13 or 1–19 (C. 40:69A–13 or 40:69A–19); that councilmen shall be elected at large and by wards at the regular municipal election or general election, as the charter shall provide; and that no more than one councilman shall be elected from each ward established in the municipality, and all other councilmen shall be elected at large.

C. 40:69A-34.3 Terms of members of first council.

18. (New section) a. Any municipality adopting a mayor-council plan of government may provide in its charter that the council members elected at the first regular municipal election or general election, as the charter shall provide, following the adoption of the plan shall serve for the following terms: if the municipal council is to consist of five members, two shall serve for 4 years and three for 2 years; if the municipal council is to consist of seven members, three shall serve for 4 years and four for 2 years; or if the municipal council is to consist of nine members, four shall serve for 4 years and five for 2 years. The length of the respective term of each member of the first council shall be determined by lot at the organization of the council immediately following the election.

b. Notwithstanding the provisions of subsection a. of this section, if a municipality adopting the provisions of this section shall also provide in its charter that the municipality shall be divided into wards pursuant to the authority granted in section 1–13 or 1–19 (C. 40:69A–13 or 40:69A–19), the council members elected at the first regular municipal election or general election, as the charter shall provide, following the adoption of the plan shall serve as follows: the councilmen elected at large for a term of 4 years; and the councilmen elected from wards for a term of 2 years.

19. Section 3–14 of P. L. 1950, c. 210 (C. 40:69A–44) is amended to read as follows:

C. 40:69A-44 Business administrator.

3–14. The department of administration shall be headed by a director who shall be known and designated as business administrator. He shall be chosen solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as hereinafter set forth. At the time of his appointment, he need not be a resident of the municipality or State, but during his tenure of office he may reside outside the municipality only with the approval of council. He shall have, exercise and discharge the functions, powers and duties of the department. The department, under the direction and supervision of the mayor shall:

(a) Assist in the preparation of the budget;

(b) Administer a centralized purchasing system;

(c) Be responsible for the development and administration of a sound personnel system; and

(d) Perform such other duties as council may prescribe.

(e) The governing body of the municipality may provide, by ordinance, that the business administrator also shall, subject to the direction of the mayor, supervise the administration of each of the departments established by ordinance. For this purpose, he shall have power to investigate the organization and operation of any and all departments, to prescribe standards and rules of administrative practice and procedure, and to consult with the heads of the departments under his jurisdiction; provided that with respect to any department of law or department of audit, accounts or control, the authority of the business administrator under this subsection shall extend only to matters of budgeting, personnel and purchasing.

C. 40:69A-208.1 Prior adoption of mayor-council form.

20. (New section) Any municipality having adopted, prior to the effective date of this amendatory and supplementary act, a charter encompassing a mayor-council plan of government heretofore authorized pursuant to P. L. 1950, c. 210 shall continue to be governed, after the effective date of this act, by the charter and plan of government so adopted, until such time as the charter is abandoned or altered pursuant to article 1 of that act (C. 40:69A–1 through 40:69A–25), or amended pursuant to section 7 of this amendatory and supplementary act. During such time as the municipality shall continue to be governed by that charter, any provisions of, or supplements to, P. L. 1950, c. 210 enacted or amended after the effective date of this amendatory and supplementary act, which would have pertained to that charter if the provisions of this

amendatory and supplementary act had not been enacted, shall pertain to that charter and govern that municipality.

21. Section 9–1 of P. L. 1950, c. 210 (C. 40:69A–81) is amended to read as follows:

ARTICLE 9.

COUNCIL-MANAGER PLAN

A. Form of Government; Election of Councilmen

C. 40:69A-81 Council-manager plan.

9–1. The form of government provided in this article shall be known as the "council-manager plan" and shall, together with articles 2 and 17, govern any municipality, the voters of which have adopted this plan pursuant to this act.

22. Section 9–3 of P. L. 1950, c. 210 (C. 40:69A–83) is amended to read as follows:

C. 40:69A-83 5-member council.

9–3. The municipal council shall consist of five members, unless otherwise provided in the municipal charter, who shall serve for a term of 4 years.

C. 40:69A-83.1 Election date.

23. (New section) Any municipality adopting a council-manager plan of government shall provide in its charter that the council members shall be elected by the voters of the municipality either:

a. At a regular municipal election held on the second Tuesday in May in the years in which municipal officers are to be elected, in which case the term of office of the council members shall begin on July 1 next following their election; or

b. At the general election held on the first Tuesday after the first Monday in November or at such other time as may be provided by law for holding general elections, in which case the term of office of the council members shall begin on January 1 next following their election.

C. 40:69A-83.2 Election at large or by wards.

24. (New section) Any municipality adopting a council-manager plan of government shall provide in its charter either:

a. That the council members shall be elected at large by the voters of the municipality at the regular municipal election, or general election, as the charter shall provide; or

b. That the municipality shall be divided into wards pursuant to the authority granted in section 1–13 or 1–19 (C. 40:69A–13 or

40:69A–19); that councilmen shall be elected at large and by wards at the regular municipal election or general election, as the charter shall provide; and that no more than one councilman shall be elected from each ward established in the municipality, and all other councilmen shall be elected at large.

C. 40:69A-83.3 Terms of council members.

25. (New section) Any municipality adopting a council-manager plan of government may provide in its charter that the council members elected at the first regular municipal election or general election, as the charter shall provide, following the adoption of the plan shall serve for the following terms: if the municipal council is to consist of five members, two shall serve for 4 years and three for 2 years; if the municipal council is to consist of seven members, three shall serve for 4 years and four for 2 years; or if the municipal council is to consist of nine members, four shall serve for 4 years and five for 2 years. The length of the respective term of each member of the first council shall be determined by lot at the organization of the council immediately following the election; except that if, pursuant to the charter, the mayor is elected directly by the voters, the mayor shall, for the purposes of this subsection, be counted among those first councilmen to serve a 4 year term.

b. Notwithstanding the provisions of subsection a. of this section, if a municipality adopting the provisions of this section shall also provide in its charter that the municipality shall be divided into wards pursuant to the authority granted in section 1–13 or 1–19 (C. 40:69A–13 or 40:69A–19), the council members elected at the first regular municipal election or general election, as the charter shall provide, following the adoption of the plan shall serve as follows: the councilmen elected at large for a term of 4 years; and the councilmen elected from wards for a term of 2 years.

26. Section 9–6 of P. L. 1950, c. 210 (C. 40:69A–86) is amended to read as follows:

C. 40:69A-86 Election of mayor.

9–6. Any municipality adopting a council-manager plan of government shall provide in its charter either:

a. That the mayor shall be elected by the members of the council; in which case on the first day of July or January, as appropriate, following their election, the members-elect of the municipal council shall assemble at the usual place of meeting of the governing body of the municipality and organize and elect one of their number as mayor. The mayor shall be chosen by ballot by majority vote of

all members of the municipal council. If the members shall be unable, within five ballots to be taken within 2 days of said organization meeting, to elect a mayor, then the member who in the election for members of the municipal council received the greatest number of votes shall be the mayor. Should such person decline to accept the office, then the person receiving the next highest vote shall be the mayor, and so on, until the office is filled; or

b. That the mayor shall be elected directly by the voters of the municipality at the regular municipal election, or general election, as the charter shall provide. At the first election following the adoption of the charter, and each appropriate subsequent election, one position of council member to be elected at large shall be designated and voted for under the title of mayor, and candidates for the position shall be clearly designated as candidates for mayor in their respective nominating petitions. The candidate for mayor receiving the greatest number of votes shall be elected, and shall serve for a term of 4 years.

27. Section 9–13 of P. L. 1950, c. 210 (C. 40:69A–93) is amended to read as follows:

C. 40:69A-93 Removal of municipal manager.

9–13. The municipal manager shall hold office for an indefinite term and may be removed by a majority vote of the council. At least 30 days before such removal shall become effective, the council shall by a majority vote of its members adopt a preliminary resolution stating the reasons for his removal. The manager may reply in writing and may request a public hearing, which shall be held not earlier than 20 days nor later than 30 days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the council by majority vote of its members may adopt a final resolution of removal. By the preliminary resolution the council may suspend the manager from duty, but shall in any case cause to be paid him forthwith any unpaid balance of his salary and his salary for the next 3 calendar months following adoption of the preliminary resolution unless he is removed for good cause. For the purposes of this section, "good cause" shall mean conviction of a crime or offense involving moral turpitude, the violation of the provisions of section 17–14, 17–15, 17–16, 17–17 or 17–18 of P. L. 1950, c. 210 (C. 40:69A–163 through 40:69A–167), or the violation of any code of ethics in effect within the municipality.

C. 40:69A-208.2 Council-manager plan to remain in effect.

28. (New section) Any municipality having adopted, prior to the effective date of this amendatory and supplementary act, a charter encompassing a council-manager plan of government heretofore authorized pursuant to P. L. 1950, c. 210 shall continue to be governed, after the effective date of this act, by the charter and plan of government so adopted, until such time as the charter is abandoned or altered pursuant to article 1 of that act (C. 40:69A–1 through 40:69A–25), or amended pursuant to section 7 of this amendatory and supplementary act. During such time as the municipality shall continue to be governed by that charter, any provisions of, or supplements to, P. L. 1950, c. 210 enacted or amended after the effective date of this amendatory and supplementary act, which would have pertained to that charter if the provisions of this amendatory and supplementary act had not been enacted, shall pertain to that charter and govern that municipality.

29. Section 13–1 of P. L. 1950, c. 210 (C. 40:69A–115) is amended to read as follows:

ARTICLE 13

SMALL MUNICIPALITY PLAN

C. 40:69A-115 Small municipality plan.

13–1. The form of government provided in this article shall be known as the "small municipality plan." It may be adopted by any municipality having a population of less than 12,000 inhabitants and shall, together with articles 2 and 17, govern any municipality the voters of which have adopted the plan pursuant to this act.

30. Section 13–2 of P. L. 1950, c. 210 (C. 40:69A–116) is amended to read as follows:

C. 40:69A-116 Elected council and mayor.

13–2. Each municipality shall be governed by an elected council and a mayor and such other officers as shall be appointed pursuant to this article, general law or ordinance.

31. Section 13–3 of P. L. 1950, c. 210 (C. 40:69A–117) is amended to read as follows:

C. 40:69A-117 Composition of council.

13–3. The council shall consist of the mayor and two councilmen, unless pursuant to the authority granted under section 1–13 or 1–19 of article 1 of this act, or unless provided by amendment of

the charter pursuant to section 7 of this amendatory act, the municipality shall be governed by a mayor and four or six councilmen. Members of the council shall be elected at large by the voters of the municipality and shall serve for a term of 3 years.

C. 40:69A-117.1 Election date.

32. (New section) Any municipality adopting a small municipality plan of government shall provide in its charter that the council members shall be elected by the voters of the municipality either:

a. At a regular municipal election held on the second Tuesday in May in the years in which municipal officers are to be elected, in which case the term of office of the council members shall begin on July 1 next following their election; or

b. At the general election held on the first Tuesday after the first Monday in November or at such other time as may be provided by law for holding general elections, in which case the term of office of the council members shall begin on January 1 next following their election.

C. 40:69A-117.2 Terms of council members.

33. (New section) Any municipality adopting a small municipality plan of government may provide in its charter that the council members elected at the first regular municipal election or general election, as the charter shall provide, following the adoption of the plan shall serve for the following terms: if the municipal council is to consist of three members, one shall serve for 1 year, one for 2 years and one for 3 years; if the municipal council is to consist of five members, two shall serve for 1 year, two for 2 years and one for 3 years; or if the municipal council is to consist of seven members, three shall serve for a term of 1 year, two for a term of 2 years and two for a term of 3 years. The length of the respective term of each member of the first council shall be determined by lot at the organization of the council immediately following their election; except that if, pursuant to the charter, the mayor is elected directly by the voters, the mayor shall, for the purposes of this section, be counted among those first councilmen to serve a 4 year term.

C. 40:69A-117.3 Election of mayor.

34. (New section) Any municipality adopting a small municipality plan of government shall provide in its charter either:

a. That the mayor shall be elected by the members of the council; in which case on the first day of July or January, as appropriate, following their election, the members-elect of the municipal council

shall assemble at the usual place of meeting of the governing body of the municipality and organize and elect one of their number as mayor; that the mayor shall be chosen by ballot by majority vote of members of the municipal council; that if the members shall be unable, within five ballots to be taken within 2 days of the organization meeting, to elect a mayor, then the member who in the election for members of the municipal council received the greatest number of votes shall be mayor; and that should that person decline to accept the office, then the person receiving the next highest vote shall be the mayor, and so on, until the office is filled; or

b. That the mayor shall be elected directly by the voters of the municipality at the regular municipal election, or general election, as the charter shall provide; that at the first election following the adoption of the charter, and each appropriate subsequent election, one position of council member to be elected at large shall be designated and voted for under the title of mayor, and candidates for the position shall be clearly designated as candidates for mayor in their respective nominating petitions; and that the candidate for mayor receiving the greatest number of votes shall be elected and shall serve for a term of 4 years.

C. 40:69A-208.3 Prior plan to continue.

35. (New section) Any municipality having adopted, prior to the effective date of this amendatory and supplementary act, a charter encompassing a small municipality plan of government heretofore authorized pursuant to P. L. 1950, c. 210 shall continue to be governed, after the effective date of this amendatory and supplementary act, by the charter and plan of government so adopted, until such time as the charter is abandoned or altered pursuant to article 1 of P. L. 1950, c. 210 (C. 40:69A–1 through 40:69A–25), or amended pursuant to section 7 of this amendatory and supplementary act. During such time as the municipality shall continue to be governed by that charter, any provisions of, or supplements to P. L. 1950, c. 210 enacted or amended after the effective date of this amendatory and supplementary act, which would have pertained to that charter if the provisions of this amendatory and supplementary act had not been enacted, shall pertain to that charter and govern that municipality.

36. (New section) A new article, to be known as Article 16A is added to P. L. 1950, c. 210 (C. 40:69A–1 et seq.) as follows:

ARTICLE 16A
MAYOR-COUNCIL-ADMINISTRATOR PLAN

C. 40:69A-149.1 Mayor-council-administrator plan.

16A–1. (New section) The form of government provided in this article shall be known as the "mayor-council-administrator plan," and shall, together with articles 2 and 17, govern any municipality the voters of which have adopted it pursuant to law.

C. 40:69A-149.2 Governing officials.

16A–2. (New section) Each municipality hereunder shall be governed by an elected mayor and council, and an appointed municipal administrator, and by such other officers and employees as may be duly appointed pursuant to this article, general law or ordinance.

C. 40:69A-149.3 Council composition.

16A–3. (New section) The council shall consist of the mayor and six councilmen. The mayor and council shall be elected at the general election to be held on the first Tuesday after the first Monday in November. Except as otherwise provided in this article for councilmen first elected, the mayor shall serve for a term of 4 years and the councilmen for a term of 3 years, beginning on January 1 next following their election.

C. 40:69A-149.4 At-large elections.

16A–4. (New section) The mayor and councilmen shall be elected at large by the voters of the municipality. At the first election following the adoption by a municipality of this section, of the six councilmen to be elected, two shall serve for a term of 3 years, two shall serve for a term of 2 years, and two shall serve for a term of 1 year.

C. 40:69A-149.5 Council to exercise legislative power.

16A–5. (New section) The legislative power of the municipality shall be exercised by the council, except as may be otherwise provided by general law. The mayor shall preside over all meetings of the council except as herein provided, but shall not vote except to give the deciding vote in case of a tie. Three councilmen and the mayor, and in the absence of the mayor, four councilmen shall constitute a quorum for the transaction of business, but a smaller number may meet and adjourn from time to time. The council shall annually select from among the councilmen a president of the council who shall serve in place of the mayor in the event of his absence, disability or refusal to preside. The mayor shall, when

necessary, call special meetings of the council. In case of his neglect or refusal, any four councilmen may call a special meeting upon due notice of the time and place to the mayor and all councilmen.

C. 40:69A-149.6 Mayor to exercise executive power.

16A–6. (New section) The executive power of the municipality shall be exercised by the mayor. He shall enforce the charter and ordinances of the municipality and all general laws applicable thereto, and shall recommend such actions to the council as he may deem in the public interest.

C. 40:69A-149.7 Veto power.

16A–7. (New section) Each ordinance adopted by the council shall be submitted to the mayor, and he shall within 10 days after receiving it either approve the ordinance by affixing his signature thereto or return it to the council by delivering it to the municipal clerk, together with a written statement of his objections thereto or to any item or part thereof. No ordinance, or any item or part thereof, shall take effect without the mayor's approval unless the mayor fails to return an ordinance to the council within 10 days after it has been presented to him, or unless the council, upon reconsideration thereof on or after the third day following its return by the mayor, shall resolve to override the mayor's veto by a vote of at least ⅔ of the members.

C. 40:69A-149.8 Appointive officers.

16A–8. (New section) The mayor shall nominate, and with the advice and consent of the council appoint, a municipal administrator, an assessor, a tax collector, an attorney, a clerk, a treasurer and such other officers as may be provided by ordinance. Except where otherwise prohibited by general law, one person may be appointed to two or more such offices, except that one person shall not be simultaneously the assessor and treasurer, or assessor and collector. All such officers shall be annually appointed unless another term is provided by this article or by general law.

C. 40:69A-149.9 Powers of municipal administrator.

16A–9. (New section) The municipal administrator shall administer the business affairs of the municipality and shall, as provided by ordinance, have such powers and perform such duties which are not required by this article or general law to be exercised by the mayor, council or other officer, board or body. The administrator shall receive such compensation as may be provided by ordinance. The municipal administrator shall serve at the pleasure of the council, but may be removed only by a vote of at least ⅔ of the

members of the council. The resolution of removal shall become effective 3 months after its adoption. The council may provide that the resolution shall have immediate effect, but in that case the council shall cause to be paid to the administrator forthwith any unpaid balance of his salary and his salary for the next 3 calendar months following adoption of the resolution unless he is removed for good cause. For the purposes of this section, "good cause" shall mean conviction of a crime or offense involving moral turpitude, the violation of the provisions of section 17-14, 17–15, 17–16, 17–17 or 17–18 of P. L. 1950, c. 210 (C. 40:69A–163 through 40:69A–167), or the violation of any code of ethics in effect within the municipality.

C. 40:69A-149.10 Appointments by mayor.

16A–10. (New section) All officers and employees whose appointment or election is not otherwise provided for in this article or by general law shall be appointed by the mayor. If the municipality has not adopted the provisions of Title 11 of the Revised Statutes, it shall be the duty of the mayor to recruit, select and appoint persons qualified by training and experience for their respective offices, positions and employments.

C. 40:69A-149.11 Municipal clerk.

16A–11. (New section) The municipal clerk shall serve as clerk of the council, perform such functions as may be required by law of municipal clerks generally, and have such other powers and duties as the council may prescribe. He shall maintain the records and minutes of the governing body. The municipal clerk shall be qualified by previous training or experience to perform the duties of his office. He shall serve for such term as is generally provided by law.

C. 40:69A-149.12 Annual budget.

16A–12. (New section) The council shall prepare the annual budget with the assistance of the municipal administrator and the treasurer.

C. 40:69A-149.13 Treasurer.

16A–13. (New section) The treasurer shall be the chief financial officer of the municipality and shall keep and maintain books and records of all financial transactions of the municipality in accordance with the standards and requirements of the Division of Local Government Services in the Department of Community Affairs. The treasurer shall have custody of all public moneys of the municipality. He shall make monthly reports to the council

of all receipts, expenditures, commitments and unencumbered appropriation balances.

C. 40:69A-149.14 Disbursements.

16A–14. (New section) No municipal funds shall be disbursed except pursuant to and within the limits of appropriations made in accordance with law. All disbursements shall be by bank check or draft signed by the mayor and countersigned by the treasurer, upon warrant of the council.

C. 40:69A-149.15 Municipal tax collector.

16A–15. (New section) The municipal tax collector shall receive and collect all moneys assessed or raised by taxation or assessment for any purpose. The collector shall enter in suitable books or other records to be kept by him the sums received each day together with the account to which each receipt is credited. Within 48 hours after the receipt of any moneys of the municipality, or on the first banking day thereafter, the collector shall deposit such moneys in the authorized public depository of the municipality to the credit of the appropriate account. He shall report to the council at least once each month at the same time as the treasurer is required to report, all receipts and deposits and cash on hand belonging to the municipality. Within 60 days after the end of the fiscal year, and at such other times as may be required by the council, the collector shall make and furnish a detailed and true list of all delinquent taxpayers for the next preceding year or for such period as the council may require.

C. 40:69A-149.16 Bonds of treasurer and collector.

16A–16. (New section) The treasurer and the collector shall each give bond, at the expense of the municipality, in accordance with general law.

37. Section 17–56 of P. L. 1950, c. 210 (C. 40:69A–205) is amended to read as follows:

C. 40:69A-205 Schedule of installation of optional plan.

17–56. The schedule of installation of an optional plan adopted pursuant to this act shall, as provided herein, take the following course:

(a) An election to submit the question of adoption of an optional plan may be held at any time in accordance with the provisions of article 1 of this act;

(b) In the event of a favorable vote of the voters at the above election, the first election of officers under the adopted plan shall

take place on (1) the second Tuesday in May occurring not less than 75 days next following the adoption of one of the optional plans in municipalities adopting a charter providing for the holding of regular municipal elections at which all members of the council are to be elected at large; (2) the second Tuesday in May occurring not less than 120 days following the adoption of one of the optional plans in municipalities adopting a charter providing for the holding of regular municipal elections and for the division of the municipality into wards; (3) at the next general election occurring not less than 75 days next following the adoption of one of the optional plans in municipalities adopting a charter providing for the holding of general elections at which all members of the council are to be elected at large; or (4) at the next general election occurring not less than 120 days next following the adoption of one of the optional plans in municipalities adopting a charter providing for the holding of general elections and for the division of the municipality into wards.

Whenever a municipality has adopted a charter referred to in subsection (3) above, within 10 days, or subsection (4) within 40 days, prior to the last day fixed for the filing of nominating petitions for the primary election, the candidates to be first elected shall be nominated in the manner provided by chapter 27 of Title 19 of the Revised Statutes with respect to the filling of certain vacancies in nominations for county or municipal offices to be filled at the general election.

(c) An optional plan shall take effect, in accordance with the further provisions of this article at (1) 12 o'clock noon on July 1 next following the first election of officers in municipalities adopting a charter providing for the holding of regular municipal elections, or (2) 12 o'oclock noon on January 1 next following the first election of officers in municipalities adopting a charter providing for the holding of general elections.

38. N. J. S. 40A:16-8 is amended to read as follows:

Authority of mayor to vote in filling a vacancy.

40A:16-8. Authority of mayor to vote in filling a vacancy. In municipalities governed by the provisions of Article 3 or 16A of the "Optional Municipal Charter Law," P. L. 1950, c. 210 (C. 40:69A-31 et seq. and C. 40:69A-149.1 et seq.), or by the provisions of laws governing boroughs, R. S. 40:86-1 to R. S. 40:94-6 inclusive, a mayor shall be permitted to vote to fill a vacancy in the membership of a governing body only in the case of a tie vote.

39. Section 1 of P. L. 1954, c. 62 (C. 40:69A–43.1) is amended to read as follows:

C. 40:69A-43.1 Deputy directors.

1. The director of each department in any city of the second class which, prior to the effective date of this amendatory and supplementary act, had adopted the form of government designated as "Mayor-Council Plan D" provided for in article 6 of the act to which this act is a supplement, may appoint a deputy director of his department who shall serve, and be removable at the pleasure of the director, in the unclassified service of the civil service of the city and shall receive such salary as shall be fixed by the director with the approval of the council.

No municipality shall adopt the provisions of this section on or after the effective date of this amendatory and supplementary act.

40. Section 1 of P. L. 1963, c. 69 (C. 40:69A–60.1) is amended to read as follows:

C. 40:69A-60.1 Mayoral aides.

1. The mayor of any municipality having a population of more than 80,000 which, prior to the effective date of this amendatory and supplementary act, had adopted the form of government designated as "Mayor-Council Plan C" provided for in article 5 of the act of which this act is a supplement, may appoint one or two deputy mayors, a personal secretary, an executive secretary, and aides not exceeding five in number, who shall serve, and be removable at the pleasure of the mayor, and who shall serve in the unclassified service of the civil service of the city and shall receive such salary as shall be fixed by ordinance.

No municipality shall adopt the provisions of this section on or after the effective date of this amendatory and supplementary act.

41. Section 1 of P. L. 1965, c. 35 (C. 40:69A–60.3) is amended to read as folows:

C. 40:69A-60.3 Assistant business administrator.

1. The director of the department of administration in any municipality having a population of more than 300,000 which, prior to the effective date of this amendatory and supplementary act, had adopted the form of government designated as "Mayor-Council Plan C" provided for in article 5 of the act of which this act is a supplement, may appoint and may remove, with the approval of the mayor, an assistant business administrator of his department who shall serve in the unclassified service of the civil

service of the city and shall receive such salary as shall be fixed by ordinance.

No municipality shall adopt the provisions of this section on or after the effective date of this amendatory and supplementary act.

42. Section 1 of P. L. 1973, c. 89 (C. 40:69A–60.5) is amended to read as follows:

C. 40:69A-60.5 Councilmanic aides.

1. The municipal council of any municipality having a population of more than 200,000 which, prior to the effective date of this amendatory and supplementary act, had adopted the form of government designated as "Mayor-Council Plan C" provided for in article 5 of the act of which this act is a supplement, may appoint not more than one aide for each councilman, who shall serve, and be removable at the pleasure of the councilman, and who shall serve in the unclassified service of the civil service of the city and shall receive such salary as shall be fixed by ordinance, but said salary shall not exceed $10,000.00.

No municipality shall adopt the provisions of this section on or after the effective date of this amendatory and supplementary act.

43. Section 1 of P. L. 1979, c. 163 (C. 40:69A–60.7) is amended to read as follows:

C. 40:69A-60.7 Police chief.

1. a. Notwithstanding the provisions of any other law to the contrary, the governing body of any city of the first class, which, prior to the effective date of this amendatory and supplementary act, had adopted the form of government designated as "Mayor-Council Plan C" provided for in article 5 of the act to which this act is a supplement, may provide, by ordinance, that the mayor shall appoint a police chief, who shall have served as a superior police officer and possess at least 5 years' administrative and supervisory police experience, who shall serve during the term of office of the mayor appointing him, and until the appointment and qualification of his successor, and who shall serve in the unclassified service of the civil service of the city and shall receive such salary as shall be fixed by ordinance.

b. The mayor of any first class city adopting the provisions of this supplementary act may in his discretion remove any person appointed pursuant to the provisions of this act, after notice and an opportunity to be heard. Prior to removing such person the mayor shall first file written notice of his intention to do so with

the council, and such removal shall become effective on the twentieth day after the filing of such notice unless the council shall prior thereto have adopted a resolution disapproving such removal by at least a ⅔ vote of the membership of the council.

Repealer.

44. The following are repealed:

Article 4, sections 4–1 through 4–5, of P. L. 1950, c. 210 (C. 40:69A–49 through 40:69A–53);

Article 5, sections 5–1 through 5–5, of P. L. 1950, c. 210 (C. 40:69A–55 through 40:69A–59);

Article 6, sections 6–1 through 6–6, of P. L. 1950, c. 210 (C. 40:69A–61 through 40:69A–66);

Article 7, sections 7–1 through 7–5, of P. L. 1950, c. 210 (C. 40:69A–68 through 40:69A–72);

Article 8, sections 8–1 through 8–6, of P. L. 1950, c. 210 (C. 40:69A–74 through 40:69A–79);

Section 9–4 of P. L. 1950, c. 210 (C. 40:69A–84);

Article 10, sections 10–1 through 10–4, of P. L. 1950, c. 210 (C. 40:69A–99 through 40:69A–102);

Article 11, sections 11–1 through 11–4, of P. L. 1950, c. 210 (C. 40:69A–104 through 40:69A–107);

Article 12, sections 12–1 through 12–5, of P. L. 1950, c. 210 (C. 40:69A–109 through 40:69A–113);

Article 12A, sections 12A–1 through 12A–4, added to P. L. 1950, c. 210 by section 13 of P. L. 1953, c. 254 (C. 40:69A–114.1 through 40:69A–114.4);

Article 12B, sections 12B–1 through 12B–6, added to P. L. 1950, c. 210 by section 5 of P. L. 1973, c. 234 (C. 40:69A–114.6 through 40:69A–114.10);

Section 13–4 of P. L. 1950, c. 210 (C. 40:69A–118);

Article 14, sections 14–1 through 14–4 and 14–6 of P. L. 1950, c. 210 (C. 40:69A–133 through 40:69A–136 and C. 40:69A–138);

Article 15, sections 15–1 through 15–5, of P. L. 1950, c. 210 (C. 40:69A–139 through C. 40:69A–143); and

Article 16, sections 16–1 through 16–6, of P. L. 1950, c. 210 (C. 40:69A–144 through 40:69A–149).

45. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 466

AN ACT concerning the municipal manager in municipalities governed by the municipal manager form of government and amending R. S. 40:82–3.

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

1. R. S. 40:82–3 is amended to read as follows:

Term of office of municipal manager; removal procedure.

40:82–3. a. The municipal manager shall hold office as long as he shall perform the duties of his office to the satisfaction of the municipal council. During the first 3 consecutive calendar years of his employment he may be removed for or without cause and after said 3-year period of employment he may be removed only for cause, after hearing, by a resolution signed by one more than a majority of all the members of the municipal council setting forth the reasons for such removal.

b. Notwithstanding the provisions of subsection a. of this section, any municipal manager appointed on or after the effective date of this act shall hold office for an indefinite term and may be removed by a majority vote of the council as hereinafter provided. To effect the removal of a municipal manager a preliminary resolution stating the reasons for its removal action shall be adopted by a majority vote of the council members. The manager may reply in writing to the resolution and may request a public hearing on the matter of his removal, which shall be held not earlier than 20 days and not later than 30 days after the filing of the request. After the public hearing, if one be requested, and after full consideration, but not later than 60 days after the adoption of the preliminary resolution of removal, the council by a majority vote of its members may adopt a final resolution of removal, and that removal shall take effect immediately. Upon the adoption of a preliminary resolution of removal, the council may suspend a manager from duty, and shall pay the manager his full salary during his suspension and, if a final resolution of removal is adopted, for the next 3 calendar months following the adoption of the preliminary resolution of removal, unless the removal is for good cause. For the purposes of this section "good cause" shall mean conviction of a crime or offense involving moral turpitude, the violation of the

provisions of section 40:83–2, 40:83–3 or 40:83–4 of the Revised Statutes, or the violation of any code of ethics in effect within the municipality.

2. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 467

AN ACT to amend the "Corporation Business Tax Act (1945)," approved April 13, 1945 (P. L. 1945, c. 162).

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

1. Section 4 of P. L. 1945, c. 162 (C. 54:10A–4) is amended to read as follows:

C. 54:10A-4 Definitions.

4. For the purposes of this act, unless the context requires a different meaning:

(a) "Commissioner" shall mean the Director of the Division of Taxation of the State Department of the Treasury.

(b) "Allocation factor" shall mean the proportionate part of a taxpayer's net worth or entire net income used to determine a measure of its tax under this act.

(c) "Corporation" shall mean any corporation, joint-stock company or association and any business conducted by a trustee or trustees wherein interest or ownership is evidenced by a certificate of interest or ownership or similar written instrument.

(d) "Net worth" shall mean the aggregate of the values disclosed by the books of the corporation for (1) issued and outstanding capital stock, (2) paid-in or capital surplus, (3) earned surplus and undivided profits, (4) surplus reserves which can reasonably be expected to accrue to holders or owners of equitable shares, not including reasonable valuation reserves, such as reserves for depreciation or obsolescence or depletion, and (5) the amount of all indebtedness owing directly or indirectly to holders of 10% or more of the aggregate outstanding shares of the taxpayer's capital stock of all classes, as of the close of a calendar or fiscal year, other than indebtedness which is a result of a bona fide financing of motor

vehicle inventory held for sale to customers which financing is provided by a taxpayer customarily and routinely providing for this type of financing. In the case of financial business corporations which are funded through debt from affiliated corporations, the debt to the affiliated corporations is not to be considered as "net worth" and in the case of banking corporations which are affiliates of bank holding companies, as defined in 12 U. S. C. § 1841, and which are funded through debt from such bank holding companies, the debt to those bank holding companies from its banking corporation affiliates is not to be considered as "net worth." The foregoing aggregate of values shall be reduced by 50% of the amount disclosed by the books of the corporation for investment in the capital stock of one or more subsidiaries, which investment is defined as ownership (1) of at least 80% of the total combined voting power of all classes of stock of the subsidiary entitled to vote and (2) of at least 80% of the total number of shares of all other classes of stock except nonvoting stock which is limited and preferred as to dividends. In the case of investment in an entity organized under the laws of a foreign country, the foregoing requisite degree of ownership shall effect a like reduction of such investment from net worth of the taxpayer, if the foreign entity is considered a corporation for any purpose under the United States federal income tax laws, such as (but not by way of sole examples) for the purpose of supplying deemed-paid foreign tax credits or for the purpose of status as a controlled foreign corporation. In calculating the net worth of a taxpayer entitled to reduction for investment in subsidiaries, the amount of liabilities of the taxpayer shall be reduced by such proportion of the liabilities as corresponds to the ratio which the excluded portion of the subsidiary values bears to the total assets of the taxpayer.

If in the opinion of the commissioner, the corporation's books do not disclose fair valuations the commissioner may make a reasonable determination of the net worth which, in his opinion, would reflect the fair value of the assets, exclusive of subsidiary investments as defined aforesaid, carried on the books of the corporation, in accordance with sound accounting principles, and such determination shall be used as net worth for the purpose of this act.

(e) "Indebtedness owing directly or indirectly" shall include, without limitation thereto, all indebtedness owing to any stockholder or shareholder and to members of his immediate family where a stockholder and members of his immediate family to-

gether or in the aggregate own 10% or more of the aggregate outstanding shares of the taxpayer's capital stock of all classes.

(f) "Investment company" shall mean any corporation whose business during the period covered by its report consisted, to the extent of at least 90% thereof of holding, investing and reinvesting in stocks, bonds, notes, mortgages, debentures, patents, patent rights and other securities for its own account, but this shall not include any corporation which: (1) is a merchant or a dealer of stocks, bonds and other securities, regularly engaged in buying the same and selling the same to customers; or (2) had less than 90% of its average gross assets in New Jersey, at cost, invested in stocks, bonds, debentures, mortgages, notes, patents, patent rights or other securities or consisting of cash on deposit during the period covered by its report or (3) is a banking corporation or a financial business corporation as defined in the Corporation Business Tax Act.

(g) "Regulated investment company" shall mean any corporation which for a period covered by its report, is registered and regulated under the Investment Company Act of 1940 (54 Stat. 789), as amended.

(h) "Taxpayer" shall mean any corporation required to report or to pay taxes, interest or penalties under this act.

(i) "Fiscal year" shall mean an accounting period ending on any day other than the last day of December on the basis of which the taxpayer is required to report for federal income tax purposes.

(j) Except as herein provided, "privilege period" shall mean the calendar or fiscal accounting period for which a tax is payable under this act.

(k) "Entire net income" shall mean total net income from all sources, whether within or without the United States, and shall include the gain derived from the employment of capital or labor, or from both combined, as well as profit gained through a sale or conversion of capital assets. For the purpose of this act, the amount of a taxpayer's entire net income shall be deemed prima facie to be equal in amount to the taxable income, before net operating loss deduction and special deductions, which the taxpayer is required to report to the United States Treasury Department for the purpose of computing its federal income tax; provided, however, that in the determination of such entire net income,

(1) Entire net income shall exclude 100% of dividends which were included in computing such taxable income for Federal income tax purposes, paid to the taxpayer by one or more subsidiaries

owned by the taxpayer to the extent of the 80% or more ownership of investment described in subsection (d) of this section. With respect to other dividends, entire net income shall not include 50% of the total included in computing such taxable income for federal income tax purposes;

(2) Entire net income shall be determined without the exclusion, deduction or credit of:

(A) The amount of any specific exemption or credit allowed in any law of the United States imposing any tax on or measured by the income of corporations;

(B) Any part of any income from dividends or interest on any kind of stock, securities or indebtedness, except as provided in subsection (k) (1) of this section;

(C) Taxes paid or accrued to the United States on or measured by profits or income, or the tax imposed by this act, or any tax paid or accrued with respect to subsidiary dividends excluded from entire net income as provided in subsection (k) (1) of this section;

(D) Net operating losses sustained during any year or period other than that covered by the report;

(E) 90% of interest on indebtedness owing directly or indirectly to holders of 10% or more of the aggregate outstanding shares of the taxpayer's capital stock of all classes; except that such interest may, in any event, be deducted

(i) Up to an amount not exceeding $1,000.00;

(ii) In full to the extent that it relates to bonds or other evidences of indebtedness issued, with stock, pursuant to a bona fide plan of reorganization, to persons, who, prior to such reorganization, were bona fide creditors of the corporation or its predecessors, but were not stockholders or shareholders thereof;

(iii) In full to the extent that it relates to debt of a financial business corporation owed to an affiliate corporation; provided that such interest rate does not exceed 2% over prime rate; the prime rate to be determined by the Commissioner of Banking;

(iv) In full to the extent that it relates to financing of motor vehicle inventory held for sale to customers providing said indebtedness is owed to a taxpayer customarily and routinely providing this type of financing;

(v) In full to the extent it relates to debt of a banking corporation to a bank holding company, as defined in 12 U. S. C. § 1841, of which the banking corporation is a subsidiary.

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(3) The commissioner may, whenever necessary to properly reflect the entire net income of any taxpayer, determine the year or period in which any item of income or deduction shall be included, without being limited to the method of accounting employed by the taxpayer.

(l) "Real estate investment trust" shall mean any unincorporated trust or unincorporated association qualifying and electing to be taxed as a real estate investment trust under federal law.

(m) "Financial business corporation" shall mean any corporate enterprise which is (1) in substantial competition with the business of national banks and which (2) employs moneyed capital with the object of making profit by its use as money, through discounting and negotiating promissory notes, drafts, bills of exchange and other evidences of debt; buying and selling exchange; making of or dealing in secured or unsecured loans and discounts; dealing in securities and shares of corporate stock by purchasing and selling such securities and stock without recourse, solely upon the order and for the account of customers; or investing and reinvesting in marketable obligations evidencing indebtedness of any person, copartnership, association or corporation in the form of bonds, notes or debentures commonly known as investment securities; or dealing in or underwriting obligations of the United States, any state or any political subdivision thereof, or of a corporate instrumentality of any of them. This shall include, without limitation of the foregoing, business commonly known as industrial banks, dealers in commercial paper and acceptances, sales finance, personal finance, small loan and mortgage financing businesses, as well as any other enterprise employing moneyed capital coming into competition with the business of national banks; provided, that the holding of bonds, notes, or other evidences of indebtedness by individual persons not employed or engaged in the banking or investment business and representing merely personal investments not made in competition with the business of national banks, shall not be deemed financial business. Nor shall "financial business" include national banks, production credit associations organized under the Farm Credit Act of 1933, stock and mutual insurance companies duly authorized to transact business in this State, security brokers or dealers or investment companies or bankers not employing moneyed capital coming into competition with the business of national banks, real estate investment trusts, or any of the following entities organized under the laws of this State: credit unions, savings banks, savings

and loan and building and loan associations, pawnbrokers, and State banks and trust companies.

2. This act shall take effect immediately and shall be applicable to taxpayers whose accounting periods end on or after December 31, 1981.

Approved January 11, 1982.

CHAPTER 468

AN ACT concerning the installation of sanitary sewerage collector systems and amending P. L. 1979, c. 321.

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

1. Section 19 of P. L. 1979, c. 321 (C. 58:25–9) is amended to read as follows:

C. 58:25-9 Reimbursement for interest and debt service costs.

19. Whenever any local governmental unit, pursuant to an order or in the case of a municipality in a county of the first class, pursuant to an order or written approval of the Department of Environmental Protection and in compliance therewith, has completed installation of a sanitary sewerage collector system and issued bonds or bond anticipation notes to finance such system, and such system is inoperable because the sewerage authority charged with the duty of providing an interceptor system has not yet so provided and therefore no interceptor system is ready to receive the effluent from such municipal collector system through no fault of the local governmental unit, the State shall reimburse such governmental unit for annual interest and debt service costs for the collector system. Such payments shall be made for such period that the collector system remains inoperative and should the system become operable for any portion of a year, payment shall be made for the entire year. That portion of the reimbursement representing principal received at any time on or after July 1, 1982, shall be treated as a loan to be repaid by the local governmental unit to the State over a period of years equal to the number of years during which those loan payments were received by the local governmental unit and in the same amount per year and same order

each year as those loan payments were received, but the repayments shall not commence until the first full calendar year after the collector system becomes operative and after all principal and interest on the outstanding obligations of the local governmental unit for the collector system have been repaid. Upon receipt of a written request from a local governmental unit, the Local Finance Board, if compelling reasons are demonstrated, may modify the repayment schedule, provided all repayments are made within the same number of years as required hereinabove.

2. This act shall take effect immediately but shall be retroactive to January 18, 1980.

Approved January 11, 1982.

CHAPTER 469

AN ACT to amend the "State Uniform Construction Code Act" approved October 7, 1975 (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 Administration and enforcement.

8. Administration and enforcement.

a. The appointing authority of any municipality shall appoint a construction official and any necessary subcode officials to administer and enforce the code and 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 11 of the Revised Statutes, Civil Service, 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 11 of the Revised 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 1 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 11 of the Revised Statutes who at the time of adoption of the State Uniform Construction Code, January 1, 1977, or prior to February 6, 1980 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 February 6, 1980 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 February 6, 1980 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 February 6, 1980, shall be appointed as construction or

subcode official in a municipality operating under Title 11 of the Revised 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 February 6, 1980 on a provisional basis in a municipality which has adopted the provisions of Title 11 of the Revised 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 4 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 3 years' experience in construction, design or supervision as a licensed engineer or registered architect; or 5 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 "en-

forcing 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 1 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 1 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 4 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 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 and subcode 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.

d. The commissioner, after consultation with the code advisory board, may periodically require that each construction official and subcode official 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 January 11, 1982.

CHAPTER 470

AN ACT concerning the Judicial Retirement System of New Jersey, amending and supplementing P. L. 1973, c. 140 and amending P. L. 1973, c. 304.

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

1. Section 3 of P. L. 1973, c. 140 (C. 43:6A–3) is amended to read as follows:

C. 43:6A-3 Definitions.

3. As used in this act:

a. "Accumulated deductions" means the sum of all amounts, deducted from the compensation of a member or contributed by him or on his behalf, standing to the credit of his individual account in the annuity saving fund.

b. "Annuity" means payments for life derived from the accumulated deductions of a member as provided in this amendatory and supplementary 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 computed on the basis of such mortality tables recommended by the actuary as the State House Commission adopts with regular interest.

d. "Beneficiary" means any person entitled to receive any benefit pursuant to the provisions of this act by reason of the death of a member or retirant.

e. "Child" means a deceased member's or retirant's unmarried child who is either (a) under the age of 18; (b) of any age who, at the time of the member's or retirant's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his 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; or (c) under the age of 21 and is attending school full time.

f. "Compensation" means the base salary, for services as a member as defined in this act, which is in accordance with established salary policies of the State 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 duties beyond the regular work schedule.

g. "Final salary" means the annual salary received by the member at the time of his retirement or death.

h. "Fiscal year" means any year commencing with July 1 and ending with June 30 next following.

i. "Medical board" means the board of physicians provided for in section 29 of this act.

j. "Member" means the Chief Justice and associate justices of the Supreme Court, judges of the Superior Court, county district courts, tax court and juvenile and domestic relations

courts of the State of New Jersey required to be enrolled in the retirement system established by this act.

For purposes of this act, the person holding the office of standing master by appointment pursuant to P. L. 1948, c. 382 or N. J. S. 2A:1–7 shall have the same privileges and obligations under this act as a judge of a Superior Court.

k. "Parent" means the parent of a member who was receiving at least one-half 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 parent will be considered terminated by marriage of the parent subsequent to the death of the member.

l. "Pension" means payment for life derived from contributions by the State.

l. "Pension" means payment for life derived from contributions to be made on account of any pension or benefit in lieu of a pension computed on the basis of such mortality tables recommended by the actuary as shall be adopted by the State House Commission with regular interest.

n. "Regular interest" means interest as determined annually by the State Treasurer after consultation with the Directors of the Divisions of Investment and Pensions and the actuary of the system. It shall bear a reasonable relationship to the percentage rate of earnings on investments but shall not exceed 105% of such percentage rate.

o. "Retirant" means any former member receiving a pension or retirement allowance as provided by this act.

p. "Retirement allowance" means the pension plus the annuity.

q. "Retirement system" herein refers to the "Judicial Retirement System of New Jersey," which is the corporate name of the arrangement for the payment of pensions, 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.

r. "Service" means public service rendered for which credit is allowed on the basis of contributions made by the State.

s. "Several courts" means the Supreme, Superior, county district, tax and juvenile and domestic relations courts.

t. "Widow" means the woman to whom a member or a retirant was married at least 4 years before the date of his death and to whom he continued to be married until the date of his death. The eligibility of such a widow to receive a survivor's benefit will be considered terminated by the marriage of the widow subsequent to the member's or the retirant's death. In the event of accidental death the 4-year qualification shall be waived. When used in this act, the term "widow" shall mean and include "widower" as may be necessary and appropriate to the particular situation.

u. "Widower" means the man to whom a member or a retirant was married at least 4 years before the date of her death and to whom she continued to be married until the date of her death. The eligibility of such a widower to receive a survivor's benefit will be considered terminated by the marriage of the widower subsequent to the member's or retirant's death. In the event of accidental death the 4-year qualification shall be waived.

2. Section 8 of P. L. 1973, c. 140 (C. 43:6A–8) is amended to read as follows:

C. 43:6A-8 Service and age requirements.

8. a. Any member who shall have served at least 10 years as a judge of the several courts and having attained the age of 70 years, shall be retired.

b. Any member who shall have served at least 15 years as a judge of the several courts and having attained the age of 65 years but not the age of 70 years, may retire.

c. Any member who shall have served at least 20 years as a judge of the several courts and having attained the age of 60 years but not the age of 65 years, may retire.

d. Service in the several courts as given in subsections a., b. and c. of this section shall include service in the office of the Chancellor, Chief Justice of the old Supreme Court, associate justice of the old supreme court, judge of the circuit court, Vice-Chancellor, judge of the court of errors and appeals, judge of the court of common pleas, and advisory master to the superior court.

e. Any member of the retirement system eligible to retire under the provisions of this section, shall receive a retirement allowance consisting of an annuity which shall be the actuarial equivalent of his accumulated deductions together with regular interest, and a pension which, when added to the member's annuity, will provide a retirement allowance during the remainder of his life in the amount equal to three-quarters of his final salary.

3. Section 9 of P. L. 1973, c. 140 (C. 43:6A–9) is amended to read as follows:

C. 43:6A-9 Credit for other State service.

9. a. Any judge of the several courts, who shall have served at least 5 years successively as such judge and shall have attained the age of 65 years or more while serving in such office and shall have served at least 15 years in the aggregate, including such service as a judge, or in office, position, or employment of this State or of a county, municipality, board of education or public agency of this State, may retire.

b. Any judge of the several courts, who shall have served at least 5 years successively as such judge and shall have attained the age of 60 years or more while serving in such office and shall have served at least 20 years in the aggregate, including such service as a judge, or in office, position, or employment of this State or of a county, municipality, board of education or public agency of this State, may retire.

c. Any member of the retirement system, eligible to retire under the provisions of this section, shall receive a retirement allowance consisting of an annuity which shall be the actuarial equivalent of his accumulated deductions together with regular interest, and a pension which, when added to the member's annuity, will provide a retirement allowance during the remainder of his life in an amount equal to one-half of his final salary.

4. Section 10 of P. L. 1973, c. 140 (C. 43:6A–10) is amended to read as follows:

C. 43:6A-10 Early retirement.

10. Should any member resign, or fail of reappointment who shall have served at least 5 years successively as a judge of the several courts and at least 25 years in the aggregate, including such service as a judge or in office, position, or employment of this State or a county, municipality, board of education, or public agency of this State, before reaching age 60, he may elect "early" retirement, provided, that such election is communicated by such member to the retirement system by filing a written application, duly attested, stating at what time subsequent to the execution and filing thereof he desires to be retired. He shall receive an annuity which is the actuarial equivalent of his accumulated deductions together with regular interest, and a pension which, when added to the member's annuity, will provide a retirement allowance in the amount of 2% of his final salary multiplied by his number

of years of service up to 25 plus 1% of his final salary multiplied by his number of years of service over 25; provided, however, that such retirement allowance shall be reduced in accordance with a table of actuarial equivalents recommended by the actuary and adopted by the retirement system reflecting all months that the member lacks of being age 60.

The State House Commission shall retire him at the time specified or at such other time within 1 month after the date so specified as the commission finds advisable.

5. Section 11 of P. L. 1973, c. 140 (C. 43:6A–11) is amended to read as follows:

C. 43:6A-11 Receipt of accumulated deductions; deferred retirement allowance.

11. Should any member resign, or fail of reappointment who shall have served at least 5 years successively as a judge of the several courts and at least 10 years in the aggregate, including such service as a judge or in office, position, or employment of this State or a county, municipality, board of education, or public agency of this State, before reaching age 60, and not by removal for cause on charges of misconduct or delinquency, he may elect to receive:

a. All of his accumulated deductions standing to the credit of his individual account in the annuity savings fund; or

b. A deferred retirement allowance, beginning on the first day of the month following his attainment of age 60 and the filing of an application therefor, which shall consist of an annuity derived from the accumulated deductions standing to the credit of the member's account in the annuity savings fund at the time of his severance from service together with regular interest, and a pension which, when added to the annuity, will produce a retirement allowance in the amount of 2% of his final salary multiplied by his number of years of service up to 25 plus 1% of his final salary multiplied by his number of years of service over 25, provided that such inactive member may elect to receive payments provided under section 10 if he had qualified under that section at the time of leaving service, except that in order to avail himself of the option, he must exercise such option at least 1 month before the effective date of his retirement. If such inactive member shall die after attaining age 60 but before filing an application for retirement benefits pursuant to this section or section 10 and for which benefits he would have qualified, or in the event of death after retirement, there shall be paid to such member's beneficiary the death benefits prescribed by section 19.

No beneficiary shall be eligible for a pension or survivor's benefit if the member who elected to receive a deferred pension prior to the effective date of this amendatory and supplementary act or who elects to receive a deferred retirement allowance following the effective date of this amendatory and supplementary act shall die before attaining age 60. Upon receipt of the proper proofs of death, the beneficiary of a member who elects to receive a deferred retirement allowance shall be paid the member's accumulated deductions at the time of death together with regular interest.

Any member who, having elected to receive a deferred pension or deferred retirement allowance, again becomes a member while under the age of 60, shall thereupon be reenrolled. He shall be credited with all service as a member standing to his credit at the time of his election to receive a deferred pension or deferred retirement allowance.

6. Section 12 of P. L. 1973, c. 140 (C. 43:6A–12) is amended to read as follows:

C. 43:6A-12 Retirement for disability.

12. Whenever the Supreme Court shall certify to the Governor, any member who shall have served as a judge of the several courts, may be retired for disability if the member has become physically or otherwise incapacitated for full and efficient service to the State in his judicial capacity. The Governor shall thereupon refer the disability claim to three physicians of skill and repute in their profession and residents of this State who shall examine the member and report to the Governor as to his physical or other disability and whether in all reasonable probability, if they find the disability existent, it will continue permanently and does and will continue to prevent the member from giving full and efficient service in the performance of his judicial duties. If the report confirms the existence of the disability, and if the Governor approves the report, the member shall be retired not less than 1 month next following the date of filing of an application with the retirement system, and he shall receive a retirement allowance which shall consist of an annuity which is the actuarial equivalent of his accumulated deductions together with regular interest, and a pension which, when added to the member's annuity, will provide a retirement allowance during the remainder of his life in an amount equal to three-fourths of his final salary.

7. Section 13 of P. L. 1973, c. 140 (C. 43:6A–13) is amended to read as follows:

C. 43:6A-13 Practice of law barred; recall for temporary service.

13. a. No member of the retirement system shall, while receiving a pension or retirement allowance pursuant to this act, engage in the practice of law before any of the courts of this State.

b. Subject to rules of the Supreme Court, any justice of the Supreme Court who has retired on pension or retirement allowance may, with his consent, be recalled by the Supreme Court for temporary service in the Supreme Court or elsewhere within the judicial system, and any judge of the Superior Court, juvenile and domestic relations court or county district court who has retired on pension or retirement allowance may, with his consent, be recalled by the Supreme Court for temporary service within the judicial system other than the Supreme Court.

c. Upon such recall the retired justice or judge shall have all the powers of a justice or judge of the court to which he is assigned and shall be paid a per diem allowance fixed by the Supreme Court in accordance with its rules, provided however that in no event shall he receive a salary which together with his pension or retirement allowance exceeds the current salary of a justice or judge of the court from which he retired. In addition the recalled justice or judge shall be reimbursed for reasonable expenses actually incurred by him in connection with his assignment and shall be provided with such facilities as may be required in the performance of his duties. Such per diem compensation and expenses shall be paid by the State.

d. Payment for services and expenses shall be made in the same manner as payment is made to the justices or judges of the court from which he retired.

e. The Supreme Court is empowered to adopt such rules as it deems necessary or appropriate for the prompt and efficient administration of justice in furtherance of the purposes of this act.

8. Section 14 of P. L. 1973, c. 140 (C. 43:6A–14) is amended to read as follows:

C. 43:6A-14 Cessation of membership in other retirement systems.

14. a. Any judge who is required to be a member of the retirement system established by this act and who holds membership in a retirement system established pursuant to any other law of this State shall cease to be a member of such other retirement system as of the effective date of this act. Any person becoming a judge of the several courts after the effective date of this act, who holds membership in a retirement system established pursuant to any

other law of this State shall cease to be a member of such other retirement system on the date he becomes such judge.

b. Any such judge shall, upon his request, receive a refund of his contributions to such retirement system, without interest, less any unpaid balance of an outstanding loan, as of the effective date of this act or the date on which he becomes such judge, whichever is later. If any such judge shall be eligible for benefits under any such retirement system as of the effective date of this act, or if later, as of the date he becomes such judge, he may elect to receive an annuity based on his own contributions while continuing to serve as such judge; provided, however, that if any such judge shall subsequently elect to receive benefits under the provisions of this act, all rights to retirement and death benefits under any other law of this State shall thereby be terminated except as hereinafter provided in subsection c.

c. If any such judge elects to receive benefits pursuant to the provisions of this act after having received benefits from a retirement system established pursuant to another law of this State, such judge shall be entitled to receive the value of his contributions, without interest, to such other retirement system reduced by the value of any benefits received from such retirement system.

If any such judge dies in service before he could elect to receive the benefits pursuant to the provisions of this act, after having received benefits from a retirement system established pursuant to another law of this State, his eligible beneficiary shall be entitled to receive the value of the member's contributions, without interest, to such other retirement system reduced by the value of any benefits received by the judge from such retirement system.

d. After the effective date of this amendatory and supplementary act, any person appointed to be a judge to sit on any of the several courts who holds membership in a State-administered retirement system may elect to transfer the service for which he has been credited in that system to the Judicial Retirement System of New Jersey. The transfer shall be accomplished by filing forms satisfactory to the New Jersey Division of Pensions, which is responsible for the administration of the Judicial Retirement System, within 90 days following the effective date of this amendatory and supplementary act or his appointment to one of the several courts, whichever is later.

e. Within 120 days following the filing of forms provided in subsection d. of this section, the former retirement system of the

judge shall remit to the Judicial Retirement System of New Jersey all accumulated deductions standing to his credit and within 180 days following the filing of the forms the retirement system shall remit the pro rata part of the reserve fund constituting the employer's obligations under the former system applicable to the employee's account, and the Judicial Retirement System of New Jersey shall then enter the respective sums so remitted to it to the credit of the judge in the annuity savings fund and to the credit of the employer in the contingency reserve fund of the Judicial Retirement System of New Jersey. All outstanding obligations such as loans, purchases, and other arrearages shall be met by the judge as previously scheduled for payment to his former retirement system.

f. In the event that the value of the money so remitted to the Judicial Retirement System is less than the total which is required by the retirement system to provide the transferred member with credit for his public service, the liability of the State shall include an amount equal to the difference between these two values.

9. Section 16 of P. L. 1973, c. 140 (C. 43:6A–16) is amended to read as follows:

C. 43:6A-16 Pensions and retirement allowances in monthly installments.

16. All pensions or retirement allowances granted under the provisions of this act shall be effective on the first day following retirement, shall be paid in equal monthly installments, except that in those instances where payment is required for a portion of a month which is not complete a pro rata payment shall be made, and shall not be decreased, increased, revoked or repealed, except as otherwise provided in this act.

Upon the death of a retirant, any unpaid benefits due him shall be paid in one lump sum to his beneficiary. No pension or retirement allowance shall be due to a retirant or a beneficiary unless it constitutes a payment for an entire month.

10. Section 17 of P. L. 1973, c. 140 (C. 43:6A–17) is amended to reads as follows:

C. 43:6A-17 Survivor's benefit.

17. a. Upon the receipt of proper proofs of the death in active service of a member of the retirement system, there shall be paid to his widow a survivor's benefit of 25% of final salary for the use of herself, to continue during her widowhood, plus 10% of final salary payable to one surviving child or plus 15% of final salary to two or more surviving children; if there is no surviving

widow or in case the widow dies or remarries, 15% of final salary will be payable to one surviving child, 20% of final salary to two surviving children in equal shares and if there be three or more children, 30% of final salary will be payable to such children in equal shares. If there is no surviving widow or child, 20% of final salary will be payable to one surviving parent or 30% of final salary will be payable to two surviving parents in equal shares.

b. In addition to the foregoing benefits payable under subsection a., there shall also be paid in one sum to the member's beneficiary an amount equal to one and one-half times the final salary received by the member.

c. For the purposes of this section final salary means the current salary for the judicial position in which the member served at the time of death.

11. Section 18 of P. L. 1973, c. 140 (C. 43:6A–18) is amended to read as follows:

C. 43:6A-18 Death after retirement.

18. Upon the receipt of proper proofs of the death after retirement of a member of the retirement system, there shall be paid to his widow a survivor's benefit of 25% of final salary for the use of herself, to continue during her widowhood, plus 10% of final salary payable to one surviving child or plus 15% of final salary to two or more surviving children; if there is no surviving widow or in case the widow dies or remarries, 15% of final salary will be payable to one surviving child, 20% of final salary to two surviving children in equal shares and if there be three or more children, 30% of final salary will be payable to such children in equal shares. For the purposes of this section final salary means the current salary for the judicial position in which the member served at retirement.

12. Section 19 of P. L. 1973, c. 140 (C. 43:6A–19) is amended to read as follows:

C. 43:6A-19 Payment to beneficiary.

19. Upon the receipt of proper proofs of the death of a member who has retired on a pension or retirement allowance based on age and service, or pursuant to section 10, there shall be paid to the member's beneficiary, an amount equal to one-fourth of the final salary received by the member.

13. Section 20 of P. L. 1973, c. 140 (C. 43:6A–20) is amended to read as follows:

C. 43:6A-20 Amount dependent on age at death.

20. Upon the receipt of proper proofs of the death of a member who has retired on a disability pension or retirement allowance, there shall be paid to the member's beneficiary, an amount equal to one and one-half times the final salary received by the member if such death occurs before the member shall have attained 60 years of age but if such death occurs thereafter, an amount equal to one-fourth of the final salary received by the member.

14. Section 32 of P. L. 1973, c. 140 (C. 43:6A–32) is amended to read as follows:

C. 43:6A-32 Funds established.

32. Under this act there shall be established a contingent reserve fund, an annuity savings fund, and a retirement reserve fund.

15. Section 34 of P. L. 1973, c. 140 (C. 43:6A–34) is amended to read as follows:

C. 43:6A-34 Retirement reserve fund.

34. The retirement reserve fund shall be the fund from which all pensions and retirement allowances shall be paid.

Upon the retirement of a member his accumulated deductions together with regular interest shall be transferred to the retirement reserve fund from the annuity savings fund. The reserve needed to produce the pension shall be transferred from the contingent reserve fund. If the pension of a member who has been retired is subsequently canceled, the appropriate reserve shall be transferred to the contingent reserve fund. If the retirement allowance of a member who has been retired is subsequently canceled, the appropriate reserve shall be transferred to the annuity savings fund and the contingent reserve fund.

Any surplus or deficit developing in the retirement reserve fund shall be adjusted from time to time by transfer to or from the contingent reserve fund by appropriate action of the retirement system upon the advice of the actuary.

16. Section 35 of P. L. 1973, c. 140 (C. 43:6A–35) is amended to read as follows:

C. 43:6A-35 Annual crediting of interest.

35. The retirement system at the end of each fiscal year shall allow interest on the balance of the contingent reserve fund, the annuity savings fund, and the retirement reserve fund as of the beginning of said fiscal year at the regular interest rate applicable thereto to cover the interest creditable to the respective funds for

the year. The amount so allowed shall be due and payable to said funds and shall be credited annually.

17. Section 36 of P. L. 1973, c. 140 (C. 43:6A–36) is amended to read as follows:

C. 43:6A-36 Obligations of the State.

36. Regular interest charges payable, the creation and maintenance of reserves in the contingent reserve fund, the maintenance of retirement reserves as provided for in this act and the payment of all pensions, retirement allowances, and other benefits granted by the State House Commission under the provisions of this act are hereby made obligations of the State. All income, interest and dividends derived from deposits and investments authorized by this act shall be used for the payment of these obligations of the State.

Upon the basis of such actuarial determination and appraisal provided for in this act an itemized estimate of the amounts necessary to be appropriated by the State to the various funds to provide for the payment in full during the ensuing fiscal year of the obligations of the State accruing during that year shall be submitted by the retirement system to the Governor so that it may be included in the budget request submitted by the Governor to the Legislature. The Legislature shall make an appropriation sufficient to provide for such obligations of the State. The amounts so appropriated shall be paid into the contingent reserve fund.

18. Section 37 of P. L. 1973, c. 140 (C. 43:6A–37) is amended to read as follows:

C. 43:6A-37 No other statutes applicable to members or beneficiaries.

37. a. No other provisions of the law in any other statute which provides wholly or partly at the expense of the State of New Jersey or any political subdivision thereof for pensions or retirement benefits for members of this system and for beneficiaries shall apply to such members or beneficiaries.

b. Notwithstanding anything to the contrary, the retirement system shall not be liable for the payment of any pensions, retirement allowances or other benefits to any member or beneficiary for which reserves have not been previously created from funds contributed by the members or the State for such benefits.

19. Section 39 of P. L. 1973, c. 140 (C. 43:6A–39) is amended to read as follows:

C. 43:6A-39 Waiver of payment of portion of benefit.

39. Any member or any beneficiary who has been or, in the future, may be retired, or receive a pension, retirement allowance or benefit pursuant to the provisions of this act, may, by filing written request with the retirement system, waive payment of a portion of the pension, retirement allowance or benefit to which he may be entitled.

Upon the receipt of such waiver, and until the same is withdrawn, altered or revoked by a subsequent written request, similarly filed, the retirement system shall pay a reduced pension, retirement allowance or benefit, as shall be requested in such waiver. The member or the beneficiary shall not be entitled to a refund, or credit, for such moneys as shall have been waived during the period such waiver had been in effect.

20. Section 40 of P. L. 1973, c. 140 (C. 43:6A–40) is amended to read as follows:

C. 43:6A-40 Deductions for insurance premiums.

40. If possible, whenever any retirant or beneficiary shall, in writing, request the Division of Pensions to make deductions from his pension or retirement allowance for the purpose of paying premiums for the pensioner's group health insurance plan or the State Health Benefits program, the division may make such deductions and transmit the sums so deducted to the companies carrying the policies. Any such written authorization may be withdrawn by any retirant or beneficiary upon filing notice of such withdrawal with the division.

21. Section 41 of P. L. 1973, c. 410 (C. 43:6A–41) is amended to read as follows:

C. 43:6A-41 State tax exemption.

41. The right of a person to a pension, retirement allowance or any benefit or right accrued or accruing to a person under the provisions of this act and the moneys in the various funds created under this act, shall be exempt from any State or municipal tax and from levy and sale, garnishment, attachment or any other process arising out of any State or federal court, and, except as hereinafter in this section and as in this act otherwise provided, shall be unassignable.

Nothing in this section shall prohibit any person insured under a group insurance policy, pursuant to an arrangement among the insured, the group policyholder and the insurer, from making to any person other than his employer, a gift assignment of the rights

and benefits conferred on him by any provision of such policy or by law including specifically but not by way of limitation the right to exercise the conversion privilege and the right to name a beneficiary. Any such assignment, whether made before or after the effective date of this act, shall entitle the insurer to deal with the assignee as the owner of all rights and benefits conferred on the insured under the policy in accordance with the terms of the assignment.

22. Section 44 of P. L. 1973, c. 140 (C. 43:6A–44) is amended to read as follows:

C. 43:6A-44 10 years of credit necessary.

44. Any other provision of this act notwithstanding, (a) no beneficiary of a retirant who retired for any reason other than disability shall be entitled to receive benefits pursuant to the death benefit coverages provided by sections 19 and 20 of this act if the retirant had less than 10 years of service credit for retirement purposes at the time of retirement; and (b) no member or beneficiary shall be entitled to receive a monthly pension, retirement allowance or other benefit payable pursuant to this act unless the amount of the pension, retirement allowance or benefit would be at least $25.00 per month.

23. Section 5 of P. L. 1973, c. 304 (C. 43:6A–9.1) is amended to read as follows:

C. 43:6A-9.1 Retirement after age 60.

5. Any judge of the several courts who shall have attained the age of 60 years or more and who shall have served at least 5 years successively as a judge of the several courts and at least 15 years in the aggregate including such service as a judge or in office, position or employment of this State or a county, municipality, board of education, or public agency of this State may retire; provided that election is communicated by such judge to the retirement system by filing a written application duly attested stating at what time subsequent to the execution and filing thereof he desires to be retired. He shall receive an annuity which is the actuarial equivalent of his accumulated deductions together with regular interest, and a pension which, when added to the member's annuity, will provide a retirement allowance in the amount of 2% of his final salary multiplied by his number of years of service up to 25 plus 1% of his final salary multiplied by his number of years of service over 25.

The State House Commission shall retire him at the time specified or at such other time within 1 month after the date so specified as the commission finds advisable.

24. Section 6 of P. L. 1973, c. 304 (C. 43:6A–9.2) is amended to read as follows:

C. 43:6A-9.2 Written application.

6. Any judge of the several courts who shall have attained the age of 60 years or more while serving as such judge may retire; provided that such election is communicated by such member to the retirement system by filing a written application duly attested stating at what time subsequent to the execution and filing thereof he desires to be retired. He shall receive an annuity which is the actuarial equivalent of his accumulated deductions together with regular interest, and a pension which, when added to the member's annuity, will provide a retirement allowance in the amount of 2% of his final salary multiplied by his number of years of judicial service up to 25 plus 1% of his final salary multiplied by his number of years of service over 25.

The State House Commission shall retire him at the time specified or at such other time within 1 month after the date so specified as the commission finds advisable.

C. 43:6A-14.2 Purchase of credits.

25. a. (New section) Following the effective date of this amendatory and supplementary act, any judge who shall be appointed to sit on any of the several courts who wishes to receive credit for previous service rendered in office, position or employment of this State or of a county, municipality, board of education, or public agency of this State, shall file an application therefor with the State House Commission and pay into the annuity savings fund the amount required by applying the factor, supplied by the actuary, as being applicable to his age at the time of purchase, to his salary at that time. Such purchase may be made in regular installments, equal to at least one-half the full normal contribution to the retirement system over a maximum period to be determined by the State House Commission.

In the case of any person coming under the provisions of this section, full pension credit for the period of employment for which arrears are being paid shall be given upon the payment of at least one-half the total arrearage obligation and the completion of 1 year of membership and the making of such arrears payments,

except that in the case of retirement pursuant to section 9, 10 or 11 of P. L. 1973, c. 140 or section 5 or 6 of P. L. 1973, c. 304 the total membership credit for such service shall be in direct proportion as the amount paid bears to the total amount of arrearage obligation.

b. The State shall pay to the retirement system the employer's accrued liability obligation on behalf of such person purchasing prior service credit.

C. 43:6A-34.1 Annuity savings fund.

26. a. (New section) The annuity savings fund shall be the fund to which shall be credited aggregate contributions made by members or on their behalf to provide for their allowances. The aggregate contributions of a member withdrawn by him or paid to his estate or his designated beneficiary in the event of death as provided by this amendatory and supplementary act shall be paid from the annuity savings fund. Upon the retirement of a member where the aggregate contributions of the member are to be provided in the form of an annuity, the aggregate contributions of the member shall be transferred from the annuity savings fund to the retirement reserve fund.

b. There shall be deducted from the payroll of each member of the system 3% of the amount of any difference between the salary on or after January 19, 1982 for any judicial position held by the member and the salary for that position on January 18, 1982.

Every judge of the several courts to whom this amendatory and supplementary act applies shall be deemed to consent and agree to any deduction from his compensation required by this act and to all other provisions of this act. Notwithstanding any other law, rule or regulation affecting the salary, pay, compensation, other perquisites, or tenure of person to whom this amendatory and supplementary act applies, or shall apply, and notwithstanding that the minimum salary, pay, or compensation or other perquisites provided by law for him shall be reduced thereby, payment, less such deductions, shall be a full and complete discharge and acquittance of all claims and demands for service rendered by him during the period covered by such payment.

C. 43:6A-34.2 Interest to be credited annually.

27. (New section) The State House Commission at the end of each fiscal year shall allow interest on the balance of the annuity savings fund, contingent reserve fund and the retirement reserve fund as of the beginning of said fiscal year at the regular interest

rate applicable thereto to cover the interest creditable to the respective funds for the year. The amount so allowed shall be due and payable to the funds and shall be credited annually thereto by the commission.

C. 43:6A-47 Provisos.

28. (New section) This amendatory and supplementary act is subject to the following provisos:

a. Any person who has retired on or before the effective date of this amendatory and supplementary act and is receiving or is entitled to receive a pension and benefits from the retirement system, shall continue to receive the same pension and benefits or shall continue to be entitled to receive the same pension and benefits.

b. Any beneficiary who is receiving a survivor's benefit or is eligible to receive a survivor's benefit as provided by the retirement system on or before the effective date of this amendatory and supplementary act, shall continue to receive or be eligible to receive the survivor's benefit.

c. No person who is a member of the retirement system on the effective date of this amendatory and supplementary act shall be required to make contributions for service for which he has received credit as a judge in any of the several courts or in office, position or employment of this State or of a county, municipality, board of education or public agency of this State; provided, however, that the person shall make contributions as may be required pursuant to section 26b. of this amendatory and supplementary act.

29. This act shall take effect on January 19, 1982 provided Assembly Bill Nos. 3799, 3800, 3801 and 3802 of 1981 are enacted into law.

Approved January 11, 1982.

CHAPTER 471

AN ACT concerning the annual salary of the Governor and amending P. L. 1973, c. 357.

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

1. Section 1 of P. L. 1973, c. 357 (C. 52:14–15.104c) is amended to read as follows:

C. 52:14-15.104c Salary of governor.

1. The annual salary of the Governor shall be fixed and established at $85,000.00.

2. This act shall take effect January 19, 1982, provided Assembly Bills Nos. 3798, 3800, 3801 and 3802 of 1981 are enacted into law.

Approved January 11, 1982.

CHAPTER 472

AN ACT to amend "An act fixing the annual compensation of members of the Senate and General Assembly and providing for the payment thereof and for the payment of an additional allowance to the President of the Senate and the Speaker of the General Assembly," approved April 9, 1948 (P. L. 1948, c. 16).

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

1. Section 1 of P. L. 1948, c. 16 (C. 52:10A–1) is amended to read as follows:

C. 52:10A-1 Compensation of legislators.

1. Members of the Senate and General Assembly shall receive annually, during the term for which they shall have been elected and while they shall hold their office, compensation in the sum of $18,000.00 each, compensation in the sum of $25,000.00 beginning with the 1984 legislative year and thereafter. The President of the Senate and the Speaker of the General Assembly, each by virtue of his office, shall receive an additional allowance, equal to one-third of his compensation as a member. The compensation herein provided shall be paid to each member upon his qualifying into office as such member, and the additional allowance herein provided to the President of the Senate and the Speaker of the General Assembly shall be paid upon his qualifying into office as such officer.

2. This act shall take effect immediately, but shall remain inoperative until Assembly Bills Nos. 3798, 3799, 3801, and 3802 of 1981 are enacted into law.

Approved January 11, 1982.

CHAPTER 473

AN ACT to amend "An act concerning the annual salaries of the justices and judges of State and county courts and the establishment of salary ranges for certain offices and positions in the judicial branch of the State Government, and repealing P. L. 1970, c. 105," approved June 28, 1974 (P. L. 1974, c. 57) and making an appropriation.

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

1. Section 1 of P. L. 1974, c. 57 (C. 2A:1A–6) is amended to read as follows:

C. 2A:1A-6 Salaries of justices and judges.

1. Annual salaries of the following justices and judges are fixed and established as follows:

Title	Salary
Chief Justice of the Supreme Court	$80,000
Associate Justice of the Supreme Court	78,000
Judge of the Superior Court, Appellate Division	75,000
Judge of the Superior Court, Assignment Judge	73,000
Judge of the Superior Court	70,000
Judge of the county district court	70,000
Judge of the juvenile and domestic relations court	70,000

2. There is appropriated to the Judiciary the sum of $1,744,385.00 for the purposes of this act.

3. This act shall take effect January 19, 1982, provided Assembly Bills Nos. 3798, 3799, 3800 and 3802 of 1981 are enacted into law.

Approved January 11, 1982.

CHAPTER 474

AN ACT to amend "An act concerning annual salaries and salary ranges in the Executive Branch and revising and repealing parts of the statutory law," approved June 28, 1974 (P. L. 1974, c. 55) and making an appropriation.

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

1. Section 1 of P. L. 1974, c. 55 (C. 52:14–15.107) is amended to read as follows:

C. 52:14-15.107 Annual salaries of Cabinet members.

1. Notwithstanding the provisions of the Annual Appropriations Act and section 7 of P. L. 1974, c. 55 (C. 52:14–15.110), the annual salaries for the following officers are fixed and established as follows:

Title	Salary
Agriculture Department	
Secretary of Agriculture	$70,000.
Banking Department	
Commissioner, Department of Banking	70,000.
Civil Service Department	
President, Civil Service Commission	70,000.
Commerce and Economic Development Department	
Commissioner, Commerce and Economic Development	70,000.
Community Affairs Department	
Commissioner of Community Affairs	70,000.
Corrections Department	
Commissioner, Department of Corrections	70,000.
Defense Department	
Chief of Staff	67,500.
Education Department	
Commissioner, Department of Education	70,000.
Energy Department	
Commissioner, Department of Energy	70,000.
President of the Board of Public Utilities Commissioners	70,000.

Title	Salary
Member, Board of Public Utilities Commissioners	70,000.
Environmental Protection Department	
Commissioner, Environmental Protection	70,000.
Health Department	
Commissioner, Department of Health	70,000.
Higher Education Department	
Chancellor	70,000.
Human Services Department	
Commissioner, Human Services	70,000.
Insurance Department	
Commissioner of Insurance	70,000.
Labor Department	
Commissioner of Labor	70,000.
Law and Public Safety Department	
Attorney General	70,000.
Public Advocate Department	
Public Advocate	70,000.
State Department	
Secretary of State	70,000.
Transportation Department	
Commissioner of Transportation	70,000.
Treasury Department	
State Treasurer	70,000.

2. There is appropriated to the executive departments set forth in section 1 of this act $148,615.00 for the purposes of this act.

3. This act shall take effect January 19, 1982, provided Assembly Bills Nos. 3798, 3799, 3800 and 3801 of 1981 are enacted into law.

Approved January 11, 1982.

CHAPTER 475

AN ACT concerning the operation of grand juries.

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

C. 2A:73B-1 Transcription of grand jury testimony.

1. In any case or investigation before a grand jury the testimony of witnesses, comments by the prosecuting attorney, and colloquy between the prosecuting attorney and witnesses or members of the grand jury shall be transcribed.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 476

AN ACT concerning the operation of grand juries.

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

C. 2A:73B-2 Grand jury report or statement.

1. a. A grand jury which investigates a charge against a person and as a result does not return an indictment against the person, at the request of the person and upon the approval of the court which summoned the grand jury, shall issue to that person a report or statement indicating that a charge against the person was investigated and that the grand jury did not from the evidence presented return an indictment. The report or statement shall be issued upon completion of the investigation of the suspected criminal conduct, or series of related suspected criminal conduct, but not beyond the end of the grand jury's term.

b. A grand jury which calls a person for a purpose other than to investigate a charge against the person, at the request of the person called and upon the approval of the court which summoned the grand jury, shall issue to that person a report or statement indicating the person was called only as a witness to an investigation which did not involve a charge against the person. The report or statement shall be issued upon completion of the investigation

of the suspected criminal conduct, or series of related suspected criminal conduct, but not beyond the end of the grand jury's term.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 477

AN ACT concerning the unauthorized disclosure of information concerning grand jury proceedings.

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

C. 2A:73B-1 Unauthorized disclosure of grand jury proceedings.

1. a. A person, including a public officer or employee, who, with the intent to injure another, purposely discloses, other than as authorized or required by law, any information concerning the proceedings of a grand jury commits a crime of the fourth degree. A public officer or employee who is convicted of a violation of this section shall be dismissed from his office or discharged from his employment.

b. A person injured as a result of a violation of subsection a. of this section may bring a civil action in the Superior Court against the person convicted of the violation. The person making the unauthorized disclosure shall be liable to the injured person for actual damages plus punitive damages of not less than $1,000.00 or more than $100,000.00, reasonable litigation costs and reasonable attorney fees.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 478

AN ACT establishing a legislative internship program and supplementing subtitle 2 of Title 52 of the Revised Statutes.

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

C. 52:13G-1 Findings and declarations.

1. The Legislature finds and declares that the youth of this State should receive an opportunity to better understand and appreciate the legislative process; that such an opportunity would encourage youth to actively participate in the day-to-day affairs of State government; that the establishment of a legislative internship program would enable State legislators to gain an understanding and appreciation of the views of the State's youth toward their State on contemporary issues; and that such a program would further the Legislature's historic role of promoting citizenship training in our high schools.

C. 52:13G-2 Legislative internship program.

2. The Legislature, in cooperation with the New Jersey Association of High School Councils shall select public and private secondary school students to participate in a legislative internship program. Each State legislator participating in the legislative internship program shall be assigned a legislative intern.

C. 52:13G-3 Selection of students.

3. Students shall be selected from legislative districts, nominated on a competitive basis by their student governments, but only one student may be nominated from each school. Each student shall submit an application indicating his interests and the scope of his school and community activities. The New Jersey Association of High School Councils shall appoint a committee in each legislative district, consisting of a secondary school principal, a student government advisor, a student and a State legislator. The committee shall make the final selection of students for the program based on the application, a recommendation by the student's school and a personal interview; except that participation of the student shall be subject to local board of education policy.

C. 52:13G-4 Services to be performed.

4. Legislative student interns shall perform such legislative services as may be directed by the legislator to whom they are

assigned. Such services shall be designed to offer the interns a broad experience in legislative activities, and may, as the presiding officer of either House of the Legislature permits, include attendance on the floor of legislative sessions.

C. 52:13G-5 Model legislative session.

5. The legislative internship program shall terminate during the spring of each year with a model legislative session. This session shall include the introduction, debate and voting of legislative bills in both Houses, and shall follow, as closely as possible, the rules and procedure governing both Houses of the Legislature.

6. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 479

AN ACT concerning the purchase of previous service by public employees enrolled in certain State-administered retirement systems and pension funds, amending N. J. S. 18A:66–15.1 and P. L. 1954, c. 84, and supplementing P. L. 1944, c. 255 (C. 43:16A–1 et seq.).

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

1. N. J. S. 18A:66–15.1 is amended to read as follows:

Transfer to teachers' fund.

18A:66–15.1. A person who has been or is a member of a State-administered retirement system or pension fund and who has taken or shall take office, position or employment in any position covered by the Teachers' Pension and Annuity Fund and is a member of said fund shall be entitled, upon application, to service credited in such retirement system or pension fund in the Teachers' Pension and Annuity Fund upon transfer of his contributions from the State-administered retirement system or pension fund to the fund. If he has withdrawn his contributions from the State-administered retirement system or pension fund, he may purchase credit for all of his service in such retirement system or pension fund by paying into the annuity savings fund the amount required by applying the factor, supplied by the actuary, as being applicable to his age at the time of the purchase, to his salary at that time.

The terms of the purchase and the credit granted shall be identical to those stipulated for the purchase of previous membership service by members of the fund as provided by section 18A:66–9.

2. Section 14 of P. L. 1954, c. 84 (C. 43:15A–14) is amended to read as follows:

C. 43:15A-14 Transfer to public employees' fund.

14. A person who has been or is a member of a State-administered retirement system or pension fund and who has taken or shall take office, position or employment in any position covered by the Public Employees' Retirement System and is a member of said system shall be entitled, upon application, to service credited in such retirement system or pension fund in the Public Employees' Retirement System upon transfer of his contributions from the State-administered retirement system or pension fund to the retirement system. If he has withdrawn his contributions from the State-administered retirement system or pension fund, he may purchase credit for all of his service in such retirement system or pension fund by paying into the annuity savings fund the amount required by applying the factor, supplied by the actuary, as being applicable to his age at the time of the purchase, to his salary at that time. The terms of the purchase and the credit granted shall be identical to those stipulated for the purchase of previous membership service by members of the system as provided by section 8 (C. 43:15A–8).

C. 43:16A-11.6 Transfer to police and firemen's system.

3. (New section) Any person who has been or is a member of a State-administered retirement system or pension fund and who has taken or shall take office, position or employment in any position covered by the Police and Firemen's Retirement System and is a member of said system shall be entitled, upon application, to service credited in such retirement system or pension fund in the Police and Firemen's Retirement System upon transfer of his contributions from the State-administered retirement system or pension fund to the Police and Firemen's Retirement System. If such person has withdrawn his contributions from the State-administered retirement system or pension fund he may purchase credit for all of his service in such retirement system or pension fund by paying into the annuity savings fund the amount required by applying the factor, supplied by the actuary, applicable to his age at the time of the purchase, to his salary at that time. The terms of the purchase and the credit granted shall be identical to

those stipulated for the purchase of previous membership service by members of the system as provided by section 1 of P. L. 1973, c. 63 (C. 43:16A–11.4).

4. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 480

AN ACT concerning weapons and amending N. J. S. 2C:39–6 and N. J. S. 2C:39–9.

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

1. N. J. S. 2C:39–6 is amended to read as follows:

Exemptions.

2C:39–6. Exemptions. a. Section 2C:39–5 does not apply to:

(1) Members of the Armed Forces of the United States or of the National Guard while actually on duty, or while traveling between places of duty and carrying authorized weapons in the manner prescribed by the appropriate military authorities;

(2) Federal law enforcement officers, and any other federal officers and employees required to carry firearms in the performance of their official duties;

(3) Members of the State Police, a motor vehicle inspector;

(4) A sheriff, undersheriff, sheriff's officer, county prosecutor, assistant prosecutor, prosecutor's detective or investigator, deputy attorney general or State investigator employed by the Division of Criminal Justice of the Department of Law and Public Safety, investigator employed by the State Commission of Investigation, inspectors and investigators of the Division of Alcoholic Beverage Control in the Department of Law and Public Safety, State park ranger, or State conservation officer;

(5) A prison or jail warden of any penal institution in this State or his deputies, or an employee of the Department of Corrections engaged in the interstate transportation of convicted offenders, while in the performance of his duties, and when required to possess such a weapon by his superior officer, or a correction officer or keeper of a penal institution in this State at all times while in the

State of New Jersey provided he annually passes an examination approved by the superintendent testing his proficiency in the handling of firearms;

(6) A civilian employee of the United States Government under the supervision of the commanding officer of any post, camp, station, base or other military or naval installation located in this State who is required, in the performance of his official duties, to carry firearms, and who is authorized to carry such firearms by said commanding officer, while in the actual performance of his official duties; or

(7) A regularly employed member, including a detective, of the police department of any county or municipality, or of any State, interstate, municipal or county park police force or boulevard police force, at all times while in the State of New Jersey, or a special policeman appointed by the governing body of any county or municipality or by the commission, board or other body having control of a county park or boulevard police force, while engaged in the actual performance of his official duties and when specifically authorized by the governing body to carry weapons.

b. Subsections a., b. and c. of section 2C:39–5 do not apply to:

(1) A law enforcement officer employed by a governmental agency outside of the State of New Jersey while actually engaged in his official duties, provided, however, that he has first notified the superintendent or the chief law enforcement officer of the municipality or the prosecutor of the county in which he is engaged; or

(2) A licensed dealer in firearms and his registered employees during the course of their normal business while traveling to and from their place of business and other places for the purpose of demonstration, exhibition or delivery in connection with a sale, provided, however, that any such weapon is carried in the manner specified in subsection g. of this section.

c. Subsections b. and c. of section 2C:39–5 do not apply to:

(1) A special agent of the Division of Taxation who has passed an examination in an approved police training program testing proficiency in the handling of any firearm which he may be required to carry or a railway policeman, while in the actual performance of his official duties and while going to or from his place of duty, a campus police officer appointed pursuant to P. L. 1970, c. 211 (C. 18A:6–4.2 et seq.) or any other police officer, while in the actual performance of his official duties;

(2) A State deputy conservation officer or a full-time employee of the Division of Parks and Forestry having the power of arrest

and authorized to carry weapons, while in the actual performance of his official duties;

(3) A full-time member of the marine patrol force or a special marine patrolman authorized to carry such a weapon by the Commissioner of Environmental Protection, while in the actual performance of his official duties;

(4) A court attendant serving as such under appointment by the sheriff of the county or by the judge of any municipal court or other court of this State, while in the actual performance of his official duties;

(5) A guard in the employ of any railway express company, banking or building and loan or savings and loan institution of this State, while in the actual performance of his official duties;

(6) A member of a legally recognized military organization while actually under orders or while going to or from the prescribed place of meeting and carrying the weapons prescribed for drill, exercise or parade;

(7) An officer of the Society for the Prevention of Cruelty to Animals, while in the actual performance of his duties; or

(8) An employee of a public utilities corporation actually engaged in the transportation of explosives.

d. Subsections c. and d. of section 2C:39–5 do not apply to antique firearms, provided that such antique firearms are unloaded or are being fired for the purposes of exhibition or demonstration at an authorized target range or in such other manner as has been approved in writing by the chief law enforcement officer of the municipality in which the exhibition or demonstration is held.

e. Nothing in subsections b., c. and d. of section 2C:39–5 shall be construed to prevent a person keeping or carrying about his place of business, residence, premises or other land owned or possessed by him, any firearm, or from carrying the same, in the manner specified in subsection g. of this section, from any place of purchase to his residence or place of business, between his dwelling and his place of business, between one place of business or residence and another when moving, or between his dwelling or place of business and place where such firearms are repaired, for the purpose of repair. For the purposes of this section, a place of business shall be deemed to be a fixed location.

f. Nothing in subsections b., c. and d. of section 2C:39–5 shall be construed to prevent:

(1) A member of any rifle or pistol club organized in accordance with the rules prescribed by the National Board for the Promotion

of Rifle Practice, in going to or from a place of target practice, carrying such firearms as are necessary for said target practice, provided that the club has filed a copy of its charter with the superintendent and annually submits a list of its members to the superintendent and provided further that the firearms are carried in the manner specified in subsection g. of this section;

(2) A person carrying a firearm or knife in the woods or fields or upon the waters of this State for the purpose of hunting, target practice or fishing, provided that the firearm or knife is legal and appropriate for hunting or fishing purposes in this State and he has in his possession a valid hunting license, or, with respect to fresh water fishing, a valid fishing license;

(3) A person transporting any firearm or knife while traveling:

(a) Directly to or from any place for the purpose of hunting or fishing, provided such person has in his possession a valid hunting or fishing license; or

(b) Directly to or from any target range, or other authorized place for the purpose of practice, match, target, trap or skeet shooting exhibitions, provided in all cases that during the course of such travel all firearms are carried in the manner specified in subsection g. of this section and the person has complied with all the provisions and requirements of Title 23 of the Revised Statutes and any amendments thereto and all rules and regulations promulgated thereunder; or

(c) In the case of a firearm, directly to or from any exhibition or display of firearms which is sponsored by any law enforcement agency, any rifle or pistol club, or any firearms collectors club, for the purpose of displaying of the firearms to the public or to the members of such organization or club, provided, however, that not less than 30 days prior to such exhibition or display, notice of such exhibition or display shall be given to the Superintendent of the State Police by the sponsoring organization or club, and the sponsor has complied with such reasonable safety regulations as the superintendent may promulgate. Any firearms transported pursuant to this section shall be transported in the manner specified in subsection g. of this section.

g. All weapons being transported under subsections b. (2), e. or f. (1) or (3) of this section shall be carried unloaded and contained in a closed and fastened case, gunbox, securely tied package, or locked in the trunk of the automobile in which it is being transported, and the course of travel shall include only such deviations as are reasonably necessary under the circumstances.

h. Nothing in subsection d. of section 2C:39–5 shall be construed to prevent any employee of a public utility, as defined in R. S. 48:2–13, doing business in this State or any United States Postal Service employee, while in the actual performance of duties which specifically require regular and frequent visits to private premises, from possessing, carrying or using any device which projects, releases or emits any substance specified as being noninjurious to canines or other animals by the Commissioner of Health and which immobilizes only on a temporary basis and produces only temporary physical discomfort through being vaporized or otherwise dispensed in the air for the sole purpose of repelling canine or other animal attacks.

The device shall be used solely to repel only those canine or other animal attacks when the canines or other animals are not restrained in a fashion sufficient to allow the employee to properly perform his duties.

Any device used pursuant to this act shall be selected from a list of products, which consist of active and inert ingredients, permitted by the Commissioner of Health.

i. Nothing in subsection d. of 2C:39–5 shall be construed to prevent any person who is 18 years of age or older and who has not been convicted of a felony, from possession for the purpose of personal self-defense of one pocket-sized device which contains and releases not more than three-quarters of an ounce of chemical substance not ordinarily capable of lethal use or of inflicting serious bodily injury, but rather, is intended to produce temporary physical discomfort or disability through being vaporized or otherwise dispensed in the air. Any person in possession of any device in violation of this subsection shall be deemed and adjudged to be a disorderly person, and upon conviction thereof, shall be punished by a fine of not less than $100.00.

2. N. J. S. 2C:39–9 is amended to read as follows:

Manufacture, transport, disposition and defacement of weapons and dangerous instruments and appliances.

2C:39–9. Manufacture, Transport, Disposition and Defacement of Weapons and Dangerous Instruments and Appliances. a. Machine guns. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of any machine gun without being registered or licensed to do so as provided in chapter 58 is guilty of a crime of the third degree.

b. Sawed-off shotguns. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of any sawed-off shotgun is guilty of a crime of the third degree.

c. Firearm silencers. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of any firearm silencer is guilty of a crime of the fourth degree.

d. Weapons. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of any weapon including gravity knives, switchblade knives, daggers, dirks, stilettos, billies, blackjacks, metal knuckles, sandclubs, slingshots, cesti or similar leather bands studded with metal filings, or in the case of firearms if he is not licensed or registered to do so as provided in chapter 58, is guilty of a crime of the fourth degree. Any person who manufactures, causes to be manufactured, transports, ships, sells or disposes of any weapon or other device which projects, releases or emits tear gas or other substances intended to produce temporary physical discomfort or permanent injury through being vaporized or otherwise dispensed in the air, which is intended to be used for any purpose other than for authorized military or law enforcement purposes by duly authorized military or law enforcement personnel or the device is for the purpose of personal self-defense, is pocket-sized and contains not more than three-quarters of an ounce of chemical substance not ordinarily capable of lethal use or of inflicting serious bodily injury, or other than to be used by any person permitted to possess such weapon or device under the provisions of N. J. S. 2C:39–5d., which is intended for use by financial and other business institutions as part of an integrated security system, placed at fixed locations, for the protection of money and property, by the duly authorized personnel of those institutions, is guilty of a crime of the fourth degree.

e. Defaced firearms. Any person who defaces any firearm is guilty of a crime of the third degree. Any person who knowingly buys, receives, disposes of or conceals a defaced firearm, except an antique firearm, is guilty of a crime of the fourth degree.

3. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 481

AN ACT concerning presentence investigation and amending N. J. S. 2C:44–6.

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

1. 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 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, personal habits, the disposition of any charge made against any codefendants and may include a report on his physical and mental condition and any other matters that the probation officer deems relevant or the court directs to be included. The presentence report may also include 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 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 of his right to make a statement for inclusion in the presentence report if the victim so desires. Any such statement shall be made within 20 days of notification by the probation department.

c. If, after the presentence investigation, the court desires additional information concerning an offender convicted of an offense before imposing sentence, it may order that he be examined as to his medical or mental condition except that he may not be committed to an institution for such examination.

d. Disclosure of any presentence investigation report or psychiatric examination report shall be in accordance with law and the Rules of Court.

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. "Victim" means "victim" as defined by the "Criminal Injuries Compensation Act of 1971," P. L. 1971, c. 317 (C. 52:4B–1 et seq.).

2. This act shall take effect 60 days following enactment.

Approved January 12, 1982.

CHAPTER 482

AN ACT concerning civil service and amending R. S. 11:22–2.

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

1. R. S. 11:22–2 is amended to read as follows:

Unclassified service.

11:22–2. The unclassified service shall not be subject to the provisions of this subtitle and shall include the following:

a. Officers elected by popular vote;

b. Members of district boards of elections; employees in voting machine departments and the chief deputy, chief clerk, secretary, clerical and other assistants or employees appointed by the superintendents of elections and commissioners of registration in counties of the first class having less than 800,000 inhabitants, and by the county boards of elections in all other counties and such of said officers, assistants and employees as are appointed by superintendents of elections in counties of the first class having more than 800,000 inhabitants to serve for terms of 6 months or less in any 1 year;

c. Appointments of the mayor;

d. Heads of municipal departments, the members of commissions and boards elected by the board of aldermen, common council or other governing body of any county, municipality or school district operating under this subtitle;

e. Heads of such county departments as are created by the administrative code of any county organized pursuant to any of the plans contained in the Optional County Charter Law (P. L. 1972, c. 154; C. 40:41A–1 et seq.), which departments shall not exceed 12 in number, and the heads of any divisions created within such departments; provided, however, that the total number of positions created pursuant to this subsection by the administrative code shall not exceed 20 in number;

f. Law officers of a county, municipality or school district operating under this subtitle;

g. Teaching staff members, as defined in N. J. S. 18A:1–1, in the public schools and county superintendents and members and business managers of boards of education;

h. Police magistrates appointed by the mayor or other head officer of the municipality operating under this subtitle;

i. Officers and employees of county park commissioners in counties of the second class appointed under the provisions of sections 40:37–96 to 40:37–174 of the Title, Municipalities and Counties;

j. The superintendent of a county hospital for persons suffering from communicable diseases appointed under the provisions of R. S. 30:9–61 and 30:9–69; and

k. The deputy or first assistant of principal executive officers authorized by law to act generally for and in place of his principal;

l. The legal assistants of the law department of the counties, municipalities or school districts operating under this subtitle except as herein otherwise provided;

m. One secretary, clerk or executive director of each department, appointed board or commission authorized by law to appoint a secretary, clerk or executive director;

n. One secretary or confidential aide, if so provided in the administrative code of any county organized pursuant to any of the plans contained in the Optional County Charter Law, to be appointed by each head of any county department or of any designated division within such department, when the head of any such division is an unclassified position;

o. One private secretary or clerk or stenographer of each judge or principal executive officer;

p. All officials of county or municipal institutions who must of necessity be physicians;

q. Offices or positions whose incumbents by specific statute serve

for fixed terms, or whose incumbents by specific statute serve at the pleasure of the appointing authority;

r. One council secretary to the municipal council appointed by the council in any city of the first class with a population of less than 300,000;

s. All directors of municipal free public libraries in cities of the first class having a population of not less than 300,000 inhabitants;

t. The following positions in school districts which have been reorganized pursuant to P. L. 1975, c. 169 (C. 18A:17–1 et seq.):

Executive director of board affairs;
Executive director of personnel;
Executive director of the budget;
Executive director of purchasing;
Executive director of physical facilities;
Executive director of data processing;
Executive director of financial affairs;
Executive controller;
Executive director of internal audit; and
Public information officer;

u. One confidential secretary, for each member of the board of freeholders of any county which has not adopted the provisions of the Optional County Charter Law (P. L. 1972, c. 154; C. 40A:41A–1 et seq.); provided, however, that this subsection shall not be construed so as to authorize a board of chosen freeholders to increase the number of secretaries attached to such board of chosen freeholders upon the effective date of this amendatory act;

v. The following positions in local housing authorities:

Executive director;
Assistant executive director;
Director of staff operations;
Director of administration;
Director of redevelopment; and
Urban initiatives coordinator; and

w. Such other officers and positions not now included in the unclassified service by this section or by any other statute, as the Civil Service Commission shall, from time to time, determine, according to law, to be in the unclassified service.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 483

AN ACT to amend the "New Jersey State Health Benefits Program Act," approved June 3, 1961 (P. L. 1961, c. 49).

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

1. Section 5 of P. L. 1961, c. 49 (C. 52:14–17.29) is amended to read as follows:

C. 52:14-17.29 Separate coverages or policies.

5. (A) The contract or contracts purchased by the commission pursuant to section 4 shall provide separate coverages or policies as follows:

(1) Basic benefits which shall include:

(a) Hospital benefits, including outpatient;

(b) Surgical benefits;

(c) Inpatient medical benefits;

(d) Obstetrical benefits; and

(e) Post-hospital services rendered by an extended care facility or by a home health agency and for specified medical care visits by a physician during an eligible period of such post-hospital services, to the extent and subject to the conditions and limitations agreed to by the commission and the carrier or carriers.

Basic benefits shall be substantially equivalent to those available on a group remittance basis to employees of the State and their dependents under the subscription contracts of the New Jersey "Blue Cross" and "Blue Shield" Plans. Such basic benefits shall include benefits for:

(i) Additional days of inpatient medical service;

(ii) Surgery elsewhere than in a hospital;

(iii) X-ray, radioactive isotope therapy and pathology services;

(iv) Physical therapy services;

(v) Radium or radon therapy services;

and the extended basic benefits shall be subject to the same conditions and limitations, applicable to such benefits, as are set forth in "Extended Outpatient Hospital Benefits Rider," Form 1500, 71 (9-66), and in "Extended Benefit Rider" (as amended), Form MS 7050J (9-66) issued by the New Jersey "Blue Cross" and

"Blue Shield" Plans, respectively, and as the same may be amended or superseded, subject to filing by the Commissioner of Insurance; and

(2) Major medical expense benefits which shall provide benefit payments for reasonable and necessary eligible medical expenses for hospitalization, surgery, medical treatment and other related services and supplies to the extent they are not covered by basic benefits. The commission may, by regulation, determine what types of services and supplies shall be included as "eligible medical services" under the major medical expense benefits coverage as well as those which shall be excluded from or limited under such coverage. Benefit payments for major medical expense benefits shall be equal to a percentage of the reasonable charges for eligible medical services incurred by a covered employee or an employee's covered dependent, during a calendar year as exceed a deductible for such calendar year of $100.00 subject to the maximums hereinafter provided and to the other terms and conditions authorized by this act. The percentage shall be 80% of the first $2,000.00 of charges for eligible medical services incurred subsequent to satisfaction of the deductible and 100% thereafter. There shall be a separate deductible for each calendar year for (a) each enrolled employee and (b) all enrolled dependents of such employee. Not more than $1,000,000.00 shall be paid for major medical expense benefits with respect to any one person for the entire period of such person's coverage under the plan, whether continuous or interrupted except that this maximum may be reapplied to a covered person in amounts not to exceed $2,000.00 a year. Maximums of $10,000.00 per calendar year and $20,000.00 for the entire period of the person's coverage under the plan shall apply to eligible expenses incurred because of mental illness or functional nervous disorders, and such may be reapplied to a covered person. For retired employees, the maximum lifetime benefit for each person shall be the unused balance of the lifetime maximum remaining while in active service or $100,000.00 whichever is less, with a minimum benefit of $5,000.00. Under the conditions agreed upon by the commission and the carriers as set forth in the contract, the deductible for a calendar year may be satisfied in whole or in part by eligible charges incurred during the last 3 months of the prior calendar year.

Any service determined by regulation of the commission to be an "eligible medical service" under the major medical expense benefits coverage which is performed by a duly licensed practicing

psychologist within the lawful scope of his practice shall be recognized for reimbursement under the same conditions as would apply were such service performed by a physician.

(B) Benefits under the contract or contracts purchased as authorized by this act may be subject to such limitations, exclusions, or waiting periods as the commission finds to be necessary or desirable to avoid inequity, unnecessary utilization, duplication of services or benefits otherwise available, including coverage afforded under the laws of the United States, such as the Federal medicare program, or for other reasons.

Benefits under the contract or contracts purchased as authorized by this act shall include those for the treatment of alcoholism where such treatment is prescribed by a physician and shall also include treatment while confined in or as an outpatient of a licensed hospital or residential treatment program which meets minimum standards of care equivalent to those prescribed by the Joint Commission on Hospital Accreditation. No benefits shall be provided beyond those stipulated in the contracts held by the State Health Benefits Commission.

(C) The rates charged for any contract purchased under the authority of this act shall reasonably and equitably reflect the cost of the benefits provided based on principles which in the judgment of the commission are actuarially sound. The rates charged shall be determined by the carrier on accepted group rating principles with due regard to the experience, both past and contemplated, under the contract. The commission shall have the right to particularize subgroups for experience purposes and rates. No increase in rates shall be retroactive.

(D) The initial term of any contract purchased by the commission under the authority of this act shall be for such period to which the commission and the carrier may agree, but permission may be made for automatic renewal in the absence of notice of termination by the Commission. Subsequent terms for which any contract may be renewed as herein provided shall each be limited to a period not to exceed 1 year.

(E) The contract shall contain a provision that if basic benefits or major medical expense benefits of an employee or of an eligible dependent under the contract, after having been in effect for at least 1 month in the case of basic benefits or at least 3 months in the case of major medical expense benefits, is terminated, other than by voluntary cancellation of enrollment, there shall be a 31-day

period following the effective date of termination during which such employee or dependent may exercise the option to convert, without evidence of good health, to converted coverage issued by the carriers on a direct payment basis. Such converted coverage shall include benefits of the type classified as "basic benefits" or "major medical expense benefits" in subsection (A) hereof and shall be equivalent to the benefits which had been provided when the person was covered as an employee. The provision shall further stipulate that the employee or dependent exercising the option to convert shall pay the full periodic charges for the converted coverage which shall be subject to such terms and conditions as are normally prescribed by the carrier for this type of coverage.

(F) The commission may purchase a contract or contracts to provide drug prescription and other health care benefits or authorize the purchase of a contract or contracts to provide drug prescription and other health care benefits as may be required to implement a duly executed collective negotiations agreement or as may be required to implement a determination by a public employer to provide such benefit or benefits to employees not included in collective negotiations units.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 484

AN ACT to amend and supplement "An act concerning the ownership of bank stock in certain cases, defining certain terms in relation thereto, imposing certain restrictions on such ownership, providing for the enforcement of the act and for punishment for violations thereof," approved June 5, 1957 (P. L. 1957, c. 70).

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

1. Section 1 of P. L. 1957, c. 70 (C. 17:9A–344) is amended to read as follows:

C. 17:9A-344 Definitions.

1. As used in this act,

(a) "Bank" means an institution organized under the laws of

the United States, a state of the United States, the District of Columbia, or a territory or possession of the United States, which does business in the United States that is not incidental to the institution's activities outside the United States and which (1) accepts deposits that the depositor has a legal right to withdraw on demand and (2) engages in the business of making commercial loans except that "bank" does not include an organization operating under section 25 or section 25 (a) of the Federal Reserve Act (12 U. S. C. §§ 601-604(a) or 12 U. S. C. § 611 et seq.). A "bank located outside of this State" means a bank which has its principal, head or main office outside of this State. A "bank located in this State" means a bank which has its principal, head or main office in this State;

(b) "Company" means a corporation, joint stock company, business trust, investment trust, general or limited partnership, voting trust, association, and any similar organized group of persons, whether incorporated or not, and whether or not organized under the laws of this State or any other state or any territory or possession of the United States or under the laws of a foreign country, territory, colony or possession thereof, other than a corporation all the capital of which is owned by the United States; "company" includes subsidiary and parent companies;

(c) "Stock" means a security issued by a bank or corporation which presently entitles the holder thereof to vote at meetings of shareholders of the bank or corporation for the election of directors, but does not include a security which entitles the holder thereof to vote for the election of directors only as a result of the failure to pay a dividend or to fulfill an obligation or satisfy a condition specified by the terms of the security;

(d) "Bank stock" means stock issued by a bank;

(e) "Subsidiary" of a company means (1) a corporation more than 50% of whose stock is owned by such company, and (2) an unincorporated company in which such company directly or indirectly owns more than a 50% share or interest;

(f) "Parent company" means a company of which another company is a subsidiary;

(g) "Own," "owner," "owned" and "ownership," when applied to stock, mean direct and indirect ownership of such stock, and includes stock not owned, but directly controlled with power to vote;

(h) "Foreign bank" means an institution organized under the laws of a foreign country which engages in the business of banking, is recognized as a banking entity by the bank supervisory or mon-

etary authority of the country of its organization or principal banking operations, receives deposits to a substantial extent in the regular course of business and has the power to accept deposits which the depositor has a legal right to withdraw on demand;

(i) "Foreign bank holding company" means a company organized under the laws of a foreign country, which has one or more subsidiaries which are foreign banks and which has more than half of its consolidated assets located, or consolidated revenues derived, outside of the United States. As used in this subsection, "revenues" means gross income and "consolidated" means consolidated in accordance with generally accepted accounting principles in the United States;

(j) "Bank holding company located in this State" means a bank holding company subject to the "Bank Holding Company Act of 1956" (12 U. S. C. § 1841 et seq.), which is either organized under the laws of this State or the operations of whose banking subsidiaries are principally conducted in this State within the meaning of the "Bank Holding Company Act of 1956";

(k) "Foreign country" means the government of a country other than the United States or its territories or possessions.

2. Section 2 of P. L. 1957, c. 70 (C. 17:9A–345) is amended to read as follows:

C. 17:9A-345 Limitation of acquisition.

2. Except as otherwise provided by sections 3 and 4 of this act,

(a) No company which owns more than 25% of the stock of any bank located inside this State shall acquire ownership of more than 10% of the stock of another bank located inside this State if, at the time of such acquisition, or if, as a result of such acquisition, the company owns, or would own, more than 10% of the stock of each of two or more banks located inside this State, whose aggregate average deposits exceed 20% of the aggregate average deposits of all banks other than savings banks transacting business in this State as of the two call dates for which published figures are available next preceding such acqusition; and

(b) No company which owns more than 25% of the stock of either a bank located outside of this State or a foreign bank shall own or acquire ownership of more than 5% of the stock of a bank located in this State.

Acquisition of ownership of more than a stated percentage of the stock of a bank shall include any acquisition of one or more

shares after which the company owns more than the stated percentage.

In applying this section to a company, all bank stock owned by a subsidiary of such company and by the parent company of such company, shall be deemed to be owned by such company.

C. 17:9A-345a Ownership of bank holding company stock.

3. (New section) A company which owns the stock of a bank holding company located in this State shall not be deemed to own any stock of a bank subsidiary of the bank holding company unless the company controls the bank holding company, in which event the company shall be deemed to own the same proportional share of stock of each bank subsidiary as the amount of stock which it owns of the bank holding company bears to the total outstanding stock of the bank holding company. As used in this section "controls" means the direct or indirect power to vote 25% or more of all shares of stock entitled to vote in the election of directors or the power to control the election of a majority of the directors.

4. Section 3 of P. L. 1957, c. 70 (C. 17:9A–346) is amended to read as follows:

C. 17:9A-346 Fiduciary capacity; acquisition of stock in excess of limitations.

3. a. Nothing in this act shall apply to bank stock which a company, lawfully acting in fiduciary capacity, acquires otherwise than through investment by such company, as an incident of the discharge of its duties as (a) guardian or coguardian of the estate of any person; (b) administrator or coadministrator, with or without the will annexed, of a decedent's estate; (c) executor or coexecutor of a will; (d) original, substituted or successor trustee or cotrustee of a testamentary trust; (e) original, substituted or successor trustee or cotrustee of an irrevocable nontestamentary trust created by one settlor and consisting solely of the settlor's property; (f) receiver or coreceiver; or (g) as assignee or coassignee for the benefit of creditors; nor shall anything in this act apply (h) to bank stock invested in by such company in administering a testamentary trust, or in administering a nontestamentary trust of the nature described in subdivision (e) above set forth in this section, if the instrument creating either such type of trust expressly authorizes investment in the bank stock so invested in; or (i) to bank stock acquired by a company in the regular course of securing a debt previously contracted in good faith, but any shares so acquired shall be disposed of within 2 years after the date of such acquisition; or (j) additional stock

acquired by a company in a bank a majority of whose stock was owned by such company prior to such acquisition.

b. Nothing in this act shall prohibit a company from acquiring ownership of and owning bank stock in excess of the limitations imposed by subsection (b) of section 2 of this act (C. 17:9A–345); provided:

(1) The acquiring company at the time the bank stock is acquired is a foreign bank or a foreign bank holding company, which is not a subsidiary of a company organized under the laws of the United States, a territory or possession of the United States, any state of the United States or Puerto Rico, Guam, American Samoa or the Virgin Islands; and

(2) The stock acquired is stock of a bank or a bank holding company located in this State which (i) immediately preceding the acquisition belonged to the bank or bank holding company in other than a fiduciary capacity or (ii) was issued by the bank or bank holding company for the specific purpose of being acquired by the company;

(3) The stock of a bank located in this State or a bank holding company located in this State acquired by the company, together with the stock of the bank or bank holding company then owned by the company, shall not exceed 49% of the stock of the bank or bank holding company which would be outstanding after any new issue of stock made pursuant to subsection (2) of this section;

(4) The acquisition of the stock of a State chartered bank by a foreign bank or foreign bank holding company, or a subsidiary of a foreign bank holding company, shall have received the prior approval of the commissioner after an application for that approval has been filed with the commissioner, who shall approve the application unless he finds that the acquisition does not conform to law or is not in the public interest; and

(5) The bank or bank holding company whose stock is acquired pursuant to the provisions of paragraphs (1) and (2) of this subsection shall give notice thereof to the Commissioner of Banking within 30 days after the acquisition, and the commissioner shall summarize the notice in the annual report of the Department of Banking.

(c) Nothing in this act shall prohibit a bank or a parent company of a bank or a subsidiary of a bank or parent company from acquiring ownership of and owning the stock of a company which at the time the stock is acquired is a foreign bank or a foreign bank hold-

ing company so long as the foreign bank or bank holding company does not control a bank located in this State.

(d) A company acquiring bank stock in the manner expressed in this section shall be exempt from all the provisions of this act except as provided in subsection b. of this section in respect to all such stock so acquired, and the stock shall not be deemed to be owned by the company within the meaning of this act.

(e) Nothing in this section shall be construed as authorizing any fiduciary to make any investment not otherwise authorized by law.

5. Section 5 of P. L. 1957, c. 70 (C. 17:9A–348) is amended to read as follows:

C. 17:9A-348 Violations of act.

5. Any corporation which willfully acquires ownership of bank stock, contrary to the provisions of this act, or which otherwise violates any provision of this act, shall be guilty of a disorderly persons offense.

Any individual officer or director of a corporation knowingly ordering, or doing, or permitting a corporation, whereof he is such an officer or director, to acquire ownership of bank stock contrary to the provisions of this act or to otherwise violate any provision of this act, shall be guilty of a disorderly persons offense.

Any person who willfully participates in a violation of any provision of this act as an officer, director, manager, or agent, or as a member of a partnership, business trust, investment trust, voting trust, association or similar organized group of persons, or otherwise, shall be guilty of a disorderly persons offense.

6. (New section) The commissioner may promulgate such rules and regulations as he deems necessary to effectuate the purposes of this act.

Repealer.

7. Section 3 of P. L. 1968, c. 426 (C. 17:9A–345.1) is repealed.

8. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 485

AN ACT to amend the "Department of the Public Advocate Act of 1974," approved May 13, 1974 (P. L. 1974, c. 27).

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

1. Section 20 of P. L. 1974, c. 27 (C. 52:27E–19) is amended to read as follows:

C. 52:27E-19 Payment of expenses of Division of Rate Counsel.

20. a. Payment of expenses of Division of Rate Counsel. Whenever the Divison of Rate Counsel represents the public interest in a proceeding initiated by application of a business, industry or utility other than an insurance company or nonprofit service plan subject to the provisions of Title 17 of the Revised Statutes or Title 17B of the New Jersey Statutes for authority to increase the rate, toll, fare or charge charged by it for any product or service or in a proceeding initiated by application of a business, industry or utility to discontinue or change any required service, the Director of the Division of Rate Counsel may, except as otherwise provided herein, assess the business, industry or utility up to 1/10 of 1% of its revenues derived in the calendar year last preceding the institution of such proceeding from its intrastate sales of the product supplied or intrastate service rendered, the rate, toll, fare or charge for which, or the discontinuance or charge for which, is the subject matter of such proceeding, or $1,500.00, whichever is greater. The assessments shall not exceed $500,000.00, unless the compensation and expenses of counsel, experts and assistants employed by the division in such proceeding exceed $500,000.00, in which case the director shall send the business, industry or utility an itemized statement setting forth the amount, as of the date of such statement, of the compensation and expenses.

For cases where the gross annual revenues in the calendar year last preceding the institution of the proceeding from the intrastate sales of the product supplied or intrastate service rendered, the rate, toll, fare or charge for which, or the discontinuance or charge for which, is the subject matter of the proceeding, do not exceed $1,500,000.00, the director may assess the business, industry or utility up to $1,500.00 but not less than $500.00. If an assessment exceeds $500.00, the director shall send the business, industry or utility an itemized statement setting forth the amount, as of the

date of the statement, of the compensation and expenses of counsel, experts and assistants employed by the division in the proceeding. In no event shall an assessment in these cases exceed $1,500.00.

b. Whenever the Division of Rate Counsel represents the public interest in a proceeding initiated by an insurance company or nonprofit service plan subject to Title 17 of the Revised Statutes or Title 17B of the New Jersey Statutes for authority to increase or change the charges for insurance, the director shall send each insurer, nonprofit service plan or rating organization involved in such proceeding a statement of the compensation and expenses of counsel, experts and assistants employed by the division in such proceeding, together with an appropriate allocation to such insurance company, nonprofit service plan or rating organization of its fair share thereof.

c. All assessments or statements of compensation and expenses shall be paid by the business, industry or utility to the Department of the Treasury within 30 days after the date of assessment. The State Treasurer, upon receipt of any payment by the business, industry or utility pursuant to the provisons of this act, shall cause the same to be deposited in the General State Fund.

d. Any and all amounts paid by the business, industry or utility pursuant to this act shall be deemed to be operating expenses.

e. All assessments or statements of compensation and expenses pertaining to a business, industry or utility whose revenues do not exceed $1,500,000.00, as computed pursuant to subsection a., shall be paid by the business, industry or utility to the Department of Treasury as follows:

(1) An assessment of $500.00 shall be paid by the business, industry or utility within 30 days after the date of assessment.

(2) Any amount assessed in excess of $500.00, but not in excess of $1,500.00 shall be paid in equal monthly installments over such period as the recoupment of the case operating expenses is permitted by the executive authority with the power to make the final determination in such matters. The first installment payment shall be due on the date of the final decision rendered by the executive authority.

f. If any amount assessed pursuant to subsection e. is not received on any date in the schedule established pursuant to subsection e., the unpaid balance of the total assessment shall immediately become due and payable within 30 days.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 486

AN ACT authorizing the creation of a debt of the State of New Jersey by issuance of bonds of the State in the sum of $85,000,000.00 to capitalize the New Jersey Local Development Financing Fund and to provide support for the revitalization and development of, and the creation of urban industrial parks in, the communities of this State; providing the ways and means to pay the interest of said debt and also to pay and discharge the principal thereof; providing for the submission of this act to the people at a general election; and making an appropriation.

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 "Community Development Bond Act of 1982".

2. The Legislature finds that there continue to exist in the State areas of high unemployment, low levels of new capital investment, depressed living and working conditions and a deteriorating tax base; that vigorous action can halt the decline in economic activity and the underemployment of economic resources in these areas, reverse the deterioration of the value of existing investment therein and the level of public revenue collections on that investment, and eliminate the disincentive to new investment; and that the improvement of these areas is vital to the safety, health and welfare of the residents thereof and of the State, and constitutes a major opportunity for enhancing the economic condition of the State, for augmenting the fiscal resources of government and for assisting private and public efforts on behalf of community development. The Legislature further finds that there exist among many of the rural and developing communities of this State older central commercial districts which have failed to realize their potential with respect to economic activity and which have not participated in the economic and social development which has occurred around them, and that any meaningful attempt at solving the development problems of these commercial districts requires and deserves a significant effort by both the private and public sectors.

The Legislature determines that the development and redevelopment of these areas and commercial districts require substantial private and public capital spending; that the stimulation of that spending in turn requires the leadership of the State and of the citizens of the municipalities concerned as to financial commitment and as to public participation in the planning of the course of economic renewal; that many local governments, local development corporations, community development corporations, municipal port authorities and other entities in the State have shown a willingness to make the necessary financial commitment and have gained experience as instruments of public access to and involvement with the development process; that many of these entities have experienced difficulty in raising seed money for projects of moderate risk which are justified both on economic grounds and on grounds of their potential contribution to the welfare of the communities in which they are located; that expanded activity by these entities is necessary to the development or redevelopment of these communities; and that the problems posed by the decline of these communities are beyond remedy solely through the exercise by State Government of its regulatory and police power and, at the same time, have not been effectively addressed by the operations of private enterprise.

The Legislature, therefore, declares that in order to aid in remedying the aforesaid conditions of underemployment, underinvestment and underdevelopment as they obtain in this State, that the State shall assist the economic development activities of certain local governments, local development corporations, community development corporations, municipal port authorities and other entities, by capitalizing the New Jersey Local Development Financing Fund, established pursuant to the provisions of Senate Bill No. 1548 of 1980, by extending additional assistance to rural and developing communities as provided by law, and by providing assistance for the creation and development of urban industrial parks as provided by law, through the issuance of bonds of the State, as hereinafter provided.

3. As used in this act, "fund" means the Community Development Bond Fund established pursuant to the provisions of section 14 of this act.

4. The State Treasurer shall issue and promulgate, pursuant to law, such rules and regulations as are necessary and appropriate to carry out the provisions of this act with respect to the issuance of bonds hereunder.

5. Bonds of the State of New Jersey in the sum of $85,000,000.00 are authorized for the purpose of assisting community development, to be allocated as follows:

a. $45,000,000.00 to the financing, pursuant to the provisions of the "New Jersey Local Development Financing Fund Act," Senate Bill No. 1548 of 1980, of industrial and commercial enterprises which will increase employment by encouraging economic development within municipalities qualifying for aid under P. L. 1978, c. 14, or which would qualify under that act except for the population criterion. Of the total amount of the funds allocated under this subsection, not more than 20% shall be allocated to the financing of enterprises located in any one county in the State.

b. $30,000,000.00 to the financing of assistance for capital construction projects, in the form of low interest loans and grants to counties, municipalities and such other entities as may hereafter be provided by law. Assistance under this subsection shall be applied to projects which will aid in the revitalization of distressed urban areas in this State or in the promotion of the economic and social development of older central commercial districts in rural and developing communities in accordance with applicable local, regional and State planning guidelines. Procedures for the review and approval of, and eligibility criteria for, projects to receive assistance shall be established by law. Of the total amount of the funds allocated under this subsection, not more than 20% shall be allocated to the financing of projects located in any one county in the State.

c. Financial assistance provided pursuant to allocations made in subsection a. or b. of this section shall not be used for any project, or portion of any project, which involves the acquisition, construction, reconstruction, development, redevelopment, improvement or relocation of structures, buildings, facilities, easements or other improvements of real or personal property which are used, or are to be used, for public utility or road, street, parkway, avenue or highway purposes, or for residential housing.

d. $10,000,000.00 to the financing of assistance for the creation and development of urban industrial parks, according to procedures and eligibility to be established by law.

e. Whenever any financial assistance provided pursuant to allocations made in subsection a., b. or d. of this section shall require as a condition for the provision of that assistance that an amount or percentage of local governmental funding or private funding

be committed to the project for which assistance is sought, funds received from the State pursuant to any aid, financial assistance or any other State program shall not be used to meet the required condition.

6. Said bonds shall be serial bonds and known as "Community Development Bonds," and as to each series, the last annual installment thereof, subject to redemption prior to maturity, shall mature and be paid not later than 35 years from the date of its issuance but may be issued in whole or in part for a shorter term.

Said bonds shall be issued in one issue, or from time to time, as the issuing officials herein named shall determine.

7. The Governor, State Treasurer and Comptroller of the Treasury or any two of such officials (hereinafter referred to as "the issuing officials") are hereby authorized to carry out the provisions of this act relating to the issuance of said bonds, and shall determine all matters in connection therewith subject to the provisions of this act. In case any of said officials shall be absent from the State or incapable of acting for any reason, his powers and duties shall be exercised and performed by such person as shall be authorized by law to act in his place as a State official. The issuing officials are empowered on behalf of the State to covenant from time to time with the holders of the bonds that the proceeds of one or more issues of the bonds will not be devoted to one or more uses, as the issuing officials determine necessary to assure exemption from Federal income taxation of the interest on the bonds. Any covenant shall be set forth in the text of the bonds of any issue to which the covenant is applicable.

8. Bonds issued in accordance with the provisions of this act shall be a direct obligation of the State of New Jersey and the faith and credit of the State are pledged for the payment of the interest thereon as same shall become due and for the payment of the principal at maturity. The principal and interest on such bonds shall be exempt from taxation by the State or by any county, municipality or other taxing district of the State.

9. Said bonds shall be signed in the name of the State by the Governor or by his facsimile signature, under the Great Seal of the State, and attested by the Secretary of State, or an Assistant Secretary of State, and shall be countersigned by the facsimile signature of the Comptroller of the Treasury. Interest coupons attached to said bonds shall be signed by the facsimile signature of the Comptroller of the Treasury. Such bonds may be issued notwithstanding

that any of the officials signing them or whose facsimile signatures appear on the bonds or coupons shall cease to hold office at the time of such issue or at the time of the delivery of such bonds to the purchaser.

10. a. Such bonds shall recite that they are issued for the purposes set forth in section 5 of this act and that they are issued in pursuance of this act and that this act was submitted to the people of the State at the general election held in the month of November, 1982 and that it received the approval of the majority of votes cast for and against it at such election. Such recital in said bonds shall be conclusive evidence of the authority of the State to issue said bonds and of their validity. Any bonds containing such 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 statutes applicable thereto, and shall be incontestable for any cause.

b. Such bonds shall be issued in such denominations and in such form or forms, whether coupon or registered as to both principal and interest, and with or without such provisions for interchangeability thereof, as may be determined by the issuing officials.

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

12. Said bonds shall be issued and sold at such price not less than the par value thereof and accrued interest thereon, and under such terms, conditions and regulations, as the issuing officials may prescribe, after notice of said sale, published at least once in at least three newspapers published in the State of New Jersey, and at least once in a publication carrying municipal bond notices and devoted primarily to financial news, published in the city of New York or in New Jersey, the first notice to be at least 5 days prior to the day of bidding. The said notice of sale may contain a provision to the effect that any or all bids in pursuance thereof may be rejected. In the event of such rejection or of failure to receive any acceptable bid, the issuing officials, at any time within 60 days from the date of such advertised sale, may sell such bonds at pri-

vate sale at such price not less than the par value thereof and accrued interest thereon and under such 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 private sale, without advertisement.

13. Until permanent bonds can be prepared, the issuing officials may, in their discretion, issue in lieu of such permanent bonds temporary bonds in such form and with such privileges as to registration and exchange for permanent bonds as may be determined by the issuing officials.

14. The proceeds from the sale of the bonds shall be paid to the State Treasurer and be held by him in a separate fund and be deposited in such depositories as may be selected by him to the credit of the fund, which shall be known as the "Community Development Bond Fund."

15. The proceeds from the sale of the bonds are specifically dedicated to and shall be used for the purposes designated in subsections a., b. and d. of section 5 of this act, and all such moneys ar appropriated for these purposes. No such moneys shall be expended for such purpose, except as otherwise hereinbelow authorized, without the specific appropriation thereof by the Legislature, and the review of the Commission on Capital Budgeting and Planning, but bonds may be issued as herein provided notwithstanding that the Legislature shall not have then adopted an act making specific appropriation of any of said moneys.

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 money in the treasury of the State to the credit of the Community Development Bond Fund, such sum as he may deem necessary. Said sum so transferred shall be returned to the treasury of this State by the Treasurer thereof from the proceeds of the sale of the first issue of bonds.

b. Pending their application to the purpose provided in this act, moneys derived from this bond issue may be invested and reinvested as 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 such funds shall be paid into the General State Fund.

16. In case any coupon bonds or coupons thereunto appertaining or any registered bond shall become lost, mutilated or destroyed, a

new bond shall be executed and delivered of like tenor, in substitution for the lost, mutilated or destroyed bonds or coupons, upon the owner furnishing to the issuing officials evidence satisfactory to them of such loss, mutilation or destruction, proof of ownership and such security and indemnity and reimbursement for expenses as the issuing officials may require.

17. Accrued interest received upon the sale of said bonds shall be applied to the discharge of a like amount of interest upon said bonds when due. Any expense incurred by the issuing officials for advertising, engraving, printing, clerical, 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 said bonds, by the State Treasurer upon warrant of the Comptroller of the Treasury, in the same manner as other obligations of the State are paid.

18. Bonds of each series issued hereunder shall mature in annual installments commencing not later than the tenth year and ending not later than the thirty-fifth year from the date of issue of such series, and in such amounts as shall be determined by the issuing officials, and the issuing officials may reserve to the State by appropriate provision in the bonds of any series the power to redeem all or any of such bonds prior to maturity at such price or prices and upon such terms and conditions as may be provided in such bonds.

19. The issuing officials may at any time and from time to time issue refunding bonds for the purpose of refunding in whole or in part an equal principal amount of the bonds of any series issued and outstanding hereunder, which by their terms are subject to redemption prior to maturity, provided such refunding bonds shall mature at any time or times not later than the latest maturity date of such series, and the aggregate amount of interest to be paid on the refunding bonds, plus the premium, if any, to be paid on the bonds refunded, shall not exceed the aggregate amount of interest which would be paid on the bonds refunded if such bonds were not so refunded. Refunding bonds shall constitute direct obligations of the State of New Jersey, and the faith and credit of the State are pledged for the payment of the principal thereof and the interest thereon. The proceeds received from the sale of refunding bonds shall be held in trust and applied to the payment of the bonds refunded thereby. Refunding bonds shall be entitled to all the benefits of this act and subject to all its limitations except as to the

maturities thereof and to the extent herein otherwise expressly provided.

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

a. Revenue derived from the collection of taxes as provided by 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;

b. If in any year or at any time funds, as hereinabove received by the State or appropriated by the Legislature, necessary to meet interest and principal payments upon outstanding bonds issued under this act, be insufficient or not available, then and in that case there shall be assessed, levied and collected annually in each of the municipalities of the counties of this State a tax on 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 such bonds as it is proposed to issue under this act in the calendar year in which such 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 thus imposed shall be assessed, levied and collected in the same manner and at the same time as other taxes upon real and personal property are assessed, levied and collected. The governing body of each municipality shall cause to be paid to the county treasurer of the county in which such 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 said 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 shall determine that there are moneys in the General State Fund beyond the needs of the State, sufficient to meet the principal of bonds falling due and all interest payable in the ensuing calendar year, then and in the event such issuing officials shall by resolution so find and shall file the same in the office of the State Treasurer, whereupon the State Treasurer shall transfer such moneys to a separate fund to be designated by him, and shall pay the principal and interest out of said fund as the same shall become due and payable, and the other sources of payment of said principal and interest provided for in this section shall not then be available, and the receipts for said year from the tax specified in subsection a.

of this section shall thereon be considered and treated as part of the General State Fund, available for general purposes.

21. Should the State Treasurer, by December 31 of any year, deem it necessary, because of insufficiency of funds to be collected from the sources of revenues as hereinabove provided, to meet the interest and principal payments for the year after the ensuing year, then the treasurer shall certify to the Comptroller of the Treasury the amount necessary to be raised by taxation for such purposes, the same to be assessed, levied and collected for and in the ensuing calendar year. In such case the Comptroller of the Treasury shall, on or before March 1 following, calculate the amount in dollars to be assessed, levied and collected as herein set forth in each county. Such caculation shall be based upon the corrected assessed valuation of such county for the year preceding the year in which such tax is to be assessed, but such tax shall be assessed, levied and collected upon the assessed valuation of the year in which the tax is assessed and levied. The Comptroller of the Treasury shall certify said amount to the county board of taxation and the county treasurer of each county. The said 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.

22. For the purpose of complying with the provisions of the State Constitution this act shall, at the general election to be held in the month of November, 1982 be submitted to the people. In order to inform the people of the contents of this act it shall be the duty of the Secretary of State, after this section shall take effect, and at least 15 days prior to the said election, to cause this act to be published in at least 10 newspapers published in the State and to notify the clerk of each county of this State of the passage of this act, and the said clerks respectively, in accordance with the instructions of the Secretary of State, shall cause to be printed on each of the said ballots, the following:

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

If you disapprove the act entitled below, make a cross (×), 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 such markings respectively.

	Yes.	COMMUNITY DEVELOPMENT BOND ISSUE Should the "Community Development Bond Act of 1982," which authorizes the State to issue bonds in the amount of $85,000,000.00 to assist in the development of communities of this State by (1) capitalizing at $45,000,000.00 the New Jersey Local Development Financing Fund, which will assist industrial and commercial enterprises which encourage economic development within municipalities qualifying for State aid under P. L. 1978, c. 14, (2) financing $30,000,000.00 of loans and grants to local governments and other entities to revitalize distressed urban areas and promote the economic and social development of older central commercial districts in rural and developing communities, and (3) financing $10,000,000.00 of financial assistance for the creation and development of urban industrial parks, be approved?
	No.	INTERPRETIVE STATEMENT Approval of this act will authorize sale of $85,000,000.00 in general obligation bonds of the State, $45,000,000.00 of which will capitalize the New Jersey Local Development Financing Fund, $30,000,000.00 of which will be made available to counties, municipalities and other entities for the financial assistance of projects which encourage local revitalization and development, and $10,000,000.00 of which will be used to create and develop urban industrial parks. Moneys in the New Jersey Local Development Financing Fund will support economic development projects creating meaningful permanent private sector jobs. Moneys for local revitalization and development, and for urban industrial parks, will support capital construction projects which will revitalize distressed urban areas and promote the economic and social development of older central commercial districts in rural and developing communities.

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 said 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 said 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 such election had in the same manner as is provided for by law in the case of this

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 shall be a majority of all the votes cast for and against it at such election in favor of the approval of this act, then all the provisions of this act not made effective theretofore shall take effect forthwith.

23. There is hereby appropriated the sum of $5,000.00 to the Department of State for expenses in connection with the publication of notice pursuant to section 22.

24. This section and sections 22 and 23 of this act shall take effect immediately, and the remainder of the act shall take effect as and when provided in section 22.

Approved January 12, 1982.

CHAPTER 487

AN ACT concerning notaries public, amending P. L. 1968, c. 282 and supplementing P. L. 1979, c. 460 (C. 52:7–10 et seq.).

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

C. 52:7-20 Regulation of notaries.

1. No person shall be appointed a notary public if he has been convicted under the laws of this State of an offense involving dishonesty or of a crime of the second degree or above, but nothing in this section shall be deemed to supersede P. L. 1968, c. 282 (C. 2A:168A–1 et seq.).

C. 52:7-21 Conviction in another state.

2. No person shall be appointed a notary public if he has been convicted under the laws of another state, or of the United States, of an offense or crime involving dishonesty or which, if committed in this State, would be a crime of the second degree or above, but nothing in this section shall be deemed to supersede P. L. 1968, c. 282 (C. 2A:168A–1 et seq.).

3. Section 1 of P. L. 1968, c. 282 (C. 2A:168A–1) is amended to read as follows:

C. 2A:168A-1 Disqualifications removed.

1. The Legislature finds and declares that it is in the public interest to assist the rehabilitation of convicted offenders by

removing impediments and restrictions upon their ability to obtain employment or to participate in vocational or educational rehabilitation programs based solely upon the existence of a criminal record.

Therefore, the Legislature finds and declares that notwithstanding the contrary provisions of any law or rule or regulation issued pursuant to law, a person shall not be disqualified or discriminated against by any licensing authority because of any conviction for a crime, unless N. J. S. 2C:51–2 is applicable or unless the conviction relates adversely to the occupation, trade, vocation, profession or business for which the license or certificate is sought.

4. Section 2 of P. L. 1968, c. 282 (C. 2A:168A–2) is amended to read as follows:

C. 2A:168A-2 Licensing authorities not to disqualify convicted offenders; exceptions; factors to be explained in writing.

2. Notwithstanding the contrary provisions of any law or rule or regulation issued pursuant to law, no State, county or municipal department, board, officer or agency, hereinafter referred to as "licensing authority" authorized to pass upon the qualifications of any applicant for a license or certificate of authority or qualification to engage in the practice of a profession or business or for admission to an examination to qualify for such a license or certificate may disqualify or discriminate against an applicant for a license or certificate or an application for admission to a qualifying examination on the grounds that the applicant has been convicted of a crime, or adjudged a disorderly person, except that a licensing authority may disqualify or discriminate against an applicant for a license or certificate if N. J. S. 2C:51–2 is applicable or if a conviction for a crime relates adversely to the occupation, trade, vocation, profession or business for which the license or certificate is sought. In determining that a conviction for a crime relates adversely to the occupation, trade, vocation, profession or business, the licensing authority shall explain in writing how the following factors, or any other factors, relate to the license or certificate sought:

a. The nature and duties of the occupation, trade, vocation, profession or business, a license or certificate for which the person is applying;

b. Nature and seriousness of the crime;

c. Circumstances under which the crime occurred;

d. Date of the crime;

e. Age of the person when the crime was committed;

f. Whether the crime was an isolated or repeated incident;

g. Social conditions which may have contributed to the crime;

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 persons who have or have had the applicant under their supervision.

5. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 488

AN ACT establishing a commodities and services council for blind and other severely handicapped persons and supplementing Title 30 of the Revised Statutes.

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

C. 30:6-23 Purpose of act.

1. The purpose of this act is to further the policy of the State to encourage and assist blind and other severely handicapped persons to achieve maximum personal independence through productive employment by assuring a continuous market for their commodities and services, thereby enhancing their dignity and capacity for self-support and minimizing their dependence on welfare and the need for costly institutionalization.

C. 30:6-24 Definitions.

2. As used in this act:

a. "Blind person" means a person whose vision in his better eye with proper correction does not exceed 20/200 or who has a field defect in his better eye with proper correction which contracts the peripheral field so that the diameter of the visual field subtends an angle no greater than 20 degrees.

b. "Central nonprofit agency" means an agency designated by the commissioner pursuant to section 6 of this act.

c. "Commissioner" means the Commissioner of the Department of Human Services.

d. "Rehabilitation facility" means a rehabilitation facility approved by the Division of Vocational Rehabilitation Services or the Commission for the Blind and Visually Impaired and which is engaged in the production of commodities or the provision of services in connection with which not less than 75% of the total hours of direct labor is performed by blind or other severely handicapped persons excluding any hours of supervision, administration, inspection or shipping.

e. "Severely handicapped person" means a person with a physical, mental or emotional disability, other than blindness but including a visual impairment, which is a substantial handicap to employment and prevents that person from currently engaging in normal competitive employment.

C. 30:6-25 Commodities and Services Council.

3. There is established in the Department of Human Services, the Commodities and Services Council for blind and other severely handicapped persons. The council shall consist of the Director of the Division of Vocational Rehabilitation Services; the Director of the Division of Purchase and Property; the chief of the Bureau of State Use Industries; the President of the New Jersey Business and Industry Association; the President of the New Jersey AFL-CIO; the Executive Director of the Commission for the Blind and Visually Impaired; the President of the New Jersey Association of Rehabilitation Facilities; or their designees; three citizens as at-large members, at least one of whom shall be a blind person, and one of whom shall represent the general public. The at-large members shall be appointed by the Governor, with the advice and consent of the Senate, for terms of 3 years, except that of the first at-large members appointed, one shall be appointed for a term of 3 years, one for a term of 2 years, and one for a term of 1 year.

C. 30:6-26 Annual organization.

4. The members of the council shall organize annually by the selection of one of their members to serve as chairman. Members shall serve without compensation but shall be reimbursed for all necessary expenses incurred in the performance of their duties.

C. 30:6-27 Duties of council.

5. The duties of the council shall include:

a. Developing, in conjunction with the Division of Purchase and Property in the Department of the Treasury a list of commodities

and services which shall be set aside for purchase through approved rehabilitation facilities and establishing a fair market price for those commodities and services.

b. Recommending to the commissioner a central nonprofit agency.

c. Encouraging the purchase of commodities and services of blind and other severely handicapped persons by political subdivisions of the State.

C. 30:6-28 Agency to facilitate distribution of orders.

6. The commissioner shall designate a nonprofit agency to facilitate the distribution of orders received from various State agencies for commodities and services on the State procurement list among approved rehabilitation facilities and to insure the effective and efficient administration of this act.

C. 30:6-29 Functions of agency.

7. The functions and operations of the central nonprofit agency shall include but not be limited to the following:

a. Receiving and processing all applications from approved rehabilitation facilities for the setting aside of specific commodities and services to be provided by the applying facilities;

b. Reviewing and certifying the capabilities of an applying facility to provide a specific commodity or service in keeping with quality standards, quantity and timely delivery requirements;

c. Preparing a detailed annual report for submission to the council;

d. Establishing and publishing a list of commodities and services provided by approved facilities, with timely revisions for distribution to all purchasing agents of the State and its political subdivisions.

C. 30:6-30 Procurement by State agencies.

8. State agencies shall procure through the central nonprofit agency those commodities and services which have been set aside for purchase from approved rehabilitation facilities.

C. 30:6-31 When act inapplicable.

9. This act does not apply in any case where commodities are available for procurement by any State agency from any other State agency or political subdivision of the State as provided in R. S. 30:4–95.

C. 30:6-32 Rules and regulations.

10. The commissioner shall promulgate such rules and regulations as may be necessary to carry out the provisions of this act.

11. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 489

AN ACT concerning county libraries and supplementing chapter 33 of Title 40 of the Revised Statutes.

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

C. 40:33-13.2d Short title.

1. This act shall be known and may be cited as the "County Library Reorganization Law."

C. 40:33-13.2e County library study commission.

2. The governing body of any county which has established a county library as provided in chapter 33 of Title 40 of the Revised Statutes may, by ordinance or resolution, as appropriate, establish a county library study commission to consider and make findings concerning the county library system. The governing body shall establish such a commission when it receives a petition calling for the creation of a county library study commission signed by 10% of the registered voters of the county.

a. The commission shall be composed of nine members who shall be residents of the county and appointed by the governing body of the county. Of the nine members, six shall be private citizens representing different municipalities in the county, none of whom shall be employed by any library within the county which is funded in whole or in part by county or municipal funds, and none of whom shall be a member of the governing body of the county or of any municipality therein. Of the three remaining members, one shall be a member of the county library commission; one shall be a trustee of a public library of a municipality which is not a member of the county library system; and, one shall be a trustee of a public library of a municipality which is a member of the county library system.

b. The county governing body shall designate the commission chairman from among the six private citizen members.

c. Members of the commission shall serve without compensation, but shall be reimbursed, as hereinafter provided, by the county governing body for necessary expenses actually incurred in the performance of their duties under this act.

C. 40:33-13.2f Possible recommendations.

3. It shall be the duty of the county library study commission to study the county library system, assess its needs, and evaluate its ability to provide library services to county residents. The library study commission may report and recommend that:

a. A referendum be held to submit to the voters of the county the question as to whether or not the county library system shall be reorganized to conform to one of the options set forth in sections 6, 7 and 8 of this act; or

b. The county library system remain unchanged.

C. 40:33-13.2g Offices; expenses; employees; report; referendum.

4. a. The governing body of the county shall provide the county library study commission with such offices as may be necessary for the conduct of its business and shall make available such equipment and supplies as it may require.

b. All necessary expenses actually incurred by the county library study commission and its members shall be paid, upon certification of the chairman of the commission, by the county treasurer within the limits of funds appropriated by the county governing body for this purpose, subject to such fiscal procedures as may be established by the governing body.

c. The county library study commission may appoint such employees, consultants, and clerical staff as are necessary to carry out the provisions of this act within the limits of funds appropriated by the governing body of the county for this purpose, subject to such fiscal procedures as may be established by the governing body.

d. The county library study commission shall report its findings and recommendations to the county governing body within 1 calendar year following the date of its establishment and it shall be the responsibility of the governing body to make a copy of the commission's report available without cost to any member of the public requesting the same. If the county library study commission shall recommend the reorganization of the county library system as provided in section 8 of this act, the county clerk shall cause a

referendum question conforming with the requirements of section 5 of this act to be placed on the ballot at the next general election occurring not less than 60 days following the clerk's receipt of notice of the commission's recommendations and the summary required to be prepared pursuant to section 5 of this act. If the commission recommends that a county library system be reorganized pursuant to sections 6 and 7 of this act, the county clerk shall cause a referendum question to appear only on the ballots in those municipalities to which the question is applicable at the next general election occurring not less than 60 days following the clerk's receipt of notice of the commission's recommendations.

C. 40:33-13.2h Form of question.

5. The question of the reorganization of the county library system shall be submitted to the voters in substantially the following form:

"Shall the county library system be reorganized pursuant to section ... of the "County Library Reorganization Law" (P. L. 1981, c. 489) to implement the '..... Option,' as recommended by the ..... County Library Study Commission?"

Not more than 45 days prior to the general election the county clerk shall cause to have published in a newspaper generally circulating in the county a summary of the commission's report prepared by the commission and a notice of the time and place at which copies of the commission's report may be obtained without cost by any member of the public requesting the same.

If at the election at which the question is submitted, a majority of all votes cast for and against adoption shall be cast in favor thereof, the question is adopted, and the date of the adoption shall be the effective date of reorganization of the county library system for the purposes of this act.

C. 40:33-13.2i Branch Development Option.

6. The option for reorganization of the county library system provided in this section shall be known as the "Branch Development Option" and shall govern the county library system of any county whose voters have adopted it pursuant to section 5 of this act.

a. The county library commission shall establish a branch of the county library in each municipality: (1) which is a member of the county library system upon the effective date of the reorganization of the system; and (2) in which the municipal governing

body adopts a resolution approving the establishment of a branch library. The county library commission may establish a joint branch library for two or more adjacent municipalities upon its determination that the library needs of such municipalities could best be served by a joint branch library, and upon the adoption by the governing bodies of all municipalities to be served thereby of joint resolutions, approving the establishment thereof. A branch library or a joint branch library established pursuant to this act shall conform to all standards promulgated by the Division of the State Library, Archives and History for branch libraries.

b. The county library commission shall assure that all branch or joint branch libraries agreed upon pursuant to subsection a. of this section are operating within 3 calendar years of the effective date of the reorganization of the county library system.

c. Any municipality which has agreed to the establishment of a branch library or joint branch library of the county library shall remain a member of the county library system for at least 5 years following the effective date of the reorganization of the county library system.

d. Any municipality which is a member of the county library system and whose governing body does not approve the establishment of a branch library or a joint branch library shall remain a member of the county library system until such time as it elects to withdraw from the system in the manner provided in chapter 33 of Title 40 of the Revised Statutes. The governing body of such a municipality may, by resolution, request that the county library establish a branch library or a joint branch library at any time following the effective date of the reorganization of the county library system, in the manner provided in subsection a.

C. 40:33-13.2j Service Contract Option.

7. The option for reorganization of the county library system provided in this section shall be known as the "Service Contract Option" and shall govern the county library system of any county whose voters have adopted it pursuant to section 5 of this act.

a. The county library commission shall offer a contract to any of the municipalities identified by the county library study commission in its report to provide such municipalities with sufficient staff and materials to insure compliance with standards promulgated by the Division of the State Library, Archives and History for library service in those municipalities. Municipalities shall accept or reject such contracts by resolution of the governing body.

Any municipality which accepts a contract shall determine an appropriate geographic location within the municipality for the staff and materials provided by the county library.

b. Any municipality which rejects a contract pursuant to this section and is a member of the county library system shall remain a member of the system until such time as it elects to withdraw from the system in the manner provided in chapter 33 of Title 40 of the Revised Statutes.

C. 40:33-13.2k Tax Base Sharing Option.

8. The option for reorganization of the county library system provided in this section shall be known as the "Tax Base Sharing Option," and shall be available only to any county in which revenues from the dedicated county library tax established pursuant to R. S. 40:33–9 or P. L. 1977, c. 300 (C. 40:33–15 et seq.) have been derived from less than 75% of the total assessed property of the county in the calendar year prior to the establishment of the county library study commission. This option shall govern the county library system of any qualified county whose voters have adopted it pursuant to section 5 of this act.

a. The governing body of the county shall annually determine a sum sufficient to distribute among certain municipalities and the county according to the following formula:

A = CBS + CRS + LRS

where:

A is the total tax pool to be distributed;

CBS is the county base share and is determined as .0000666 X the apportionment valuation of the county;

CRS is the county residual share and is determined as [A–CBS] X .60; and

LRS is the local residual share and is determined as [A–CBS] X .40.

The county base share (CBS) shall be appropriated to the county library which shall receive no funds from the library tax provided for in R. S. 40:33–9 or from the library tax established in P. L. 1977, c. 300 (C. 40:33–15 et seq.). The local residual share (LRS) shall be distributed among those municipalities not members of the county library system on January 1, 1982. Each such municipality shall be apportioned an amount of those revenues in a proportion equal to the proportion which that municipality's apportionment valuation is of the apportionment valuation of all such municipalities. Any municipality receiving revenues from the

tax base sharing option provided in this section shall appropriate those funds directly to the board of trustees of any library within its borders funded by the municipality in the calendar year prior to the reorganization of the county library system.

b. For each year following the reorganization of the county library system, the county library distribution (CBS + CRS) from the formula established in subsection a. of this section shall not be less than the appropriation made to the county library in the calendar year immediately prior to the reorganization of the county library system; provided, however, that in the first calendar year following the reorganization of the county library system, the county library shall receive an appropriation not less than an amount equal to the appropriation made to the county library in the calendar year preceding the reorganization of the system and not more than an amount equal to the prior year's appropriation plus 10% of that appropriation.

In each year following the reorganization of the county library system, the governing body of any municipality not a member of the county library system shall appropriate to any library in the municipality which was funded by the municipality prior to the reorganization of the county library system a sum of money not less than the average appropriation made to such libraries in the 3 years occurring immediately prior to the reorganization of the county library system. The governing body shall also provide any in-kind benefits or the cash equivalent thereof, which were provided to such libraries during that preceding period.

c. The county library shall receive State aid as provided in the "State Library Aid Law" (N. J. S. 18A:74–1 et seq.) based on expenditures from the total appropriation from the tax base sharing option made to the county library and the total resident population of the county. Any library located within a municipality not a member of the county library system shall receive State aid as provided in the "State Library Aid Law" based on expenditures from the total appropriation made to the library from the municipality and from the portion of the local residual share received by the municipality as provided in subsection a. of this section. Any municipality which is a member of the county library system and which supports a library shall receive State aid as provided in the "State Library Aid Law" based on the total appropriation made by the municipality for library purposes.

d. The county library shall make all of its patron services available to all residents of the county. For the purpose of this act

"patron services" means services rendered by a library directly to patrons as distinguished from those services rendered to other libraries. Patron services shall include circulation of library materials, reference assistance, and public programs.

e. A municipality which maintains a municipal public library within the county shall not dissolve its municipal public library for a period of 2 calendar years from the effective date of the reorganization of the county library system.

f. The county library commission may offer a service contract for library services to any municipality within the county for any library services performed by the county library. Any such contracts shall conform to the contracts established in section 7 of this act.

g. The county library study commission shall remain in existence for 1 calendar year after the effective date of such reorganization. It shall be the responsibility of the commission to evaluate the tax base sharing option and to determine if the appropriation for the county library system is sufficient to provide patron services to all residents of the county and that such services are in compliance with standards promulgated by the Division of the State Library, Archives and History for such libraries. The commission shall make a report of its findings to the county governing body within 1 calendar year of the reorganization of the county library system.

C. 40:33-13.2l Not part of county tax levy for 2 years.

9. For the first 2 years following the reorganization of a county library system pursuant to section 8 of this act, any appropriation made by the county governing body for library purposes 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). In the third calendar year following the reorganization of the county library system and every year thereafter any appropriation made by the county governing body for library purposes shall be considered a part of the county tax levy for the purpose of calculating permissible expenditures.

C. 40:33-13.2m Establishment of another commission.

10. a. Except as provided in subsection c. of this section, the governing body of any county which has rejected a question placed on the ballot pursuant to section 5 of this act may, by ordinance or resolution, as appropriate, establish another county library study commission to evaluate the county library system. The governing body shall establish another commission when it receives a petition

signed by 10% of the registered voters of the county calling for the creation of a county library study commission. Any such commission shall be established and its membership appointed as provided in section 2 of this act. The commission shall have the same powers and responsibilities as established in sections 3 and 4 of this act.

b. Except as provided in subsection c. of this section, the governing body of any county which has adopted any of the options provided in this act may, by ordinance or resolution, as appropriate, establish another county library study commission to evaluate the reorganized county library system. The governing body shall establish such a commission when it receives a petition signed by 10% of the registered voters of the county calling for the creation of a county library study commission. Any such commission shall be established and its members appointed as provided in section 2 of this act. The commission shall have the same powers and responsibilities as established in sections 3 and 4 of this act; except that, it may also recommend that any reorganized county library system be organized as provided in chapter 33 of Title 40 of the Revised Statutes. If the commission shall recommend the latter then the question to be submitted to the voters pursuant to section 5 of this act shall be in substantially the following form:

"Shall the county library system be reorganized pursuant to article 1 of chapter 33 of Title 40 of the Revised Statutes as recommended by ..... County Library Study Commission?"

c. No ordinance or resolution or petition establishing a county library study commission shall be valid and no question shall be submitted within 3 years of the date of any election at which the original question of adoption was submitted to the voters of the county.

C. 40:33-13.2n Rules and regulations.

11. The Division of the State Library, Archives and History with the approval of the State Board of Education is authorized to promulgate, pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), such rules and regulations as it deems necessary to effectuate the purposes of this act.

12. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 490

AN ACT concerning the age of newspaper carriers and amending P. L. 1940, c. 153 (C. 34:2–21.15).

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

1. Section 15 of P. L. 1940, c. 153 (C. 34:2–21.15) is amended to read as follows:

C. 34:2-21.15 Restrictions on employment of minors.

15. Except as hereinafter provided as to newspaper carriers, no minor under 14 years of age may engage in any street trade, which term, for the purpose of this section shall include the selling, offering for sale, soliciting for, collecting for, displaying, or distributing any articles, goods, merchandise, commercial service, posters, circulars, newspapers or magazines or in blacking shoes on any street or other public place or from house to house. No minor under 12 years of age may be employed in agricultural pursuits.

Whenever a minor has graduated from vocational school, approved by the Commissioner of Education and is 17 years of age, the minor's diploma or certified copy thereof and an employment certificate mailed to the employer by the issuing officer shall be deemed a special permit to engage in those pursuits in which the minor majored in said vocational school during those hours permitted for persons 18 years of age and over.

Except as hereinafter provided as to newspaper carriers, whenever a minor under 16 years of age desires to work during such times as the schools of the district in which the minor resides are not in session in any street trade or in agricultural pursuits, the parent, guardian or other person having the custody and control of the minor may file with the issuing officer in the school district in which the minor resides an application for a special permit authorizing such work. Such application shall show the exact character of the work the minor is to do, and the hours and wages and special conditions under which said work is to be performed.

If upon investigation it is found that the facts set forth in the application are true and that the work will not interfere with the minor's health or standing in school, the issuing officer shall, upon presentation to the issuing officer of the same proof of age as is

required for the issuance of an employment certificate, issue a special permit, allowing the minor to work at such times as the public schools in the district are not in session, but such work except in agricultural pursuits, and as newspaper carriers, to be otherwise subject to the maximum hours of labor provisions set for minors under 16 years of age in section 3 of this act; provided, that nothing in this act shall prevent newspaper carriers as defined in this act, between 11 and 14 years of age, from delivering, soliciting, selling and collecting for newspapers on routes in residential neighborhoods between the hours of 6:00 o'clock in the morning and 7:00 o'clock in the evening of any day; and newspaper carriers 14 years of age and older from delivering, soliciting, selling and collecting for newspapers on routes in residential neighborhoods between the hours of 5:30 o'clock in the morning and 8:00 o'clock in the evening of any day; and provided further that no newspaper carrier under the age of 18 years shall be permitted to engage in such occupation beyond the period of time wherein the combined hours devoted to said occupation as a newspaper carrier and the hours in school shall exceed a total of 40 hours per week and not more than 8 hours in any 1 day; and provided, further, that minors engaged in agricultural pursuits may be employed no more than 10 hours per day.

Such special permit shall show the name, address, and date of birth of the minor for whom it is issued, the kind of proof of age submitted, the nature of the occupation in which the minor is to engage, and such other information as the Commissioner of Education may require.

Any such special permit for work in agriculture shall be issued for a period not to exceed 6 months and shall show its date of expiration. Any person employing a minor under 16 years of age in agriculture shall obtain such a certificate from the minor and keep it on file during the period of the minor's employment and shall return it to the minor to whom it is issued upon termination of the minor's employment.

Upon application by the parent, guardian or other person having custody and control of a newspaper carrier as defined in this act, between the ages of 11 and 18 years of age, to the publisher of any newspaper in this State and upon receiving satisfactory proof of age and a signed statement of physical fitness, such publisher may issue to such newspaper carrier a special permit on a form prescribed and approved by the Commissioner of Education,

whereby the newspaper carrier shall be permitted to deliver, solicit, sell and collect for newspapers outside of the newspaper carrier's school hours on residential routes, and on Sundays and during school vacations and no other employment certificate shall be required.

Such special permit shall show the name, address and date of birth of the newspaper carrier for whom it is issued, and such other information as the Commissioner of Education may require.

The publisher shall forthwith mail 3 copies of such special permit to the issuing officer as defined in section 1 of this act, one of which copies shall be forwarded to the Commissioner of Education and one copy to the Commissioner of Labor and Industry in such manner as may be provided by regulation of said commissioners. A copy of such special permit shall also be furnished by the publisher to the parent, guardian or other person having custody and control of the newspaper carrier and the publisher shall retain at all times a file copy thereof.

The special permit shall remain in full force and effect unless and until the publisher has knowledge of or is notified by the issuing officer or the Commissioner of Labor and Industry that the newspaper carrier is not physically fit or that in the opinion of the issuing officer or the Commissioner of Labor and Industry, engaging in the occupation as a newspaper carrier will be harmful to the newspaper carrier's education. In such case, the said special permit shall be suspended unless and until the issuing officer shall revoke said notification. In the event of such notification and suspension, however, if either the parent, guardian or other person having custody and control of the newspaper carrier or the publisher shall deem such decision to be erroneous, an appeal may be made to the Commissioner of Education who shall have authority to affirm, reverse or modify such decision of the issuing officer or the Commissioner of Labor and Industry.

The publisher shall keep a record of the name, address and birth date of each newspaper carrier to whom such special permit is issued; the date said newspaper carrier commenced and ceased delivering newspapers published by said publisher together with a record of the number of newspapers sold to each newspaper carrier and a general description of the area of the route served by each newspaper carrier. Such records shall be kept on file by said publisher for a period of 2 years after the newspaper carrier has ceased delivering newspapers published by said publisher.

The special permit shall remain in full force and effect unless and until the publisher is notified by the issuing officer or the Commissioner of Labor and Industry that the newspaper carrier is not physically fit or that the newspaper carrier's school record is such that engaging in the occupation of a newspaper carrier will be harmful to the newspaper carrier's education. In such case, however, if either the parent, guardian or other person having custody and control of the newspaper carrier or the publisher shall deem such decision to be erroneous, an appeal may be made to the Commissioner of Education who shall have authority to reverse or modify such decision of the issuing officer or the Commissioner of Labor and Industry.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 491

A SUPPLEMENT to the "Relocation Assistance Act," approved December 21, 1971 (P. L. 1971, c. 362; C. 20:4–1 et seq.).

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

C. 20:4-3.1 Eligibility for relocation assistance.

1. A municipality may provide by resolution that where a tenant residing in a structure of two dwelling units or more, is displaced from his dwelling by fire or other emergency, and the damage resulting from the fire or other emergency in the judgment of the housing inspector or other official charged with equivalent responsibility is such as to render the dwelling uninhabitable, the tenant shall be deemed a displaced person under the "Relocation Assistance Act" and shall be eligible for relocation assistance as afforded persons displaced as a result of code enforcement activities. State appropriations of relocation assistance shall not be used for this purpose unless specifically permitted by language in the annual appropriations act.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 492

AN ACT to amend the "county improvement authorities law," approved January 18, 1961 (P. L. 1960, c. 183).

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

1. Section 2 of P. L. 1960, c. 183 (C. 40:37A–45) is amended to read as follows:

C. 40:37A-45 Definitions.

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

(a) "Authority" shall mean a public body created pursuant to this act;

(b) "Bond resolution" shall have the meaning ascribed thereto in section 16 of this act;

(c) "Bonds" shall mean bonds, notes or other obligations issued pursuant to this act;

(d) "Construct" and "construction" shall connote and include acts of clearance, demolition, construction, development or redevelopment, reconstruction, replacement, extension, improvement and betterment;

(e) "Cost" shall mean, in addition to the usual connotations thereof, the cost of planning, acquisition or construction of all or any part of any public facility or facilities of an authority and of all or any property, rights, easements, privileges, agreements and franchises deemed by the authority to be necessary or useful and convenient therefor or in connection therewith, including interest or discount on bonds, cost of issuance of bonds, architectural, engineering and inspection costs and legal expenses, cost of financial, professional and other estimates and advice, organization, administrative, operating and other expenses of the authority prior to and during such acquisition or construction, and all such other expenses as may be necessary or incident to the financing, acquisition, construction and completion of such public facility or facilities or part thereof and the placing of the same fully in operation or the disposition of the same, and also such provision or reserves for working capital, operating, maintenance or replacement expenses or for payment or security of principal of or interest on bonds during or after such acquisition or construction as the authority

may determine, and also reimbursements to the authority or any governmental unit or person of any moneys theretofore expended for the purposes of the authority;

(f) The term "county" shall mean any county of any class of the State, and the term "the county" shall mean the county which created an authority pursuant to this act;

(g) "Development project" shall mean any lands, structures, or property or facilities acquired or constructed or to be acquired or constructed by an authority for the purposes of the authority described in clause (e) of section 11 of this act;

(h) "Facility charges" shall have the meaning ascribed to said term in section 14 of this act;

(i) "Facility revenues" shall have the meaning ascribed to said term in section 20(e) of this act;

(j) "Governing body" shall mean, in the case of a county, the board of chosen freeholders, or in the case of a county operating under article 3 or 5 of the "Optional County Charter Law" (P. L. 1972, c. 154; C. 40:41A–1 et seq.) as defined thereunder, and, in the case of a municipality, the commission, council, board or body, by whatever name it may be known, having charge of the finances of the municipality;

(k) "Governmental unit" shall mean the United States of America or the State or any county or municipality or any subdivision, department, agency, or instrumentality heretofore or hereafter created, designated or established by or for the United States of America or the State or any county or municipality;

(l) "Local bond law" shall mean chapter 2 of Title 40A, Municipalities and Counties, of the New Jersey Statutes (N. J. S.) as amended and supplemented;

(m) "Municipality" shall mean any city, borough, village, town, or township of the State but not a county or a school district;

(n) "Person" shall mean any person, partnership, association, corporation or entity other than a nation, State, county or municipality or any subdivision, department, agency or instrumentality thereof;

(o) "Project" shall have the meaning ascribed to said term in section 16 of this act;

(p) "Public facility" shall mean any lands, structures, franchises, equipment, or other property or facilities acquired or constructed or to be acquired or constructed by an authority for its purposes or, to the extent authorized by section 11 (C. 40:37A–54) for governmental and nongovernmental purposes, and either (i) operated or

to be operated by the authority or by any governmental unit or person under a lease or other agreement by or with the authority or (ii) constituting a development project or redevelopment project;

(q) "Real property" shall mean lands within or without the State, above or below water, and improvements thereof or thereon, or any riparian or other rights or interests therein;

(r) "Garbage and solid wastes disposal system" shall mean the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by a county improvement authority, including incinerators, sanitary landfill facilities or other plants for the treatment and disposal of garbage, solid waste and refuse matter and all other real and personal property and rights therein and appurtenances necessary or useful and convenient for the collection and treatment or disposal in a sanitary manner of garbage, solid waste and refuse matter (but not including sewage);

(s) "Garbage, solid waste or refuse matter" shall mean garbage, refuse and other discarded materials resulting from industrial, commercial and agricultural operations, and from domestic and community activities, and shall include all other waste materials including sludge, chemical waste, hazardous wastes and liquids, except for liquids which are treated in public sewage treatment plants and except for solid animal and vegetable wastes collected by swine producers licensed by the State Department of Agriculture to collect, prepare and feed such wastes to swine on their own farms;

(t) "Blighted, deteriorated or deteriorating area" may include an area determined by the municipality to be blighted in accordance with the provisions of P. L. 1949, c. 187 (C. 40:55–21.1 et seq.) and, in addition, areas which are determined by the municipality, pursuant to the same procedures as provided in said law, to be blighted, deteriorated or deteriorating because of structures or improvements which are dilapidated or characterized by disrepair, lack of ventilation or light or sanitary facilities, faulty arrangement, location, or design, or other unhealthful or unsafe conditions;

(u) "Redevelopment" may include planning, replanning, conservation, rehabilitation, clearance, development and redevelopment; and the construction and rehabilitation and provision for construction and rehabilitation of residential, commercial, industrial, public or other structures and the grant or dedication or rededication of spaces as may be appropriate or necessary in the interest of the general welfare for streets, parks, playgrounds, or

other public purposes including recreational and other facilities incidental or appurtenant thereto, in accordance with a redevelopment plan approved by the governing body of a municipality;

(v) "Redevelopment plan" shall mean a plan as it exists from time to time for the redevelopment of all or any part of a redevelopment area, which plan shall be sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, conservation or rehabilitation as may be proposed to be carried out in the area of the project, zoning and planning changes, if any, land uses, maximum densities, building requirements, the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements and provision for relocation of any residents and occupants to be displaced in a manner which has been or is likely to be approved by the Department of Community Affairs pursuant to the "Relocation Assistance Law of 1967," P. L. 1967, c. 79 (C. 52:31B–1 et seq.) and the "Relocation Assistance Act," P. L. 1971, c. 362 (C. 20:4–1 et seq.) and rules and regulations pursuant thereto;

(w) "Redevelopment project" shall mean any undertakings and activities for the elimination, and for the prevention of the development or spread, of blighted, deteriorated, or deteriorating areas and may involve any work or undertaking pursuant to a redevelopment plan; such undertaking may include: (1) acquisition of real property and demolition, removal or rehabilitation of buildings and improvements thereon; (2) carrying out plans for a program of voluntary repair and rehabilitation of buildings or other improvements; and (3) installation, construction or reconstruction of streets, utilities, parks, playgrounds or other improvements necessary for carrying out the objectives of the redevelopment project;

(x) "Redeveloper" shall mean any person, firm, corporation or public agency that shall enter into or propose to enter into a contract with an authority for the redevelopment of an area or any part thereof under the provisions of this act;

(y) "Redevelopment area" shall mean an area of a municipality which the governing body thereof finds is a blighted area whose redevelopment is necessary to effectuate the public purposes declared in this act. A redevelopment area may include lands, buildings, or improvements which of themselves are not detrimental to the public health, safety or welfare, but whose inclusion is found

necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part; and

(z) "Sludge" shall mean any solid, semisolid, or liquid waste generated from a municipal, industrial or other sewage treatment plant, water supply treatment plant, or air pollution control facility, or any other such waste having similar characteristics and effects, but shall not include effluent.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 493

AN ACT to amend the "Municipal and County Utilities Authorities Law", approved August 22, 1957 (P. L. 1957, c. 183) as said short title was amended by P. L. 1977, c. 384.

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

1. Section 18 of P. L. 1957, c. 183 (C. 40:14B–18) is amended to read as follows:

C. 40:14B-18 Employees of municipal authorities.

18. Every municipal authority, upon the first appointment of its members and thereafter on or after February 1 in each year, shall annually elect from among its members a chairman and a vice-chairman who shall hold office until February 1 next ensuing and until their respective successors have been appointed and have qualified. Every municipal authority may also appoint and employ, full- or part-time, without regard to the provisions of Title 11 of the Revised Statutes, a secretary, an executive director, managerial personnel, technical advisors and experts, professional employees, and persons who shall render professional services as set forth in section 5 of P. L. 1971, c. 198 (C. 40A:11–5) as the authority may determine necessary for its efficient operations, and it shall determine their qualifications, terms of office, for periods not to exceed 5 years, duties and compensation and enter into contracts therefor, for periods not to exceed 5 years, as it deems necessary. Such municipal authority may also appoint and employ such other agents and employees as it may require and

determine their duties and compensation. The provisions of this section with regard to terms shall not apply to the positions of general counsel and consulting engineer.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 494

AN ACT enabling this State to qualify as an enforcing agent under terms of the "National Manufactured Home Construction and Safety Standards Act of 1974," Title VI of Pub. L. 93–383 (42 U. S. C. § 5401 et seq.) authorizing the adoption of State construction and safety standards in certain cases, amending and supplementing the "State Uniform Construction Code Act," approved October 7, 1975 (P. L. 1975, c. 217), and repealing P. L. 1972, c. 148.

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

C. 52:27D-124a Commissioner to enforce federal standards.

1. (New section) In accordance with the provisions of subsection b. of section 6 of P. L. 1975, c. 217 (C. 52:27D–124 b.) and with this act, the commissioner is authorized to administer and enforce federal manufactured home safety and construction standards pursuant to the "National Manufactured Home Construction and Safety Standards Act of 1974," Title VI of Pub. L. 93–383 (42 U. S. C. § 5401 et seq.) and is empowered to do all things necessary to comply with that act and any regulations promulgated by the Secretary of the United States Department of Housing and Urban Development pursuant thereto. The commissioner shall make such reports to the secretary in such form and containing such information as the secretary may from time to time require.

C. 52:27D-124b Nationally recognized code.

2. (New section) Whenever the commissioner shall deem it necessary to establish standards concerning any manufactured or mobile home construction or safety issue with respect to which no federal standard has been established, such standards shall be

those of a nationally recognized code or standards writing organization, and the commissioner shall have all of the powers of enforcement provided under the "State Uniform Construction Code Act," P. L. 1975, c. 217 (C. 52:27D–119 et seq.).

C. 52:27D-124c Inspection authority.

3. (New section) The commissioner, by his authorized representatives, may enter, at reasonable times, any factory, warehouse or establishment in which manufactured homes are manufactured, stored or held for sale, for the purpose of ascertaining whether the requirements of the federal manufactured home construction and safety standards and the regulations of the commissioner have been and are being met.

The commissioner shall establish a monitoring inspection fee in an amount established by the secretary, to be paid to the secretary by each manufacturer for each manufactured home manufactured in New Jersey.

C. 52:27D-124d Records, reports, information.

4. (New section) Each manufacturer, distributor, and dealer of manufactured homes shall establish and maintain such records, make such reports, and provide such information as the secretary may require to determine whether the manufacturer, distributor or dealer has acted or is acting in compliance with the "National Manufactured Home Construction and Safety Standards Act of 1974" and shall, upon request of a person duly designated by the secretary, permit such person to inspect appropriate books, papers, records and documents relevant to determining whether the manufacturer, distributor or dealer has acted or is acting in compliance with that act.

C. 52:27D-124e Violations.

5. (New section) a. Any person who violates any of the provisions of this section shall be liable for a civil penalty not to exceed $1,000.00 for each violation; to be payable to the commissioner. Each violation shall constitute a separate violation with respect to each manufactured home, except that the maximum penalty shall not exceed $1,000,000.00 for any related series of violations occurring within 1 year from the date of the first violation. Any person purposely or knowingly violating the provisions of this section in any manner which threatens the health or safety of any purchaser, shall be guilty of a crime of the fourth degree and shall, in addition to a civil penalty, be subject to a fine not to exceed

$1,000.00 or imprisonment for a term not to exceed 1 year, or both. No person shall:

(1) Manufacture for sale, lease, sell, offer for sale, or lease, or introduce or deliver, or import into this State, any manufactured home manufactured on or after the effective date of any applicable federal manufactured home construction and safety standard which does not comply with such standard.

(2) Fail or refuse to permit access to or copying of records, or entry or inspection to ascertain compliance with federal standards as required by section 3 of this act or to make reports or provide information as required by section 4 of this act, or any rules or regulations adopted by the commissioner pursuant thereto.

(3) Fail to furnish notification of any defect as required by Pub. L. 93–383, § 615 (42 U. S. C. § 5414).

(4) Fail to issue a certification required by Pub. L. 93–383, § 616 (42 U. S. C. § 5415); or issue such a certification if such person in the exercise of due care had reason to know that such certification is false or misleading in a material respect.

(5) Fail to establish and maintain such records, make such reports, and provide such information as the commissioner may reasonably require to enable him to determine whether there is compliance with the "National Manufactured Home Construction and Safety Standards Act of 1974", or fail to permit, upon request of a person duly authorized by the commissioner, inspection of appropriate books, papers, records and documents relative to determining whether a manufacturer, distributor or dealer has acted or is acting in compliance with the "National Manufactured Home Construction and Safety Standards Act of 1974."

(6) Issue a certification pursuant to Pub. L. 95–128, § 902(a) (42 U. S. C. § 5403(h)), if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect.

b. When a civil penalty levied by the commissioner pursuant to subsection a. of this section, has not been satisfied within 30 days of its levy, the penalty may be sued for, and recovered by and in the name of the commissioner, by a summary proceeding under "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.) in the Superior Court.

c. Paragraph (1) of subsection a. hereof shall not apply to the sale or the offer for sale of any manufactured or mobile home after the first good faith purchase for purposes other than resale, or to

any person who establishes that he did not have reason to know, in the exercise of due care, that the manufactured or mobile home is not in conformity with applicable federal standards, or to any person who holds a certificate issued by the manufacturer or importer of the manufactured or mobile home to the effect that the manufactured or mobile home conforms to all applicable federal standards, unless the person knows that the home does not so conform.

C. 52:27D-124f Rules and regulations.

6. (New section) The commissioner may adopt such rules and regulations as he may deem necessary or appropriate in order to implement the provisions of this act.

C. 52:27D-124g Administrative hearing.

7. Any person aggrieved by any ruling, action, order, or notice of the commissioner pursuant to this act shall be entitled to a hearing pursuant to the "Administrative Procedure Act" (P. L. 1968, c. 410, C. 52:14B–1 et seq.). The application for the hearing must be filed within 15 days of the receipt by the applicant thereof of notice of the ruling, action, order or notice complained of.

8. Section 3 of P. L. 1975, c. 217 (C. 52:27D–121) is amended to read as follows:

C. 52:27D-121 Definitions.

3. Definitions. As used in this act unless the context clearly indicates otherwise:

"Building" means, exclusive of a public school facility, a structure enclosed with exterior walls or fire walls, built, erected and framed of component structural parts, designed for the housing, shelter, enclosure and support of individuals, animals or property of any kind.

"Business day" means any day of the year, exclusive of Saturdays, Sundays, and legal holidays.

"Certificate of occupancy" means the certificate provided for in section 15 of this act indicating that the construction authorized by the construction permit has been completed in accordance with the construction permit, the State Uniform Construction Code and any ordinance implementing said code.

"Commissioner" means the Commissioner of Community Affairs.

"Code" means the State Uniform Construction Code.

"Construction" means the construction, erection, reconstruction, alteration, conversion, demolition, removal, repair or equipping of buildings or structures.

"Construction board of appeals" means the board provided for in section 9 of this act.

"Department" means the Department of Community Affairs.

"Enforcing agency" means the municipal construction official and subcode officials provided for in section 8 of this act and assistants thereto.

"Equipment" means plumbing, heating, electrical, ventilating, air conditioning; refrigerating and fire prevention equipment, and elevators, dumb waiters, escalators, boilers, pressure vessels and other mechanical facilities or installations.

"Hearing examiner" means a person appointed by the commissioner to conduct hearings, summarize evidence, and make findings of fact.

"Maintenance" means the replacement or mending of existing work with equivalent materials or the provision of additional work or material for the purpose of the safety, healthfulness, and upkeep of the structure and the adherence to such other standards of upkeep as are required in the interest of public safety, health and welfare.

"Manufactured home" or "mobile home" means a vehicular, portable structure which is built on a chassis and designed to be used without a permanent foundation as a dwelling for year-round rather than temporary occupancy when connected to required utilities.

"Municipality" means any city, borough, town, township or village.

"Owner" means the owner or owners in fee of the property or a lesser estate therein, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee, or any other person, firm or corporation, directly or indirectly in control of a building, structure, or real property and shall include any subdivision thereof of the State.

"Premanufactured system" means an assembly of materials or products that is intended to comprise all or part of a building or structure, exclusive of a public school facility, and that is assembled offsite by a repetitive process under circumstances intended to insure uniformity of quality and material content.

"Public school facility" means any building or any part thereof where the plans and specifications are submitted to, and approved by, the State Board of Education pursuant to N. J. S. 18A:18–2.

"State sponsored code change proposal" means any proposed amendment or code change adopted by the commissioner in accordance with subsection c. of section 5 of this act for the purpose of presenting such proposed amendment or code change at any of the periodic code change hearings held by the National Model Code Adoption Agencies, the codes of which have been adopted as subcodes under this act.

"Stop construction order" means the order provided for in section 14 of this act.

"State Uniform Construction Code" means the code provided for in section 5 of this act, or any portion thereof, and any modification of or amendment thereto.

"Structure" means, exclusive of a public school facility, 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; provided, the word "structure" shall be construed when used herein as though followed by the words "or part or parts thereof and all equipment therein" unless the context clearly requires a different meaning.

9. Section 5 of P. L. 1975, c. 217 (C. 52:27D–123) is amended to read as follows:

C. 52:27D-123 Adoption of a State Uniform Construction Code.

5. Adoption of a State Uniform Construction Code.

a. The commissioner shall after public hearing pursuant to section 4 of the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–4) adopt a State Uniform Construction Code for the purpose of regulating the structural design, construction, maintenance and use of buildings or structures to be erected and alteration, renovation, rehabilitation, repair, maintenance, removal or demolition of buildings or structures already erected. Prior to the adoption of said code, the commissioner shall consult with the code advisory board and other departments, divisions, bureaus, boards, councils or other agencies of State Government heretofore authorized to establish or administer construction regulations.

Such prior consultations with departments, divisions, bureaus, boards, councils, or other agencies of State Government shall in-

clude but not be limited to consultation with the Commissioner of Health and the Public Health Council prior to adoption of a plumbing subcode pursuant to paragraph b. of this section. Said code shall include any code, rule or regulation incorporated therein by reference.

b. The code shall be divided into subcodes which may be adopted individually by the commissioner as he may from time to time consider appropriate. Said subcodes shall include but not be limited to a building code, a plumbing code, an electrical code, an energy code, a fire prevention code, a manufactured or mobile home code and mechanical code.

These subcodes shall be adoptions of the model codes of the Building Officials and Code Administrators International, Inc., the National Electrical Code, and the National Standard Plumbing Code, provided that for good reasons, the commissioner may adopt as a subcode a model code or standard of some other nationally recognized organization upon a finding that such model code or standard promotes the purposes of this act. The initial adoption of a model code or standard as a subcode shall constitute adoption of any subsequent revisions or amendments thereto.

The commissioner shall be authorized to adopt a barrier free subcode or to supplement or revise any model code adopted hereunder, for the purpose of insuring that adequate and sufficient features are available in buildings or structures so as to make them accessible to and usable by the physically handicapped.

c. Any municipality through its construction official, and any State agency or political subdivision of the State may submit an application recommending to the commissioner that a State sponsored code change proposal be adopted. Such application shall contain such technical justification and shall be submitted in accordance with such rules of procedure as the commissioner may deem appropriate.

At least 45 days prior to the final date for the submission of amendments or code change proposals to the National Model Code Adoption Agency, the code of which has been adopted as a subcode under this act, the commissioner shall hold a public hearing in accordance with the Administrative Procedure Act, P. L. 1968, c. 410 (C. 52:14B–1 et seq.), at which testimony on any application recommending a State sponsored code change proposal will be heard.

The commissioner shall maintain a file of such applications, which shall be made available to the public upon request and upon payment of a fee to cover the cost of copying and mailing.

After public hearing, the code advisory board shall review any such applications and testimony and shall within 20 days of such hearing present its own recommendations to the commissioner.

The commissioner may adopt, reject or return such recommendations to the code advisory board for further deliberation. If adopted, any such proposal shall be presented to the subsequent meeting of the National Model Code Agency by the commissioner or by persons designated by the commissioner as a State sponsored code change proposal. Nothing herein, however, shall limit the right of any municipality, the department, or any other person from presenting amendments to the National Model Code Agency on its own initiative.

The commissioner may adopt further rules and regulations pursuant to this subsection and may modify the procedures herein described when a model code change hearing has been scheduled so as not to permit adequate time to meet such procedures.

d. The Department of Education shall annually update its rules and regulations concerning public school facilities for the purpose of, insofar as appropriate for such facilities making them conform with the State Uniform Construction Code. Such updating shall be undertaken in consultation with the commissioner. Within 3 years from the effective date of this act, the Department of Education and commissioner shall submit to the Legislature reports on the extent to which the Department of Education's rules and regulations have been brought into conformity with the code, and identifying problems still outstanding for purposes of applying the provisions of the code to all public school facilities.

Repealer.

10. P. L. 1972, c. 148 (C. 52:27D–25.1 through 52:27D–25.9) is repealed.

11. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 495

AN ACT concerning relocation assistance and compensation in certain cases, and amending and supplementing P. L. 1978, c. 139.

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

1. Section 3 of P. L. 1978, c. 139 (C. 2A:18–61.15) is amended to read as follows:

C. 2A:18-61.15 Rental of comparable housing.

3. A landlord seeking to remove a tenant who is a permanent domiciliary under subsection h. of section 2 of P. L. 1974, c. 49 (C. 2A:18–61.1) in such municipality shall offer to the tenant, personally or through an agent, the rental of comparable housing as defined in section 4 of P. L. 1975, c. 311 (C. 2A:18–61.7) in such municipality or within 10 miles thereof and a reasonable opportunity to examine and rent such comparable housing.

In order to satisfy his obligation under this section, the landlord shall document at least two separate comparable housing units which the tenant was offered a reasonable opportunity to examine and rent, and shall include in any complaint filed for possession of the demised premises the details of each such offer or a description of any attempt to secure comparable housing units to offer to the tenant.

2. Section 4 of P. L. 1978, c. 139 (C. 2A:18–61.16) is amended to read as follows:

C. 2A:18-61.16 Alternative to relocation.

4. If the landlord is unable to provide the tenant relocation into comparable rental housing because of the housing shortage, he may as an alternative to relocation:

a. Pay the tenant an amount equal to 5 months' rent; or

b. Allow the tenant to remain in the unit for an additional 5 months beyond the notice period during which time the payment of rent shall be waived. The landlord may utilize this alternative only if he maintains the premises in substantially the same condition as they were prior to the sending of the notice to deliver possession.

If the landlord chooses to exercise either of these alternatives to relocation, he shall notify the tenant in writing of the alternative

that has been chosen at least 6 months prior to the institution of an action for possession. In the event that the landlord chooses the alternative pursuant to subsection a. of this section, payment to the tenant of the specified amount shall accompany the notice.

3. Section 6 of P. L. 1978, c. 139 (C. 2A:18–61.18) is amended to read as follows:

C. 2A:18-61.18 Information to tenant.

6. Any notice for delivery of possession under subsection h. of section 2 of P. L. 1974, c. 49 (C. 2A:18–61.1) issued in accordance with section 2 of this act shall inform the tenant of the following:

a. That the landlord has a duty to offer to the tenant the rental of comparable housing;

b. That if the landlord is unable to provide relocation housing, he may as an alternative to relocation: (1) pay the tenant an amount equal to 5 months' rent; or (2) allow the tenant to remain in the unit for an additional 5 months beyond the notice period during which time the payment of rent shall be waived. If the landlord chooses either alternative, he shall additionally notify the tenant of such choice at least 6 months prior to the institution of an action for possession. In the event the landlord chooses the alternative pursuant to (1) of this subsection, payment to the tenant of the specified amount shall accompany the notice.

c. No tenant shall be evicted unless: (1) the tenant was offered the opportunity to rent comparable housing; (2) the tenant was paid an amount equal to 5 months' rent; (3) the tenant was allowed to remain in the unit for an additional 5 months beyond the notice period during which time the payment of rental shall be waived; or (4) 36 months have elapsed and the landlord is unable to offer the tenant the opportunity to rent comparable housing.

C. 2A:18-61.16a Rent defined.

4. (New section) "Rent" means the amount currently payable by the tenant to the landlord pursuant to lease or other agreement, without regard to any modification thereof by any authorized board or agency, or any court.

5. This act shall take effect immediately and shall apply with respect to all tenants to whom first notice is given pursuant to section 2 of P. L. 1978, c. 139 (C. 2A:18–61.14) on or after the effective date of this act.

Approved January 12, 1982.

CHAPTER 496

AN ACT providing a uniform method for the fixing and determination of municipal ward boundaries by ward commissioners and revising parts of the statutory law pertaining thereto.

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

C. 40:44-9 Short title.

1. (New section) This act shall be known and may be cited as the "Municipal Ward Law."

C. 40:44-10 Exclusive method for fixing ward boundaries.

2. (New section) This act shall apply to and govern any municipality having adopted a charter or form of government, or ordinance, providing that the municipality shall be divided into wards, or other similar representation districts, for the purpose of the election or appointment of any municipal officers. It shall constitute the exclusive method whereby the boundaries of wards, or other similar representation districts, in municipalities shall be fixed and determined, and to this end all acts or parts of acts, whether of a general or special character, which conflict or are incompatible with its provisions are superseded to the degree of the conflict or incompatibility. Nothing in this act shall be sufficient in itself to authorize any municipality to divide into wards or other similar representation districts, nor to increase or decrease the number of its wards or similar representation districts.

C. 40:44-11 Division by ward commissioners.

3. (New section) A municipality shall be divided by the ward commissioners, in the manner provided in this act, into so many wards as the charter or form of government, or ordinance, may provide. The members of the county board of elections of the county in which the municipality is located, together with the municipal clerk, shall constitute the ward commissioners.

C. 40:44-12 Compensation; assistants.

4. (New section) Each ward commissioner shall be entitled to be reimbursed for necessary expenses incurred in the performance of his duties and to such compensation as the governing body may provide by ordinance.

The ward commissioners shall be entitled in the performance of their duties to the assistance of a surveyor or engineer, and, when they deem necessary, may employ a surveyor or engineer and such other assistants as shall be necessary to aid them in the discharge of their duties.

The governing body of the municipality shall provide, upon certification of the ward commissioners, for payment of the expenses of the ward commissioners, their compensation as determined by ordinance, and the expenses for the services of the surveyor, engineer or other assistants as the ward commissioners shall have incurred. No person employed under this section shall be compensated by receiving a percentage of the contract under which he renders services.

C. 40:44-13 Meetings of commissioners.

5. (New section) a. Within 5 days following any election at which the voters of the municipality shall have adopted a charter, or an amendment thereof, or a form of government requiring the division of the municipality into a number of wards, the ward commissioners shall meet and, having first taken and subscribed, before an officer authorized to administer oaths, an oath to faithfully and impartially perform their duties, shall proceed to divide the municipality into wards as required by the charter or form of government and this act.

b. Within 30 days following the final adoption pursuant to law by the municipal governing body of any ordinance which by its terms requires that the municipality be divided into wards, or that the existing wards of the municipality be increased or decreased, or that the existing ward boundaries of the municipality be adjusted to allow for the annexation or deannexation of territory, the ward commissioners shall meet in the manner provided in subsection a. of this section and proceed to divide the municipality into wards, or to make such adjustments in ward bondaries, as shall be required to conform with the provisions of the ordinance and this act.

c. Within 3 months following the promulgation by the Governor pursuant to law of each Federal decennial census, the ward commissioners shall meet in the manner provided in subsection a. of this section and proceed to make such adjustments in ward boundaries as shall be necessary to conform them to the requirements of this act.

C. 40:44-14 Compact and contiguous territory; population requirements.

6. (New section) The ward commissioners shall fix and determine the ward boundaries so that each ward is formed of compact and contiguous territory. The population of the most populous ward so created shall not differ from the population of the least populous ward so created by more than 10% of the mean population of the wards derived by dividing the total population of the municipality by the number of wards created. The most recent Federal decennial census shall be used as the population determinant.

C. 40:44-15 Certified report.

7. (New section) Within 30 days following their initial meeting pursuant to section 5 of this act, the ward commissioners shall file their report, certified by at least three of their signatures, setting forth and properly describing the ward boundaries fixed and determined. There shall be annexed to the report a map of the municipality with the ward boundaries clearly marked thereon.

The report so certified shall be filed in the office of the county clerk, and copies shall be filed with the Secretary of State and in the office of the municipal clerk.

C. 40:44-16 Publication of notice of ward boundaries.

8. (New section) Within 2 weeks immediately following the filing of the certified report by the ward commissioners, the municipal clerk shall cause to be published at least once in at least one newspaper generally circulating in the municipality a notice of the ward boundaries as fixed and determined in the report.

Upon completion of the publication, the former wards, if any, shall be superseded, and thereafter all officers elected or appointed in the municipality for or representing the wards thereof shall be elected from, or appointed for, the wards fixed and determined by the ward commissioners; except that, in municipalities wherein municipal officers are elected at the general election held on the first Tuesday after the first Monday in November, if the publication shall be completed in a year in which municipal officers are elected during the period between the date 75 days before the primary election and the date of the general election, the wards so fixed and determined shall take effect on the day following the holding of that general election; and, in municipalities wherein municipal officers are elected at a regular municipal election held on the second Tuesday in May, if the publication shall be completed in a year in which municipal officers are elected during the period

between the date 75 days before the regular municipal election and the date of the election, the wards so fixed and determined shall take effect on the day following the holding of that regular municipal election.

C. 40:44-17 Adjustment of boundaries.

9. (New section) Whenever the boundaries of existing wards are adjusted pursuant to subsection b. or c. of section 5 of this act, all officers elected therefor shall continue in office until their respective terms of office shall expire and until their successors are elected and qualified from adjusted wards.

C. 40:44-18 Application of previous law.

10. (New section) Nothing contained in this act shall invalidate any wards or ward boundaries existing in any municipality on the effective date of this act which were fixed and determined pursuant to any previous law, but the provisions of this act shall apply to and govern any municipality on and after the date on which any of the circumstances set forth in section 5 of this act shall occur therein.

11. R. S. 40:131–1 is amended to read as follows:

Division of town.

40:131–1. Except as otherwise provided by referendum of the voters, the governing body of any town containing more than 5,000 inhabitants may, by ordinance or resolution, require the division of the town into not less than three nor more than five wards.

12. Section 6 of P. L. 1897, c. 30 (R. S. 40:108–1(6)) is amended to read as follows:

Authority to divide city.

40:108–1 (6). The governing body of any such city, in office, shall have power and authority to require the division of such city into two or more wards, or to require an increase or decrease in the number of wards, such division shall be required by ordinance.

13. Section 6 of P. L. 1899, c. 52 (R. S. 40:109–3 (6)) is amended to read as follows:

Wards; division of city; ordinance or resolution.

40:109–3 (6). Wards; division of city; ordinance or resolution. The governing body of any such city, in office, shall have power and authority to require the division of such city into two or more wards, or to require an increase or decrease in the number of wards; such division shall be required by ordinance.

14. Section 5 of P. L. 1948, c. 437 (C. 40:144–20) is amended to read as follows:

C. 40:144-20 Proceedings nullified.

5. If such proposition shall be adopted and become effective, any and all proceedings theretofore had in respect to the division of the township into wards, the selection of township committeemen and any other proceedings had or taken, pursuant to the prior adoption of the proposition as to the division of the township into wards, shall be nullified and be of no effect, except as provided in the next section.

15. Section 5 of P. L. 1963, c. 149 (C. 40:103–5 (75)) is amended to read as follows:

C. 40:103-5 (75) Number and term.

5. Number and Term.

The city shall be governed by an elected mayor and a city council consisting of two elected councilmen from each ward, each of whom shall serve for a term of 4 years beginning at 12:00 o'clock noon January 1 next following his election.

The governing body of the city shall require the division of the city into wards, and may require an increase or decrease in the number of wards. Any division, or increase or decrease, shall be required by ordinance.

16. Section 29 of P. L. 1977, c. 435 (C. 40:43–66.63) is amended to read as follows:

C. 40:43-66.63 Consolidated municipality.

29. a. Following the adoption of the question of consolidation in each of the participating municipalities, the nomination and election of officers for the consolidated municipality shall be conducted in accordance with the plan or form of government adopted for the consolidated municipality, and the participating municipalities shall be deemed consolidated on the date on which such officers shall be authorized to take office under such plan or form of government; provided, however, that, if the commission shall have recommended submission to the Legislature of a special charter, the provision for the election of new officers and the date of consolidation shall be at such time following the approval of such special charter by the Legislature as shall be set forth in such charter.

b. Ward boundaries for the consolidated municipality, if any shall be required by the charter or form of government adopted, shall be fixed and determined pursuant to the "Municipal Ward Law" (P. L. 1981, c. 496; C. 40:44–9 et seq.).

c. Within 45 days after the adoption of the question of consolidation, the county board of elections shall establish the election district boundaries for the consolidated municipality in the manner prescribed in Article 2 of chapter 4 of Title 19 of the Revised Statutes.

d. For the purpose of conducting the nomination and election of officers for the consolidated municipality as provided in subsection a. of this section, the municipal clerks of the participating municipalities shall organize themselves as a committee. Such committee shall, as prescribed by law for the plan or form of government adopted for the consolidated municipality: furnish forms for, and receive, petitions of nomination for such officers; conduct the certification of such petitions; prepare, cause to be printed, and authenticate the ballot for the election of such officers; cause any notices for such election to be published; and receive and canvass the returns of such election.

17. N. J. S. 40A:7–13 is amended to read as follows:

Ordinance of annexing municipality; wards; limitation on municipal boundaries.

40A:7–13. Ordinance of annexing municipality; wards; limitation on municipal boundaries. The governing body of the municipality to which land is sought to be annexed may, in its discretion, by ordinance adopted by a two-thirds vote annex the land specifically described in the petition to such municipality. If the municipality is divided into wards, the boundaries of the existing wards shall be adjusted as necessary to together encompass the annexed land, pursuant to the "Municipal War Law" (P. L. 1981, c. 496; C. 40:44–9 et seq.). The boundaries of such municipality shall not be extended so as to include a portion of any county other than that in which such municipality is located.

Repealer.

18. The following are repealed:

R. S. 40:44–1 through 40:44–8, inclusive;

R. S. 40:123–6;

R. S. 40:123–7;

R. S. 40:131–6;

R. S. 40:144–7 through 40:144–10, inclusive;

R. S. 40:144–15;

P. L. 1950, c. 210, sections 17–48 through 17–55, inclusive (C. 40:69A–197 through 40:69A–204);

P. L. 1971, c. 407 (C. 40:69A–199.1 and 40:69A–199.2).

19. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 497

A SUPPLEMENT to "An act concerning municipalities, and supplementing chapter 62 of Title 40 of the Revised Statutes," approved March 14, 1945 (P. L. 1945, c. 37, C. 40:62–61.1).

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

C. 40:62-61.2 Extension to existing system.

1. Any municipality wherein facilities for the supply of water are furnished by a public utility subject to the jurisdiction of the Board of Public Utilities may provide, by ordinance, for the construction of an extension to the existing water supply system of the public utility, with all necessary plants, buildings, mains, pipelines and conduits for the transmission and distribution of water supplies within the municipality, for the purpose of supplying water service for the public and private uses of the municipality and its inhabitants, including residential, industrial, commercial and agricultural users. The costs of the construction may be assessed against the real property benefited thereby in the same manner and to the same effect as in the case of assessments for local improvements. Bonds or notes of the municipality may be issued by the municipality in conformity with the provisions of the "Local Bond Law" (N. J. S. 40A:2–1 et seq.), to finance the construction.

C. 40:62-61.3 Lease or sale to utility.

2. Any extension to the existing water supply system of a public utility, constructed or to be constructed pursuant to section 1 of this act, may be leased or sold by the municipality at any time to the public utility, provided that:

a. An ordinance shall be duly adopted by the governing body of the municipality approving the terms and conditions of the agreement of lease or sale and authorizing the execution thereof. The ordinance may incorporate any terms and conditions by reference to the agreement on file with the clerk of the municipality; and

b. The terms and conditions of the agreement of lease or sale shall be approved by the Board of Public Utilities.

C. 40:62-61.4 Governed by general requirements.

3. Any lease or sale by a municipality of the extension to the existing water supply system of a public utility as provided in section 2 of this act shall be governed solely by those requirements of R. S. 40:62–3 which pertain generally to the lease or sale of a municipal utility plant to another municipality, or a public authority, commission or body.

C. 40:62-61.5 Refund or credit.

4. That portion of the principal of the amount of any proceeds received or to be received by the municipality from any lease or sale made under section 2 of this act, which is specified in the agreement of lease or sale to be attributable to the extension of facilities for the supply of water for which properties benefited thereby have been or will be assessed, shall be refunded or credited, pro rata according to the principal of the amount of the assessments, to those owners of properties assessed, or their legal representatives or assigns, in such manner as may be determined by the governing body of the municipality.

5. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 498

AN ACT concerning the establishment of a State financial assistance program for counties for the renovation and construction of county correctional facilities.

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

C. 30:8-16.3 Short title.

1. This act shall be known and may be cited as the "County Correctional Policy Act of 1982".

C. 30:8-16.4 Coordination between State and county programs.

2. The Legislature finds and declares that in order to more effectively protect society and promote efficiency and economy in the delivery of correctional services, there is a need for coordination between State and county correctional programs. The coordination which would be enhanced by a financial assistance program

for the construction and renovation of county correctional facilities, would provide maximum-security incarceration at the State level of those offenders whose demonstrated propensity to violence requires their separation from society while at the same time developing viable alternatives to State confinement for those offenders who can be dealt with more effectively in county correctional facilities and programs.

C. 30:8-16.5 Financial assistance to counties.

3. a. There is established in the Department of Corrections a long-term, financial assistance program to provide State grants to participating counties to renovate and construct county correctional facilities so that county correctional services may be developed, implemented, operated and improved.

b. The Commissioner of the Department of Corrections is authorized to provide financial assistance, in the form of State grants, to participating counties in order to upgrade county correctional facilities so that county correctional programs may be developed and implemented and the placement of certain State prisoners in medium and minimum-security facilities at the county level effectuated. No State prisoner who is anticipated to have an actual period of confinement in excess of 24 months or convicted of the offense of aggravated sexual assault, sexual assault, aggravated criminal sexual contact, or an attempt to commit any of these offenses shall be eligible for placement in any county correctional facility under this act.

c. With the agreement of the county, prisoners sentenced to terms which may result in an actual period of confinement in excess of 24 months may be housed in county facilities on a pre-release basis for the last 6 to 9 months of their sentences in order to facilitate the reintegration of offenders in the community.

d. The program established pursuant to this act shall be funded through bond moneys appropriated to the Department of Corrections from the "Public Purpose Buildings Construction Fund," created pursuant to the "New Jersey Public Purpose Buildings Construction Bond Act of 1980," P. L. 1980, c. 119, and from any other bond moneys and capital budget appropriations that may be issued for these purposes subsequent to the enactment of this act.

C. 30:8-16.6 Placement goals; preference; cooperation of contiguous counties; rules and regulations of commissioner.

4. a. Any county responsible for the commitment of prisoners to State correctional facilities may participate in the financial assistance program as developed and administered by the commissioner.

The following are set as placement goals for counties participating in the financial assistance program:

(1) By January 1, 1987, provide placement in county correctional facilities for at least 15% of those prisoners committed by the county to State correctional facilities as of the effective date of this act;

(2) By January 1, 1992, provide placement in county correctional facilities for at least 30% of those prisoners committed by the county to State correctional facilities as of the effective date of this act.

b. Subject to the other provisions of this act, the commissioner shall issue rules and regulations which assure that any county responsible for the commitment of prisoners to State correctional facilities equal to more than 5% of the total number of prisoners within the State correctional system as of the effective date of this act shall have preference in participating in the financial assistance program as developed and administered by the commissioner.

c. Subject to the other provisions of this act, any county which commits less than 5% of the prisoners within the State correctional system as of the effective date of this act may participate in the financial assistance program either on its own or in cooperation with no more than two other geographically contiguous counties, subject to the approval of the commissioner.

d. Subject to the other provisions of this act, the number of State prisoners to be placed in county correctional facilities shall be established by the commissioner and agreed to by the participating county.

e. The counties participating in the financial assistance program shall adhere to rules and regulations concerning prisoner placement as developed by the commissioner in accordance with limitations established pursuant to subsection b. of section 3 of this act.

C. 30:8-16.7 Advisory board; comprehensive plan.

5. a. The governing body of each county participating in the financial assistance program under this act shall establish a 12 member county corrections advisory board. The membership of the board, appointed by the governing body of the county, shall be representative of the areas of criminal justice, the judiciary, corrections, education, social services, ethnic minorities and the general public. The board shall be responsible for the development of a comprehensive plan for developing, implementing, operating and improving county correctional services, which shall be submitted to the governing body of the county for its approval. The

board, at least annually, shall make a formal recommendation to the governing body of the county concerning the implementation and operation of the plan for the forthcoming year.

b. In addition to such matters as are prescribed by rules and regulations promulgated by the commissioner, the comprehensive plan of each county shall provide for:

(1) The availability and use of a specific amount of bed space to be reserved for prisoners remanded by the State;

(2) The location and description of facilities that will be used by the county pursuant to the purposes of this act including, but not limited to, county jails, penitentiaries, houses of detention, workhouses, work release centers and halfway houses;

(3) Per diem reimbursement rates favorable to the State in recognition of its contribution to the construction or renovation costs of the county correctional facilities but which take into consideration the additional cost of State mandated programs;

(4) The centralized administration and control of county correctional services, taking into account established provisions for probation and parole services;

(5) The manner in which counties that jointly apply for participation under this act will operate a coordinated regional county corrections program; and

(6) A schedule of specific expenditures and priorities for the use of the grant moneys.

c. Any county applying for financial assistance made available under this act shall apply in a form and manner prescribed by the commissioner.

d. Prior to receiving a grant of financial assistance under this act, the governing body of each participating county shall submit a comprehensive plan for the development, implementation, operation and improvement of county correctional services to the commissioner for his approval.

C. 30:8-16.8 Governing body to retain authority.

6. Subject to the requirements of centralized administration and control of county correctional services under subsection b. (4) of section 5, and the provisions of agreements between cooperating counties permitted pursuant to subsection b. of section 4, the governing body of a participating county shall retain all authority for the expenditure of funds, including grants of financial assistance received from the State under this act, and for the imple-

mentation and operation of county correctional facilities according to the comprehensive plan approved by the commissioner.

C. 30:8-16.9 Planning grant.

7. In order to assist a county or cooperating counties which have established a county corrections advisory board but which do not have a comprehensive plan, and which require financial assistance to defray expenses necessary to develop such a plan the commissioner, upon receipt of resolutions from the governing body of the county or counties certifying the inability to pay the expenses, may provide a planning grant to the county or counties.

C. 30:8-16.10 Financial assistance grant.

8. If a county or counties applying for financial assistance under this act meet all the requirements for receiving such assistance, as determined by the commissioner, the commissioner shall provide a State financial assistance grant for:

a. The full cost of capital construction and renovation for county correctional facilities providing placement space for prisoners remanded by the State; and

b. The partial cost of capital construction and renovation for county correctional facilities for housing county prisoners.

C. 30:8-16.11 Annual review.

9. The commissioner shall review annually the comprehensive plans submitted by a county or group of counties and the facilities and programs developed, implemented and operated under those plans. The commissioner shall have a reasonable opportunity to examine county books, records, facilities and programs for the purposes of recommending needed changes and improvements in those plans.

C. 30:8-16.12 Rules and regulations.

10. The commissioner, in accordance with the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), may promulgate such rules and regulations as are necessary to effectuate the purposes of this act.

11. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 499

AN ACT to amend and supplement "An act to supplement the 'New Jersey Medical Assistance and Health Services Act,' (P. L. 1968, c. 413) and making an appropriation therefor," approved August 21, 1975 (P. L. 1975, c. 194).

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

1. Section 2 of P. L. 1975, c. 194 (C. 30:4D–21) is amended to read as follows:

C. 30:4D-21 Pharmaceutical assistance eligibility.

2. Any single resident of this State who is either disabled pursuant to the Federal Social Security Act (42 U. S. C. section 416 (i)) or 65 years of age and over whose annual income is less than $12,000.00, or any married resident whose annual income combined with that of his spouse is less than $15,000.00, shall be eligible for "Pharmaceutical Assistance to the Aged and Disabled" if he is not otherwise qualified for assistance under the act to which this act is a supplement.

2. There is transferred from and appropriated to the expanded program of Pharmaceutical Assistance to the Aged and Disabled $2,000,000.00 from the Payments of Utility Credits account and $13,000,000.00 from the Tenant Utility Rebate Credit account, in the Department of Human Services, for fiscal year 1982.

3. This act shall take effect on the first day of the second month following enactment, but the Department of Human Services shall accept and process applications prior to the act's effective date.

Approved January 12, 1982.

CHAPTER 500

AN ACT concerning booking agencies, and amending and supplementing P. L. 1951, c. 337.

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

1. Section 1 of P. L. 1951, c. 337 (C. 34:8–24) is amended to read as follows:

C. 34:8-24 Definitions.

1. As used in this act:

"Employment agency" means and includes the business of procuring or offering to procure help or employment, or the giving of information as to where help or employment may be procured, whether the business is conducted in a building or on the street or elsewhere; or the business of keeping an employment bureau, nurses' registry, or booking agency for procuring engagements for performing artists, or other agency or office for procuring work or employment for persons, where a fee or privilege is exacted, charged or received directly or indirectly for procuring or assisting or promising to procure employment, work, engagement or a situation of any kind, or for procuring or providing help or promising to provide help for any person, whether such fee is collected from the applicant for employment or the applicant for help, or whether the application for help or employment is made directly or indirectly by either the prospective employer or the prospective employee or by any person acting to secure either help or employment for the prospective employer or the prospective employee. "Employment agency" shall not include any temporary help service firm.

"Fee" means and includes any payment of money, or promises to pay money, or the excess of money received by a person furnishing employment or employees over what he has paid for transportation, transfer of baggage or lodging for an applicant for employment. It shall also mean and include the difference between the amount of money received by any person who either furnishes employees or performers for any entertainment, exhibition or performance, or who furnishes baby sitters for any occasion, and the amount paid by such person or persons to the employees, performers or baby sitters.

"Privilege" means and includes the furnishing of food, supplies, tools or shelter to contract laborers, commonly known as commissary privileges. The furnishing of food, supplies, tools or shelter to laborers if performed or paid for within this State, both in connection with the promise or offer to provide help or employment regardless of where such offer is made or where the help is obtained, shall be considered proof of violation of this act.

"Attorney General" means the Attorney General of this State or his duly authorized representative.

"Contract laborers" means unskilled or skilled workers, of either sex, furnished either directly or indirectly by any person, engaged directly or indirectly in the business of furnishing employees, to employers by whom they are to be employed in groups of five or more persons.

"Employment agency owner's license" means a license authorizing the person to whom it is issued to own an employment agency and to have such employment agency operated by a person or persons duly authorized to perform the functions for which the agency is licensed.

"Employment agency operator's license" means a license issued to an individual person who is the holder of an employment agency owner's license or to an employee or agent of the holder of an employment agency owner's license. When held by the employee or agent of the holder of an employment agency owner's license such employment agency operator's license shall authorize the holder to perform such functions as he may be duly authorized and empowered by his employer to perform and for the performance of which an employment agency operator's license is required. No person, other than the holder of an employment agency operator's license, shall furnish help or employment, or furnish information as to where help or employment may be obtained, or manage, operate or carry on the business of an employment agency.

"Representative" means any individual person holding an employment agency operator's license duly authorized and empowered by the owner of the employment agency owner's license, by whom he is employed, to solicit business and otherwise act as the duly authorized representative of his employer to the extent of such authorization and subject to the provisions of this act.

"Employee" means an applicant for a job, or an engagement to work, who is furnished to an employer, or prospective employer,

by an employment agency. This definition shall not apply to employees of the employment agency.

"Employer" means an applicant for help for whom an employee is to be supplied by an employment agency.

"Rules and regulations" means such rules and regulations as shall have been promulgated by the Attorney General and are not inconsistent with the provisions of this act.

"Booking agency" means the business of conducting any agency which procures, offers, promises, or attempts to procure employment for performing artists, and which collects a fee for providing such employment.

"Performing artists" means musical, theatrical or vaudeville performers employed or engaged individually or as a group.

"Baby sitters" means and includes any individual person under 21 years of age, of either sex, other than a registered nurse or a licensed nurse, entrusted temporarily with the care of children during the absence of their parents, guardians, or persons standing in loco parentis to them. This definition shall not include persons regularly employed by agencies, or institutions operated by or under the control or supervision of this State, or any of its political subdivisions, nor any nurseries operated for the care of children when such nurseries are similarly controlled or supervised.

"Temporary help service firm" means and includes any person, firm or entity, who operates a business which consists of employing individuals directly for the purpose of assigning his employees to assist his customers in the handling of his customers' temporary, excess or special work loads, and who, in addition to the payment of wages or salaries to his employees, pays Federal social security taxes and State and Federal unemployment insurance, carries workmen's compensation insurance as required by State law, and sustains responsibility for the actions of his employees while rendering services to his customers.

2. Section 3 of P. L. 1951, c. 337 (C. 34:8–26) is amended to read as follows:

C. 34:8-26 Employment agency license.

3. No person shall either directly or indirectly open, conduct or maintain an employment agency or perform any of the functions of an employment agency without first obtaining such license or licenses as is or are required by the provisions of this act. No

license shall authorize the furnishing of help or employment or the furnishing of information where help or employment may be procured in the capacity of baby sitters. No employee of a licensee shall be exempt from the requirement of securing a license for the performance of any act for which a license is required by this act. No license shall be of avail to any person other than the individual person or persons holding such license except that a corporation may be the holder of an employment agency owner's license. No license shall be of avail for use at any place other than at the place designated in such license. No license issued to an employee of any employment agency shall authorize his employment by any other employment agency. No employment agency owner's license shall be transferred or amended unless a consent thereto, in writing, is given by the Attorney General. No employment agency owner's license shall be transferred by the licensee to any other person except upon the written consent of the Attorney General, and the payment of the fee prescribed by this act.

Upon the termination of the employment of the holder of an employment agency operator's license, the holder of the employment agency owner's license by whom the holder of said employment agency operator's license has been employed shall promptly notify the Attorney General of the termination of the employment. The employment agency operator's license shall thereupon be canceled and the holder thereof entitled to the issuance of a new license for the unexpired term of the old license without payment of additional fee upon the written request of such holder thereof, and the holder of the employment agency owner's license who is to be named in such new license as the new employer; provided, however, that the Attorney General may refuse to issue such new license for any good cause shown within the provisions of this act.

Any unlicensed person or any officer or agent of any unlicensed corporation who shall either directly or indirectly open, conduct or maintain an employment agency, or any person who shall knowingly permit any unlicensed employee or agent to perform any act, the performer of which is required to be licensed, shall be liable to a civil penalty of $300.00 for the first offense, and not less than $500.00 nor more than $1,500.00 for each and every subsequent offense. The penalty shall be sued for and recovered by and in the name of the Attorney General and shall be collected and enforced by summary proceedings pursuant to "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.).

Any person performing any act, the performance of which is within the definition of employment agency operator's license, without holding such a license, shall be liable to a civil penalty of $300.00 for the first offense, and not less than $500.00 nor more than $1,500.00 for each and every subsequent offense. The penalty shall be sued for and recovered by and in the name of the Attorney General and shall be collected and enforced by summary proceedings pursuant to "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.).

3. Section 6 of P. L. 1951, c. 337 (C. 34:8–29) is amended to read as follows:

C. 34:8-29 Locations where employment agencies banned.

6. An employment agency shall not be conducted in any of the following places:

(1) Rooms or quarters used for living purposes;
(2) Boarding or lodging houses, rooms or quarters;
(3) Sleeping rooms or quarters.

Where the application is for a license to operate an employment agency in a place used for the conduct of another business, the Attorney General may refuse to grant such license if, in his opinion, such refusal would be in the public interest. Should the other business be that of operating a temporary help service firm or a booking agency, the Attorney General may refuse to grant such license if the businesses are not operated separately as prescribed by the rules and regulations promulgated by the Attorney General.

4. Section 7 of P. L. 1951, c. 337 (C. 34:8–30) is amended to read as follows:

C. 34:8-30 Bond required.

7. Before an employment agency owner's license is issued, the applicant shall deposit with the Attorney General a bond in the penal sum of $2,000.00, with two or more sureties, or a duly authorized surety company as surety, to be approved by the Attorney General.

The bond shall be payable to the State and shall be conditioned that the person applying for the license will comply with this act and will pay all damages occasioned to any person by reason of any misstatement, misrepresentation, fraud or deceit, or any unlawful act or omission of any licensed person, his agents, or employees, while acting within the scope of their employment, made, committed or omitted in the business conducted under the license, or caused

by any violation of this act in carrying on the business for which the license is granted. In case of a breach of the condition of any bond, application may be made to the Attorney General by the person injured by the breach for leave to sue upon the bond, which leave shall be granted by the Attorney General if it be proven to his satisfaction that the condition of the bond has been breached and the party applying has been injured thereby. The person obtaining leave to sue shall be furnished with a certified copy of the bond and institute suit on the bond in his own name for the recovery of damages sustained by such breach.

If at any time, in the opinion of the Attorney General, the sureties on any such bond, or any of them, shall become irresponsible, the person holding such license shall, upon notice from the Attorney General, give a new bond, subject to the provisions of this section. The failure to give a new bond within 10 days after such notice, at the direction of the Attorney General, shall operate as revocation of such license, and the license shall be thereupon returned to the Attorney General.

5. Section 15 of P. L. 1951, c. 337 (C. 34:8–38) is amended to read as follows:

C. 34:8-38 Violations; penalties.

15. Except as otherwise specifically provided in this act, any person, corporation, partnership or member of any association, or any agent, servant or employee of any person, corporation, partnership or association who shall violate any of the provisions of this act and any holder of an employment agency operator's license who shall willfully violate any of the provisions of this act shall be liable to a civil penalty of $300.00 for the first offense, and not less than $500.00 nor more than $1,500.00 for each and every subsequent offense. The penalty shall be sued for and recovered by and in the name of the Attorney General and shall be collected and enforced by summary proceedings pursuant to "the penalty enforcement law" (N. J. S. 2A:58–1 et seq.).

C. 34:8-26.1 Investigatory power of Attorney General.

6. (New section) Whenever it shall appear to the Attorney General, either upon complaint or otherwise, that any person is conducting or maintaining an employment agency, or performing any of the functions of an employment agency without first obtaining the license or licenses required by P. L. 1951, c. 337 (C. 34:8–24 et seq.), or whenever he believes it to be in the public interest that an investigation be made, he may require the person to file

with him a statement in writing under oath or otherwise as to all the facts and circumstances concerning his licensure, or non-licensure, as the case may be.

The Attorney General may also require whatever other data and information he deems relevant and may make such special and independent investigations as he may deem necessary. In connection with the investigations the Attorney General is empowered to subpena witnesses, compel their attendance, examine them under oath, and require the production of any books, records or papers which he deems relevant or material to the inquiry.

If any person shall fail, or refuse, to file any such statement, books, records or papers, or fail or refuse to obey any subpena issued pursuant to the provisions of this section, the Attorney General may apply to the Superior Court and obtain an order:

a. Adjudging the person in contempt of court; or

b. Granting injunctive relief, without notice, restraining the person from continuing to conduct his business; or

c. Both; until the person files the statement, books, records or papers, or obeys the subpena, or until he provides proof of licensure.

7. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 501

AN ACT to amend the "municipal and county utilities authorities law," approved August 22, 1957 (P. L. 1957, c. 183) as said short title was amended by P. L. 1977, c. 384.

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

1. Section 6 of P. L. 1957, c. 183 (C. 40:14B–6) is amended to read as follows:

C. 40:14B-6 Reorganization of sewerage authority.

6. a. The governing body of any municipality which shall have created a sewerage authority may, by ordinance duly adopted,

provide and determine that said sewerage authority shall be reorganized as a municipal authority and thereupon and thereby cause said sewerage authority to be organized as a public body corporate and politic existing under and by virtue of this act.

b. In any county which has created a sewerage authority or a county sewer authority or authorities each such authority shall be reorganized as a county utilities authority and shall be continued as a public body corporate and politic existing under and by virtue of the municipal authorities law, P. L. 1957, c. 183 (C. 40:14B–1 et seq.). The governing body of any county wherein a sewerage authority or a county sewerage authority or authorities was reorganized pursuant to this section shall record such reorganization by resolution and file such resolution with the Secretary of State pursuant to section 7 of this act (C. 40:14B–7).

c. No authority reorganized pursuant to this section shall acquire, construct, maintain, operate or improve a water system, a solid waste system or a hydroelectric system until such time as the governing body authorizes such action by ordinance in the case of a municipality, or by resolution in the case of a county.

d. Said body shall consist of the members of said sewerage authority or of said county sewer authority holding office at the time of such organization together with successors in such membership appointed as if said sewerage authority or county sewer authority had originally been created pursuant to section 4 of this act, and, upon the passage of this amendatory and supplementary act or upon the taking effect of such ordinance and the filing of a certified copy thereof as in section 7 of this act provided, said body shall constitute a municipal authority contemplated and provided for in this act and an agency and instrumentality of said municipality, or county. Said body as such municipal authority shall have all of the rights and powers granted and be subject to all the duties and obligations imposed by this act and, subject to the rights (if any) of the holders of any bonds or other obligations of said sewerage authority or county sewer authority theretofore issued, said body shall be the successor in all respects to said sewerage authority or county sewer authority and forthwith succeed to all of the rights, property, assets and franchises of said sewerage authority, or county sewer authority and the said bonds or other obligations of said sewerage authority or county sewer authority shall be assumed by and become the obligations of said municipal authority, and the property of said sewerage authority or county sewer authority shall be vested in said municipal

authority. Said body may at any time, by resolution duly adopted, change its corporate name and adopt the name and style of "the ..... municipal utilities authority" with the name of said municipality or county inserted.

e. Any municipal or county sewerage authority or any county sewer authority which reorganizes or was reorganized as a municipal authority or county utilities authority under this section may appoint those persons employed by the authority on the effective date of this act to permanent positions in the classified service of the civil service without competitive examination.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 502

AN ACT providing for the establishment of an hereditary disorders program.

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

C. 26:5B-1 Short title.

1. This act shall be known and may be cited as the "Hereditary Disorders Act."

C. 26:5B-2 Findings and declarations.

2. The Legislature finds and declares: that hereditary disorders such as Cooley's anemia, cystic fibrosis, sickle cell anemia, hemophilia, Huntington's Disease, galactosemia and phenylketonuria often present a costly and tragic hardship for citizens of this State; that early detection of the disorders can alleviate some potentially harmful and disabling conditions; that hereditary disorders vary in their severity, with some having little effect and others having significant negative effect upon the normal functioning of individuals; that hereditary disorders also vary in their treatability, with some being subject to total or partial alleviation through medical intervention and treatment and others, currently, not being subject to any more than minimal alleviation; that medical knowledge concerning early identification and treatment of certain hereditary disorders is rapidly expanding; and that it is the policy

of this State that in order to insure that standards for detection and treatment comply with the most recent medical knowledge and that the public is kept informed about these standards and the availability of treatment, it is necessary to establish an hereditary disorders program.

C. 26:5B-3 Heriditary disorder defined.

3. As used in this act "hereditary disorder" means any human ailment, disease or deformity resulting from a specific genetic condition and for which treatment is available, and includes Cooley's anemia, cystic fibrosis, sickle cell anemia, hemophilia, Huntington's Disease, and inborn errors of metabolism such as galactosemia and phenylketonuria.

C. 26:5B-4 Department of Health functions.

4. The Department of Health, in consultation with appropriate professional advisory groups, shall:

a. Establish guidelines for the early identification of persons born with hereditary disorders and standards for testing for hereditary disorders in newborn infants;

b. Establish guidelines for the education and treatment of persons born with hereditary disorders;

c. Establish procedures for referral of persons with hereditary disorders and their families to medical treatment and financial assistance;

d. Institute and carry out an educational program among physicians, hospitals, public health departments and the public concerning hereditary disorders;

e. Consult with the Commissioner of Insurance in identifying arbitrary and unreasonable discrimination against persons with hereditary disorders and their families in insurance coverages;

f. Evaluate on a continuous basis the need for and efficacy of State programs for the treatment of persons with hereditary disorders;

g. Promulgate all rules and regulations necessary to carry out the purposes of this act.

5. This act shall take effect 30 days after enactment.

Approved January 12, 1982.

CHAPTER 503

AN ACT to amend the "Casino Control Act," approved June 2, 1977 (P. L. 1977, c. 110).

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

1. Section 1 of P. L. 1977, c. 110 (C. 5:12–1) is amended to read as follows:

C. 5:12-1 Short title; declaration of policy and legislative findings.

1. Short Title; Declaration of Policy and Legislative Findings.

a. This act shall be known and may be cited as the "Casino Control Act."

b. The Legislature hereby finds and declares to be the public policy of this State, the following:

(1) The tourist, resort and convention industry of this State constitutes a critical component of its economic structure and, if properly developed, controlled and fostered, is capable of providing a substantial contribution to the general welfare, health and prosperity of the State and its inhabitants.

(2) By reason of its location, natural resources and worldwide prominence and reputation, the city of Atlantic City and its resort, tourist and convention industry represent a critically important and valuable asset in the continued viability and economic strength of the tourist, convention and resort industry of the State of New Jersey.

(3) The rehabilitation and redevelopment of existing tourist and convention facilities in Atlantic City, and the fostering and encouragement of new construction and the replacement of lost convention, tourist, entertainment and cultural centers in Atlantic City will offer a unique opportunity for the inhabitants of the entire State to make maximum use of the natural resources available in Atlantic City for the expansion and encouragement of New Jersey's hospitality industry, and to that end, the restoration of Atlantic City as the Playground of the World and the major hospitality center of the Eastern United States is found to be a program of critical concern and importance to the inhabitants of the State of New Jersey.

(4) Legalized casino gaming has been approved by the citizens of New Jersey as a unique tool of urban redevelopment for Atlantic

City. In this regard, the introduction of a limited number of casino rooms in major hotel convention complexes, permitted as an additional element in the hospitality industry of Atlantic City, will facilitate the redevelopment of existing blighted areas and the refurbishing and expansion of existing hotel, convention, tourist, and entertainment facilities; encourage the replacement of lost hospitality-oriented facilities; provide for judicious use of open space for leisure time and recreational activities; and attract new investment capital to New Jersey in general and to Atlantic City in particular.

(5) Restricting the issuance of casino licenses to major hotel and convention facilities is designed to assure that the existing nature and tone of the hospitality industry in New Jersey and in Atlantic City is preserved, and that the casino rooms licensed pursuant to the provisions of this act are always offered and maintained as an integral element of such hospitality facilities, rather than as the industry unto themselves that they have become in other jurisdictions.

(6) An integral and essential element of the regulation and control of such casino facilities by the State rests in the public confidence and trust in the credibility and integrity of the regulatory process and of casino operations. To further such public confidence and trust, the regulatory provisions of this act are designed to extend strict State regulation to all persons, locations, practices and associations related to the operation of licensed casino enterprises and all related service industries as herein provided. In addition, licensure of a limited number of casino establishments, with the comprehensive law enforcement supervision attendant thereto, is further designed to contribute to the public confidence and trust in the efficacy and integrity of the regulatory process.

(7) Legalized casino gaming in New Jersey can attain, maintain and retain integrity, public confidence and trust, and remain compatible with the general public interest only under such a system of control and regulation as insures, so far as practicable, the exclusion from participation therein of persons with known criminal records, habits or associations, and the exclusion or removal from any positions of authority or responsibility within casino gaming operations and establishments of any persons known to be so deficient in business probity, ability or experience, either generally or with specific reference to gaming, as to create or enhance the dangers of unsound, unfair or illegal practices, methods and

activities in the conduct of gaming or the carrying on of the business and financial arrangements incident thereto.

(8) Since the public has a vital interest in casino operations in Atlantic City and has established an exception to the general policy of the State concerning gaming for private gain, participation in casino operations as a licensee or registrant under this act shall be deemed a revocable privilege conditioned upon the proper and continued qualification of the individual licensee or registrant and upon the discharge of the affirmative responsibility of each such licensee or registrant to provide to the regulatory and investigatory authorities established by this act any assistance and information necessary to assure that the policies declared by this act are achieved. Consistent with this policy, it is the intent of this act to preclude the creation of any property right in any license, registration, certificate or reservation permitted by this act, the accrual of any value to the privilege of participation in gaming operations, or the transfer of any license, registration, certificate, or reservation, and to require that participation in gaming be solely conditioned upon the individual qualifications of the person seeking such privilege.

(9) Since casino operations are especially sensitive and in need of public control and supervision, and since it is vital to the interests of the State to prevent entry, directly or indirectly, into such operations or the ancillary industries regulated by this act of persons who have pursued economic gains in an occupational manner or context which are in violation of the criminal or civil public policies of this State, the regulatory and investigatory powers and duties shall be exercised to the fullest extent consistent with law to avoid entry of such persons into the casino operations or the ancillary industries regulated by this act.

(10) Since the development of casino gaming operations in Atlantic City will substantially alter the environment of New Jersey's coastal areas, and since it is necessary to insure that this substantial alteration be beneficial to the overall ecology of the coastal areas, the regulatory and investigatory powers and duties conferred by this act shall include, in cooperation with other public agencies, the power and the duty to monitor and regulate casinos and the growth of casino operations to respond to the needs of the coastal areas.

(11) The facilities in which licensed casinos are to be located are of vital law enforcement and social interest to the State, and

it is in the public interest that the regulatory and investigatory powers and duties conferred by this act include the power and duty to review architectural and site plans to assure that the proposal is suitable by law enforcement, aesthetic and architectural standards.

(12) Since the economic stability of casino operations is in the public interest and competition in the casino operations in Atlantic City is desirable and necessary to assure the residents of Atlantic City and of this State and other visitors to Atlantic City varied attractions and exceptional facilities, the regulatory and investigatory powers and duties conferred by this act shall include the power and duty to regulate, control and prevent economic concentration in the casino operations and the ancillary industries regulated by this act, and to encourage and preserve competition.

(13) It is in the public interest that the institution of licensed casino establishments in New Jersey be strictly regulated and controlled pursuant to the above findings and pursuant to the provisions of this act, which provisions are designed to engender and maintain public confidence and trust in the regulation of the licensed enterprises, to provide an effective method of rebuilding and redeveloping existing facilities and of encouraging new capital investment in Atlantic City, and to provide a meaningful and permanent contribution to the economic viability of the resort, convention, and tourist industry of New Jersey.

(14) Confidence in casino gaming operations is eroded to the extent the State of New Jersey does not provide a regulatory framework for casino gaming that permits and promotes stability and continuity in casino gaming operations.

(15) Continuity and stability in casino gaming operations cannot be achieved at the risk of permitting persons with unacceptable backgrounds and records of behavior to control casino gaming operations contrary to the vital law enforcement interest of the State.

(16) The aims of continuity and stability and of law enforcement will best be served by a system in which applicant entities and investors in those applicant entities can be assured of prompt and continuous casino operation under certain circumstances wherein the applicant has not yet been fully licensed, or has had a license suspended or revoked, as long as control of the applicant's operation under such circumstances may be placed in the possession of

a person or persons in whom the public may feel a confidence and a trust.

(17) A system whereby the satisfaction of certain appropriate criteria, including the execution of a voting trust agreement, permits temporary casino operation prior to licensure and whereby the suspension or revocation of casino operations under certain appropriate circumstances causes the imposition of a conservatorship upon the suspended or revoked casino operation serves both the economic and law enforcement interests involved in casino gaming operations.

2. Section 31 of P. L. 1977, c. 110 (C. 5:12–31) is amended to read as follows:

C. 5:12-31 License or registration fee.

31. "License or Registration Fee"—Any moneys required by law to be paid for the issuance or renewal of a casino license, or any other license or registration required by this act.

3. Section 36 of P. L. 1977, c. 110 (C. 5:12–36) is amended to read as follows:

C. 5:12-36 Party.

36. "Party"—The commission, or any licensee, registrant, or applicant, or any person appearing of record for any licensee, registrant, or applicant in any proceeding before the commission or in any proceeding for judicial review of any action, decision or order of the commission.

4. Section 63 of P. L. 1977, c. 110 (C. 5:12–63) is amended to read as follows:

C. 5:12-63 Duties of the commission.

63. Duties of the Commission. The Casino Control Commission shall have general responsibility for the implementation of this act, as hereinafter provided, including, without limitation, the responsibility:

a. To hear and decide promptly and in reasonable order all license, registration, certificate, and permit applications and causes affecting the granting, suspension, revocation, or renewal thereof;

b. To conduct all hearings pertaining to civil violations of this act or regulations promulgated hereunder;

c. To promulgate such regulations as in its judgment may be necessary to fulfill the policies of this act;

d. To collect all license and registration fees and taxes imposed by this act and the regulations issued pursuant hereto;

e. To levy and collect penalties for the violation of provisions of this act and the regulations promulgated hereunder;

f. To be present through its inspectors and agents at all times during the operation of any casino for the purpose of certifying the revenue thereof, receiving complaints from the public, and conducting such other investigations into the conduct of the games and the maintenance of the equipment as from time to time the commission may deem necessary and proper; and

g. To review and rule upon any complaint by a casino licensee regarding any investigative procedures of the division which are unnecessarily disruptive of casino operations. The need to inspect and investigate shall be presumed at all times. The disruption of a licensee's operations shall be proved by clear and convincing evidence, and establish that: (1) the procedures had no reasonable law enforcement purpose, and (2) the procedures were so disruptive as to inhibit unreasonably casino operations.

5. Section 64 of P. L. 1977, c. 110 (C. 5:12–64) is amended to read as follows:

C. 5:12-64 Commission powers—denials and sanctions.

64. Commission Powers—Denials and Sanctions. The commission shall assure that licenses, certificates, or permits shall not be issued to nor held by, nor shall there be any material involvement, directly or indirectly, with the licensed casino operation or the ownership thereof by, unqualified or disqualified persons or unsuitable persons, or persons whose operations are conducted in a manner not conforming with the provisions of this act. For the purposes of this section, "unqualified person," "disqualified person," or "unsuitable person" shall mean any person who is found by the commission to be disqualified pursuant to the criteria set forth in section 86 c., e., f., g., and h., or to lack the financial responsibility and capability specified in the provisions of section 84. In enforcing the provisions of this act, the commission shall have the power and authority to deny any application; limit or restrict any registration, certificate, permit or approval; suspend or revoke any license, registration, certificate, permit or approval; and, impose a penalty on any person licensed, registered, or previously approved for any cause deemed reasonable by the commission pursuant to rules and regulations promulgated thereby, except that no such denial, limitation, suspension or revocation shall be issued solely by reason of the fact that an applicant, registrant, or licensee holds an interest in or is associated with any licensed casino enterprise in any other jurisdiction.

6. Section 71 of P. L. 1977, c. 110 (C. 5:12–71) is amended to read as follows:

C. 5:12-71 Regulation requiring exclusion of certain persons.

71. Regulation Requiring Exclusion of Certain Persons. a. The commission shall, by regulation, provide for the establishment of a list of persons who are to be excluded or ejected from any licensed casino establishment. Such provisions shall define the standards for exclusion, and shall include standards relating to persons:

(1) Who are career or professional offenders as defined by regulations of the commission;

(2) Who have been convicted of a criminal offense under the laws of any state or of the United States, which is punishable by more than 6 months in prison, or any crime or offense involving moral turpitude; or

(3) Whose presence in a licensed casino would, in the opinion of the commission, be inimical to the interest of the State of New Jersey or of licensed gaming therein, or both.

The commission shall promulgate definitions establishing those categories of persons who shall be excluded pursuant to this section, including cheats and persons whose privileges for licensure or registration have been revoked.

b. Race, color, creed, national origin or ancestry, or sex shall not be a reason for placing the name of any person upon such list.

c. The commission may impose sanctions upon a licensed casino or individual licensee or registrant in accordance with the provisions of this act if such casino or individual licensee or registrant knowingly fails to exclude or eject from the premises of any licensed casino any person placed by the commission on the list of persons to be excluded or ejected.

d. Any list compiled by the commission of persons to be excluded or ejected shall not be deemed an all-inclusive list, and licensed casino establishments shall have a duty to keep from their premises persons known to them to be within the classifications declared in paragraph a. of this section and the regulations promulgated thereunder.

e. Whenever the name or description of any person is placed on a list pursuant to this section, the commission shall serve notice of such fact to such person by personal service, by certified mail at the last known address of such person, or by publication daily for 1 week in a newspaper of general circulation in Atlantic City.

f. Within 30 days after service by mail or in person or 60 days from the time of last publication, as the case may be, the person named for exclusion or ejection may demand a hearing before the commission and show cause why he should have his name removed from such list. Failure to demand such a hearing within the time allotted in this section shall preclude a person from having an administrative hearing, but shall in no way affect his right to judicial review as provided herein.

g. Upon receipt of a demand for a hearing, the commission shall set a time and place for such hearing. Unless otherwise agreed by the commission and the named person, such hearing shall not be later than 30 days after the receipt of a demand for such hearing.

h. If, upon completion of the hearing, the commission determines that the regulation does not or should not apply to the person so listed, the commission shall notify all casino licensees of such determination.

i. If, upon completion of a hearing, the commission determines that the placement of the name of the person on the exclusionary list was appropriate, the commission shall make and enter an order to that effect. Such order shall be subject to review by the Superior Court in accordance with the rules of court.

7. Section 74 of P. L. 1977, c. 110 (C. 5:12–74) is amended to read as follows:

C. 5:12-74 Minutes and records.

74. Minutes and Records. a. The commission shall cause to be made and kept a verbatim record of all proceedings held at public meetings of the commission, which record shall be open to public inspection.

A true copy of the minutes of every meeting of the commission and of any regulations finally adopted by the commission shall be forthwith delivered, by and under the certification of the executive secretary, to the Governor, the Secretary of the Senate, and the Clerk of the General Assembly.

b. The commission shall keep and maintain a list of all applicants for licenses and registrations under this act together with a record of all actions taken with respect to such applicants, which file and record shall be open to public inspection; provided, however, that the foregoing information regarding any applicant whose license or registration has been denied, revoked, or not renewed shall be removed from such list after 5 years from the date of such action.

c. The commission shall maintain such other files and records as may be deemed desirable.

d. Except as provided in paragraph h. of this section, all information and data required by the commission to be furnished hereunder, or which may otherwise be obtained, relative to the internal controls specified in section 99 a. of this act or to the earnings or revenue of any applicant, registrant, or licensee shall be considered to be confidential and shall not be revealed in whole or in part except in the course of the necessary administration of this act, or upon the lawful order of a court of competent jurisdiction, or, with the approval of the Attorney General, to a duly authorized law enforcement agency.

e. All information and data pertaining to an applicant's criminal record, family, and background furnished to or obtained by the commission from any source shall be considered confidential and may be withheld in whole or in part, except that any information shall be released upon the lawful order of a court of competent jurisdiction or, with the approval of the Attorney General, to a duly authorized law enforcement agency.

f. Notice of the contents of any information or data released, except to a duly authorized law enforcement agency pursuant to subsection d. or e. of this section, may be given to any applicant, registrant, or licensee in a manner prescribed by the rules and regulations adopted by the commission.

g. Files, records, reports and other information in the possession of the New Jersey Division of Taxation pertaining to licensees shall be made available to the commission and the division as may be necessary to the effective administration of this act.

h. The following information to be reported periodically to the commission shall not be considered confidential and shall be made available for public inspection:

(1) A licensee's operating revenues and expenses from all authorized games as herein defined;

(2) (a) The dollar amount of patron checks initially accepted by a licensee, (b) the dollar amount of patron checks deposited to the licensee's bank account, (c) the dollar amount of such checks initially dishonored by the bank and returned to the licensee as "uncollected," and (d) the dollar amount ultimately uncollected after all reasonable efforts;

(3) The amount of gross revenue tax actually paid and the amount of investment, if any, required and allowed, pursuant to section 144;

(4) A list of the premises and the nature of improvements, costs thereof and the payees for all such improvements, which were the subject of an investment required and allowed pursuant to section 144;

(5) The amount, if any, of tax in lieu of full local real property tax paid pursuant to section 146, and the amount of profits, if any, recaptured pursuant to section 147;

(6) A list of the premises, nature of improvements and costs thereof which constitute the cumulative investments by which a licensee has recaptured profits pursuant to section 147; and

(7) All information and data submitted to the commission relating to the licensee's annual revenues and expenditures, including annual audits.

Nothing in this subsection shall be construed to limit access by the public to those forms and documents required to be filed pursuant to Article 11 of this act.

8. Section 79 of P. L. 1977, c. 110 (C. 5:12–79) is amended to read as follows:

C. 5:12-79 Inspection, seizure and warrants.

79. Inspection, Seizure, and Warrants. a. The division and its employees and agents, upon approval of the director, shall have the authority, without notice and without warrant:

(1) To inspect and examine all premises wherein casino gaming is conducted; or gaming devices or equipment are manufactured, sold, distributed, or serviced; or wherein any records of such activities are prepared or maintained;

(2) To inspect all equipment and supplies in, about, upon or around such premises;

(3) To seize summarily and remove from such premises and impound any such equipment or supplies for the purposes of examination and inspection;

(4) To inspect, examine and audit all books, records, and documents pertaining to a casino licensee's operation;

(5) To seize, impound or assume physical control of any book, record, ledger, game, device, cash box and its contents, counting room or its equipment, or casino operations; and

(6) To inspect the person, and personal effects present in a casino facility licensed under this act, of any holder of a license or registration issued pursuant to this act while that person is present in a licensed casino facility.

b. The provisions of subsection a. of this section shall in no way be deemed to limit warrantless inspections except in accordance with constitutional requirements.

c. To effectuate further the purposes of this act, the division and its employees and agents may obtain administrative warrants for the inspection and seizure of any property possessed, controlled, bailed or otherwise held by any applicant, licensee, registrant, intermediary company, or holding company.

d. Issuance and execution of warrants for administrative inspection shall be in accordance with the following:

(1) Any judge of a court having jurisdiction in the municipality where the inspection or seizure is to be conducted may, upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this act or regulations thereunder and seizures of property appropriate to such inspections. For the purposes of this section, "probable cause" means a valid public interest in the effective enforcement of the act or regulations sufficient to justify administrative inspection of the area, premises, building or conveyance in the circumstances specified in the application for the warrant.

(2) A warrant shall issue only upon an affidavit of a person duly designated and having knowledge of the facts alleged, sworn to before the judge and establishing the grounds for issuing the warrant. If the judge is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, or conveyance to be inspected; the purpose of such inspection; and, where appropriate, the type of property to be inspected, if any. The warrant shall identify the item or types of property to be seized, if any. The warrant shall be directed to a person authorized to execute it. The warrant shall state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof. It shall command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified, and where appropriate, shall direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours of the licensee. It shall designate the judge to whom it shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within 10 days of its date. If property is seized pursuant to a warrant, the person executing the warrant shall give

to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person executing the warrant. The clerk of the court, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(4) The judge who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall cause them to be filed with the court which issued such warrant.

e. The division is authorized to make administrative inspections to check for compliance by any applicant, licensee, registrant, intermediary company or holding company with the provisions of this act or regulations promulgated thereunder, and to investigate any violations thereof.

f. This section shall not be construed to prevent entries and administrative inspections, including seizures of property, without a warrant:

(1) With the consent of the owner, operator or agent in charge of the controlled premises;

(2) In situations presenting imminent danger to health or safety;

(3) In situations involving inspection of conveyances where there is reasonable cause to believe that the mobility of the conveyance makes it impractical to obtain a warrant or in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking;

(4) In accordance with the provisions of this act; or

(5) In all other situations where a warrant is not constitutionally required.

9. Section 80 of P. L. 1977, c. 110 (C. 5:12–80) is amended to read as follows:

C. 5:12-80 General provisions.

80. General Provisions. a. It shall be the affirmative responsibility of each applicant and licensee to establish by clear and

convincing evidence his individual qualifications, and for a casino license the qualifications of each person who is required to be qualified under this act as well as the qualifications of the facility in which the casino is to be located.

b. Any applicant, licensee, registrant, or any other person who must be qualified pursuant to this act shall provide all information required by this act and satisfy all requests for information pertaining to qualification and in the form specified by the commission. All applicants, registrants, and licensees shall waive liability as to the State of New Jersey, and its instrumentalities and agents, for any damages resulting from any disclosure or publication in any manner, other than a willfully unlawful disclosure or publication, of any material or information acquired during inquiries, investigations or hearings.

c. All applicants, licensees, registrants, intermediary companies, and holding companies shall consent to inspections, searches and seizures and the supplying of handwriting exemplars as authorized by this act and regulations promulgated hereunder.

d. All applicants, licensees, registrants, and any other person who shall be qualified pursuant to this act shall have the continuing duty to provide any assistance or information required by the commission or division, and to cooperate in any inquiry or investigation conducted by the division and any inquiry, investigation, or hearing conducted by the commission. If, upon issuance of a formal request to answer or produce information, evidence or testimony, any applicant, licensee, registrant, or any other person who shall be qualified pursuant to this act refuses to comply, the application, license, registration or qualification of such person may be denied or revoked by the commission.

e. No applicant or licensee shall give or provide, offer to give or provide, directly or indirectly, any compensation or reward or any percentage or share of the money or property played or received through gaming activities, except as authorized by this act, in consideration for obtaining any license, authorization, permission or privilege to participate in any way in gaming operations.

f. Each applicant or person who must be qualified under this act shall be photographed and fingerprinted for identification and investigation purposes in accordance with procedures established by the commission.

g. All licensees, all registrants, all persons required to be qualified under this act, and all persons employed by a casino service industry licensed pursuant to this act, shall have a duty to inform

the commission or division of any action which they believe would constitute a violation of this act. No person who so informs the commission or the division shall be discriminated against by an applicant, licensee or registrant because of the supplying of such information.

10. Section 89 of P. L. 1977, c. 110 (C. 5:12–89) is amended to read as follows:

C. 5:12-89 Licensing of casino key employees.

89. Licensing of Casino Key Employees. a. No person may be employed as a casino key employee unless he is the holder of a valid casino key employee license issued by the commission.

b. Each applicant must, prior to the issuance of any casino key employee license, produce information, documentation and assurances concerning the following qualification criteria:

(1) Each applicant for a casino key employee license shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the financial stability, integrity and responsibility of the applicant, including but not limited to bank references, business and personal income and disbursements schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers. In addition, each applicant shall, in writing, authorize the examination of all bank accounts and records as may be deemed necessary by the commission or the division.

(2) Each applicant for a casino key employee license shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the applicant's reputation for good character, honesty and integrity. Such information shall include, without limitation, data pertaining to family, habits, character, criminal and arrest record, business activities, financial affairs, and business, professional and personal associates, covering at least the 10-year period immediately preceding the filing of the application. Each applicant shall notify the commission of any civil judgments obtained against such applicant pertaining to antitrust or security regulation laws of the Federal Government, of this State or of any other state, jurisdiction, province or country. In addition, each applicant shall, upon request of the commission or the division, produce letters of reference from law enforcement agencies having jurisdiction in the applicant's place of residence and principal place of business, which letters of reference shall indicate that such law enforcement

agencies do not have any pertinent information concerning the applicant, or if such law enforcement agency does have information pertaining to the applicant, shall specify what that information is. If the applicant has been associated with gaming or casino operations in any capacity, position or employment in a jurisdiction which permits such activity, the applicant shall, upon request of the commission or division, produce letters of reference from the gaming or casino enforcement or control agency which shall specify the experience of such agency with the applicant, his associates and his participation in the gaming operations of that jurisdiction; provided, however, that if no such letters are received from the appropriate law enforcement agencies within 60 days of the applicant's request therefor, the applicant may submit a statement under oath that he is or was during the period such activities were conducted in good standing with such gaming or casino enforcement or control agency.

(3) Each applicant shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence that the applicant has sufficient business ability and casino experience as to establish the reasonable likelihood of success and efficiency in the particular position involved.

(4) Each applicant shall be a resident of the State of New Jersey prior to the issuance of a casino key employee license.

The commission may also, by regulation, require that all applicants for casino key employee licenses be residents of this State for a period not to exceed 6 months immediately prior to the issuance of such license, but application may be made prior to the expiration of the required period of residency. The commission shall, by resolution, waive the required residency period for an applicant upon a showing that the residency period would cause undue hardship upon the casino licensee which intends to employ said applicant, or upon a showing of other good cause.

c. The commission shall endorse upon any license issued hereunder the particular positions as defined by this act or by regulation which the licensee is qualified to hold.

d. The commission shall deny a casino key employee license to any applicant who is disqualified on the basis of the criteria contained in section 86 of this act.

e. Upon petition by the holder of a casino license or the holder of a temporary casino permit, the commission may, no earlier than 30 days after the date of the petition, issue a temporary license to an applicant for a casino key employee license, provided that:

(1) The applicant for the casino key employee license has filed a complete application as required by the commission;

(2) The division certifies to the commission that the complete casino key employee license application as specified in paragraph (1) of this subsection has been in the possession of the division for at least 30 days;

(3) The information provided by the applicant indicates that the applicant meets the requirements of subsection b. (3) of this section;

(4) The petition for a temporary casino key employee license certifies, and the commission finds, that an existing casino key employee position of the petitioner is vacant and that the issuance of a temporary key employee license is necessary to fill the said vacancy on an emergency basis to continue the efficient operation of the casino, and that such circumstances are extraordinary and not designed to circumvent that normal licensing procedures of this act;

(5) The division does not object to the issuance of the temporary casino key employee license.

In the event that an applicant for a casino key employee license is the holder of a valid casino employee license issued pursuant to section 90 of this act, and if the provisions of paragraphs (1), (2), (3), and (5) of this subsection are satisfied, the commission may issue a temporary casino key employee license upon petition by the holder of a casino license or the holder of a temporary casino permit, if the commission finds the issuance of a casino key employee license will be delayed by necessary investigations and the said temporary casino key employee license is necessary for the operations of the casino.

Unless otherwise terminated pursuant to this act, any temporary casino key employee license issued pursuant to this subsection shall expire 6 months from the date of its issuance, and shall be renewable by the commission, in the absence of objection by the division as specified in paragraph (5) of this subsection, for one additional 3-month period.

11. Section 90 of P. L. 1977, c. 110 (C. 5:12–90) is amended to read as follows:

C. 5:12-90 Licensing of casino employees.

90. Licensing of Casino Employees. a. No person may commence employment as a casino employee unless he is the holder of a valid casino employee license.

b. Any applicant for a casino employee license must, prior to the issuance of any such license, produce sufficient information, documentation and assurances to meet the qualification criteria, including New Jersey residency, contained in subsection b. of section 89 of this act and any additional residency requirement imposed under subsection c. of this section; except that the standards for business ability and casino experience may be satisfied by a showing of casino job experience and knowledge of the provisions of this act and regulations pertaining to the particular position involved, or by successful completion of a course of study at a licensed school in an approved curriculum.

c. The commission may, by regulation, require that all applicants for casino employee licenses be residents of this State for a period not to exceed 6 months immediately prior to the issuance of such license, but application may be made prior to the expiration of the required period of residency. The commission shall, by resolution, waive the required residency period for an applicant upon a showing that the residency period would cause undue hardship upon the casino licensee which intends to employ said applicant, or upon a showing of other good cause.

d. The commission shall endorse upon any license issued hereunder the particular positions as defined by regulation which the licensee is qualified to hold.

e. The commission shall deny a casino employee license to any applicant who is disqualified on the basis of the criteria contained in section 86 of this act.

f. For the purposes of this section, casino security employees shall be considered casino employees and must, in addition to any requirements under other laws, be licensed in accordance with the provisions of this act.

g. A temporary license may be issued by the commission to casino employees for positions not directly related to gaming activity if, in its judgment, the issuance of a plenary license will be restricted by necessary investigations and said temporary licensing of the applicant is necessary for the operation of the casino. Unless otherwise terminated pursuant to this act, a temporary license issued pursuant to this subsection shall expire 6 months from the date of its issuance and be renewable, at the discretion of the commission, for one additional 6 month period. Positions "directly related to gaming activity" shall include, but not be limited to, boxmen, floormen, dealers or croupiers, cage personnel, count room personnel, slot and slot booth personnel, credit and collection per-

sonnel, casino surveillance personnel, and casino security employees whose employment duties require or authorize access to the casino.

h. Notwithstanding the provisions of subsection e. of this section, no applicant shall be denied a casino employee license on the basis of a conviction of any of the offenses enumerated in this act as disqualification criteria; provided that the applicant has affirmatively demonstrated his rehabilitation. In determining whether the applicant has affirmatively demonstrated his rehabilitation the commission shall consider the following factors:

(1) The nature and duties of the position applied for;

(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 applicant 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;

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

12. Section 91 of P. L. 1977, c. 110 (C. 5:12–91) is amended to read as follows:

C. 5:12-91 Registration of casino hotel employees.

91. Registration of Casino Hotel Employees. a. No person may commence employment as a casino hotel employee unless he has been registered with the commission, which registration shall be in accordance with subsection f. of this section.

b. Any applicant for casino hotel employee registration shall produce such information as the commission may require. Subsequent to the registration of a casino hotel employee, the commission may revoke, suspend, limit, or otherwise restrict the registration upon a finding that the registrant is disqualified on the basis of the criteria contained in section 86 of P. L. 1977, c. 110 (C. 5:12–86).

c. The commission may, by regulation, require that all applicants for casino hotel employee registration be residents of this State for a period not to exceed 3 months immediately prior to such registration, but application may be made prior to the expiration of the required period of residency. The commission shall waive

the required residency period for an applicant upon a showing that the residency period would cause undue hardship upon the casino licensee which intends to employ said applicant, or upon a showing of other good cause.

d. Notwithstanding the provisions of subsection b. of this section no casino hotel employee registration shall be rovoked on the basis of a conviction of any of the offenses enumerated in this act as disqualification criteria, provided that the registrant has affirmatively demonstrated his rehabilitation. In determining whether the registrant has affirmatively demonstrated his rehabilitation the commission shall consider the following factors:

(1) The nature and duties of the registrant's position;

(2) The nature and seriousness of the offense;

(3) The circumstances under which the offense occurred;

(4) The date of the offense;

(5) The age of the registrant 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;

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

e. The commission may waive any disqualification criterion for a casino hotel employee consistent with the public policy of this act and upon a finding that the interests of justice so require.

f. Upon petition by the holder of a casino license or temporary casino permit, casino hotel employee registration shall be granted to each applicant for casino hotel employee registration named therein, provided that the petition certifies that each such applicant has filed a completed application for casino hotel employee registration as required by the commission.

Any person who, on the effective date of this amendatory act, possesses a current and valid temporary or plenary casino hotel employee license, or has a completed application for such licensure pending before the commission, shall be considered registered in accordance with the provisions of this section.

13. Section 92 of P. L. 1977, c. 110 (C. 5:12–92) is amended to read as follows:

C. 5:12-92 Licensing and registration of casino service industries.

92. Licensing and Registration of Casino Service Industries. a. All casino service industries offering goods or services on a regular basis which directly relate to casino or gaming activity, including gaming equipment manufacturers, suppliers and repairers, schools teaching gaming and either playing or dealing techniques, and casino security services, shall be licensed in accordance with the provisions of this act prior to conducting any business whatsoever with a casino licensee, its employees or agents, and in the case of a school, prior to enrollment of any students or offering of any courses to the public whether for compensation or not; provided, however, that upon a showing of good cause by a casino licensee for each business transaction, the commission may permit an applicant for a casino service industry license to conduct business transactions with such casino licensee prior to the licensure of that applicant under this subsection.

b. Each casino service industry in subsection a. of this section, as well as its owners, management and supervisory personnel and other principal employees must qualify under the standards, except residency, established for qualification of a casino key employee under this act. In addition, if the business or enterprise is a school teaching gaming and either playing or dealing techniques, each resident director, instructor, principal employee, and sales representative employed thereby shall be licensed under the standards established for qualification of a casino employee under this act; provided, however, that nothing in this subsection shall be deemed to require, in the case of a public school district or a public institution of higher education, the licensure or qualification of any individuals except those instructors and other principal employees responsible for the teaching of playing or dealing techniques. The commission, in its discretion, may issue a temporary license to an applicant for an instructor's license upon a finding that the applicant meets the educational and experiential requirements for such license, that the issuance of a permanent license will be restricted by necessary investigations, and that temporary licensing is necessary for the operation of the gaming school. Unless otherwise terminated pursuant to this act, a temporary license issued pursuant to this subsection shall expire 6 months from the date of its issuance and be renewable, at the discretion of the commission, for one additional 6-month period.

c. All casino service industries not included in subsection a. of this section shall be licensed in accordance with rules of the com-

mission prior to commencement or continuation of any business with a casino licensee or its agents. Such casino service industries, whether or not directly related to gaming operations, shall include suppliers of alcoholic beverages, food and nonalcoholic beverages; garbage handlers; vending machine providers; linen suppliers; maintenance companies; shopkeepers located within the approved hotels; and limousine services contracting with casino licensees. The commission may exempt any person or field of commerce from the licensing requirements of this subsection if the person or field of commerce demonstrates (1) that it is regulated by a public agency or that it will provide goods or services in insubstantial or insignificant amounts or quantities, and (2) that licensing is not deemed necessary in order to protect the public interest or to accomplish the policies established by this act. Upon granting an exemption or at any time thereafter, the commission may limit or place such restrictions thereupon as it may deem necessary in the public interest, and shall require the exempted person to cooperate with the commission and the division and, upon request, to provide information in the same manner as required of a casino service industry licensed pursuant to this subsection; provided, however, that no exemption shall be granted unless the casino service industry complies with the requirements of sections 134 and 135 of this act.

d. Licensure pursuant to subsection c. of this section of any casino service industry may be denied to any applicant disqualified in accordance with the criteria contained in section 86 of this act.

14. Section 93 of P. L. 1977, c. 110 (C. 5:12–93) is amended to read as follows:

C. 5:12-93 Registration of labor organizations.

93. Registration of Labor Organizations. a. Each labor organization, union or affiliate seeking to represent employees licensed or registered under this act and employed by a casino hotel or a casino licensee shall register with the commission annually, and shall disclose such information to the commission as the commission may require, including the names of all affiliated organizations, pension and welfare systems and all officers and agents of such organizations and systems; provided, however, that no labor organization, union, or affiliate shall be required to furnish such information to the extent such information is included in a report filed by any labor organization, union, or affiliate with the Secretary of Labor pursuant to 29 U. S. C. § 431 et seq. or § 1001 et seq. if a

copy of such report, or of the portion thereof containing such information, is furnished to the commission pursuant to the aforesaid federal provisions. The commission may in its discretion exempt any labor organization, union, or affiliate from the registration requirements of this subsection where the commission finds that such organization, union or affiliate is not the certified bargaining representative of any employee licensed or registered under this act, is not involved actively, directly or substantially in the control or direction of the representation of any such employee, and is not seeking to do so.

b. No labor organization, union or affiliate registered or required to be registered pursuant to this section and representing or seeking to represent employees licensed or registered under this act may receive any dues from any employee licensed or registered under this act and employed by a casino licensee or its agent, or administer any pension or welfare funds, if any officer, agent, or principal employee of the labor organization, union or affiliate is disqualified in accordance with the criteria contained in section 86 of this act. The commission may for the purposes of this subsection waive any disqualification criterion consistent with the public policy of this act and upon a finding that the interests of justice so require.

c. Neither a labor organization, union or affiliate nor its officers and agents not otherwise individually licensed or registered under this act and employed by a casino licensee may hold any financial interest whatsoever in the casino hotel or casino licensee whose employees they represent.

15. Section 94 of P. L. 1977, c. 110 (C. 5:12–94) is amended to read as follows:

C. 5:12-94 Approval and denial of registrations and licenses other than casino licenses.

94. Approval and Denial of Registrations and Licenses Other Than Casino Licenses. a. Upon the filing of an application for any license or registration required by this act other than a casino license, and after submission of such supplemental information as the commission may require, the commission shall request the division to conduct such investigation into the qualification of the applicant, and the commission shall conduct such hearings concerning the qualification of the applicant in accordance with its regulations as may be necessary to determine qualification for such license or registration.

b. After such investigation, the commission may either deny the application or grant a license to or accept the registration of

an applicant whom it determines to be qualified to hold such license or registration.

c. The commission shall have the authority to deny any application pursuant to the provisions of this act. When an application is denied, the commission shall prepare and file its order denying such application with the general reasons therefor, and if requested by the applicant, shall further prepare and file a statement of the reasons for the denial, including the specific findings of fact.

d. When the commission grants an application, the commission may limit or place such restrictions thereupon as it may deem necessary in the public interest. Licenses shall be granted and registrations approved for a term of 1 year; provided, however, that all casino employee licenses and gaming school resident director, instructor, principal employee and sales representative licenses and casino service industry licenses issued pursuant to subsection c. of section 92 of P. L. 1977, c. 110 (C. 5:12–92 c.) shall be granted for a term of 3 years; and that casino hotel employee registration shall remain in effect unless revoked, suspended, limited, or otherwise restricted by the commission in accordance with the provisions of P. L. 1977, c. 110 (C. 5:12–1 et seq.).

e. After an application is submitted to the commission, final action of the commission shall be taken within 90 days after completion of all hearings and investigations and the receipt of all information required by the commission.

16. Section 106 of P. L. 1977, c. 110 (C. 5:12–106) is amended to read as follows:

C. 5:12-106 Work permits.

106. Work Permits. a. A casino licensee shall not appoint or employ any person not registered or not possessing a current and valid license permitting such appointment or employment. Prior to the effective date of such appointment or employment, the casino licensee shall apply for a work permit for such employee, which shall be granted by the commission if the employee is registered or is the holder of a current and valid license. The casino licensee shall return such work permit to the commission within 5 days of the termination or cessation of such appointment or employment for any cause whatsoever. Each work permit shall be renewed annually in accordance with rules and regulations promulgated by the commission.

b. A casino licensee shall, within 24 hours of receipt of written notice thereof, terminate the appointment or employment of any

person whose license or registration has been revoked or has expired. A casino licensee shall comply in all respects with any order of the commission imposing limitations or restrictions upon the terms of employment or appointment in the course of any investigation or hearing.

17. Section 108 of P. L. 1977, c. 110 (C. 5:12–108) is amended to read as follows:

C. 5:12-108 Proceedings against licensees.

108. Proceedings Against Licensees. a. Any proceeding against a licensee or registrant shall be brought on by written complaint, which shall include a statement setting forth in ordinary and concise language the charges and the acts or omissions supporting such charges.

b. Upon filing of the complaint the commission shall serve a copy upon the licensee or registrant either personally or by certified mail to his address on file with the commission.

c. Within 15 days after service upon him of the complaint, the licensee or registrant may file with the commission a notice of defense, in which he may:

(1) Request a hearing;

(2) Admit the accusation in whole or in part;

(3) Present new matters or explanations by way of defense; or

(4) State any legal objections to the complaint.

Within the time specified, the licensee or registrant may file one or more notices of defense upon any or all of the above grounds.

d. The licensee or registrant shall be entitled to a hearing on the merits if he files the required notice of defense within the time allowed by subsection c. of this section, and any such notice shall be deemed a specific denial of all parts of the complaint not expressly admitted. Failure to timely file the required notice of defense or to appear at the hearing shall constitute an admission of all matters and facts contained in the complaint and a waiver of the licensee's or registrant's rights to a hearing, but the commission, in its discretion, may nevertheless order a hearing. All affirmative defenses shall be specifically stated, and unless objection is taken as provided in paragraph (4) of subsection c. of this section, all objections to the form of the complaint shall be deemed waived.

e. The commission shall determine the time and place of the hearing as soon as is reasonably practical after receiving the licensee's or registrant's notice of defense. The commission shall

deliver or send by certified mail a notice to all parties at least 10 days prior to the hearing. Unless the licensee or registrant consents, the hearing shall not be held prior to the expiration time within which the licensee or registrant is entitled to file the notice of defense.

f. Prior to a hearing before the commission, and during a hearing upon reasonable cause shown, the commission shall issue subpenas and subpenas duces tecum at the request of a licensee, a registrant, or the division.

18. Section 109 of P. L. 1977, c. 110 (C. 5:12–109) is amended to read as follows:

C. 5:12-109 Emergency orders.

109. Emergency Orders. Notwithstanding any provisions of this article, the commission may issue an emergency order for the suspension, limitation or conditioning of any operation certificate or any license, other than a casino license, or any registration, or may issue an emergency order requiring the licensed casino to keep an individual from the premises of such licensed casino or not to pay such individual any remuneration for services or any profits, income or accruals on his investment in such casino, in the following manner:

a. An emergency order shall be issued only when the commission finds that:

(1) There has been charged a violation of any of the criminal laws of this State by a licensee or registrant, or

(2) Such action is necessary to prevent a violation of any such provision, or

(3) Such action is necessary immediately for the preservation of the public peace, health, safety, morals, good order and general welfare or to preserve the public policies declared by this act.

b. An emergency order shall set forth the grounds upon which it is issued, including the statement of facts constituting the alleged emergency necessitating such action.

c. The emergency order shall be effective immediately upon issuance and service upon the licensee, registrant, or resident agent of the licensee. The emergency order may suspend, limit, condition or take other action in relation to the approval of one or more individuals who were required to be approved in any operation, without necessarily affecting any other individuals or the licensed casino establishment. The emergency order shall remain effective

until further order of the commission or final disposition of the case.

d. Within 5 days after issuance of an emergency order, the commission shall cause a complaint to be filed and served upon the person or entity involved in accordance with the provisions of this act.

e. Thereafter, the person or entity against whom the emergency order has been issued and served shall be entitled to a hearing before the commission in accordance with the provisions of this act.

19. Section 117 of P. L. 1977, c. 110 (C. 5:12–117) is amended to read as follows:

C. 5:12-117 Employment without license, registration, or work permit; penalty.

117. Employment Without License, Registration, or Work Permit; Penalty.

a. Any person who, without obtaining the requisite license or registration as provided in this act, works or is employed in a position whose duties would require licensing or registration under the provisions of this act is guilty of a misdemeanor and subject to not more than 3 years' imprisonment or a fine of $10,000.00 or both, and in the case of a person other than a natural person, to a fine of not more than $50,000.00.

b. Any person who employs or continues to employ an individual not duly licensed or registered under the provisions of this act in a position whose duties require a license or registration under the provisions of this act is guilty of a misdemeanor and subject to not more than 3 years' imprisonment or a fine of $10,000.00 or both, and in the case of a person other than a natural person, to a fine of not more than $50,000.00.

c. Any person who employs an individual without obtaining a work permit or does not return such permit as required by this act, is guilty of a misdemeanor and subject to a fine of not more than $10,000.00, and in the case of a person other than a natural person, to a fine of not more than $50,000.00.

d. Any person violating the provisions of subsection 101 e. of this act shall be guilty of a misdemeanor, and shall be subject to imprisonment for not more than 7 years or a fine of not more than $25,000.00, or both. Any licensee permitting or allowing such a violation shall also be punishable under this subsection, in addition to any other sanctions the commission may impose.

20. Section 129 of P. L. 1977, c. 110 (C. 5:12–129) is amended to read as follows:

C. 5:12-129 Supplemental sanctions.

129. Supplemental Sanctions. In addition to any penalty, fine or term of imprisonment authorized by law, the commission shall, after appropriate hearings and factual determinations, have the authority to impose the following sanctions upon any person licensed or registered pursuant to this act:

(1) Revoke the license or registration of any person for the conviction of any criminal offense under this act or for the commission of any other offense or violation of this act which would disqualify such person from holding his license or registration;

(2) Revoke the license or registration of any person for willfully and knowingly violating an order of the commission directed to such person;

(3) Suspend the license or registration of any person pending hearing and determination, in any case in which license or registration revocation could result;

(4) Suspend the operation certificate of any casino for violation of any provisions of this act or regulations promulgated hereunder relating to the casino operation, including games, internal and accountancy controls and security;

(5) Assess such civil penalties as may be necessary to punish misconduct and to deter future violations, which penalties may not exceed $10,000.00 in the case of any individual licensee or registrant, except that in the case of a casino licensee the penalty may not exceed $50,000.00;

(6) Order restitution of any moneys or property unlawfully obtained or retained by a licensee or registrant;

(7) Enter a cease and desist order which specifies the conduct which is to be discontinued, altered or implemented by the licensee or registrant;

(8) Issue letters of reprimand or censure, which letters shall be made a permanent part of the file of each licensee or registrant so sanctioned; or

(9) Impose any or all of the foregoing sanctions in combination with each other.

21. Section 130 of P. L. 1977, c. 110 (C. 5:12–130) is amended to read as follows:

C. 5:12-130 Imposition of sanctions—standards.

130. Imposition of Sanctions—Standards. In considering appropriate sanctions in a particular case, the commission shall consider:

a. The risk to the public and to the integrity of gaming operations created by the conduct of the licensee or registrant;

b. The seriousness of the conduct of the licensee or registrant, and whether the conduct was purposeful and with knowledge that it was in contravention of the provisions of this act or regulations promulgated hereunder;

c. Any justification or excuse for such conduct by the licensee or registrant;

d. The prior history of the particular licensee or registrant involved with respect to gaming activity;

e. The corrective action taken by the licensee or registrant to prevent future misconduct of a like nature from occurring; and

f. In the case of a monetary penalty, the amount of the penalty in relation to the severity of the misconduct and the financial means of the licensee or registrant. The commission may impose any schedule or terms of payment of such penalty as it may deem appropriate.

g. It shall be no defense to a disciplinary action before the commission that an applicant, licensee, registrant, intermediary company, or holding company inadvertently, unintentionally, or unknowingly violated a provision of this act. Such factors shall only go to the degree of the penalty to be imposed by the commission, and not to a finding of a violation itself.

22. Section 141 of P. L. 1977, c. 110 (C. 5:12–141) is amended to read as follows:

C. 5:12-141 Fees for other than casino licenses.

141. Fees for Other Than Casino Licenses. The commission shall, by regulation, establish annual fees for the issuance and renewal of registrations and licenses other than casino licenses, which fees shall be payable by the licensee or the registrant.

23. This act shall take effect immediately, except that sections 1 through 9, section 12, and sections 14 through 22 shall take effect February 15, 1982.

Approved January 12, 1982.

CHAPTER 504

A SUPPLEMENT to "An act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1982 and regulating the disbursement thereof", approved June 30, 1981 (P. L. 1981, c. 190).

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

1. In addition to the amount appropriated under P. L. 1981, c. 190, there is appropriated the following amount for the purposes specified:

STATE AID

DEPARTMENT OF HIGHER EDUCATION

Educational, Cultural and Intellectual Development Higher Educational Services—State Aid

06-5400 Aid to County Colleges $600,000.00

State Aid:
Operational Costs ..... ($600,000.00)

Of the above amount, $100,000.00 shall be allocated for the initial costs of establishing a county college in Sussex county, $100,000.00 shall be allocated for such costs in Warren county, and the remaining amount shall fund an enrollment at these colleges during the 1981-82 fiscal year of equated full-time students at $765.00 per student.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 505

A SUPPLEMENT to "The New Jersey Economic Development Authority Act," approved August 7, 1974 (P. L. 1974, c. 80; C. 34:1B–1 et seq.).

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

C. 34:1B-7.1 Findings, determinations, declarations.

1. The Legislature finds that there continue to exist in the State's urban communities high unemployment, low levels of new capital investment, depressed living and working conditions and deteriorating tax bases; that vigorous action to effectively utilize their positions as principal centers of communication and transportation and their concentration of productive and energy-efficient facilities can halt the decline in economic activity and the underemployment of economic resources in these communities, reverse the deterioration of the value of existing investment therein and the level of public revenue collection on that investment, and eliminate the disincentive to new investment; and that the improvement of these communities is vital to the safety, health and welfare of the residents thereof and of the State, and constitutes a major opportunity for enhancing the economic condition of the State, for augmenting the fiscal resources of government and for stimulating private and public efforts to enhance the attractiveness and desirability of the State as a place to live and work.

The Legislature determines that it is a public purpose of the New Jersey Economic Development Authority as articulated in P. L. 1977, c. 460 to provide for the acquisition, clearance, construction, and redevelopment of industrial and commercial centers in urban areas within the State in order to induce private business to invest in employment generating facilities in such areas; that the authority, with the direction and assistance of the Legislature, has established a successful model program for the use of public funds to leverage private investment capital for the development of urban communities of the State; that under this program industrial park improvements to formerly vacant sites in several urban communities have resulted in modern and secure industrial facilities generating new tax ratables and employment opportunities by attracting substantial private investment; and that the availability of financial assistance by the State will be a necessary and critical element in the successful undertaking, financing and completion of projects under this program now and in the future.

The Legislature declares that it is in the public interest of this State to continue and strengthen the existing program of the authority to undertake industrial and commercial parks in urban communities as part of a general State effort to provide support for the revitalization and development of communities of this State; and that the authority's efforts in this regard provide a most reasonable and appropriate method of directing public funds avail-

able for community economic development efforts toward their proper ends and purposes.

C. 34:1B-7.2 Fund for community development purposes.

2. The economic development fund established in the New Jersey Economic Development Authority under section 7 of P. L. 1974, c. 80 (C. 34:1B–7) shall be a fund for community development purposes within the meaning and intent of the "Community Development Bond Act of 1981," P. L. 1981, c. 486, and shall be eligible to receive appropriations from the "Community Development Bond Fund" established under that act. All moneys appropriated to, and deposited in, the economic development fund shall be subject to all terms and conditions of "The New Jersey Economic Development Authority Act," P. L. 1974, c. 80 (C. 34:1B–1 et seq.), except as otherwise prescribed in this act.

C. 34:1B-7.3 Financing authority projects.

3. Amounts appropriated to the economic development fund from the "Community Development Bond Fund" shall be used for the purpose of paying or financing the costs of projects undertaken by the New Jersey Economic Development Authority, including the acquisition, preparation, clearance, and improvement of land, for the development of new industrial and commercial parks and the redevelopment of existing industrial facilities in municipalities qualified to receive State aid pursuant to the provisions of P. L. 1978, c. 14 (C. 52:27D–178 et seq.). Projects so undertaken by the authority shall assist in the location, maintenance and expansion of employment-generating facilities in those municipalities.

C. 34:1B-7.4 75% recovery.

4. Financing of projects pursuant to this act shall be in such form, amount and on such terms as the authority shall believe necessary in order to assure the economic feasibility of a project and to assure, to the greatest degree compatible with that purpose, the full recovery of costs incurred by the authority in the undertaking of the project. The authority shall assure by the terms of the financing of projects that at least 75% of the moneys appropriated to the economic development fund from the "Community Development Bond Fund" shall be recovered and shall continue thereafter to be available for financing under this act.

C. 34:1B-7.5 Factors for consideration.

5. With respect to projects for which costs are to be financed by the authority pursuant to this act, the authority shall in determining those projects, and in the planning and undertaking of

those projects, consider the following in addition to any factors required to be considered pursuant to P. L. 1974, c. 80 (C. 34:1B–1 et seq.):

a. The economic feasibility of the project;

b. The extent of economic and related social distress in the municipality and adjacent area to be affected by the project;

c. The degree to which the project will advance Statewide and regional strategies and objectives;

d. The likelihood that a project shall, after its completion, be able to repay to the fund all or part of any financing costs incurred;

e. The relationship of the project to a comprehensive local development strategy, including projects undertaken, or planned to be undertaken, within the municipality pursuant to the "New Jersey Local Development Financing Fund Act," P. L. , c. (C.) (now pending before the Legislature as Senate Bill No. 701 of 1982); and

f. The degree to which the project utilizes, enhances, protects and promotes public transportation systems.

C. 34:1B-7.6 Annual report.

6. The authority shall annually report to the Governor and the Legislature concerning the financing of projects undertaken, and concerning projects planned to be undertaken, pursuant to this act. The report shall include a description of consideration given in each project to the factors set forth in section 5 of this act. The first report shall be made on or before July 1, 1983, and subsequent reports shall be made on July 1 of each year thereafter.

7. This act shall take effect upon the approval of the voters of the question set forth in section 22 of the "Community Development Bond Act of 1981," P. L. 1981, c. 486.

Approved January 12, 1982.

CHAPTER 506

A SUPPLEMENT to the "Urban Renewal Corporation and Association Law of 1961," approved June 2, 1961 (P. L. 1961, c. 40; C. 40:55C–40 et seq.), as said short title was amended by P. L. 1967, c. 114.

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

C. 40:55C-52.1 Transfer from urban renewal to housing corporation or association.

1. Any urban renewal corporation or association which owns, manages and controls a housing project, other than condominium housing, pursuant to the "Urban Renewal Corporation and Association Law of 1961," P. L. 1961, c. 40 (C. 40:55C–40 et seq.) may at any time transfer title to the property and improvements included in that project to a housing corporation or housing association established and operating under the "Limited-Dividend Nonprofit Housing Corporations or Associations Law," P. L. 1949, c. 184 (C. 55:16–1 et seq.). The transfer agreement shall provide for the assumption by the housing corporation or housing association of any outstanding debts or obligations incurred by the urban renewal corporation or association with respect to the housing project, including the payment of principal and interest on any bonds or other obligations outstanding with respect thereto. If, prior to the transfer, the housing project was exempt from taxation pursuant to a financial agreement entered into between the urban renewal corporation or association and the municipality under section 26 of P. L. 1961, c. 40 (C. 40:55C–65), the transfer agreement may provide for the continuation of the tax exemption pursuant to section 18 of P. L. 1949, c. 184 (C. 55:16–18), upon terms and conditions mutually agreeable to the housing corporation or housing association and the municipality. The period of continued tax exemption shall not exceed a time equal to 50 years less the period during which the project was exempt pursuant to the financial agreement entered into between the urban renewal corporation or association and the municipality. During the period of continued tax exemption the housing corporation or housing association shall pay with respect to the housing project an annual service charge to the municipality pursuant to section 18 of P. L. 1949, c. 184 (C. 55:16–18) which shall not be less than the amount

of the annual service charge with respect to the project which was required to be paid to the municipality pursuant to the financial agreement entered into between the urban renewal corporation or association and the municipality under section 26 of P. L. 1961, c. 40 (C. 40:55C–65).

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 507

AN ACT to amend the short title of the "Local Tax Authorization Act of 1970," approved December 23, 1970 (P. L. 1970, c. 326) so that the same shall read "Local Tax Authorization Act," and amending the body of that act and repealing certain sections of that act.

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

1. Section 2 of P. L. 1970, c. 326 (C. 40:48C–2) is amended to read as follows:

C. 40:48C-2 Short title.

2. This act shall be known and may be cited as the "Local Tax Authorization Act."

2. Section 5 of P. L. 1970, c. 326 (C. 40:48C–5) is amended to read as follows:

C. 40:48C-5 Alcoholic beverages.

5. No tax shall be imposed under any ordinance adopted pursuant to this article with respect to alcoholic beverages delivered to a taxpayer on or after January 1, 1986.

3. Section 8 of P. L. 1970, c. 326 (C. 40:48C–8) is amended to read as follows:

C. 40:48C-8 Parking services.

8. No tax shall be imposed under any ordinance adopted pursuant to this article with respect to parking services provided on or after January 1, 1986.

4. Section 19 of P. L. 1970, c. 326 (C. 40:48C–19) is amended to read as follows:

C. 40:48C-19 Services.

19. No tax shall be imposed under any ordinance adopted pursuant to this article with respect to services performed prior to January 1, 1971, in a calendar quarter prior to that in which the ordinance is adopted on or after January 1, 1986, but any such ordinance shall remain in effect with respect to the right of the municipality to receive reports and enforce and collect taxes due thereunder for any period prior to January 1, 1986.

Repealer.

5. Sections 9, 10, 11, 12, 13, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32 and 33 of P. L. 1970, c. 326 (C. 40:48C–9 through C. 40:48C–13, inclusive, and C. 40:48C–20 through C. 40:48C–33, inclusive) are repealed.

6. This act shall take effect immediately and be retroactive to December 31, 1981.

Approved January 12, 1982.

CHAPTER 508

AN ACT concerning the Division of the State Museum and amending N. J. S. 18A:73–6.

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

1. N. J. S. 18A:73–6 is amended to read as follows:

Authority of division director.

18A:73–6. The director of the division shall head his division, and shall, with the approval and under the supervision of the commissioner, direct and administer the work of his division, administer all laws which are by their terms included under the jurisdiction of his division, organize the bureaus therein and prescribe the powers and duties of the bureau heads thereof, except as may be otherwise provided by law. The director of the division may, with the approval of the commissioner, exchange, discard, sell or otherwise dispose of collections and museum materials when appropriate and all moneys secured thereby shall be paid into the treasury to be used for the benefit of the State Museum when appropriated to that purpose.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 509

AN ACT to amend the "New Jersey Water Supply Authority Act," approved October 7, 1981 (P. L. 1981, c. 293).

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

1. Section 22 of P. L. 1981, c. 293 (C. 58:1B–22) is amended to read as follows:

C. 58:1B-22 Authority contracts.

22. The authority is hereby authorized to make and enter into contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers. No contract on behalf of the authority shall be entered into for the doing of any work, or for the hiring of equipment or vehicles, where the sum to be expended exceeds the sum of $4,500.00 unless the authority shall first publicly advertise for bids therefor, and shall award the contract to the lowest responsible bidder; but advertising shall not be required where the contract to be entered into is one for the furnishing or performing services of a professional nature or for the supplying of any product or the rendering of any service by a public utility subject to the jurisdiction of the Board of Public Utilities, and tariffs and schedules of the charges, made, charged, or exacted by the public utility for any such products to be supplied or services to be rendered are filed with the board. This section shall not prevent the authority from having any work done by its own employees, nor shall it apply to repairs, or to the furnishing of materials, supplies or labor, or the hiring of equipment or vehicles, when the safety or protection of its or other public property or the public convenience requires, or the exigency of the authority service will not admit of such advertisement. In such case the authority shall, by resolution, passed by the affirmative vote of a majority of its members, declare the exigency or emergency to exist, and set forth in the resolution the nature thereof and the approximate amount to be expended.

2. This act shall take effect immediately

Approved January 12, 1982.

CHAPTER 510

AN ACT appropriating $88,000,000.00 from the State Land Acquisition and Development Fund to enable the State to acquire and develop lands for recreation and conservation purposes and to provide for State grants to assist local units of government to acquire and develop lands for recreation and conservation purposes.

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

1. There is appropriated to the Department of Environmental Protection from the "State Land Acquisition and Development Fund" established pursuant to the "New Jersey Green Acres Bond Act of 1978," P. L. 1978, c. 118, the sum of $88,000,000.00 for the purpose of acquisition and development of lands by the State and for State grants to local units for acquisition and development of lands, for recreation and conservation purposes. This sum shall include administrative costs and shall be allocated as follows:

a. $44,400,000.00 for State acquisition and development and for State grants to local units for the acquisition and development of lands located in urban areas;

b. $19,100,000.00 for State acquisition and development of lands in non-urban areas;

c. $24,500,000.00 for State grants to local units for acquisition and development of lands located in non-urban areas.

2. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P. L. 1978, c. 118.

3. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 511

AN ACT to revise and correct certain statutes.

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

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

Conspiracy.

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

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

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

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

c. Conspiracy with multiple objectives. If a person conspires to commit a number of crimes, he is guilty of only one conspiracy so long as such multiple crimes are the object of the same agreement or continuous conspiratorial relationship. It shall not be a defense to a charge under this section that one or more of the objectives of the conspiracy was not criminal; provided that one or more of its objectives or the means of promoting or facilitating an objective of the conspiracy is criminal.

d. Overt act. No person may be convicted of conspiracy to commit a crime other than a crime of the first or second degree or distribution or possession with intent to distribute a controlled dangerous substance as defined under the "New Jersey Controlled Dangerous Substances Act," P. L. 1970, c. 226 (C. 24:21–1 et seq.), unless an overt act in pursuance of such conspiracy is proved to have been done by him or by a person with whom he conspired.

e. Renunciation of purpose. It is an affirmative defense which the actor must prove by a preponderance of the evidence that he, after

conspiring to commit a crime, informed the authority of the existence of the conspiracy and his participation therein, and thwarted or caused to be thwarted the commission of any offense in furtherance of the conspiracy, under circumstances manifesting a complete and voluntary renunciation of criminal purpose as defined in 2C:5–1d.; provided, however, that an attempt as defined in 2C:5–1 shall not be considered an offense for purposes of renunciation under this subsection.

f. Duration of conspiracy. For the purpose of section 2C:1–6d.:

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

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

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

g. Leader of organized crime. A person is a leader of organized crime if he purposefully conspires with others as an organizer, supervisor or manager, to commit a continuing series of crimes which constitute a pattern of racketeering activity under the provisions of N. J. S. 2C:41–1, provided, however, that notwithstanding 2C:1–8 a. (2), a conviction of leader of organized crime shall not merge with the conviction of any other crime which constitutes racketeering activity under 2C:41–1.

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

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

2C:5–4. Grading of Criminal Attempt and Conspiracy; Mitigation in Cases of Lesser Danger. a. Grading. An attempt or conspiracy to commit a crime of the first degree is a crime of the second degree. Otherwise an attempt is a crime of the same degree as the most serious crime which is attempted, and conspiracy is a crime of the same degree as the most serious crime which is the object of the conspiracy; provided that, leader of organized crime is a crime of the second degree. An attempt or conspiracy to commit an offense defined by a statute outside the code shall be graded

as a crime of the same degree as the offense is graded pursuant to sections 2C:1-4 and 2C:43-1.

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

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

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

3. N. J. S. 2C:29-6 is amended to read as follows:

Implements for escape; other contraband.

2C:29-6. Implements for Escape; Other Contraband. a. Escape implements. A person commits an offense if he knowingly and unlawfully introduces within an institution or a detention facility, or knowingly and unlawfully provides an inmate with any weapon, tool or other thing which may be useful for escape. An inmate commits an offense if he knowingly and unlawfully procures, makes, or otherwise provides himself with, or has in his possession, any such implement of escape. "Unlawfully" means surreptitiously or contrary to law, regulation or order of the detaining authority. The offense is a crime of the second degree if the item is a weapon. Otherwise it is a crime of the third degree.

b. Other contraband. A person commits a petty disorderly persons offense if he provides an inmate with any other thing which the actor knows or should know it is unlawful for the inmate to possess.

4. N. J. S. 2C:39-6 is amended to read as follows:

Exemptions.

2C:39-6. Exemptions. a. Section 2C:39-5 does not apply to:

(1) Members of the Armed Forces of the United States or of the National Guard while actually on duty, or while traveling between places of duty and carrying authorized weapons in the manner prescribed by the appropriate military authorities;

(2) Federal law enforcement officers, and any other Federal officers and employees required to carry firearms in the performance of their official duties;

(3) Members of the State Police, a motor vehicle inspector;

(4) A sheriff, undersheriff, sheriff's officer, county prosecutor, assistant prosecutor, prosecutor's detective or investigator, deputy attorney general or State investigator employed by the Division

of Criminal Justice of the Department of Law and Public Safety, investigator employed by the State Commission of Investigation, inspectors and investigators of the Division of Alcoholic Beverage Control in the Department of Law and Public Safety, State park ranger, or State conservation officer;

(5) A prison or jail warden of any penal institution in this State or his deputies, or an employee of the Department of Corrections engaged in the interstate transportation of convicted offenders, while in the performance of his duties, and when required to possess such a weapon by his superior officer, or a correction officer or keeper of a penal institution in this State at all times while in the State of New Jersey provided he annually passes an examination approved by the superintendent testing his proficiency in the handling of firearms;

(6) A civilian employee of the United States Goverment under the supervision of the commanding officer of any post, camp, station, base or other military or naval installation located in this State who is required, in the performance of his official duties, to carry firearms, and who is authorized to carry such firearms by said commanding officer, while in the actual performance of his official duties;

(7) A regularly employed member, including a detective, of the police department of any county or municipality, or of any State, interstate, municipal or county park police force or boulevard police force, at all times while in the State of New Jersey, or a special policeman or airport security officer appointed by the governing body of any county or municipality or by the commission, board or other body having control of a county park or airport or boulevard police force, while engaged in the actual performance of his official duties and when specifically authorized by the governing body to carry weapons; or

(8) A paid member of a paid or part-paid fire department or force of any municipality who is assigned full-time to an arson investigation unit created pursuant to section 1 of P. L. 1981, c. 409 (C. 40A:14–17.1), while engaged in the actual performance of arson investigation duties and when specifically authorized by the governing body to carry weapons.

b. Subsections a., b. and c. of section 2C:39–5 do not apply to:

(1) A law enforcement officer employed by a governmental agency outside of the State of New Jersey while actually engaged in his official duties, provided, however, that he has first notified

the superintendent or the chief law enforcement officer of the municipality or the prosecutor of the county in which he is engaged; or

(2) A licensed dealer in firearms and his registered employees during the course of their normal business while traveling to and from their place of business and other places for the purpose of demonstration, exhibition or delivery in connection with a sale, provided, however, that any such weapon is carried in the manner specified in subsection g. of this section.

c. Subsections b. and c. of section 2C:39–5 do not apply to:

(1) A special agent of the Division of Taxation who has passed an examination in an approved police training program testing proficiency in the handling of any firearm which he may be required to carry or a railway policeman, while in the actual performance of his official duties and while going to or from his place of duty, a campus police officer appointed pursuant to P. L. 1970, c. 211 (C. 18A:6–4.2 et seq.) or any other police officer, while in the actual performance of his official duties;

(2) A State deputy conservation officer or a full-time employee of the Division of Parks and Forestry having the power of arrest and authorized to carry weapons, while in the actual performance of his official duties;

(3) A full-time member of the marine patrol force or a special marine patrolman authorized to carry such a weapon by the Commissioner of Environmental Protection, while in the actual performance of his official duties;

(4) A court attendant serving as such under appointment by the sheriff of the county or by the judge of any municipal court or other court of this State, while in the actual performance of his official duties;

(5) A guard in the employ of any railway express company, banking or building and loan or savings and loan institution of this State, while in the actual performance of his official duties;

(6) A member of a legally recognized military organization while actually under orders or while going to or from the prescribed place of meeting and carrying the weapons prescribed for drill, exercise or parade;

(7) An officer of the Society for the Prevention of Cruelty to Animals, while in the actual performance of his duties; or

(8) An employee of a public utilities corporation actually engaged in the transportation of explosives.

d. Subsections c. and d. of section 2C:39–5 do not apply to antique firearms, provided that such antique firearms are unloaded

or are being fired for the purposes of exhibition or demonstration at an authorized target range or in such other manner as has been approved in writing by the chief law enforcement officer of the municipality in which the exhibition or demonstration is held.

e. Nothing in subsections b., c. and d. of section 2C:39–5 shall be construed to prevent a person keeping or carrying about his place of business, residence, premises or other land owned or possessed by him, any firearm, or from carrying the same, in the manner specified in subsection g. of this section, from any place of purchase to his residence or place of business, between his dwelling and his place of business, between one place of business or residence and another when moving, or between his dwelling or place of business and place where such firearms are repaired, for the purpose of repair. For the purposes of this section, a place of business shall be deemed to be a fixed location.

f. Nothing in subsections b., c. and d. of section 2C:39–5 shall be construed to prevent:

(1) A member of any rifle or pistol club organized in accordance with the rules prescribed by the National Board for the Promotion of Rifle Practice, in going to or from a place of target practice, carrying such firearms as are necessary for said target practice provided that the club has filed a copy of its charter with the superintendent and annually submits a list of its members to the superintendent and provided further that the firearms are carried in the manner specified in subsection g. of this section;

(2) A person carrying a firearm or knife in the woods or fields or upon the waters of this State for the purpose of hunting, target practice or fishing, provided that the firearm or knife is legal and appropriate for hunting or fishing purposes in this State and he has in his possession a valid hunting license, or, with respect to fresh water fishing, a valid fishing license;

(3) A person transporting any firearm or knife while traveling:

(a) Directly to or from any place for the purpose of hunting or fishing, provided such person has in his possession a valid hunting or fishing license; or

(b) Directly to or from any target range, or other authorized place for the purpose of practice, match, target, trap or skeet shooting exhibitions, provided in all cases that during the course of such travel all firearms are carried in the manner specified in subsection g. of this section and the person has complied with all the provisions and requirements of Title 23 of the Revised Statutes

and any amendments thereto and all rules and regulations promulgated thereunder; or

(c) In the case of a firearm, directly to or from any exhibition or display of firearms which is sponsored by any law enforcement agency, any rifle or pistol club, or any firearms collectors club, for the purpose of displaying of the firearms to the public or to the members of such organization or club, provided, however, that not less than 30 days prior to such exhibition or display, notice of such exhibition or display shall be given to the Superintendent of the State Police by the sponsoring organization or club, and the sponsor has complied with such reasonable safety regulations as the superintendent may promulgate. Any firearms transported pursuant to this section shall be transported in the manner specified in subsection g. of this section.

g. All weapons being transported under subsections b. (2), e. or f. (1) or (3) of this section shall be carried unloaded and contained in a closed and fastened case, gunbox, securely tied package, or locked in the trunk of the automobile in which it is being transported, and the course of travel shall include only such deviations as are reasonably necessary under the circumstances.

h. Nothing in subsection d. of section 2C:39–5 shall be construed to prevent any employee of a public utility, as defined in R. S. 48:2–13, doing business in this State or any United States Postal Service employee, while in the actual performance of duties which specifically require regular and frequent visits to private premises, from possessing, carrying or using any device which projects, releases or emits any substance specified as being noninjurious to canines or other animals by the Commissioner of Health and which immobilizes only on a temporary basis and produces only temporary physical discomfort through being vaporized or otherwise dispensed in the air for the sole purpose of repelling canine or other animal attacks.

The device shall be used solely to repel only those canine or other animal attacks when the canines or other animals are not restrained in a fashion sufficient to allow the employee to properly perform his duties.

Any device used pursuant to this act shall be selected from a list of products, which consist of active and inert ingredients, permitted by the Commissioner of Health.

i. Nothing in subsection d. of 2C:39–5 shall be construed to prevent any person who is 18 years of age or older and who has

not been convicted of a felony, from possession for the purpose of personal self-defense of one pocket-sized device which contains and releases not more than three-quarters of an ounce of chemical substance not ordinarily capable of lethal use or of inflicting serious bodily injury, but rather, is intended to produce temporary physical discomfort or disability through being vaporized or otherwise dispensed in the air. Any person in possession of any device in violation of this subsection shall be deemed and adjudged to be a disorderly person, and upon conviction thereof, shall be punished by a fine of not less than $100.00.

5. Section 17 of P. L. 1981, c. 279 (C. 13:1E–65) is amended to read as follows:

C. 13:1E-65 Right to enter hazardous waste facilities.

17. The department and the local board of health, or the county health department, as the case may be, shall have the right to enter any major hazardous waste facility at any time in order to determine compliance with the registration statement and engineering design, and with the provisions of all applicable laws or rules and regulations adopted pursuant thereto.

6. Section 24 of P. L. 1948, c. 67 (C. 17:9A–24) is amended to read as follows:

C. 17:9A-24 Powers of banks and savings banks.

24. Powers of banks and savings banks. Every bank and savings bank shall, subject to the provisions of this act, have the following powers, whether or not such powers are specifically set forth in its certificate of incorporation:

(1) To adopt a corporate seal, and to sue and be sued;

(2) To issue cashier's checks, treasurer's checks, and money orders; to transmit funds; to guarantee signatures and endorsements;

(3) To borrow money, and to pledge, mortgage or hypothecate its real or personal property as security therefor, and to execute and deliver all such instruments as may be necessary to evidence such borrowing, pledge, mortgage, or hypothecation;

(4) To keep, maintain, and rent out for hire, at any location occupied by its principal office or any branch office, safe deposit boxes or other receptacles for the safekeeping of personal property. In exercising the powers authorized by this paragraph, the bank or savings bank shall have, but shall not be confined to, the same rights and remedies conferred upon safe deposit companies;

(5) To purchase, hold, lease and convey real property or any interest therein for the following purposes, and for no others:

(a) Such as may be necessary or convenient for the use, operation, or housing of its principal office or any branch office, or an auxiliary office, or for the storage of records or other personal property, or for office space for use by its officers or employees, or which may be reasonably necessary for future expansion of its business, or which is otherwise reasonably incidental to the conduct of its business; and which may include, in addition to the space required for the transaction of its business, other space which may be let as a source of income. In exercising the powers conferred by this subparagraph, the bank or savings bank shall be subject to the limitations imposed by paragraph (13) of this section;

(b) Such as may be conveyed to it in whole or part satisfaction of debts previously contracted in the course of its dealings;

(c) Such as it shall purchase at sale under judgments and decrees in its favor, and on foreclosure of mortgages held by it;

(d) Such as it shall purchase or acquire to minimize or prevent the loss or destruction of any lien or interest therein; and

(e) Such as may be permitted for associations pursuant to subsections (4) and (21) of section 48 of the "Savings and Loan Act (1963)," P. L. 1963, c. 144 (C. 17:12B–48);

provided, that all real property not held for any purpose specified in subparagraph (a) of this paragraph, shall be sold within 5 years of its acquisition, or within 5 years after the time it ceases to be held for any purpose specified in subparagraph (a) of this paragraph, unless the commissioner shall extend the time within which such sale shall be made;

(6) To be a member of the Federal Reserve System; to subscribe for, purchase, hold, and surrender such amounts of the capital stock of the Federal Reserve Bank organized within the district in which such bank or savings bank is located as may be required or as may be deemed advisable by such bank or savings bank; and to have and exercise all powers, privileges and options which are conferred by law upon such members; to comply with all requirements of federal legislation and the rules and regulations lawfully promulgated thereunder governing such membership as such legislation and such rules and regulations may provide at the time of

inception of such membership, and as the same may from time to time thereafter be amended or supplemented; and to assume and discharge all liabilities and obligations which may be required by reason of such membership;

(7) To be a member of Federal Deposit Insurance Corporation, or of any successor corporation having for its purpose the insurance of deposits, and to do all things, and assume and discharge all liabilities and obligations imposed upon such members by federal legislation or by rules and regulations lawfully promulgated pursuant thereto, as the same may provide at the inception of such membership, or as the same may thereafter be amended or supplemented;

(8) To be a member of any federal agency hereafter created, membership in which is open to banking institutions, and the purpose of which is to afford advantages or safeguards to banking institutions, or to their depositors, and to comply with all the requirements and conditions imposed upon such members, except that the power by this paragraph conferred shall not be exercised unless the commissioner, with the concurrence of the banking advisory board, shall make a general order authorizing banks or savings banks, or both, to become and be such members, upon such terms and conditions as may in such order be prescribed;

(9) To subscribe for, purchase and hold stock of one or more safe deposit companies which have been or may be organized to do business on or adjacent to premises occupied by the principal office or a branch office of the bank or savings bank; provided, that

(a) In the case of a savings bank, the amount so invested shall not exceed 5% of its surplus; and

(b) In the case of a bank, the amount so invested shall not exceed 10% of its capital stock and surplus; and

(c) Each purchase of such stock shall first have been authorized by a resolution, stating the number of shares to be purchased and the amount to be paid therefor, adopted by its board of directors or board of managers, and, in the case of a bank, approved by a majority in interest of its stockholders at any annual or special meeting; and

(d) Each purchase of such stock by a bank or savings bank shall have been approved in writing by the commissioner;

(10) To subscribe for, purchase and hold stock of not more than one fiduciary institution organized under any law of this State hereafter enacted; provided, that

(a) In the case of a savings bank, the amount so invested shall not exceed 10% of its surplus; and

(b) In the case of a bank, the amount so invested shall not exceed 20% of its capital stock and surplus; and

(c) Each purchase of such stock shall first have been authorized by a resolution, stating the number of shares to be purchased and the amount to be paid therefor, adopted by its board of directors or board of managers, and, in the case of a bank, approved by a majority in interest of its stockholders at any annual or special meeting; and

(d) Each purchase of such stock by a bank or savings bank shall have been approved in writing by the commissioner;

(11) To contribute to community funds, or to charitable, philanthropic, or benevolent instrumentalities conducive to public welfare, or civic betterment, or the economic advantage of the community, and to instrumentalities for the protection or advancement of the interests of banking institutions, such sums as its board of directors or board of managers may deem expedient and in the interests of such bank or savings bank;

(12) To exercise all incidental powers, not specifically enumerated in this act, which shall be necessary or convenient to carry the business of the bank or savings bank;

(13) To invest in stock of a subsidiary of such bank or savings bank which holds title to real property of the kind in which such bank or savings bank could itself invest pursuant to subparagraph (a) of paragraph (5) of this section, and to make secured or unsecured loans to such subsidiary, without regard to the limitations imposed by Article 13; but no bank or savings bank shall, except with the prior approval of the commissioner (1) invest in real property pursuant to subparagraph (a) of paragraph (5) of this section; or (2) invest in the stock or other securities of such subsidiary; or (3) make a loan to such subsidiary, if the aggregate of all such investments and loans, when added to any indebtedness otherwise owing by the subsidiary, will exceed 25% of the capital funds of the bank or savings bank. As used in this paragraph, "subsidiary" of a bank or savings bank means a corporation all of whose capital stock and other securities having voting rights are owned by such bank or savings bank, and whose powers are limited by its certificate of incorporation, to the acquiring, holding, managing, selling, leasing, mortgaging, altering, improving and otherwise dealing in and with real property of the kind in which the

bank or savings bank could itself invest pursuant to subparagraph (a) of paragraph (5) of this section; and "capital funds" means the aggregate of the capital stock, the principal amount owing on all capital notes, surplus and undivided profits of a bank, and the aggregate of the capital deposits, if any, and the surplus of a savings bank. Every subsidiary of a bank or savings bank shall be subject to examination by the commissioner as provided in the case of banks and savings banks pursuant to sections 260, 261, 262, 263 and 335, and the ultra vires or unlawful act of a subsidiary of a bank or savings bank shall be deemed to be the ultra vires or unlawful act of such bank or savings bank for the purposes of Article 42. In determining whether to give or withhold approval of an investment or loan in excess of the limitation imposed by this paragraph, the commissioner shall consider whether the making of such loan or investment is consistent with sound banking practice, having regard to (1) the ratio between the aggregate of such loans and investments and the capital funds of the bank or savings bank; (2) the benefits to the bank or savings bank reasonably to be anticipated from such investment or such loan; (3) the ratio between such aggregate capital funds and total deposits; and (4) such other factors as the commissioner shall consider germane to the protection of deposits. A violation of any provision of this paragraph by any bank, savings bank, or subsidiary of a bank or savings bank, shall not impair the validity or sufficiency of any deed of conveyance, mortgage, or lease made by such bank, savings bank, or subsidiary, of real property owned by it; nor shall any other interest in such real property, acquired by or vested in any person claiming through or under such bank, savings bank, or subsidiary, or to which such person may be entitled, be impaired by reason of such violation;

(14) To make or invest in any secondary mortgage loan as defined in section 1 of P. L. 1948, c. 67 (C. 17:9A–1). Secondary mortgage loans shall be repayable in installments under the same terms and conditions as provided for secondary mortgage loan licensees under the "Secondary Mortgage Loan Act," P. L. 1970, c. 205 (C. 17:11A–34 et seq.) only with respect to maximum term, maximum loan amount and maximum annual percentage rate of interest. The Commissioner of Banking shall have the power, in relation to a "secondary mortgage loan," to adopt, amend, alter or rescind regulations, the requirements of which, in his judgment, are necessary for the implementation of this paragraph.

7. Section 65 of P. L. 1948, c. 67 (C. 17:9A–65) is amended to read as follows:

C. 17:9A-65 Real property mortgages.

65. Real property mortgages. A. No bank shall make a mortgage loan secured by a mortgage upon real property unless

(1) The mortgaged property is located within this State, or, if outside this State, the mortgaged property is located within 50 miles of the border of this State; or if the mortgaged property is located outside this State and is more than 50 miles from the border of this State, the payment of the mortgage loan is insured or guaranteed, or is the subject of an unconditional commitment for such insurance or guarantee, to the extent provided for in subsection A of section 68, by the Federal Housing Commissioner or by the United States, or by this State; or the mortgaged property is located as permitted for associations pursuant to section 146 of the "Savings and Loan Act (1963)," P. L. 1963, c. 144 (C. 17:12B–146);

(2) The mortgaged property shall consist of improved real property, including farmlands, or unimproved real property if the proceeds of such loan shall be used for the purpose of erecting improvements thereon;

(3) The mortgage securing such loan shall constitute a first lien on a fee; a mortgage shall be deemed a first lien notwithstanding the existence of a prior mortgage or mortgages held by the bank, or liens of taxes which are not delinquent, building restrictions or other restrictive covenants or conditions, leases or tenancies whereby rents or profits are reserved to the owner, joint driveways, sewer rights, rights in walls, rights-of-way or other easements, or encroachments, which the persons signing the certificate provided for in section 67 report in their opinion do not materially affect the security for the mortgage loan. Every mortgage shall be certified to be such a first lien by an attorney-at-law of the State in which the real property is located, or certified or guaranteed to be such a first lien by a corporation authorized to guarantee titles to land in such state;

(4) No such loan shall be made for a period longer than 40 years from its date, and no such loan shall exceed 80% of the appraised value of the mortgaged property; provided, that there shall be included in the appraised value of the mortgaged property, for the purpose of this paragraph (4), the value of the improvements to be erected upon the mortgaged property wholly or partly with the proceeds of such loan; and

(5) The instrument evidencing the loan shall require payment to be made during each year on account of the principal amount of the loan at a rate not less than 1% per annum of the original amount of the loan, if the original amount of the loan does not exceed 50% of the appraised value of the mortgaged property; or 2% per annum of the original amount of the loan, if the loan exceeds 50% but does not exceed 66⅔% of such appraised value; or 4% per annum of the original amount of the loan, if the loan exceeds 66⅔% of such appraised value; provided, that, in lieu of such principal payments, the instrument evidencing any mortgage loan may require equal monthly payments, each applicable to principal and interest, in an amount sufficient to pay current interest and to repay the amount of the loan in not more than 40 years from its date; and provided further, that when the proceeds of any such loan are to be used to pay, in whole or in part, the cost of constructing a building or buildings on the mortgaged property, and such proceeds are paid by the bank from time to time, final payment being made at or after completion, the instrument evidencing such loan need not require that any payment be made on account of the principal amount of the loan during the period from the date of such loan to a date not more than 18 months from the date of such loan; and such date marking the end of the period during which no payments are required to be made on account of the principal amount of the loan, shall be deemed to be the date of such loan for the purpose of reckoning the 40-year period limited for the payment of such loan by this paragraph (5), and by paragraph (4) of this section.

B. The commissioner may, from time to time, with the concurrence of the banking advisory board, make, alter and rescind regulations:

(1) Authorizing banks to make mortgage loans, or specified types or classes of mortgage loans, (a) which exceed 80% of the appraised value of the mortgaged property; (b) which mature in more than 25 years from their date; (c) which require smaller annual payments on account of the principal amounts thereof than those specified in paragraph (5) of subsection A of this section; (d) which provide for equal monthly payments, each applicable to principal and interest, in amounts sufficient to pay current interest on and to repay the amount of the loan in such number of years, more than 40 but not more than 45, as the regulation may specify; or (e) which substantially conform to the terms and conditions of mortgage loans authorized to be made by associa-

tions pursuant to the "Savings and Loan Act (1963)," P. L. 1963, c. 144 (C. 17:12B–1 et seq.);

(2) Defining "improved real property" for the purposes of paragraph (2) of subsection A of this section;

(3) Increasing the percentage of the time deposits or the aggregate of the unimpaired capital stock and surplus of banks which banks may invest in mortgage loans beyond the limitation expressed in subsection A of section 69;

(4) Increasing the percentage of the principal balances owing on mortgage loans of the kind referred to in section 68 which shall not be included in the total of all principal balances owing on mortgage loans for the purposes of subsection A of section 69, or eliminating entirely the principal balances owing on such mortgage loans from such total of all principal balances.

C. In making, altering and rescinding regulations pursuant to subsection B of this section, the commissioner and the banking advisory board shall consider the statutes and regulations applicable to national banks in the making or acquiring of loans secured by interests in real property and the practices followed by national banks in the making or acquiring of such loans. The regulations so made shall, so far as the commissioner and the banking advisory board deem to be warranted by the state of the economy and to be consistent with sound banking practices, be directed toward the creation and maintenance of a substantial parity between banks and national banks in all matters relating to the making and acquiring of loans secured by interests in real property. The power to regulate as provided in subsection B of this section may be exercised by the commissioner and the banking advisory board within the standards established by this subsection, notwithstanding that the subject of such regulation is not expressly set forth in subsection B of this section.

D. A bank may make a mortgage loan in excess of the ratio between appraised value and the amount of the loan as established by subsection A(4) of this section, provided that the amount of such excess is secured by other collateral having a value at all times at least equal to the amount of the principal balance in excess of that amount permitted by subsection A(4) or as established by regulation of the Commissioner of Banking.

8. Section 31 of P. L. 1975, c. 106 (C. 17:46B–31) is amended to read as follows:

C. 17:46B-31 Title insurance agents; books and records.

31. Title insurance agents; books and records.

a. Every title insurance agent shall keep his, her or its books of account and records and vouchers pertaining to the business of title insurance in a bona fide office in this State in such a manner that the commissioner, or his authorized representatives, may readily ascertain from time to time whether the agent has complied with all the provisions of this act.

b. Every title insurance agent shall maintain a separate record of all receipts and disbursements as a depository for funds and shall not commingle any such funds with agent's own funds or with funds held by agent in any other capacity.

c. If at any time the commissioner shall determine that an agent has failed to comply with any of the provisions of this section, the commissioner may direct that such agent cease writing new insurance until such provisions are complied with.

9. Section 5 of P. L. 1940, c. 74 (C. 17:48A–5) is amended to read as follows:

C. 17:48A-5 Payment contracts for medical services.

5. Every individual contract made by any corporation subject to the provisions of this chapter to provide payment for medical services shall provide for the payment of medical services for a period of 12 months from the date of issue of the subscription certificate. Any such contract may provide that it shall be automatically renewed from year to year unless there shall have been 1 month's prior written notice of termination by either the subscriber or the corporation. In the absence of fraud or material misrepresentation in the application for contract or for reinstatement, no contract with an individual subscriber shall be terminated by the corporation unless all contracts of the same type, in the same group or covering the same classification of persons are terminated under the same conditions. No contract between such corporation and subscriber shall allow for the payment for medical services for more than one person, except that a family contract may provide that payment will be made for medical services rendered to a subscriber and any of those dependents defined in section 1 of this act.

Whenever, pursuant to the provisions of a subscription certificate or group contract issued by a corporation, the former spouse of a named subscriber under such a certificate or contract is no longer entitled to coverage as an eligible dependent by reason of

divorce, separate coverage for such former spouse shall be made available by the corporation on an individual nongroup basis under the following conditions:

(a) Application for such nongroup coverage shall be made to the corporation by or on behalf of such former spouse no later than 31 days following the date his or her coverage under the prior certificate or contract terminated.

(b) No new evidence of insurability shall be required in connection with the application for such nongroup coverage but any health exception, limitation or exclusion applicable to said former spouse under the prior coverage may, at the option of the corporation, be carried over to the new nongroup coverage.

(c) The effective date of the new coverage shall be the day following the date on which such former spouse's coverage under the prior certificate or contract terminated.

(d) The benefits provided under the nongroup coverage issued to such former spouse shall be at least equal to the basic benefits provided in contracts then being issued by the corporation to new nongroup applicants of the same age and family status.

Family type contracts shall provide that the services applicable for children shall be payable with respect to a newly-born child of the subscriber, or his or her spouse from the moment of birth. The services for newly-born children shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and abnormalities. If a subscription payment is required to provide services for a child, the contract may require that notification of birth of a newly-born child and the required payment shall be furnished to the service corporation within 31 days after the date of birth in order to have the coverage continue beyond such 31-day period.

Nonfamily type contracts which provide for services to the subscriber but not to family members or dependents of that subscriber, shall also provide services to newly-born children of the subscriber which shall commence with the moment of birth of each child and shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and abnormalities, provided that application therefor and payment of the required subscription amount are made to include in said contract the coverage described in the preceding paragraph of this section within 31 days from the date of birth of a newborn child.

A contract under which coverage of a dependent of a subscriber terminates at a specified age shall, with respect to an unmarried child, covered by the contract prior to attainment of age 19, who is incapable of self-sustaining employment by reason of mental retardation or physical handicap and who became so incapable prior to attainment of age 19 and who is chiefly dependent upon such subscriber for support and maintenance, not so terminate while the contract remains in force and the dependent remains in such condition, if the subscriber has within 31 days of such dependent's attainment of the termination age submitted proof of such dependent's incapacity as described herein. The foregoing provisions of this paragraph shall not apply retrospectively or prospectively to require a medical service corporation to insure as a covered dependent any mentally retarded or physically handicapped child of the applicant where the contract is underwritten on evidence of insurability based on health factors, required to be set forth in the application. In such cases any contract heretofore or hereafter issued may specifically exclude such mentally retarded or physically handicapped child from coverage.

10. N. J. S. 18A:22–14 is amended to read as follows:

Board of school estimate to determine appropriation amount.

18A:22–14. At or after said public hearing but not later than on March 18, the board of school estimate of a type I district shall fix and determine by official action taken at a public meeting of the board the amount of money necessary to be appropriated for the use of the public schools in the district for the ensuing school year, exclusive of the amount which shall have been apportioned to it by the commissioner, and shall make two certificates of such amount signed by at least three members of the board, one of which shall be delivered to the board of education and the other to the governing body of the district.

Within 20 days after receiving such certificate the board of education shall notify the board of school estimate and governing body of the district if it intends to appeal to the commissioner the board of school estimate's determination as to the amount of money necessary to be appropriated for the use of the public schools of the district for the ensuing school year.

11. N. J. S. 18A:58–7 is amended to read as follows:

Transportation aid.

18A:58–7. Each district shall also be paid 90% of the cost to the district of transportation of pupils to a school when the

necessity for such transporation and the cost and method thereof have been approved by the county superintendent of the county in which the district paying the cost of such transportation is situate. Such aid shall be paid for elementary pupils who live beyond 2 miles from their school of attendance and secondary pupils who live beyond 2½ miles from their school of attendance.

12. Section 3 of P. L. 1973, c. 83 (C. 19:44A–3) is amended to read as follows:

C. 19:44A-3 Definitions.

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

a. The term "allied candidates" means candidates in any election who are (1) seeking nomination or election (A) to an office or offices in the same county or municipal government or school district or (B) to the Legislature representing in whole or part the same constituency (C) as members of the State committee of the same political party from the same county or (D) as delegates or alternates to the national convention of the same political party; and who are (2) either (A) nominees of the same political party or (B) publicly declared in any manner, including the seeking or obtaining of any ballot position or common ballot slogan, to be aligned or mutually supportive.

b. The term "allied campaign organization" means any political committee, any State, county or municipal committee of a political party or any campaign organization of a candidate which is in support or furtherance of the same candidate or any one or more of the same group of allied candidates or the same public question as any other such committee or organization.

c. The term "candidate" means an individual seeking or having sought election to a public office of the State or of a county, municipality or school district at a primary, general, municipal, school or special election; except that the term shall not include the office of county committeeman or committeewoman.

d. The terms "contributions" and "expenditures" include all loans and transfers of money or other thing of value to or by any candidate, political committee, committee of a political party or political information organization, and all pledges or other commitments or assumptions of liability to make any such transfer; and for purposes of reports required under the provisions of this act shall be deemed to have been made upon the date when such commitment is made or liability assumed.

e. The term "election" means any election described in section 4 of this act.

f. The term "paid personal services" means personal, clerical, administrative or professional services of every kind and nature including, without limitation, public relations, research, legal, canvassing, telephone, speech writing or other such services, performed other than on a voluntary basis, the salary, cost or consideration for which is paid, borne or provided by someone other than the committee, candidate or organization for whom such services are rendered. In determining the value, for the purpose of reports required under this act, of contributions made in the form of paid personal services, the person contributing such services shall furnish to the campaign treasurer through whom such contribution is made a statement setting forth the actual amount of compensation paid by said contributor to the individuals actually performing said services for the performance thereof. But if any individual or individuals actually performing such services also performed for the contributor other services during the same period, and the manner of payment was such that payment for the services contributed cannot readily be segregated from contemporary payment for the other services, the contributor shall in his statement to the campaign treasurer so state and shall either (1) set forth his best estimate of the dollar amount of payment to each such individual which is attributable to the contribution of his paid personal services, and shall certify the substantial accuracy of the same, or (2) if unable to determine such amount with sufficient accuracy, set forth the total compensation paid by him to each such individual for the period of time during which the services contributed by him were performed. If any candidate is a holder of public office to whom there is attached or assigned, by virtue of said office, any aide or aides whose services are of a personal or confidential nature in assisting him to carry out the duties of said office, and whose salary or other compensation is paid in whole or part out of public funds, the services of such aide or aides which are paid for out of public funds shall be for public purposes only; but they may contribute their personal services, on a voluntary basis, to such candidate for election campaign purposes.

g. The term "political information organization" means any two or more persons acting jointly, or any corporation, partnership, or any other incorporated or unincorporated association, whether or not it is required to be registered pursuant to the "Legislative Activities Disclosure Act of 1971," P. L. 1971, c. 183

(C. 52:13C–18 et seq.), which is organized for the purpose of, or which provides political information concerning any candidate or candidates for public office or with respect to any public question.

The term shall not apply to any bona fide newspaper, magazine, radio or television station or other bona fide news medium disseminating political information, advertising and comment in the normal course of its business; nor to any recognized school or institution of higher education, public or private, in conducting, sponsoring or subsidizing any classes, seminars, forums, discussions or other events in which political information or discussion thereof or comment thereon is an integral part.

h. The term "political information" means any statement including but not limited to, press releases, pamphlets, newsletters, advertisements, flyers, form letters, or radio or television programs or advertisements which reflects the opinion of the members of the organization on any candidate or candidates for public office, on any public question, or which contains facts on any such candidate, or public question whether or not such facts are within the personal knowledge of members of the organization.

i. The term "political committee" means any two or more persons acting jointly, or any corporation, partnership, or any other incorporated or unincorporated association which is organized to, or does, aid or promote the nomination, election or defeat of any candidate or candidates for public office, or which is organized to, or does, aid or promote the passage or defeat of a public question in any election.

j. The term "public solicitation" means any activity by or on behalf of any candidate, State, county or municipal party committee, political committee or political information organization whereby either (1) members of the general public are personally solicited for cash contributions not exceeding $10.00 from each person so solicited and contributed on the spot by the person so solicited to a person so soliciting or through a receptacle provided for the purpose of depositing contributions, or (2) members of the general public are personally solicited for the purchase of items having some tangible value as merchandise, at a price not exceeding $10.00 per item, which price is paid on the spot in cash by the person so solicited to the person so soliciting, when the net proceeds of such solicitation are to be used by or on behalf of such candidate, party committee, or political committee or political information organization.

k. The term "testimonial affair" means an affair of any kind or nature including, without limitation, cocktail parties, breakfasts, luncheons, dinners, dances, picnics or similar affairs directly or indirectly intended to raise campaign funds in behalf of a person who holds, or who is or was a candidate for nomination or election to a public office in this State, or directly or indirectly intended to raise funds in behalf of any State, county or municipal committee of a political party or in behalf of a political committee, or directly or indirectly intended to raise funds for any political information organization.

l. The term "other thing of value" means any item of real or personal property, tangible or intangible, but shall not be deemed to include personal services other than paid personal services.

m. The term "qualified candidate" means:

(1) Any candidate for election to the office of Governor whose name appears on the general election ballot and who has deposited and expended $50,000.00 pursuant to section 7 of P. L. 1974, c. 26 (C. 19:44A–32); or

(2) Any candidate for election to the office of Governor whose name does not appear on the general election ballot but who has deposited and expended $50,000.00 pursuant to section 7 of P. L. 1974, c. 26 (C. 19:44A–32); or

(3) Any candidate for nomination for election to the office of Governor whose name appears on the primary election ballot and who has deposited and expended $50,000.00 pursuant to section 7 of P. L. 1974, c. 26 (C. 19:44A–32); or

(4) Any candidate for nomination for election to the office of Governor whose name does not appear on the primary election ballot but who has deposited and expended $50,000.00 pursuant to section 7 of P. L. 1974, c. 26 (C. 19:44A–32).

13. Section 15 of P. L. 1974, c. 26 (C. 19:44A–40) is amended to read as follows:

C. 19:44A-40 Crime of fourth degree.

15. a. Any person who willfully and knowingly violates section 4, 9 or 10 of P. L. 1974, c. 26 or section 17 of P. L. 1980, c. 74 (C. 19:44A–18.1) is guilty of a crime of the fourth degree.

b. The election to office of any candidate who is guilty of any violation within the description of subsection a. of this section shall be void, and the office shall be filled as required by law in the case of a vacancy; provided, however, that nothing herein contained shall be construed in derogation of the constitutional authority of

either House of the Legislature to be the judge of the election and qualification of its own members.

14. Section 4 of P. L. 1973, c. 309 (C. 23:2A–4) is amended to read as follows:

C. 23:2A-4 Endangered species list.

4. a. The commissioner shall conduct investigations concerning wildlife in order to develop information relating to populations, distribution, habitat needs, limiting factors and other biological and ecological data to determine management measures necessary for their continued ability to sustain themselves successfully. On the basis of such determinations the commissioner shall develop management programs which shall be designed to insure the continued ability of wildlife to perpetuate themselves successfully.

b. On the basis of such investigations of wildlife and other available scientific and commercial data the commissioner may by regulation promulgate a list of those species and subspecies of wildlife indigenous to the State which are determined to be endangered, giving their common and scientific names by species and subspecies. The commissioner shall periodically review the State list of endangered species and may by regulation amend the list making such additions or deletions as are deemed appropriate.

15. Section 5 of P. L. 1979, c. 105 (C. 30:1AA–5) is amended to read as follows:

C. 30:1AA-5 Chairperson and other officers.

5. The Governor shall appoint a chairperson from among the public members to serve in such capacity at the pleasure of the Governor. The members shall elect annually from among themselves a vice-chairperson and other such officers as may be necessary, and may appoint a secretary who need not be a member of the council.

16. Section 12 of P. L. 1979, c. 365 (C. 30:4D–7.7) is amended to read as follows:

C. 30:4D-7.7 Discharge of lien or certificate of debt.

12. The commissioner or director or such person designated by the commissioner or director is hereby authorized to compromise, settle or waive in whole or in part any lien or certificate of debt filed under the provisions of this act in accordance with rules and regulations promulgated by the commissioner pursuant to subsection l. of section 7 of P. L. 1968, c. 413 (C. 30:4D–7).

To discharge any lien or certificate of debt filed hereunder, the commissioner or director, or his duly constituted agent shall file with the clerk of the county, register of deeds and mortgages, or clerk of the superior court, as the case may be, a duly acknowledged certificate or warrant setting forth the fact that the department desires to discharge the lien or certificate of debt of record.

17. Section 11 of P. L. 1971, c. 344 (C. 30:6AA–11) is amended to read as follows:

C. 30:6AA-11 Veterans' Facilities Council.

11. There is hereby created within the Department of Human Services a Veterans' Facilities Council which shall consist of 15 members, at least 10 of whom shall be veterans, appointed by the commissioner, with the approval of the Governor. The term of each council member, except for the initial members, shall be 3 years commencing on July 1 and ending on June 30 of the third year thereafter, and vacancies shall be filled for the unexpired term only.

The initial membership of the council shall include those persons serving on the effective date of this act as members of the boards of managers of the New Jersey Memorial Home for Disabled Soldiers at Menlo Park and the New Jersey Memorial Home for Disabled Soldiers, Sailors, Marines and Their Wives and Widows at Vineland, which boards are hereby abolished. Such members shall serve for the term to which they had been last appointed to the respective boards, but additional and subsequent appointments shall be made in such manner that the terms of one-third of the members of the council shall expire on June 30 of each year.

The members of the council shall receive no compensation for services but shall be reimbursed for actual expenditures incurred in the performance of duty. They shall be subject to removal by the Governor at any time for good and sufficient cause.

18. Section 17 of P. L. 1940, c. 153 (C. 34:2–21.17) is amended to read as follows:

C. 34:2-21.17 Restrictions on employment of minors.

17. No minor under 16 years of age shall be employed, permitted or suffered to work in, about, or in connection with power-driven machinery.

No minor under 18 years of age shall be employed, permitted or suffered to work in, about, or in connection with the following:

The manufacture or packing of paints, colors, white lead, or red lead;

The handling of dangerous or poisonous acids or dyes; injurious quantities of toxic or noxious dust, gases, vapors or fumes;

Work involving exposure to benzol or any benzol compound which is volatile or which can penetrate the skin;

The manufacture, transportation or use of explosives or highly inflammable substances;

Oiling, wiping, or cleaning machinery in motion or assisting therein;

Operation or helping in the operation of power-driven woodworking machinery; provided, that apprentices operating under conditions of bona fide apprenticeship may operate such machines under competent instruction and supervision;

Grinding, abrasive, polishing or buffing machines; provided, that apprentices operating under conditions of bona fide apprenticeship may grind their own tools;

Punch presses or stamping machines if the clearance between the ram and the dye or the stripper exceeds ¼ inch;

Cutting machines having a guillotine action;

Corrugating, crimping or embossing machines;

Paper lace machines;

Dough brakes or mixing machines in bakeries or cracker machinery;

Calender rolls or mixing rolls in rubber manufacturing;

Centrifugal extractors, or mangles in laundries or dry cleaning establishments;

Ore reduction works, smelters, hot rolling mills, furnaces, foundries, forging shops, or any other place in which the heating, melting, or heat treatment of metals is carried on;

Mines or quarries;

Steam boilers carrying a pressure in excess of 15 pounds;

Construction work of any kind;

Fabrication or assembly of ships;

Operation or repair of elevators or other hoisting apparatus;

The transportation of payrolls other than within the premises of the employer.

No minor under 18 years of age shall be employed, permitted, or suffered to work in, about, or in connection with any establishment where alcoholic liquors are distilled, rectified, compounded, brewed, manufactured, bottled, or are sold for consumption on the premises, or in a pool or billiard room; provided, however, this paragraph shall not apply to minors 16 years of age or over, employed as pinsetters only in public bowling alleys as provided in section 3 hereof or to minors employed in theatrical productions where alcoholic beverages are sold on the premises.

Minors 14 years of age or over may be employed as golf course caddies and pool attendants.

No minor under 18 years of age shall be employed, permitted, or suffered to work in any place of employment, or at any occupation hazardous or injurious to the life, health, safety, or welfare of such minor, as such occupation shall, from time to time, be determined and declared by the Commissioner of Labor to be hazardous or injurious to the life, health, safety, or welfare of such minors, after a public hearing thereon and after such notice as the commissioner may by regulation prescribe.

None of the provisions of this section regarding employment in connection with alcoholic liquors shall be construed to prevent the employment of minors 16 years of age or more in a restaurant as defined in section 1 and as provided for in section 3 of this act, or in the executive offices, maintenance departments, or pool or beach areas of a hotel, motel or guesthouse; provided, however, that no minor shall engage in the preparation, sale or serving of alcoholic beverages, nor in the sale of cigarettes or other tobacco products, nor in the preparation or sale of photographs, nor in any dancing or theatrical exhibition or performance which is not part of a theatrical production where alcoholic beverages are sold on the premises, while so employed.

Nothing in this section shall be deemed to apply to the work done by pupils in public or private schools of New Jersey, under the supervision and instruction of officers or teachers of such organizations or schools, or to a minor who is 17 years of age employed in the type of work in which such minor majored under the conditions of the special vocational school graduate permit provided in section 15 of this act (C. 34:2–21.15).

Nothing in this section shall be construed to prevent minors 16 years of age or older who are members of a Junior Firemen's Auxiliary, created pursuant to N. J. S. 40A:14–95, from engaging in any activities authorized by N. J. S. 40A:14–98.

19. Section 8 of P. L. 1948, c. 348 (C. 40:66A–8) is amended to read as follows:

C. 40:66A-8 Incinerator authority charges.

8. (a) Every incinerator authority is hereby authorized to charge and collect rents, rates, fees or other charges (in this act sometimes referred to as "service charges") for the services and facilities of the garbage disposal system.

(b) Such rents, rates, fees and charges, being in the nature of use or service charges, shall as nearly as the incinerator authority shall deem practicable and equitable be uniform throughout the district for the same type, class and amount of use or service of the garbage disposal system.

(c) The incinerator authority shall prescribe and from time to time when necessary revise the schedule of such service charges, which in any event shall be such that the revenues of the incinerator authority will at all times be adequate to pay all expenses of operation and maintenance of the garbage disposal system, including reserves, insurance, extensions, and replacements, and to pay punctually the principal of and interest on any bonds and to maintain such reserves or sinking funds therefor as may be required by the terms of any contract of the incinerator authority. Said schedule shall thus be prescribed and from time to time revised by the incinerator authority after public hearing thereon which shall be held by the incinerator authority at least 7 days after publication of notice of the proposed adjustment of the service charges and of the time and place of the public hearing in at least two newspapers of general circulation in the area serviced by the authority. The incinerator authority shall provide evidence at the hearing showing that the proposed adjustment of the service charges is necessary and reasonable, and shall provide the opportunity for cross-examination of persons offering such evidence, and a transcript of the hearing shall be made and a copy thereof shall be available upon request to any interested party at a reasonable fee. The incinerator authority shall likewise fix and determine the time or times when and the place or places where such service charges shall be due and payable and may require that such service charges shall be paid in advance for periods of not more

than 1 year. A copy of such schedule of service charges in effect shall at all times be kept on file at the principal office of the incinerator authority and shall at all reasonable times be open to public inspection.

20. Section 2 of P. L. 1974, c. 50 (C. 46:8–28) is amended to read as follows:

C. 46:8-28 Landlord registration.

2. Every landlord shall, within 30 days following the effective date of this act, or at the time of the creation of the first tenancy in any newly constructed or reconstructed building, file with the clerk of the municipality in which the residential property is situated in the case of a one-dwelling unit rental or a two-dwelling unit non-owner occupied premises, or with the Bureau of Housing Inspection in the Department of Community Affairs in the case of a multiple dwelling as defined in section 3 of the "Hotel and Multiple Dwelling Law" (C. 55:13A–3), a certificate of registration on forms prescribed by the Commissioner of Community Affairs, which shall contain the following information:

a. The name and address of the record owner or owners of the premises and the record owner or owners of the rental business if not the same persons. In the case of a partnership the names of all general partners shall be provided;

b. If the record owner is a corporation, the name and address of the registered agent and corporate officers of said corporation;

c. If the address of any record owner is not located in the county in which the premises are located, the name and address of a person who resides in the county in which the premises are located and is authorized to accept notices from a tenant and to issue receipts therefor and to accept service of process on behalf of the record owner;

d. The name and address of the managing agent of the premises, if any;

e. The name and address, including the dwelling unit, apartment or room number of the superintendent, janitor, custodian or other individual employed by the record owner or managing agent to provide regular maintenance service, if any;

f. The name, address and telephone number of an individual representative of the record owner or managing agent who may be reached or contacted at any time in the event of an emergency affecting the premises or any unit of dwelling space therein, including such emergencies as the failure of any essential service or

system, and who has the authority to make emergency decisions concerning the building and any repair thereto or expenditure in connection therewith;

g. The name and address of every holder of a recorded mortgage on the premises;

h. If fuel oil is used to heat the building and the landlord furnishes the heat in the building, the name and address of the fuel oil dealer servicing the building and the grade of fuel oil used.

21. Section 2 of P. L. 1968, c. 410 (C. 52:14B–2) is amended to read as follows:

C. 52:14B-2 Administrative procedure definitions.

2. As used in this act:

(a) "State agency" or "agency" shall include each of the principal departments in the executive branch of the State Government, and all boards, divisions, commissions, agencies, departments, councils, authorities, offices or officers within any such departments now existing or hereafter established and authorized by statute to make, adopt or promulgate rules or adjudicate contested cases, except the office of the Governor.

(b) "Contested case" means a proceeding, including any licensing proceeding, in which the legal rights, duties, obligations, privileges, benefits or other legal relations of specific parties are required by constitutional right or by statute to be determined by an agency by decisions, determinations, or orders, addressed to them or disposing of their interests, after opportunity for an agency hearing, but shall not include any proceeding in the Division of Taxation, Department of the Treasury, which is reviewable de novo by the Tax Court.

(c) "Administrative adjudication" or "adjudication" includes any and every final determination, decision or order made or rendered in any contested case.

(d) "The head of the agency" means and includes the individual or group of individuals constituting the highest authority within any agency authorized or required by law to render an adjudication in a contested case.

(e) "Administrative rule" or "rule," when not otherwise modified, means each agency statement of general applicability and continuing effect that implements or interprets law or policy, or describes the organization, procedure or practice requirements of any agency. The term includes the amendment or repeal of any rule, but does not include: (1) statements concerning the internal

management or discipline of any agency; (2) intraagency and interagency statements; and (3) agency decisions and findings in contested cases.

(f) "License" includes the whole or part of any agency license, permit, certificate, approval, chapter, registration or other form of permission required by law.

(g) "Secretary" means the Secretary of State.

(h) "Director" means the Director of the Office of Administrative Law, unless otherwise indicated by context.

22. Section 2 of P. L. 1945, c. 132 (C. 54:18A–2) is amended to read as follows:

C. 54:18A-2 2% tax on premiums.

2. (a) The tax specified in subsection (a) of section 1 of this act, except as to life insurance companies and except as to marine insurance as described by chapter 16 of Title 54 of the Revised Statutes, shall, except as hereinafter provided, be 2% upon the taxable premiums collected by such company during the year ending December 31 next preceding on all business of the company in this State, less the amount of taxes on its property, exclusive of taxes on real estate and of taxes payable pursuant to this section, paid in this State by the company pursuant to any law of this State during the said year. Any taxes paid to the treasurer of any firemen's relief association of this State pursuant to R. S. 54:18–1 shall be considered a part of the tax payable under this act.

(b) Taxable premiums, collected after December 31, 1965 by an insurance company subject to the provisions of subsection (a) hereof under group accident and health insurance policies on residents of this State, and taxable premiums collected under legal insurance policies as defined in section 3 of P. L. 1981, c. 160 (C. 17:46C–3) on residents of this State, shall be subject to tax only at the following rates:

As to taxes payable in 1967	1¾%
As to taxes payable in 1968	1½%
As to taxes payable in 1969	1¼%
As to taxes payable in 1970 and thereafter	1%

23. Section 3 of P. L. 1945, c. 132 (C. 54:18A–3) is amended to read as follows:

C. 54:18A-3 Amount of tax, life insurance companies; deductions.

3. Amount of tax, life insurance companies; deductions.

(a) The tax specified in subsection (a) of section 1 of this act

as to life insurance companies, shall, except as hereinafter provided, be 2% upon the taxable premiums collected by the company during the year ending December 31 next preceding under all policies or contracts of insurance on residents of this State, less the amount of taxes on its property, exclusive of taxes on real estate and of taxes payable pursuant to this section, paid in this State by the company pursuant to any law of this State during the said year.

(b) Taxable premiums, collected after December 31, 1965 by an insurance company subject to the provisions of subsection (a) hereof under group accident and health insurance policies on residents of this State, and taxable premiums collected under legal insurance policies as defined in section 3 of P. L. 1981, c. 160 (C. 17:46C–3) on residents of this State, shall be subject to tax only at the following rates:

As to taxes payable in 1967	1¾%
As to taxes payable in 1968	1½%
As to taxes payable in 1969	1¼%
As to taxes payable in 1970 and thereafter	1%

24. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 512

AN ACT to amend and supplement "An act concerning motor vehicles and to amend and supplement 'An act concerning traffic regulations, and amending and supplementing chapter 4 of Title 39 of the Revised Statutes and certain other statutes relating thereto,' approved April 15, 1951 (P. L. 1951, c. 23)," approved June 18, 1966 (P. L. 1966, c. 142) and repealing section 4 thereof.

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

1. Section 2 of P. L. 1966, c. 142 (C. 39:4–50.2) is amended to read as follows:

C. 39:4-50.2 Implied consent to taking of breath samples.

2. (a) Any person who operates a motor vehicle on any public road, street or highway or quasi-public area in this State shall be

deemed to have given his consent to the taking of samples of his breath for the purpose of making chemical tests to determine the content of alcohol in his blood; provided, however, that the taking of samples is made in accordance with the provisions of this act and at the request of a police officer who has reasonable grounds to believe that such person has been operating a motor vehicle in violation of the provisions of R. S. 39:4–50.

(b) A record of the taking of any such sample, disclosing the date and time thereof, as well as the result of any chemical test, shall be made and a copy thereof, upon his request, shall be furnished or made available to the person so tested.

(c) In addition to the samples taken and tests made at the direction of a police officer hereunder, the person tested shall be permitted to have such samples taken and chemical tests of his breath, urine or blood made by a person or physician of his own selection.

(d) The police officer shall inform the person tested of his rights under subsections (b) and (c) of this section.

(e) No chemical test, as provided in this section, or specimen necessary thereto, may be made or taken forcibly and against physical resistance thereto by the defendant. The police officer shall, however, inform the person arrested of the consequences of refusing to submit to such test in accordance with section 2 of this amendatory and supplementary act. A standard statement, prepared by the director, shall be read by the police officer to the person under arrest.

C. 39:4-50.4a Revocation of license for refusal to submit to test.

2. (New 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, shall refuse to submit to the chemical test provided for in section 2 of P. L. 1966, c. 142 (C. 39:4–50.2) when requested to do so, for 90 days unless the refusal was in connection with a subsequent offense under this section, in which case the revocation period shall be for 1 year.

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 under the influence of intoxicating liquor or a narcotic, hallucinogenic, or habit-producing drug or marihuana, whether the person was placed under arrest, 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 chemical test shall satisfy the requirements of a program of alcohol education or rehabilitation pursuant to the provisions of R. S. 39:4–50. The revocation shall be independent of any revocation imposed by virtue of a conviction under the provisions of R. S. 39:4–50.

Repealer.

3. Section 4 of P. L. 1966, c. 142 (C. 39:4–50.4) is repealed.

4. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 513

AN ACT concerning the disclosure of certain information by certain persons seeking to influence legislation in this State and amending P. L. 1981, c. 150.

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

1. Section 2 of P. L. 1981, c. 150 (C. 52:13C–22.1) is amended to read as follows:

C. 52:13C-22.1 Annual reports of legislative agents and lobbyists.

2. Each legislative agent or lobbyist shall make and certify the correctness of a full annual report to the Election Law Enforcement Commission, of those moneys, loans, paid personal services or other things of value contributed to it and those expenditures made, incurred or authorized by it for the purpose of direct, express and intentional communication with legislators or the Governor or his staff undertaken for the specific purpose of affecting legislation during the previous year. The report shall include the following expenditures which expressly relate to direct, express and intentional communication with legislators for the specific purpose of affecting legislation: media, including advertising; entertainment; food and beverage; travel and lodging; honoraria; loans; gifts; and salary, fees, allowances or other compensation paid to a

legislative agent. The expenditures shall be reported whether made to a legislator, legislative agent or lobbyist. The expenditures shall be reported in the aggregate by category, except that if the aggregate expenditures on behalf of a legislator or the Governor or his staff exceed $25.00 per day, they shall be detailed separately as to the name of the legislator or the Governor or his staff, date and type of expenditure, amount of expenditure and to whom paid. Where the expenditures in the aggregate on behalf of any one legislator or the Governor or his staff exceed $200.00 per year, the expenditures, together with the name of the legislator or the Governor or his staff, shall be stated in detail including the type of each expenditure, amount of expenditure and to whom paid. Where the expenditures in the aggregate with respect to any specific occasion are in excess of $100.00, the report shall include the date and type of expenditure, amount of expenditure and to whom paid. The Election Law Enforcement Commission may, in its discretion, permit joint reports by legislative agents. No legislative agent shall be required to file a report unless all moneys, loans, paid personal services or other things of value contributed to it for the purpose of direct, express and intentional communication with legislators or the Governor or his staff undertaken for the specific purpose of affecting legislation exceed $2,500.00 in any year or unless all expenditures made, incurred or authorized by it for the purpose of direct, express or intentional communication with legislators or the Governor or his staff undertaken for the specific purpose of affecting legislation exceed $2,500.00 in any year.

Any lobbyist who receives contributions or makes expenditures to influence legislation shall be required to file and certify the correctness of a report of such contributions or expenditures if the contributions or expenditures made, incurred or authorized by it for the purpose of direct, express or intentional communication with legislators or their staffs or the Governor or his staff undertaken for the specific purpose of affecting legislation exceed, in the aggregate, $2,500.00 in any year. Any lobbyist required to file a report pursuant to this section may designate a legislative agent in its employ or otherwise engaged or used by it to file a report on its behalf; provided such designation is made in writing by the lobbyist, is acknowledged in writing by the designated legislative agent and is filed with the Election Law Enforcement Commission on or before the date on which the report of the lobbyist is due for filing, and further provided that any violation of this act shall

subject both the lobbyist and the designated legislative agent to the penalties provided in this act.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 514

AN ACT to prohibit the imposition by water companies or authorities of standby fees for sprinkler systems required by law to be installed in residential health care facilities and rooming and boarding houses, amending R. S. 48:19–18, R. S. 40:62–87, R. S. 40:62–127, R. S. 40:62–139, P. L. 1957, c. 183, P. L. 1975, c. 184 and P. L. 1979, c. 451.

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

1. R. S. 48:19–18 is amended to read as follows:

Water company tariffs.

48:19–18. Each water company organized under the laws of this State may sell and dispose of the water issuing from its reservoirs, aqueducts or pipes for such rates and pursuant to such terms and conditions as are in accordance with its approved tariffs on file with the Board of Public Utilities; except that no tariff shall be approved that provides for or allows the imposition of any fees in excess of the cost of water actually used for any sprinkler system required to be installed in any residential health care facility pursuant to the "Health Care Facilities Planning Act," P L. 1971, c. 136 (C. 26:2H–1 et seq.) and regulations promulgated thereunder or in any rooming or boarding house pursuant to the "Rooming and Boarding House Act of 1979," P. L. 1979, c. 496 (C. 55:13B–1 et al.) and regulations promulgated thereunder. Nothing in this amendatory act shall preclude any water company from charging for the actual cost of water main connection.

2. R. S. 40:62–87 is amended to read as follows:

Contracts of governing body.

40:62–87. The governing body may enter into a contract with any person to supply him with water for fire protection, manufac-

turing and irrigation and other special purposes, at rates and upon conditions to be designated by the governing body. Thereupon such person shall pay to the municipality the rate and all other charges stipulated in the contract, instead of the usual rates charged in the municipality, but nothing herein contained shall alter or affect the lien herein in R. S. 40:62–47 to R. S. 40:62–105 imposed for unpaid water rents or rates, nor change the rights of municipalities to collect unpaid water rates or rents in accordance with the provisions of R. S. 40:62–47 to R. S. 40:62–105. Notwithstanding any provision to the contrary contained in this section or in R. S. 40:62–77, no rates or charges shall include the imposition of any fees in excess of the cost of water actually used for any sprinkler system required to be installed in any residential health care facility pursuant to the "Health Care Facilities Planning Act," P. L. 1971, c. 136 (C. 26:2H–1 et seq.) and regulations promulgated thereunder or in any rooming or boarding house pursuant to the "Rooming and Boarding House Act of 1979," P. L. 1979, c. 496 (C. 55:13B–1 et al.) and regulations promulgated thereunder. Nothing in this amendatory act shall preclude any governing body from charging for the actual cost of water main connection.

3. R. S. 40:62–127 is amended to read as follows:

Commission water rates.

40:62–127. Such commission may prescribe and change from time to time rates to be charged for water supplied by the waterworks so acquired, and by any extension or enlargement thereof, but rates for the same kind or class of service shall be uniform in all the municipalities supplied by the waterworks; except that no rates shall include the imposition of any fees in excess of the cost of water actually used for any sprinkler system required to be installed in any residential health care facility pursuant to the "Health Care Facilities Planning Act," P. L. 1971, c. 136 (C. 26:2H–1 et seq.) and regulations promulgated thereunder or in any rooming or boarding house pursuant to the "Rooming and Boarding House Act of 1979," P. L. 1979, c. 496 (C. 55:13B–1 et al.) and regulations promulgated thereunder. Nothing in this amendatory act shall preclude any commission from charging for the actual cost of water main connection.

The supplying of water to locations beyond the boundaries of the municipalities owning the waterworks shall be basis for separate classification of service to permit reasonable differentiation of rates. As soon as practicable after acquiring the waterworks,

rates shall be prescribed, and shall be revised from time to time whenever necessary, so that the waterworks shall be self-supporting, the earnings to be sufficient to provide for all expenses of operation and maintenance and such charges as interest, sinking fund and amortization, so as to prevent any deficit to be paid by taxation from accruing. The interest, sinking fund and amortization shall be construed to include:

a. All service on debt heretofore or hereafter incurred by any municipality represented by the commission in connection with the acquisition of such privately-owned waterworks, and any extensions thereto and enlargements thereof, heretofore or hereafter formally assumed by the commission or its successors, and

b. All service on debt heretofore or hereafter incurred by a municipality represented by the commission, or its successors, and heretofore or hereafter formally assumed by the commission, or its successors, as part of any agreement with the municipality relative to the acquisition, by the commission, or its successors, of the ownership of or the management and control of or the right to use any water supply or part thereof or interest therein or any distribution system of water mains and connections, or any part thereof, which any such municipality may own or control.

The provisions of this section shall be deemed a contract with the holders of all obligations which shall be or may have been issued for the purpose of financing such acquisitions or which heretofore have been or may hereafter be issued to refund temporary bonds or obligations issued for such purposes, the payment of any of which obligations, and interest thereon, the commission, or its successors, has heretofore or may hereafter formally assume as aforesaid.

The commission and any succeeding commission may prescribe, and alter and enforce all reasonable rules and regulations for the maintenance and operation of the waterworks and the collection of rates.

4. R. S. 40:62–139 is amended to read as follows:

Individual contracts.

40:62–139. The commission may enter into a contract with any person to supply such person with water for fire protection; manufacturing and irrigation and other special purposes, at rates and upon conditions to be designated by the commission. Thereupon such person shall pay to the commission the rate and all other

charges stipulated therein, instead of the usual rates charged to other customers of the commission; except that no rates or charges shall include the imposition of any fees in excess of the cost of water actually used for any sprinkler system required to be installed in any residential health care facility pursuant to the "Health Care Facilities Planning Act," P. L. 1971, c. 136 (C. 26:2H–1 et seq.) and regulations promulgated thereunder or in any rooming or boarding house pursuant to the "Rooming and Boarding House Act of 1979", P. L. 1979, c. 496 (C. 55:13B–1 et al.) and regulations promulgated thereunder. Nothing in this amendatory act shall preclude any commission from charging for the actual cost of water main connection. Nothing herein contained shall alter or affect the lien hereinafter imposed for unpaid water rents or rates, nor change the rights of the commission to collect unpaid water rates or rents in accordance with the provisions hereof.

5. Section 21 of P. L. 1957, c. 183 (C. 40:14B–21) is amended to read as follows:

C. 40:14B-21 Water service charges.

21. Every municipal authority is hereby authorized to charge and collect rents, rates, fees or other charges (in this act sometimes referred to as "water service charges") for direct or indirect connection with, or the use, products or services of, the water system, or for sale of water or water services, facilities or products. Such water service charges may be charged to and collected from any person contracting for such connection or use, products or services or for such sale or from the owner or occupant, or both of them, of any real property which directly or indirectly is or has been connected with the water system or to which directly or indirectly has been supplied or furnished such use, products or services of the water system or water or water services, facilities or products, and the owner of any such real property shall be liable for and shall pay such water service charges to the municipal authority at the time when and place where such water service charges are due and payable. Such rents, rates, fees and charges shall as nearly as the municipal authority shall deem practicable and equitable be uniform throughout the district for the same type, class and amount of use, products or services of the water system, and may be based or computed either on the consumption of water on or in connection with the real property, or on the number and kind of water outlets on or in connection with the real property, or on the number and kind of plumbing fixtures or facilities on or in connection with the real property, or on the number of persons

residing or working on or otherwise connected or identified with the real property, or on the capacity of the improvements on or connected with the real property, or on any other factors determining the type, class and amount of use, products or services of the water system supplied or furnished, or on any combination of such factors, and may give weight to the characteristics of the water or water services, facilities or products and, as to service outside the district, any other matter affecting the cost of supplying or furnishing the same including the cost of installation of necessary physical properties.

In addition to any such water service charges, a separate charge in the nature of a connection fee or tapping fee, in respect of each connection of any property with the water system may be imposed upon the person making such connection or upon the owner or occupant of the property so connected. Such connection charges shall be uniform within each class of users and the amount thereof shall not exceed the actual cost of the physical connection plus an amount representing the fair contribution of the connecting party toward the debt service charges on the bonds issued for the installation and construction of the water system previously paid by users of the water system, in order that the combination of such connection fee or tapping fee and the aforesaid water service charges shall meet the requirements of section 23 (C. 40:14B–23). The foregoing notwithstanding, no municipal authority shall impose any charges or fees in excess of the cost of water actually used for any sprinkler system required to be installed in any residential health care facility pursuant to the "Health Care Facilities Planning Act," P. L. 1971, c. 136 (C. 26:2H–1 et seq.) and regulations promulgated thereunder or in any rooming or boarding house pursuant to the "Rooming and Boarding House Act of 1979," P. L. 1979, c. 496 (C. 55:13B–1 et al.) and regulations promulgated thereunder. Nothing in this amendatory act shall preclude any municipal authority from charging for the actual cost of water main connection.

6. Section 1 of P. L. 1975, c. 183 (C. 40:62–85.2) is amended to read as follows:

C. 40:62-85.2 Subject to control of Board of Public Utilities.

1. Whenever any municipality solely owning or controlling waterworks or its own water supply is supplying water to more than 1,000 billed customers within any other municipality, the supplying municipality shall with respect to such service be subject to the

jurisdiction, regulation and control of the Board of Public Utilities in the same manner and to the same extent as are the services of public utilities and to that extent and for that purpose such supplying municipality shall be deemed to be a public utility.

Whenever any municipality solely owning or controlling waterworks or its own water supply is supplying water to 1,000 or less billed customers who do not buy water at a bulk rate within any other municipality, the supplying municipality shall with respect to such service be exempt from the jurisdiction, regulation and control of the Board of Public Utilities; provided that the revenue derived from the sale of water outside of its boundaries does not exceed 25% of its total water revenue.

Whenever any supplying municipality is exempt from the jurisdiction, regulation and control of the Board of Public Utilities, the rates charged to the billed customers within any other municipality shall be the same as those charged to customers within the supplying municipality. Any increase in the water rates shall be authorized by ordinance. Notice of the second reading of such ordinance shall be sent by regular mail to billed customers outside of the supplying municipality at least 1 week prior to the public hearing for the said ordinance. Such customers shall have an opportunity to be heard at the public hearing.

No rates or charges shall include the imposition of any fees in excess of the cost of water actually used for any sprinkler system required to be installed in any residential health care facility pursuant to the "Health Care Facilities Planning Act," P. L. 1971, c. 136 (C. 26:2H–1 et seq.) and regulations promulgated thereunder or in any rooming or boarding house pursuant to the "Rooming and Boarding House Act of 1979," P. L. 1979, c. 496 (C. 55:13B–1 et al.) and regulations promulgated thereunder. Nothing in this amendatory act shall preclude any municipality from charging for the actual cost of water main connection.

7. Section 8 of P. L. 1979, c. 451 (C. 40:14C–8) is amended to read as follows:

C. 40:14C-8 County use or service charges.

8. After the commencement of operation of water supply facilities, the county may prescribe and change from time to time rates or rentals to be charged for the use of the services of such facilities. Such rates or rentals being in the nature of use or service charges or annual rental charges, shall be uniform and equitable

for the same type and class of use or service of such facilities. Such rates or rentals and types and classes of use and service may be based on such factors which the governing body of the county shall deem proper and equitable within the region served by each facility. The foregoing notwithstanding, no county shall impose any charges or fees in excess of the cost of water actually used for any sprinkler system required to be installed in any residential health care facility pursuant to the "Health Care Facilities Planning Act," P. L. 1971, c. 136 (C. 26:2H–1 et seq.) and regulations promulgated thereunder or in any rooming or boarding house pursuant to the "Rooming and Boarding House Act of 1979," P. L. 1979, c. 496 (C. 55:13B–1 et al.) and regulations promulgated thereunder. Nothing in this amendatory act shall preclude the governing body of the county from charging for the actual cost of water main connection.

8. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 515

AN ACT to authorize the Housing Finance Agency to finance and make life safety improvement loans for boarding houses, establishing the Boarding House Rental Assistance Fund, making an appropriation of moneys to the Boarding House Rental Assistance Fund and amending and supplementing P. L. 1967, c. 81.

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

C. 55:14J-52 Short title.

1. (New section) This act shall be known and may be cited as the "Boarding House Life Safety Improvement Act of 1981."

C. 55:14J-53 Findings and declarations; definitions; loans authorized; applications; terms and conditions.

2. (New section) a. The Legislature hereby finds and declares that there exists in this State a need to render life safety improvements at or to boarding houses in order to improve the health, safety and welfare of the residents of boarding houses. The Legislature hereby further finds and declares that the rent which will

of necessity be charged said residents by the owners of the boarding houses in order to amortize the cost to the owners of constructing, acquiring or rendering life safety improvements at or to their boarding houses would be such that many of said residents could not afford to reside in the boarding houses and that, therefore, enactment of the provisions hereinafter set forth is in the public interest.

b. As used in this act:

(1) "Boarding house" means either a boarding house or a rooming house, as those terms are defined in this act, or, for the purposes of this act, a residential health care facility as defined in section 1 of P. L. 1953, c. 212 (C. 30:11A–1) or licensed pursuant to P. L. 1971, c. 136 (C. 26:2H–1 et seq.), and does not include either a housing project or a project.

Boarding house means any building, together with any related structure, accessory building, any land appurtenant thereto, and any part thereof, which contains two or more units of dwelling space arranged or intended for a single room occupancy, exclusive of any such unit occupied by an owner or operator, and wherein personal or financial services are provided to the residents, including any residential hotel or congregate living arrangement, but excluding any hotel, motel or established guest house wherein a minimum of 85% of the units of dwelling space are offered for limited tenure only, any foster home as defined in section 1 of P. L. 1962, c. 137 (C. 30:4C–26.1), any community residence for the developmentally disabled as defined in section 2 of P. L. 1977, c. 448 (C. 30:11B–2), any dormitory owned or operated on behalf of any nonprofit institution of primary, secondary or higher education for the use of its students, any building arranged for single room occupancy wherein the units of dwelling space are occupied exclusively by students enrolled in a full-time course of study at an institution of higher education approved by the Department of Higher Education, and any facility or living arrangement operated by, or under contract with, any State department or agency, upon the written authorization of the commissioner.

(2) "Life safety improvement" means any addition, modification or repair to a boarding house which is necessary to improve the life safety of the residents of the boarding house, as certified by the Department of Community Affairs.

(3) "Life safety improvement loan" means a loan from the agency the proceeds of which are to be used to finance, in whole

or in part, the construction, acquisition or rendering of life safety improvements at or to boarding houses.

(4) "Boarding house sponsor" means the owner of a boarding house and does not include a qualified housing sponsor.

(5) "Commissioner" means the Commissioner of the Department of Community Affairs.

(6) "Rooming house" means a boarding house wherein no personal or financial services are provided to the residents.

(7) "Agency" means the New Jersey Housing Finance Agency as defined in section 4 of P. L. 1967, c. 81 (C. 55:14J–4).

c. In order to encourage the construction, acquisition and rendering of life safety improvements at or to boarding houses, the agency is hereby authorized to finance by life safety improvement loans the construction, acquisition and rendering of life safety improvements at or to boarding houses.

d. In order to carry out the purpose of this section, the agency may accept from boarding house sponsors applications for life safety improvement loans and enter into agreements with housing sponsors with respect thereto. In considering applications for life safety improvement loans, the agency shall give consideration to:

(1) The degree of need for the life safety improvement at the boarding house with respect to which the application is made.

(2) Factors affecting the tax-exempt status of interest on the obligations of the agency issued to raise the money necessary to make the life safety improvement loan, including the location and ownership of boarding houses with respect to which applications have been and are being made.

(3) The extent of the benefit which, in the agency's opinion, can be expected to be achieved from the life safety improvement intended to be financed with the life safety improvement loan for which the application is made giving effect to, among other things, the cost of such life safety improvement.

(4) The applicant's ability to obtain alternate financing.

(5) The extent of the applicant's compliance with the "Rooming and Boarding House Act of 1979," P. L. 1979, c. 496 (C. 55:13B–1 et al.). Such a determination shall be accomplished through an inspection of the boarding house by either the New Jersey Department of Community Affairs or the New Jersey Department of Health. Deficiencies which are to be corrected through life safety improvement loans are not to be used as a basis for disapproving such loan under this section.

e. Life safety improvement loans made by the agency shall not be subject to the terms and conditions set forth in section 9 of P. L. 1967, c. 81 (C. 55:143–9 et seq.) but shall be subject to the following terms and conditions:

(1) The amount of the loan shall not exceed 100% of the cost of the life safety improvement to be constructed, acquired or rendered, as determined by the agency.

(2) The interest rate on the loan shall be established by the agency at the lowest level consistent with the agency's cost of operation but in no event lower than the effective cost to the agency of the obligations of the agency sold to raise the money used to make the loan.

(3) The loan shall be evidenced by a promissory note which shall contain such terms and provisions and be in a form approved by the agency, and the terms and provisions shall include, but not be limited to, agency requirements such that: (i) the boarding house sponsor remit to the agency the entire unpaid balance of all life safety improvement loans made by the agency to the sponsor as of the time when the facility ceases to be a boarding house; (ii) the boarding house sponsor remit to the agency, for payment to the Department of Community Affairs for deposit in the "Boarding House Rental Assistance Fund," an amount equal to the rental assistance payments made to or on behalf of the residents of a boarding house, pursuant to this section, prior to the point in time when the facility ceases to be a boarding house, provided that the inclusion of this second requirement in the promissory note and the remittance of the amount shall be required only if and to the extent that the agency determines it to be feasible and practicable; and (iii) in the event of any sale which occurs during the period when the life safety improvement loan is being repaid, to a purchaser who will maintain the facility as a boarding house, the boarding house sponsor shall either remit the entire unpaid balance of all life safety improvement loans made by the agency to the sponsor or assign the loan to the purchaser.

(4) As a condition of the loan, the agency shall have the power at all times during the construction, acquisition or rendering of a life safety improvement at or to a boarding house and for a reasonable period of time subsequent thereto to enter without prior notice the boarding house with respect to which the loan is to be made in order to inspect the construction, acquisition or rendering of the life safety improvement being financed with the loan.

3. Section 15 of P. L. 1967, c. 81 (C. 55:14J–15) is amended to read as follows:

C. 55:14J-15 Power to issue bonds.

15. (a) The agency shall have the power and is hereby authorized from time to time to issue its bonds, bond anticipation notes and other obligations in such principal amounts as in the opinion of the agency shall be necessary to provide sufficient funds for achieving any of its corporate purposes, including the making of mortgage loans, the making of life safety improvement loans, the payment, funding or refunding of the principal of, or interest or redemption premiums on, any bonds, bond anticipation notes and other obligations issued by it whether the bonds, bond anticipation notes or other obligations or interest to be funded or refunded have or have not become due, the establishment of reserves to secure such bonds, bond anticipation notes and other obligations and all other expenditures of the agency incident to and necessary or convenient to carry out its corporate purposes and powers; provided, however, that the agency's power to issue its bonds, bond anticipation notes and other obligations in order (i) to make life safety improvement loans, (ii) to fund reserves for such bonds, bond anticipation notes and other obligations (excluding therefrom for purposes of this calculation such bonds, bond anticipation notes and other obligations that have been refunded), and (iii) to refund bonds, bond anticipation notes and other obligations originally issued to make life safety improvement loans and to fund reserves for such bonds, bond anticipation notes, and other obligations is limited to the extent that the amount of debt service payable in any 1 year on all such bonds, bond anticipation notes and other obligations then outstanding may never exceed $4,000,000.00.

(b) Except as may be otherwise expressly provided herein or by the agency, every issue of bonds, bond anticipation notes or other obligations shall be general obligations payable out of any moneys or revenues of the agency, subject only to any agreements with the holders of particular bonds, bond anticipation notes or other obligations pledging any particular moneys or revenues. The agency may issue such types of bonds, bond anticipation notes or other obligations as it may determine, including bonds, bond anticipation notes or other obligations on which the principal and interest are payable (1) exclusively from the income and revenues of the project financed with the proceeds of such bonds, bond anticipation notes or other obligations; (2) exclusively from the income and revenues of certain designated projects whether or not they

are financed in whole or in part with the proceeds of such bonds, bond anticipation notes or other obligations; (3) exclusively from the moneys received as repayment of the life safety improvement loans made with the proceeds of such bonds, bond anticipation notes or other obligations; or (4) from its revenues generally. Any such bonds, bond anticipation notes or other obligations may be additionally secured by a pledge of any grant or contributions from any department or agency of the United States or person or a pledge of any moneys, income or revenues of the agency from any source whatsoever.

(c) Any provision of any law to the contrary notwithstanding, any bonds, bond anticipation notes or other obligations issued pursuant to this act shall be fully negotiable within the meaning and for all purposes of Title 12A of the New Jersey Statutes, and each holder or owner of such a bond, bond anticipation note or other obligation, or of any coupon appurtenant thereto, by accepting such bond, bond anticipation note or other obligation or coupon shall be conclusively deemed to have agreed that such bond, bond anticipation note, other obligation or coupon is and shall be fully negotiable within the meaning and for all purposes of said Title 12A of the New Jersey Statutes.

(d) Bonds, bond anticipation notes or other obligations of the agency shall be authorized by resolution of the agency and may be issued in one or more series and shall bear such date or dates, mature at such time or times not exceeding 50 years from the date thereof, bear interest at a rate or rates within such maximum rate (not exceeding 6% per annum), be in such denomination or 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 this State, and be subject to such terms of redemption (with or without premium) as such resolution or resolutions may provide.

(e) Bonds, bond anticipation notes or other obligations of the agency may be sold at public or private sale at such price or prices as the agency shall determine, provided, however, that the interest cost to their average maturity of the money received for any group of bonds or other obligations sold in a single transaction (computed according to standard tables of bond values) shall not exceed 6% per annum.

4. Section 32 of P. L. 1967, c. 81 (C. 55:14J–32) is amended to read as follows:

C. 55:14J-32 Restriction on members and employees.

32. (a) No member, officer, employee or agent of the agency for purposes of personal gain, shall have or attempt to have directly or indirectly, any interest:

(1) In any contract or agreement of the agency;

(2) In the sale or purchase of any property by the agency;

(3) In any mortgage loan, life safety improvement loan or application therefor;

(4) In any housing project constructed, rehabilitated or operated, or to be constructed, rehabilitated or operated under the provisions of the act; or

(5) In any boarding house at which or to which a life safety improvement is or is to be constructed, acquired or rendered with moneys provided by a life safety improvement loan from the agency.

(b) Any member, officer, employee or agent of the agency who shall be found guilty of violating the provisions of this section shall be a disorderly person and subject to a fine of not less than $100.00 or more than $2,500.00. Any such person shall be barred from public employment in this State in any capacity whatsoever for a period of 5 years from the date he was adjudged a disorderly person.

5. Section 34 of P. L. 1967, c. 81 (C. 55:14J–34) is amended to read as follows:

C. 55:14J-34 Powers of agency.

34. In order to carry out the purposes and provisions of this act, the agency, in addition to any powers granted to it elsewhere in this act, shall have the following powers:

(a) To adopt bylaws for the regulation of its affairs and the conduct of its business; to adopt an official seal and alter the same at pleasure; to maintain an office at such place or places within this State as it may designate; to sue and be sued in its own name;

(b) To conduct examinations and hearings and to hear testimony and take proof, under oath or affirmation, at public or private hearings, on any matter material for its information and necessary to carry out the provisions of this act;

(c) To issue subpenas requiring the attendance of witnesses and the production of books and papers pertinent to any hearing before such agency, or before one or more of the members of the agency appointed by it to conduct such hearing;

(d) To apply to any court, having territorial jurisdiction of the offense, to have punished for contempt any witness who refuses to obey a subpena, or who refuses to be sworn or affirmed to testify, or who is guilty of any contempt after summons to appear;

(e) To acquire by purchase, gift, foreclosure or condemnation any real or personal property, or any interest therein, to enter into any lease of property and to hold, sell, assign, lease, encumber, mortgage or otherwise dispose of any real or personal property, or any interest therein, or mortgage lien interest owned by it or under its control, custody or in its possession and release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including any equity or right of redemption, in property foreclosed by it and to do any of the foregoing by public or private sale, with or without public bidding, notwithstanding the provisions of any other law;

(f) To adopt such rules and regulations as shall be expressly authorized by this act and such additional rules and regulations as shall be necessary or desirable to carry out the purposes of this act; it shall publish the same and file them with the Secretary of State;

(g) To borrow money or secure credit on a temporary, short-term, interim or on a long-term basis, and to issue negotiable bonds, bond anticipation notes or other obligations and to provide for the rights of the holders thereof;

(h) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, including contracts or agreements with qualified financial institutions for the servicing and processing of mortgage loans pursuant to this act;

(i) To appoint an executive director and such additional officers, who need not be members of the agency as the agency deems advisable, and to employ consulting architects, engineers, attorneys, accountants, construction and financial experts and such other employees and agents as may be necessary in its judgment; to fix their compensation; and to promote and discharge such officers, employees and agents, all without regard to the provisions of Title 11 of the Revised Statutes, Civil Service;

(j) To receive and accept aid or contributions from any source, of money, property, labor or other things of value, to be held, used and applied to carry out the purposes of this act subject to such conditions upon which such grants and contributions may be made, including, but not limited to, gifts or grants from any department

or agency of the United States or this State for payment of rent supplements to eligible families or for the payment in whole or in part of the interest expense for a housing project or for any other purpose consistent with this act;

(k) To enter into agreements to pay annual sums in lieu of taxes to any political subdivision of the State with respect to any real property owned or operated directly by the agency;

(l) To procure insurance against any loss in connection with its property and other assets (including mortgages and mortgage loans) in such amounts and from such insurers as it deems desirable;

(m) To the extent permitted under its contract with the holders of bonds, bond anticipation notes and other obligations of the agency, to consent to any modification with respect to rate of interest, time and payment of any installment of principal or interest, security or any other terms of any mortgage, mortgage loan, mortgage loan commitment, life safety improvement loan, contract or agreement of any kind to which the agency is a party;

(n) To the extent permitted under its contract with the holders of bonds, bond anticipation notes and other obligations, to enter into contracts with any qualified housing sponsor containing provisions enabling the said qualified housing sponsor to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges where by reason of other income or payment from the agency, any department or agency of the United States or this State, such reductions can be made without jeopardizing the economic stability of the housing project;

(o) With respect to projects financed prior to January 1, 1973, to make and collect such fees and charges, including but not limited to payment for all costs of financing by the agency, service charges, mortgage insurance premiums, reserves against losses and reimbursement for advances made to the agency, as it shall determine is reasonable to enable the agency, to the extent feasible, to be self-sustaining;

(p) To invest and reinvest any moneys of the agency not required for immediate use or disbursement and any moneys held in the Housing Finance Fund, reserve funds or sinking funds, in the same manner as trust funds in the custody of the State Treasurer.

All functions, powers and duties relating to the investment or reinvestment of such funds, including the purchase, sale or exchange of any investments or securities may, upon the request of

the agency, be exercised and performed by the Director of the Division of Investment, in accordance with written directions of the agency signed by an authorized officer;

(q) To provide, contract or arrange for, where by reason of the financing arrangement review of the application and proposed construction of a project is required by or in behalf of any department or agency of the United States, consolidated processing of any such application or supervision to avoid duplication thereof by either undertaking the processing in whole or in part for any such department or agency or, in the alternative, delegating the processing in whole or in part to any such department or agency;

(r) To make mortgage loans and to participate with any department or agency of the United States, this State, a municipality, or any banking institution, foundation, labor union, insurance company, trustee or fiduciary in a loan to a qualified housing sponsor secured by a single participating mortgage or by separate mortgages, the interest of each having equal priority as to lien in proportion to the amount of the loan so secured, but need not be equal as to interest rate, time or rate of amortization or otherwise and to undertake commitments to make such loans;

(s) To sell, at public or private sale, with or without bidding, any life safety improvement loan, any security for a life safety improvement loan, any mortgage or other obligation securing a mortgage loan made by the agency;

(t) To make commitments to purchase, and to purchase, service and sell, mortgages insured by any department or agency of the United States, and to make loans directly upon the security of any such mortgage;

(u) To provide qualified housing sponsors with such advisory consultation, training, and educational services as will assist them to plan, construct, rehabilitate and operate housing projects for moderate income families, including but not limited to assistance in community development and organization, home management and advisory services for the residents of the housing projects, and to encourage community organizations to assist in developing such projects;

(v) To encourage research in, and demonstration projects to develop new and better techniques and methods for increasing the supply of housing for moderate income families and to engage in such research and demonstration projects and to receive and accept contributions, grants or aid, from any source, public or private, including but not limited to the United States and this State, for carrying out this purpose;

(w) To do all acts and things necessary or convenient to carry out the powers expressly granted in this act;

(x) To provide to qualified housing sponsors through mortgage loans or otherwise, financing or refinancing of fully completed, as well as partially completed, projects which may or may not be occupied, provided that said projects meet all the requirements of the act to which this act is amendatory, except that, prior to the making of the mortgage loan commitment by the agency, said projects need not have complied with section 37 of the act to which this act is amendatory; and

(y) With respect to projects financed or life safety improvement loans made on or after January 1, 1973, to make and collect such fees and charges, including but not limited to payment for all costs of financing by the agency, service charges, mortgage insurance premiums, reserves against losses and reimbursement for advances made to or by the agency, as it shall determine is reasonable to enable the agency, to the extent feasible, to be self-sustaining.

C. 55:14J-54 Boarding House Rental Assistance Fund.

6. (New section) There is hereby established in the Department of Community Affairs a fund to be known as the "Boarding House Rental Assistance Fund". The fund shall be under the control of the Commissioner of the Department of Community Affairs. The fund shall be maintained by the Department of the Treasury and, may be invested by the Division of Investment of the Department of the Treasury in investments in which other State funds may be invested, including without limitation the State of New Jersey Cash Management Fund. There shall be deposited in the fund all moneys appropriated thereto by the Legislature and any other moneys made available for the purposes for which the fund is established. The fund is established for the purposes of providing rental assistance to residents of boarding houses in need of such assistance in order to meet the rental payments at the boarding houses in which they reside necessitated by the construction, acquisition or rendering of life safety improvements at or to the said boarding houses with the proceeds of life safety improvement loans made by the Housing Finance Agency; and to provide a source of repayment for such life safety improvement loans and, subject to the approval of the treasurer, to pay the cost to the Department of Community Affairs of discharging its obligations under this act. As and when needed in order to meet on a timely basis that part of the rental obligations of residents of boarding houses attributable to debt service (including fees and charges payable to the Housing Finance Agency) on life safety improvement loans

made by the Housing Finance Agency to finance the construction, acquisition or rendering of life safety improvements at said boarding houses, the commissioner is authorized and directed to disburse from the fund to or on behalf of the residents of said boarding houses the amount of money which, together with amounts already disbursed and to be disbursed, will be sufficient to meet on a timely basis such part of the rental obligations of the residents of said boarding houses.

C. 55:14J-55 Rental assistance agreements.

7. (New section) In furtherance of the purposes of this act, the commissioner is authorized to enter into rental assistance agreements with boarding house sponsors providing for the payment of rental assistance to or on behalf of the residents of the subject boarding houses in respect of that part of their rent that is attributable to debt service on life safety improvement loans, as determined by the Housing Finance Agency. Rental assistance agreements may permit or require the commissioner to make rental assistance payments on behalf of boarding house residents directly to the Housing Finance Agency or upon its order in satisfaction of the boarding house sponsors' payment obligations on life safety improvement loans. As a condition to the payment of such rental assistance, rental assistance agreements shall require that the boarding house sponsor remit to the commissioner for return to the fund in the Department of the Treasury from which the appropriation for the rental assistance payment was originally made an amount equal to any rental assistance payment made by the commissioner to or on behalf of a resident of the subject boarding house who, were such resident a family as defined in section 3(d) of P. L. 1967, c. 81 (C. 55:14J–3(d)), would not have constituted a family of moderate income, as defined in section 3(e) of P. L. 1967, c. 81 (C. 55:14J–3(e)), at any time during the period of time covered by the rental assistance payment; provided, however, that the agency may, in its discretion, establish a lower income standard for residents of boarding houses which would require remittance to the commissioner by the owners of such boarding houses of rental assistance payments formerly made by the commissioner to or on behalf of residents with incomes above such income standard.

C. 55:14J-56 Annual report.

8. (New section) On or before December 1 of each year, the commissioner shall submit to the Governor and the State Treasurer a Boarding House Rental Assistance Fund Annual Report which shall include the following: (a) a summary of the activities and transactions of the Boarding House Rental Assistance Fund

during the preceding fiscal year; (b) an estimate of the amount of rental charges which will be made during the ensuing 12 months of the residents of boarding houses on account of the debt service (including fees and charges payable to the Housing Finance Agency) on life safety improvement loans made by the Housing Finance Agency to finance the construction, acquisition or rendering of life safety improvements at or to said boarding houses, together with a brief description of each of said boarding houses, life safety improvement loans and life safety improvements and a summary of various characteristics of the residents of said boarding houses including their ages, disabilities, if any, and income levels; (c) a statement as to the maximum amount of debt service payable in any 1 year on all outstanding obligations of the Housing Finance Agency issued with respect to life safety improvement loans and (d) an estimate of, and request for, the amount of money in addition to the then current balance of the Boarding House Rental Assistance Fund which will be needed in the ensuing fiscal year to meet the disbursements from the fund which the commissioner anticipates will be made in furtherance of the purposes of the fund and in satisfaction of the commissioner's obligations under rental assistance agreements.

C. 55:14J-57 Appropriations.

9. (New section) In order to assure that there exists sufficient money in the Boarding House Rental Assistance Fund so as to permit the fund to be fully employed in furtherance of its purposes and to enable the commissioner to fulfill his commitments under rental assistance agreements, there shall be appropriated in each fiscal year and paid to the Department of Community Affairs for deposit in the Boarding House Rental Assistance Fund (i) from the Casino Revenue Fund, the amount of money requested for such fiscal year by the commissioner in the applicable Boarding House Rental Assistance Fund Annual Report, as amended by the commissioner from time to time, for the benefit of boarding house residents who are either senior citizens or disabled residents of the State within the meaning of regulations promulgated by the commissioner; and (ii) from the General Fund, the amount of money requested for such fiscal year by the commissioner in the applicable Boarding House Assistance Fund Annual Report, as amended by the commissioner from time to time, for the benefit of boarding house residents who are neither senior citizens nor disabled residents of the State within the meaning of regulations promulgated by the commissioner.

After receipt of each Boarding House Rental Assistance Fund Annual Report, the State Treasurer shall determine whether or not during the preceding fiscal year rental assistance payments were made with funds appropriated from the Casino Revenue Fund to or on behalf of residents of boarding houses who, were they families as defined in subsection (d) of section 3 of P. L. 1967, c. 81 (C. 55:14J–3), would have constituted families of moderate income as defined in subsection (e) of section 3 of P. L. 1967, c. 81 (C. 55:14J–3) during such fiscal year, but who were not either senior citizens or disabled residents of the State within the meaning of regulations promulgated by the commissioner. Upon making a determination the preceding fiscal year with funds appropriated from the Casino Revenue Fund to or on behalf of one or more of such residents, the treasurer shall request and the State shall appropriate from the General Fund to the Casino Revenue Fund an amount of money equal to payments so made from funds appropriated from the Casino Revenue Fund, provided, however, that neither the request nor the appropriation shall be required if, or to the extent that, the amount of payments is reimbursed from any other available source, which may be, but shall not be limited to, a payment from unencumbered funds of the New Jersey Housing Finance Agency, as authorized by the agency.

C. 55:14J-58 Payments from reserves; appropriations from General Fund.

10. (New section) In the event that the commissioner is for any reason unable to make rental assistance payments on one or more rental assistance agreements, the agency may authorize payments from its unencumbered reserves. If no such authorization is made, or the amount authorized is insufficient to make full payments under the agreements, there shall be appropriated from the General Fund in each fiscal year and paid to the Department of Community Affairs, for disbursement to the agency, sufficient funds to make full payments. The commissioner shall annually report to the Governor and the treasurer detailing the need for the appropriations; the report may be made to the agency under this provision of this act shall not reduce the amount of principal or interest owing to the agency on any life safety improvement loan. The provisions of this section shall not apply to any issue of bonds, bond anticipation notes, or other obligations of the agency, unless the agency, by resolution or other appropriate action, provides that such provisions shall be applicable; and further provided that in no event shall the provisions of this section apply to any issue of bonds, bond anticipation notes or other obligations of the agency with re-

spect to which the agency has established or is establishing a housing finance fund pursuant to P. L. 1967, c. 81 (C. 55:14J–1 et seq.).

11. There is appropriated to the Department of Community Affairs, for deposit in the "Boarding House Rental Assistance Fund," the sums of $750,000.00 from the Casino Revenue Fund and $250,000.00 from the General Fund.

12. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 516

AN ACT concerning county boards of taxation, and amending R. S. 54:3–2.

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

1. R. S. 54:3–2 is amended to read as follows:

County boards of taxation.

54:3–2. Each board shall, as heretofore, be known as the ..... county board of taxation, and be composed of three members, except as hereinafter provided, to be appointed by the Governor by and with the advice and consent of the Senate. Each member shall be a resident and citizen of the county in and for which he is appointed. Members shall be chosen because of their special qualifications, knowledge and experience in matters concerning the valuation and taxation of property, particularly of real property. At no time shall more than two of the members belong to the same political party. In counties of the first class there shall be five members of whom no more than three shall belong to the same political party. Each member shall, within 18 months of appointment, unless the member shall have served as a member of the county board of taxation continuously for at least 10 years prior to the effective date of this amendatory act, was reappointed to a 5-year term prior to that date, and is currently serving that term, furnish proof that he has received certificates indicating satisfactory completion of training courses designated in section 4 of P. L. 1967, c. 44 (C. 54:1–35.28) or that he possesses an assessor's certificate issued pursuant to P. L. 1967,

c. 44, as supplemented. Each member serving on the effective date of P. L. 1979, c. 499, unless the member shall have served as a member continuously for at least 10 years prior to the effective date of this amendatory act, was reappointed to a 5-year term prior to that date, and is currently serving that term, shall furnish such proof within 30 months of such effective date, if 30 months or more of his term are remaining thereafter.

If any member so required does not furnish such proof within said 18-month period, or 30-month period for any member serving on the effective date of P. L. 1979, c. 499, the county tax administrator shall immediately notify the president of the county board of taxation and the Director of the Division of Taxation. The director shall upon the receipt of such notification declare the position to be vacant, and shall notify the Governor of the existence of such vacancy. The Governor shall thereupon appoint, with the advice and consent of the Senate, a different citizen and resident of the relevant county to fill such position for the unexpired term.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 517

AN ACT establishing a State speedy trial program, creating the State Wide Speedy Trial Coordinating Committee and making an appropriation.

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

1. a. The Legislature finds that notwithstanding the vigorous efforts of the various components of the criminal justice system to reduce the delays in disposition of criminal cases, there continue to be delays and a growing backlog of cases which are a matter of serious concern to every citizen of this State. The Legislature recognizes that the health, safety and welfare of the people of this State require the expeditious disposition of criminal cases. It further finds that because there is an inventory of nearly 14,000 active indictments pending, which is nearly three times the number of cases which can be disposed of within a reasonable time, there

is a need to enhance these efforts with State financial assistance in order to deal with the backlog accumulated over the past few years. It further finds that the reduction of this backlog is essentially a one-time effort and, therefore, will only require the appropriation made under this act.

b. The Legislature, therefore, declares that it is the policy of this State to:

(1) Provide for a framework within which State and local agencies may plan to reduce the criminal case backlog;

(2) Provide financial resources to implement these plans; and

(3) Establish a meaningful and responsible role for the State in the solution of delay and backlog problems by designating the Statewide Speedy Trial Coordinating Committee, in cooperation with the State Law Enforcement Planning Agency, referred to in this act as "SLEPA," to develop overall guidelines for the backlog reduction efforts within which State and local agencies may prepare plans and present their requirements for specific resources to reduce backlog.

2. There is established in the Judicial Branch a Statewide Speedy Trial Coordinating Committee in but not of the Administrative Office of the Courts. The committee shall consist of the Chief Justice as chairman, an Associate Justice of the Supreme Court and five judges of the Superior Court who shall be appointed by the Chief Justice, the chairmen of the Supreme Court Committees on Municipal Courts and Criminal Practice, the Administrative Director of the Courts, the Director of the Division of Criminal Justice of the Department of Law and Public Safety, the President of the County Prosecutors Association of New Jersey, the chairmen of the Speedy Trial and Policy Committees of the County Prosecutors Association of New Jersey, the Superintendent of State Police, and the Public Defender, who shall be members ex officio and three regional public defenders to be appointed by the Public Defender. In addition, the Governor shall appoint an attorney at law of this State representing the private bar and a citizen member. The Speaker of the General Assembly and the President of the Senate shall each appoint one member from their respective Houses. Members shall serve without compensation. Each member shall hold office for the duration of the Speedy Trial Backlog Reduction Program, until December 31, 1983. Vacancies in the membership of the committee shall be filled in the same manner as the original appointments were made.

The committee shall organize as soon as may be practicable after the appointment of its members and shall select a secretary, who need not be a member of the committee.

3. Within 90 days of the effective date of this act, SLEPA shall promulgate and submit for the committee's approval, administrative guidelines for the submission of State and local proposals for funds to finance plans for the reduction of the backlog of criminal cases. Funding may include, but is not limited to, personnel, equipment and backlog reduction programs.

4. A State agency or county speedy trial planning committee which makes application for funding under this act shall develop and formulate a comprehensive proposal for a backlog reduction plan.

5. The governing board of SLEPA shall accept and review backlog reduction plans for the purpose of funding consideration. Grants may be awarded by SLEPA consistent with the guidelines established pursuant to this act, except that no funds may be awarded without the approval of the committee. SLEPA shall have the duty to monitor and evaluate programs funded under this act.

6. There is appropriated out of the General Fund the sum of $500,000.00 to SLEPA for the purpose of carrying out the provisions of this act. Subject to the approval of the Director of the Division of Budget and Accounting, such funds as may be necessary to defray incidental administrative costs for this program may be expended from the sum herein appropriated.

7. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 518

AN ACT to create a 1982 Gubernatorial Commission, prescribing its membership and responsibilities and making an appropriation.

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

1. A 1982 Gubernatorial Inaugural Commission is established to formulate plans for the official ceremonies incident to the inaugura-

tion of the Governor. The commission shall consist of two members of the Senate to be appointed by the President thereof, two members of the General Assembly to be appointed by the Speaker thereof, the Chief of Staff of the Department of Defense or his designee, the Superintendent of State Police or his designee, the Director of the Division of Purchase and Property or his designee and four citizens to be appointed by the Governor-elect.

All members of the commission shall serve without compensation but shall be entitled to reimbursement for expenses incurred in performance of their duties.

2. The commission shall meet and organize as soon as may be following appointment of its members at the call of the Chief of Staff, shall select a chairman from among its members and appoint such other officers from among its members or otherwise as the commission shall determine. The Director of the Division of Purchase and Property is designated as the approval officer for expenditure of funds appropriated to the commission.

3. The commission is authorized to call upon and receive from State offices, departments and agencies assistance in the planning and carrying out of the gubernatorial ceremonies and functions incident thereto.

4. There is appropriated to the Division of Purchase and Property, Department of the Treasury for the purposes of this act the sum of $40,000.00.

5. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 519

AN ACT concerning the courts, authorizing the appointment of certain personnel and amending N. J. S. 2A:2–7.

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

1. N. J. S. 2A:2–7 is amended to read as follows:

Court clerk and deputies.

2A:2–7. The Supreme Court shall appoint, to serve at its pleasure, and shall fix the salaries of a deputy clerk of the

Superior Court, a clerk of the Appellate Division of the Superior Court and a deputy clerk of the Appellate Division of the Superior Court, each of whom shall not be subject to the provisions of Title 11, Civil Service, of the Revised Statutes. The clerk of the Superior Court shall select and employ such other necessary assistants for his office in accordance with the provisions of Title 11 of the Revised Statutes.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 520

AN ACT authorizing the sale of surplus real property owned by the Department of Corrections.

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

1. The Department of Corrections is authorized to sell and convey all or part of the State's interest in 6.5 acres of surplus real property located in the township of Woodbridge, Middlesex county. The property is designated as Block 905, Lot 10, on the Woodbridge township tax map.

2. The sale shall be upon terms and conditions as approved by the State House Commission.

3. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 521

AN ACT concerning pre-inaugural gubernatorial political contributions and amending P. L. 1980, c. 74.

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

1. Section 17 of P. L. 1980, c. 74 (C. 19:44A–18.1) is amended to read as follows:

C. 19:44A-18.1 $250 limit on contributions.

17. a. No person, candidate or political committee, otherwise eligible to make political contributions, shall make any contribution or contributions for the purpose of any gubernatorial inaugural fund-raising event or events in the aggregate in excess of $250.00.

b. For the purposes of the limitation in subsection a. of this section the term "gubernatorial inaugural fund-raising event" means any event or events held between the date of the general election for the office of Governor and a date 15 days after the date of the inauguration of the Governor, whether the event is sponsored by the inaugural committee, the State political party committee representing the party of the Governor-elect, or any other person or persons, and at which the Governor-elect is a prominent participant or for which solicitations of contributions include the name of the Governor-elect in prominent display; except that this definition shall not apply to an event sponsored by a religious, charitable, benevolent, scientific, artistic or educational non-profit institution as long as any proceeds from the event will not be controlled by the Governor-elect or any political committee or political party committee, and the proceeds will not be contributed to the Governor-elect, the candidacy of the Governor-elect, a political committee or political party committee.

c. The person or committee sponsoring the event shall make a full report of all contributions and expenditures with respect to the event within 45 days following the event in accordance with the provisions of this act.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 522

AN ACT concerning the removal of judges from office and amending section 5 of P. L. 1970, c. 151.

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

1. Section 5 of P. L. 1970, c. 151 (C. 2A:1B–5) is amended to read as follows:

C. 2A:1B-5 Suspension of judges.

5. The Supreme Court may suspend a judge from office, with or without pay, pending the determination of the proceeding.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 523

A SUPPLEMENT to the "Public Employees' Retirement System Act," approved June 28, 1954 (P. L. 1954, c. 84; C. 43:15A–1 et seq.) as said title was amended by P. L. 1971, c. 213.

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

1. Notwithstanding any provision to the contrary of P. L. 1954, c. 84 (C. 43:15A–1 et seq.), any member who, prior to his enrollment, was employed temporarily by a State agency, and whose temporary employment was followed within 3 years by two or more successive appointments to positions with independent State agencies in which the member received service credit, shall be permitted to purchase the entire amount, up to 2 years, of credit for such temporary service and, upon making the purchase, to receive the credit as if he had been a member during such temporary service. To purchase such credit, the member shall pay into the annuity savings fund the amount required by applying the factor, supplied by the actuary, applicable to his age at the time of purchase to his salary at that time. The terms of the purchase and the credit granted shall be identical to those stipulated for the purchase of previous membership by members of the system as provided by section 8 of P. L. 1954, c. 84 (C. 43:15A–8).

2. This act shall take effect immediately and expire on the sixty-first day following enactment.

Approved January 12, 1982.

CHAPTER 524

AN ACT to amend and supplement "An act for the establishment of a police and firemen's retirement system for police, firemen and certain other law enforcement officers," approved May 23, 1944 (P. L. 1944, c. 255) as said title was amended by P. L. 1976, c. 139.

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

1. Section 1 of P. L. 1944, c. 255 (C. 43:16A–1) is amended to read as follows:

C. 43:16A-1 Police and Firemen's Retirement System definitions.

1. As used in this act:

(1) "Retirement system" shall mean the Police and Firemen's Retirement System of New Jersey as defined in section 2 of this act.

(2) "Policeman or fireman" shall mean any permanent and full-time active uniformed employee, and any active permanent and full-time employee who is a detective, lineman, fire alarm operator or inspector of combustibles of any police or fire department. It shall also mean any permanent, active, and full-time firefighter or officer employee of the State of New Jersey, or any political subdivision thereof, with police powers and holding one of the following titles: motor vehicles officer, motor vehicles sergeant, motor vehicles lieutenant, motor vehicles captain, assistant chief, bureau of enforcement, and chief, bureau of enforcement in the Division of Motor Vehicles, alcoholic beverage control investigator, alcoholic beverage control inspector, assistant deputy director, bureau of enforcement and deputy director, bureau of enforcement in the Division of Alcoholic Beverage Control, conservation officer, assistant district conservation officer, district conservation officer, and chief conservation officer, in the Division of Fish, Game, and Shell Fisheries, ranger, and chief ranger in the Bureau of Parks, State fire warden and chief, assistant chief, division fire warden, assistant division fire warden, staff section fire warden, and field section fire warden, in the Forest Fire Service, Department of Environmental Protection, chief, Bureau of Forest Fire Management–State forest fire warden, supervising forester (fire), principal forester (fire), senior forester (fire), assistant forester (fire), in the Bureau of Forest Fire Management, Department of Environmental Protec-

tion, marine patrolman, senior marine patrolman, principal marine patrolman, and chief, bureau of marine law enforcement, State fire marshal, deputy State fire marshal, and inspector fire safety, Department of Law and Public Safety, institution fire chief, and assistant institution fire chief, Department of Human Services, correction officer, senior correction officer, correction officer sergeant, correction officer lieutenant, correction officer captain, and deputy keeper in the Department of Corrections, medical security officer, assistant supervising medical security officer, and supervising medical security officer in the Department of Human Services, county detective, lieutenant of county detectives, captain of county detectives, deputy chief of county detectives, chief of county detectives, supervising auditor-investigator, auditor-investigator, electronics specialist, traffic safety coordinator-investigator and supervisor of electronics and investigations, county investigator in the office of the county prosecutors, sheriff's officer, sergeant sheriff's officer, lieutenant sheriff's officer, captain sheriff's officer, chief sheriff's officer, and sheriff's investigator in the office of the county sheriffs, county correction officer, county correction sergeant, county correction lieutenant, county correction captain, and county deputy warden in the several county jails, industrial trade instructor and identification officer in a county of the first class having a population of more than 925,000 inhabitants, cottage officer, head cottage officer, interstate escort officer, juvenile officer, head juvenile officer, assistant supervising juvenile officer, supervising juvenile officer, patrolman capitol police, patrolman institutions, sergeant patrolman institutions and supervising patrolman institutions and patrolman or other police officer of the Board of Commissioners of the Palisades Interstate Park appointed pursuant to R. S. 32:14–21.

(3) "Member" shall mean any policeman or fireman included in the membership of the retirement system as provided in section 3 of this act.

(4) "Board of trustees" or "board" shall mean the board provided for in section 13 of this act.

(5) "Medical board" shall mean the board of physicians provided for in section 13 of this act.

(6) "Employer" shall mean the State of New Jersey, the county, municipality or political subdivision thereof which pays the particular policeman or fireman.

(7) "Service" shall mean service as a policeman or fireman paid for by an employer.

(8) "Creditable service" shall mean service rendered for which credit is allowed as provided under section 4 of this act.

(9) "Regular interest" shall mean interest as determined annually by the State Treasurer after consultation with the Directors of the Divisions of Investment and Pensions and the actuary of the system. It shall bear a reasonable relationship to the percentage rate of earnings on investments but shall not exceed 105% of such percentage rate.

(10) "Aggregate contributions" shall mean the sum of all the amounts, deducted from the compensation of a member or contributed by him or on his behalf, standing to the credit of his individual account in the annuity savings fund.

(11) "Annuity" shall mean payments for life derived from the aggregate contributions of a member.

(12) "Pension" shall mean payments for life derived from contributions by the employer.

(13) "Retirement allowance" shall mean the pension plus the annuity.

(14) "Earnable compensation" shall mean the full rate of the salary that would be payable to an employee if he worked the full normal working time for his position. 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.

(15) "Average final compensation" shall mean the average annual salary upon which contributions are made for the 3 years of creditable service immediately preceding his retirement or death, or it shall mean the average annual salary for which contributions are made during any 3 fiscal years of his or her membership providing the largest possible benefit to the member or his beneficiary.

(16) "Retirement" shall mean the termination of the member's active service with a retirement allowance granted and paid under the provisions of this act.

(17) "Annuity reserve" shall mean the present value of all payments to be made on account of any annuity or benefit in lieu of any annuity computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(18) "Pension reserve" shall mean the present value of all payments to be made on account of any pension or benefit in lieu of any pension computed upon the basis of such mortality tables

recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(19) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(20) "Beneficiary" shall mean any person receiving a retirement allowance or other benefit as provided by this act.

(21) "Child" shall mean a deceased member's or retirant's unmarried child either (a) under the age of 18 or (b) of any age who, at the time of the member's or retirant's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his 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.

(22) "Parent" shall mean the parent of a member who was receiving at least one-half 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 parent will be considered terminated by marriage of the parent subsequent to the death of the member.

(23) "Widower" shall mean the man to whom a member or retirant was married at least 2 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 one-half of his support from the member or retirant in the 12-month period immediately preceding the member's or retirant'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 the widower subsequent to the death of the member or retirant. In the event of the payment of an accidental death benefit, the 2-year qualification shall be waived.

(24) "Widow" shall mean the woman to whom a member or retirant was married at least 2 years before the date of his death and to whom he continued to be married until the date of his death and who has not remarried. In the event of the payment of an accidental death benefit, the 2-year qualification shall be waived.

(25) "Fiscal year" shall mean any year commencing with July 1, and ending with June 30, next following.

(26) "Compensation" shall mean the base salary, for services as a member as defined in this act, which is in accordance with established salary policies of the member's employer for all em-

ployees 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 duties beyond the regular work day.

(27) "Department" shall mean any police or fire department of a municipality or a fire department of a fire district located in a township or a county police or park police department or the appropriate department of the State or instrumentality thereof.

2. (New section) An eligible officer under this amendatory and supplementary act, who is a member of the Public Employees' Retirement System shall be permitted to transfer his membership in said fund to the Police and Firemen's Retirement System of New Jersey by waiving all rights and benefits which would otherwise be provided by the Public Employees' Retirement System. Any such officer will likewise be permitted to continue his membership in the Public Employees' Retirement System by waiving all rights and benefits which would otherwise be provided by the Police and Firemen's Retirement System. Waivers shall be accomplished by filing forms satisfactory to the New Jersey Division of Pensions within 90 days of the effective date of this amendatory and supplemental act. In the absence of the filing of a timely waiver by any eligible officer his pension status shall remain unchanged and his membership shall not be transferred to the Police and Firemen's Retirement System. This section shall not be applicable to any person heretofore eligible, who failed to file within the time period prescribed in section 4 of P. L. 1973, c. 156 (C. 43:16A–62) or in any supplement to said act.

3. (New section) Within 120 days following the effective date of this act the Public Employees' Retirement System shall remit to the Police and Firemen's Retirement System of New Jersey all accumulated deductions standing to the credit of each transferred employee as member of the fund, and within 180 days following the effective date of this act remit the pro rata part of the reserve fund constituting the employer's obligations under the former system applicable to the employee's account, and the Police and Firemen's Retirement System shall then enter the respective sums so remitted to it to the credit of the employee in the Annuity Savings Fund and to the credit of the employer in the Pension Accumulation Fund of the Police and Firemen's Retirement System of New Jersey.

4. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 525

AN ACT concerning appointment of public guardians of incompetent veterans and repealing N. J. S. 3A:31–1 through N. J. S. 3A:31–11.

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

Repealer.

1. N. J. S. 3A:31–1 through N. J. S. 3A:31–11 are repealed.

2. This act shall take effect 90 days after enactment.

Approved January 12, 1982.

CHAPTER 526

A SUPPLEMENT to "An act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1982 and regulating the disbursement thereof," approved June 30, 1981 (P. L. 1981, c. 190).

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

1. There is appropriated out of the General Fund for the purpose specified:

STATE AID

DEPARTMENT OF COMMUNITY AFFAIRS

Community Development and Environmental Management

41 Community Development Management—State Aid

Interlocal Services-Jersey City, Hoboken Joint disaster service program	($51,000)
Total Appropriation Community Development Management	$51,000

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 527

AN ACT to amend the "Safe and Clean Neighborhoods Act of 1979," approved June 28, 1979 (P. L. 1979, c. 118; C. 52:27D–118.1 et seq.).

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

1. Section 3 of P. L. 1979, c. 118 (C. 52:27D–118.3) is amended to read as follows:

C. 52:27D-118.3 Apportionment of funds.

3. The funds appropriated pursuant to this act shall be apportioned among the qualifying municipalities for the purpose of enabling such municipalities to upgrade and augment certain municipal services and programs relating to safe and clean neighborhoods, by providing for additional policemen regularly assigned uniformed patrol duties, their related expenses, supervisors and other neighborhood improvements, in the following manner:

a. In order to receive aid under this act, each qualifying municipality shall apply to the director for matching funds equal in value to $1.00 for each dollar appropriated for an approved municipal program designed to upgrade and augment certain municipal services and programs relating to safe and clean neighborhoods;

b. Each qualifying municipality shall be limited in applying for matching funds equal in value to such amount as the qualifying municipality was entitled to receive pursuant to the provisions of P. L. 1978, c. 56, as certified by the Director of the Division of Local Government Services;

c. A qualifying municipality that did not receive State aid pursuant to P. L. 1978, c. 56, and that is eligible for such aid is entitled to participate in this act in an amount not to exceed an amount equal to that which the qualifying municipality would have received pursuant to P. L. 1973, c. 46, as supplemented if it had been eligible at that time, as certified by the Director of the Division of Local Government Services;

d. If additional funds are appropriated, a qualifying municipality may apply to the director for an increase in matching funds equal in value to a sum in proportion to that received pursuant to the provisions of subsection b. of this section;

e. If funds remain unapportioned as certified by the director after a qualifying municipality has had an opportunity to apply, there shall be established a discretionary fund, and participating municipalities may make application for such funds as still remain unapportioned as determined by the director.

2. This act shall take effect immediately, and shall be applicable to the 1982 local fiscal year and thereafter.

Approved January 12, 1982.

CHAPTER 528

AN ACT to amend the "New Jersey Building Authority Act," approved April 16, 1981 (P. L. 1981, c. 120).

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

1. Section 6 of P. L. 1981, c. 120 (C. 52:18A–78.6) is amended to read as follows:

C. 52:18A-78.6 Project report.

6. Prior to the acquisition or construction of any project, or any reconstruction, rehabilitation, repair or improvement of a project, the cost of which undertaking is estimated to exceed $100,000.00 the authority shall:

a. Prepare a project report which shall describe the nature and scope of the project, including but not limited to its location, size, cost, and purpose, a list of all entities entering lease agreements for the use of the project and the amount of space each will occupy, the anticipated annual State appropriation for lease agreements, the total State appropriations necessary in each year until the total indebtedness attributable to the project is paid or retired and a statement of anticipated annual receipts and expenditures for the project;

b. Submit the project report to the Commission on Capital Budgeting and Planning for its review and its findings as to whether the project is necessary and convenient to meet the needs of the State agencies which are to utilize the project, whether the project is consistent with the State Capital Improvement Plan, and whether it meets the criteria otherwise established by the Commission for its approval of State capital projects;

c. Conduct a public hearing in the municipality in which the project is to be located as provided in section 7 of this act, and make all responses required by that section; except that this requirement shall not apply in the case of the reconstruction, rehabilitation, repair or improvement of an existing building or facility owned by the State and which will continue to be used for substantially the same purpose after completion of the project;

d. Submit to the Legislature the project report, the findings of the Commission on Capital Budgeting and Planning, the transcript of the public hearing, and all responses required by section 7 of this act;

e. Submit to the Legislature documentation that:

(1) Plans and specifications for the project assure, or will assure adequate light, air, sanitation, and fire protection;

(2) There is a feasible method for the relocation of families and individuals displaced from the project area into decent, safe and sanitary dwellings in accordance with the provisions of the "Relocation Assistance Act of 1967," P. L. 1967, c. 79 (C. 52:31B–1 et seq.) and the "Relocation Assistance Act," P. L. 1971, c. 362 (C. 20:4–1 et seq.), whichever is applicable;

(3) Plans and specifications for the project assure that the project will comply with all applicable standards and requirements prescribed by State and Federal law which promote the public health, protect the environment or promote the conservation of energy, and that, where practicable and appropriate, consideration shall be given to the generation or cogeneration of electrical power on the project site or in conjunction with other facilities;

(4) Plans and specifications for the project assure that it will comply with the requirements of the "State Uniform Construction Code Act," P. L. 1975, c. 217 (C. 52:27D–119 et seq.);

(5) The location of the project is consistent with the State's urban policy of concentrating public investments in distressed urban centers and assisting in the revitalization of the older municipalities, except for a project intended to serve a region which contains no such urban center.

For the purposes of this section "cost" means, in addition to the usual connotations thereof, the cost of acquisition, construction, reconstruction, rehabilitation, repair, improvement and operation of all or any part of a project, and includes, but is not limited to, the cost or fair market value of construction, machinery and equipment, property rights, easements, privileges, agreements, fran-

chises, utility extensions, disposal facilities, access roads and site development deemed by the authority to be necessary or useful and convenient therewith, discount on bonds, cost of issuance of bonds, engineering and inspection costs and legal expenses, cost of financial, professional and other estimates and advice, organization, administrative, insurance, operating and other expenses of the authority or any person prior to and during any acquisition or construction, reconstruction, rehabilitation, repair or improvement, and all other expenses as may be necessary or incident to the financing, acquisition, construction, rehabilitation, repair or improvement and completion of the project or part thereof, and also provision for reserves for payment or security of principal of, or interest on, the bonds during any such undertaking.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 529

AN ACT to amend and supplement the "Interlocal Services Aid Act" approved December 6, 1973 (P. L. 1973, c. 289) and making an appropriation.

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

1. Section 5 of P. L. 1973, c. 289 (C. 40:8B–5) is amended to read as follows:

C. 40:8B-5 Applications for joint service program grants.

5. Applications for joint service program grants may be made covering any or all of the following areas of governmental service:

a. joint assessment and collection of taxes;

b. joint maintenance of municipal records and statistics and electronic data processing;

c. joint building, housing and plumbing code inspection and enforcement;

d. joint solid waste collection and disposal or recycling;

e. joint air pollution control inspection and enforcement;

f. joint welfare and social service programs;

g. joint maintenance and administration of parks and recreational and cultural facilities;

h. joint maintenance of roads, public works and beaches;

i. joint fire departments (Any intermunicipal volunteer department or company shall be eligible to apply pursuant to section 4 of this act, except that any intermunicipal volunteer fire program shall provide for the consolidation of all companies within the municipalities served. Such consolidation shall in no way be deemed to affect municipal aid to fire companies under N. J. S. 40A:14–34. For purposes of such aid, the consolidated company shall be eligible for the full amount of aid which its constituent companies might have received from any municipality had they remained separate entities);

j. consolidation of municipal police forces or departments;

k. joint municipal courts;

l. joint risk management services;

m. joint energy conservation services, including, but not limited to, the costs incurred by local government units in purchasing or renting equipment, materials and supplies, or in employing personnel, for the purposes of reducing energy consumption in buildings and properties owned by such local government units, or in providing advisory and other services in the area of energy conservation to the citizens, businesses and industries of such units.

2. Section 6 of P. L. 1973, c. 289 (C. 40:8B–6) is amended to read as follows:

C. 40:8B-6 Approved plan of operations; feasibility study.

6. a. No grant under this act shall be made to any joint program which has not submitted an approved plan of operations based on a feasibility study of the project conducted pursuant to this section. A 2-year grant may, however, be extended to any consolidated municipality filing an application pursuant to section 42 of the "Municipal Consolidation Act" (P. L. 1977, c. 435; C. 40:43–66.35 et seq.). Such feasibility study shall be conducted by or under the supervision of the Department of Community Affairs, either (1) by the Department of Community Affairs or by an agency or agencies of the State of New Jersey approved by the Commissioner of Community Affairs, or (2) by a qualified third party approved by the Department of Community Affairs and by the principal executive officer of any principal executive department of State Government whose approval of such feasibility study is required by subsection b. of this section and by a majority

of ⅔ or more of the applicant local units, or (3) in the case of joint energy conservation services, by the Department of Energy or, in the case of joint solid waste collection, disposal or recycling, by the Department of Environmental Protection. Such plan of operations shall constitute the final element of the feasibility study when approved by the Commissioner of Community Affairs and by any and every principal executive officer of a principal executive department of State Government which exercises jurisdiction over the performance of the services to be provided jointly under the proposed program.

b. Any local units eligible for aid as defined in sections 3 and 4 of this act shall be eligible to apply for funds to conduct a feasibility study under the auspices of the Department of Community Affairs. Application for such shall include: the names of the proposed participants; certified copies of a resolution or substantially similar resolutions passed by the governing bodies of the participating units authorizing such application; the services for which joint programs are contemplated, and the expected benefits of such a joint program. The application shall be in such form and shall also contain such other information as may be required by the Commissioner of Community Affairs.

All grants for feasibility studies shall require the joint approval of the Commissioner of Community Affairs and the principal executive officer of any and every principal executive department of State Government which exercises jurisdiction over the performance of the services to be provided jointly under the proposed program.

c. The feasibility study shall include such detailed surveys of present service standards in the area to be served by the joint program as may be required to establish substantial evidence that a joint program would either enable provision of a needed service which could not otherwise be provided, or remedy existing levels of service provision, or otherwise produce better services at relatively lower unit costs or with more efficient administration, and that such joint programs would not adversely affect neighboring local units, and that no neighboring local unit which might benefit is being excluded from the program; provided that any such local unit claiming exclusion had expressed a desire to be included in the feasibility study by giving written notice of such desire to the Commissioner of Community Affairs within 30 days from the date on which the commissioner made public announcement of the feasibility study grant.

d. Within 1 month of the completion of the feasibility study, the Department of Community Affairs shall hold a public hearing in each local unit to be included in the proposed joint program. After such hearings and upon submission and approval of a plan based thereon as provided in subsection a. of this section, the joint program shall be eligible for aid under this act. No joint program shall receive aid unless the governing bodies of all participating local units have passed identically worded resolutions ratifying the grant contract between the State and the participating local units.

If the feasibility study shall contain recommendations for establishing a joint service program, within 6 months from the date of the last public hearing on the feasibility study, the governing body of each local unit which participated in the study shall communicate in writing to the Commissioner of Community Affairs stating their intentions of implementing or their specific and detailed objections to implementing each recommendation made in the feasibility study for establishing a joint service plan.

e. The Commissioner of Community Affairs shall, upon formal request by the governing body or chief executive officer of any local unit, cause to be made a preliminary survey as to the eligibility of such local unit and any other local units for State aid under this act with respect to any joint arrangements for provision of services specified or suggested in such request. Such preliminary survey shall be of sufficient scope and detail to enable the commissioner to advise all local units concerned in the projected joint arrangement whether the circumstances warrant detailed feasibility study pursuant to subsections a., b., c. and d. of this section; and the commissioner shall transmit formal notice of the findings and conclusions of such preliminary survey to all the said local units concerned.

C. 40:8B-11 Community Affairs advances.

3. (New section) The Department of Community Affairs, subject to the availability of funds appropriated and on deposit in the "Economy in Government Loan Fund" for this purpose and with the approval of the State Treasurer, may advance to local units qualifying for aid under this act and the act which this act amends and supplements, any amount necessary for the implementation of approved joint programs. The Department of Community Affairs shall certify to each local unit participating in the joint service program the amount so advanced. Each local unit for the year following the date of such certification, and in each annual budget there-

after, shall appropriate an amount sufficient to repay such percentage of the total amount so certified as shall be approved by the Department of Community Affairs. It shall be the duty of the Division of Local Government Services or the Department of Education, as the case may be, to withhold approval of the budget of any local unit which does not contain an appropriation required by this act until such time as such appropriation is included. In those instances where the Director of Local Government Services shall determine that anticipated savings from the operation of joint programs are not forthcoming for reasons beyond the control of the local unit, the Department of Community Affairs shall be permitted to forgive repayment to the State Treasurer of all or part of such amounts advanced to the local units.

C. 40:8B-12 Reports to legislative committees.

4. (New section) The Department of Community Affairs shall transmit copies of all rules and regulations proposed pursuant to this amendatory and supplementary act with respect to the establishment, management and auditing of the "Economy in Government Loan Fund" to the Joint Appropriations Committee of the Legislature, the County and Municipal Government Committee of the Senate, and the Municipal Government Committee of the General Assembly, or their respective successors as designated from time to time by the President of the Senate and the Speaker of the General Assembly, at least 60 days prior to the promulgation thereof.

On or before February 1 of each year, the department shall report to the aforesaid committees on the implementation of this amendatory and supplementary act during the last 12 preceding months. Such report shall contain a complete accounting of all loans made from, and all moneys repaid to, the "Economy in Government Loan Fund" during such 12-month period; a brief description of each joint program for which a loan was extended during such 12-month period and the expected benefits therefrom; a list of any loans for which repayment was forgiven during such 12-month period and the reasons therefor; and any recommendations the department may wish to make concerning the revision of this amendatory and supplementary act.

C. 40:8B-10 Short title.

5. This act shall be known and may be cited as the "Economy in Government Loan Fund Act."

C. 40:8B-13 Appropriation.

6. There is hereby appropriated to the Department of Community Affairs such sums as may be included in any annual or supplemental appropriation act for the purpose of establishing an "Economy in Government Loan Fund."

7. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 530

AN ACT concerning service charges of sewerage and utilities authorities and amending P. L. 1946, c. 138 and P. L. 1957, c. 183.

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

1. Section 21 of P. L. 1946, c. 138 (C. 40:14A–21) is amended to read as follows:

C. 40:14A-21 Unpaid sewerage authority service charges.

21. (a) In the event that a service charge of any sewerage authority with regard to any parcel of real property shall not be paid as and when due, interest shall accrue and be due to the sewerage authority on the unpaid balance at the rate of 1½% per month until such service charge, and the interest thereon, shall be fully paid to the sewerage authority.

(b) In the event that a service charge of any sewerage authority with regard to any parcel of real property owned by any person other than the State or an agency or subdivision thereof shall not be paid as and when due, the unpaid balance thereof and all interest accruing thereon shall be a lien on such parcel. Such lien shall be superior and paramount to the interest in such parcel of any owner, lessee, tenant, mortgagee or other person except the lien of municipal taxes and shall be on a parity with and deemed equal to the lien on such parcel of the municipality where such parcel is situate for taxes thereon due in the same year and not paid when due. Such lien shall not bind or affect a subsequent bona fide purchaser of such parcel for a valuable consideration without actual notice of such lien, unless the sewerage authority shall have filed in the office of the collector or other officer of said municipality charged with the duty

of enforcing municipal liens on real property a statement showing the amount and due date of such unpaid balance and identifying such parcel, which identification may be sufficiently made by reference to the assessment map of said municipality. The information shown in such statement shall be included in any certificate with respect to said parcel thereafter made by the official of said municipality vested with the power to make official certificates of searches for municipal liens. Whenever such service charge and any subsequent service charge with regard to such parcel and all interest accrued thereon shall have been fully paid to the sewerage authority, such statement shall be promptly withdrawn or cancelled by the sewerage authority.

(c) In the event that a service charge of any sewerage authority with regard to any parcel of real property shall not be paid as and when due, the sewerage authority may, in its discretion, enter upon such parcel and cause the connection thereof leading directly or indirectly to the sewerage system to be cut and shut off until such service charge and any subsequent service charge with regard to such parcel and all interest accrued thereon shall be fully paid to the sewerage authority.

(d) In the event that a service charge of any sewerage authority with regard to any parcel of real property shall not be paid as and when due, the sewerage authority may, in accordance with section twenty-six of this act, cause the supply of water to such parcel to be stopped or restricted until such service charge and any subsequent service charge with regard to such parcel and all interest accrued thereon shall be fully paid to the sewerage authority. If for any reason such supply of water shall not be promptly stopped or restricted as required by section twenty-six of this act, the sewerage authority may itself shut off or restrict such supply and, for that purpose, may enter on any lands, waters or premises of any county, municipality or other person. The supply of water to such parcel shall, notwithstanding the provisions of this subsection, be restored or increased if the State Department of Health, upon application of the local board of health or health officer of the municipality where such parcel is situate, shall after public hearing find and shall certify to the sewerage authority that the continuance of such stopping or restriction of the supply of water endangers the health of the public in such municipality.

(e) The collector or other officer of every municipality charged by law with the duty of enforcing municipal liens on real property shall enforce, with and as any other municipal lien on real property

in such municipality, all service charges and the lien thereof shown in any statement filed with him by any sewerage authority pursuant to subsection (b) of this section, and shall pay over to the sewerage authority the sums or a pro rata share of the sums realized upon such enforcement or upon liquidation of any property acquired by the municipality by virtue of such enforcement.

(f) In the event that any service charge of a sewerage authority shall not be paid as and when due, the unpaid balance thereof and all interest accrued thereon, together with attorney's fees and costs, may be recovered by the sewerage authority in a civil action, and any lien on real property for such service charge and interest accrued thereon may be foreclosed or otherwise enforced by the sewerage authority by action or suit in equity as for the foreclosure of a mortgage on such real property.

(g) All rights and remedies granted by this act for the collection and enforcement of service charges shall be cumulative and concurrent.

2. Section 41 of P. L. 1957, c. 183 (C. 40:14B–41) is amended to read as follows:

C. 40:14B-41 Interest of 1½% per month.

41. In the event that a service charge of any municipal authority with regard to any parcel of real property shall not be paid as and when due, interest shall accrue and be due to the municipal authority on the unpaid balance at the rate of 1½% per month until such service charge, and the interest thereon, shall be fully paid to the municipal authority.

3. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 531

AN ACT concerning the accreditation of anti-poverty training programs, amending P. L. 1966, c. 13.

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

1. Section 2 of P. L. 1966, c. 13 (C. 44:12–2) is amended to read as follows:

C. 44:12-2 Local units authorized to participate in federal program.

2. In order to facilitate cooperation with the Federal Government in carrying out the programs contemplated by the Economic Opportunity Act of 1964 or related Federal legislation, every local unit is authorized:

(a) to accept from the Federal Government, subject to terms and conditions appertaining thereto, grants of funds, equipment, supplies, material and other property; and

(b) to hold, use, expend, deal with, employ, distribute and dispose of such funds, equipment, supplies, material and other property; and

(c) to appropriate money; and

(d) to enter into contracts and agreements with the Federal and State Governments, other local units or private organizations; and

(e) to engage in such activities and to do such other acts and things as may be necessary or convenient to carry out the powers given in this act.

Notwithstanding any other provision of the law no local unit shall enter into a contract or agreement with a private business school, school of beauty culture, technical school, trade school, vocational school or similar training institution, for the purpose of training individuals or upgrading their skills for employment in occupations generally not requiring an associate or baccalaureate degree, unless the Commissioner of Labor has accredited, or otherwise approved, the programs and courses which the institution provides, and has received from the construction code official and local health officer of the municipality certification that the facilities have been issued a certificate of occupancy and are in compliance with the applicable provisions of the local health ordinance; except that a community based organization shall not be subject to the program and course accreditation and approval requirements contained in this section, but only to the requirements contained in this section concerning municipal certification of the facilities. This act shall not apply to private business sponsored in-house training programs conducted primarily for the training of the employees of the respective business. This act also shall apply to the extent it would result in a violation of federal statutes or regulations or otherwise prevent the receipt of federal grants or contracts.

2. This act shall take effect 90 days after the date of enactment.

Approved January 12, 1982.

CHAPTER 532

AN ACT to amend and supplement "An act for the establishment of a police and firemen's retirement system for police, firemen and certain other law enforcement officers," approved May 23, 1944 (P. L. 1944, c. 255), as said title was amended by P. L. 1976, c. 139.

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

1. Section 1 of P. L. 1944, c. 255 (C. 43:16A–1) is amended to read as follows:

C. 43:16A-1 Police and Firemen's Retirement System definitions.

1. As used in this act:

(1) "Retirement system" shall mean the Police and Firemen's Retirement System of New Jersey as defined in section 2 of this act.

(2) "Policeman or fireman" shall mean any permanent and full-time active uniformed employee, and any active permanent and full-time employee who is a detective, lineman, fire alarm operator, or inspector of combustibles of any police or fire department or any employee of a police or fire department who was a member of the retirement system for a period of 15 years prior to his transfer to a position within the department not otherwise covered by the retirement system. It shall also mean any permanent, active, and full-time firefighter or officer employee of the State of New Jersey, or any political subdivision thereof, with police powers and holding one of the following titles: motor vehicles officer, motor vehicles sergeant, motor vehicles lieutenant, motor vehicles captain, assistant chief, bureau of enforcement, and chief, bureau of enforcement in the Division of Motor Vehicles, alcoholic beverage control investigator, alcoholic beverage control inspector, assistant deputy director, bureau of enforcement, and deputy director, bureau of enforcement in the Division of Alcoholic Beverage Control, conservation officer, assistant district conservation officer, district conservation officer, and chief conservation officer, in the Division of Fish, Game, and Shell Fisheries, ranger, and chief ranger in the Bureau of Parks, State fire warden and chief, assistant chief, division fire warden, assistant division fire warden, staff section fire warden, and field section fire warden, in the Forest

Fire Service, Department of Environmental Protection, chief, Bureau of Forest Fire Management—State forest fire warden, supervising forester (fire), principal forester (fire), senior forester (fire), assistant forester (fire), in the Bureau of Forest Fire Management, Department of Environmental Protection, marine patrolman, senior marine patrolman, principal marine patrolman, and chief, bureau of marine law enforcement, State fire marshal, deputy State fire marshal, and inspector fire safety, Department of Law and Public Safety, institution fire chief, and assistant institution fire chief, Department of Human Services, correction officer, senior correction officer, correction officer sergeant, correction officer lieutenant, correction officer captain, and deputy keeper in the Department of Corrections, medical security officer, assistant supervising medical security officer, and supervising medical security officer in the Department of Human Services, county detective, lieutenant of county detectives, captain of county detectives, deputy chief of county detectives, chief of county detectives, supervising auditor-investigator, auditor-investigator, electronics specialist, traffic safety coordinator-investigator and supervisor of electronics and investigations, county investigator in the office of the county prosecutors, sheriff's officer, sergeant sheriff's officer, lieutenant sheriff's officer, captain sheriff's officer, chief sheriff's officer, and sheriff's investigator in the office of the county sheriffs, county correction officer, county correction sergeant, county correction lieutenant, county correction captain, and county deputy warden in the several county jails, industrial trade instructor and identification officer in a county of the first class having a population of more than 850,000 inhabitants, cottage officer, head cottage officer, interstate escort officer, juvenile officer, head juvenile officer, assistant supervising juvenile officer, supervising juvenile officer, patrolman capitol police, patrolman institutions, sergeant patrolman institutions, and supervising patrolman institutions and patrolman or other police officer of the Board of Commissioners of the Palisades Interstate Park appointed pursuant to R. S. 32:14–21.

(3) "Member" shall mean any policeman or fireman included in the membership of the retirement system as provided in section 3 of this act.

(4) "Board of trustees" or "board" shall mean the board provided for in section 13 of this act.

(5) "Medical board" shall mean the board of physicians provided for in section 13 of this act.

(6) "Employer" shall mean the State of New Jersey, the county, municipality or political subdivision thereof which pays the particular policeman or fireman.

(7) "Service" shall mean service as a policeman or fireman paid for by an employer.

(8) "Creditable service" shall mean service rendered for which credit is allowed as provided under section 4 of this act.

(9) "Regular interest" shall mean interest as determined annually by the State Treasurer after consultation with the Directors of the Divisions of Investment and Pensions and the actuary of the system. It shall bear a reasonable relationship to the percentage rate of earnings on investments but shall not exceed 105% of such percentage rate.

(10) "Aggregate contributions" shall mean the sum of all the amounts, deducted from the compensation of a member or contributed by him or on his behalf, standing to the credit of his individual account in the annuity savings fund.

(11) "Annuity" shall mean payments for life derived from the aggregate contributions of a member.

(12) "Pension" shall mean payments for life derived from contributions by the employer.

(13) "Retirement allowance" shall mean the pension plus the annuity.

(14) "Earnable compensation" shall mean the full rate of the salary that would be payable to an employee if he worked the full normal working time for his position. 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.

(15) "Average final compensation" shall mean the average annual salary upon which contributions are made for the 3 years of creditable service immediately preceding his retirement or death, or it shall mean the average annual salary for which contributions are made during any 3 fiscal years of his or her membership providing the largest possible benefit to the member or his beneficiary.

(16) "Retirement" shall mean the termination of the member's active service with a retirement allowance granted and paid under the provisions of this act.

(17) "Annuity reserve" shall mean the present value of all payments to be made on account of any annuity or benefit in lieu of any annuity computed upon the basis of such mortality tables

recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(18) "Pension reserve" shall mean the present value of all payments to be made on account of any pension or benefit in lieu of any pension computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(19) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality tables recommended by the actuary as shall be adopted by the board of trustees, and regular interest.

(20) "Beneficiary" shall mean any person receiving a retirement allowance or other benefit as provided by this act.

(21) "Child" shall mean a deceased member's or retirant's unmarried child either (a) under the age of 18 or (b) of any age who, at the time of the member's or retirant's death, is disabled because of mental retardation or physical incapacity, is unable to do any substantial, gainful work because of the impairment and his 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.

(22) "Parent" shall mean the parent of a member who was receiving at least one-half 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 parent will be considered terminated by marriage of the parent subsequent to the death of the member.

(23) "Widower" shall mean the man to whom a member or retirant was married at least 2 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 one-half of his support from the member or retirant in the 12-month period immediately preceding the member's or retirant'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 the widower subsequent to the death of the member or retirant. In the event of the payment of an accidental death benefit, the 2-year qualification shall be waived.

(24) "Widow" shall mean the woman to whom a member or retirant was married at least 2 years before the date of his death and to whom he continued to be married until the date of his death and who has not remarried. In the event of the payment

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of an accidental death benefit, the 2-year qualification shall be waived.

(25) "Fiscal year" shall mean any year commencing with July 1, and ending with June 30, next following.

(26) "Compensation" shall mean the base salary, for services as a member as defined in this act, 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 duties beyond the regular work day.

(27) "Department" shall mean any police or fire department of a municipality or a fire department of a fire district located in a township or a county police or park police department or the appropriate department of the State or instrumentality thereof.

2. (New section) Any active, permanent and full-time employee of a police or fire department who, except for his age, would on the effective date of this act become eligible to be enrolled in the retirement system pursuant to the provisions of this amendatory and supplementary act shall at any time within 90 days of that effective date be permitted to enroll in that system if he files with the board of trustees an application to so enroll. Each employee so filing shall accompany his application with a detailed statement of all service rendered by him as a policeman or fireman prior to the date of his application and for which he claims credit. As soon as practicable thereafter the board of trustees shall verify the statement and shall issue to him a prior service certificate certifying to the aggregate length of service allowable as creditable service. This certificate shall be final and conclusive for retirement purposes as to service, unless thereafter modified by the board of trustees upon application by the member within 1 year, or upon its own initiative within 1 year after the date of issuance of the prior service certificate.

3. (New section) a. An eligible officer who is a member of the Public Employees' Retirement System or one of the municipal employees' retirement systems created under P. L. 1954, c. 218 (C. 43:13–22.3 et seq.) and P. L. 1964, c. 265 (C. 43:13–22.50 et seq.) shall be permitted to transfer his membership from any of the aforementioned systems to the Police and Firemen's Retirement System by waiving all rights and benefits which would otherwise be provided by the Public Employees' Retirement System or muni-

cipal employees' retirement system. Any eligible officer will likewise be permitted to continue his membership in the Public Employees' Retirement System or municipal employees' retirement system by waiving all rights and benefits which would otherwise be provided by the Police and Firemen's Retirement System. Such waivers shall be accomplished by filing forms satisfactory to the New Jersey Division of Pensions, which is responsible for the administration of the Police and Firemen's Retirement System, within 90 days of the effective date of this act. In the absence of the filing of a timely waiver by any eligible officer his pension status shall remain unchanged and his membership shall not be transferred to the Police and Firemen's Retirement System.

b. Each new officer who begins employment following the effective date of this act, shall be required to enroll in the Police and Firemen's Retirement System of New Jersey as a condition of employment, provided he is otherwise eligible for membership by meeting the appointment, age, and health prescriptions required of all members. As of the effective date of this act, the eligibility of membership for such new officers in the Public Employees' Retirement System shall be terminated and the membership requirements of such other fund will be deemed satisfied by the enrollment of such employees in the Police and Firemen's Retirement System.

4. (New section) Within 120 days following the effective date of this act the Public Employees' Retirement System and any municipal employees' retirement system shall remit to the Police and Firemen's Retirement System of New Jersey all accumulated deductions standing to the credit of each transferred employee as member of such fund, and within 180 days following the effective date of this act remit the pro rata part of the reserve fund constituting the employer's obligations under the former system applicable to such employee's account, and the Police and Firemen's Retirement System shall then enter the respective sums so remitted to it to the credit of such employee in the Annuity Savings Fund and to the credit of the employer in the Pension Accumulation Fund of the Police and Firemen's Retirement System of New Jersey.

5. (New section) The transferred employees thereby affected shall be members of the Police and Firemen's Retirement System and deductions from their salaries and contributions on their behalf shall thereafter be made as required by the act creating such system for members thereof. Such transferred employees shall have the same contribution obligation and enjoy the same rights

and benefits of all other members of the system except as provided by this act. Any credit for public service which had been established in the Public Employees' Retirement System or municipal employees' retirement system by the transferred employee shall be established in the Police and Firemen's Retirement System.

Upon the transfer of membership to the Police and Firemen's Retirement System under the provisions of this act, the rate of contribution of such member shall be determined by the rates payable by other members, except that the number of years of credited service in the former pension fund shall be deducted from the member's current age in order to fix the age upon which the rate of contribution is based.

All outstanding obligations such as loans, purchases, and other arrearages shall be met by the transferred employees as previously scheduled for payment to the Public Employees' Retirement System or municipal employees' retirement system.

6. (New section) a. Any person becoming a member of the Police and Firemen's Retirement System pursuant to the provisions of this act shall not be allowed any of the group life insurance benefits if on the date he files an application for enrollment he is 55 or more years of age, unless he furnishes satisfactory evidence of insurability and on the effective date of membership is actively at work and performing all his regular duties at his customary place of employment. The effective date of coverage for such benefits shall be the first day of the month which immediately follows the date when such evidence is determined to be satisfactory.

b. Such evidence of insurability will not be required of any person becoming a member upon transfer from the Public Employees' Retirement System or municipal employees' retirement system, if the transferring employee was covered by such benefits in any of the latter systems at the time of the transfer. If such transferring employee was not covered by such benefits at the time of the transfer, he may be allowed the benefits under the group life insurance policy or policies subject to the provisions of subsection a. of this section; provided, however, that any such employee must furnish satisfactory evidence of insurability under the provisions of subsection a. of this section, if he had been unable or failed to give such evidence as a member of the Public Employees' Retirement System or municipal employees' retirement system.

7. (New section) The actuary of the Police and Firemen's Retirement System shall calculate the liability of the employer of employees becoming members of the system under this act in the same manner as is specified in the case of other employers where the Police and Firemen's Retirement System is adopted, taking into account the value of moneys remitted by the pension fund. In the event that the value of such money so remitted is less than the total which is required by the Police and Firemen's Retirement System to provide the transferred member with credit for his public service, the liability of the employer shall include an amount equal to the difference between these two values. Upon certification by the actuary of the Police and Firemen's Retirement System the employer shall make such contributions as are required in order to meet the financial obligations in the same manner and within the same period of time as is specified in the case of other employers where the Police and Firemen's Retirement System of New Jersey is adopted.

8. (New section) The chief fiscal officer of the employer shall transmit to the retirement system such information as the system shall require in order for the New Jersey Division of Pensions to comply with the provisions of this act.

9. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 533

AN ACT to amend and supplement the "New Jersey Automobile Reparation Reform Act," approved June 20, 1972 (P. L. 1972, c. 70).

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

1. Section 10 of P. L. 1972, c. 70 (C. 39:6A–10) is amended to read as follows:

C. 39:6A-10 Additonal personal injury protection coverage.

10. Additional personal injury protection coverage. Insurers shall make available to the named insured covered under section 4, and, at his option, to resident relatives in the household of the

named insured, suitable additional first party coverage for income continuation benefits, essential services benefits, death benefits and funeral expense benefits, but the income continuation and essential service benefits shall cease upon the death of the claimant, and shall not operate to increase the amount of any death benefits payable under section 4 and such additional first party coverage shall be payable only to the extent that the claimant establishes that the amount of loss sustained exceeds the coverage specified in section 4. The additional coverage shall be offered by the insurer at least annually on a form prescribed by the Commissioner of Insurance, which shall be attached to or accompany all applications, initial policies and renewal policies or renewal notices. Income continuation in excess of that provided for in section 4 must be provided as an option by insurers for disabilities, as long as the disability persists, up to an income level of $35,000.00 per year, provided that a. the excess between $5,200.00 and the amount of coverage contracted for shall be written on the basis of 75% of said difference, and b. regardless of the duration of the disability, the benefits payable shall not exceed the total maximum amount of income continuation benefits contracted for. The Commissioner of Insurance is hereby authorized and empowered to establish, by rule or regulation, the amounts and terms of income continuation insurance to be provided pursuant to this section.

2. (New section) The Commissioner of Insurance shall prescribe and promulgate a form offering the additional coverage described in section 1 of this act within 60 days after enactment of this act.

3. This act shall take effect immediately and apply with respect to all policies issued, delivered or renewed on or after 90 days from the date on which the form described in section 2 is promulgated by the Commissioner of Insurance.

Approved January 12, 1982.

CHAPTER 534

AN ACT concerning city employees' retirement systems in cities of the first class having a population of less than 300,000, and amending P. L. 1964, c. 275, P. L. 1967, c. 221 and P. L. 1967, c. 222.

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

1. Section 1 of P. L. 1964, c. 275 (C. 43:13–22.50) is amended to read as follows:

C. 43:13-22.50 Definitions.

1. Definitions.

As used in this act:

(a) "Final salary" when used solely for the purpose of fixing benefits under this act, shall mean the average annual salary or compensation earned by a member as an employee for the 5 years during which his salary or compensation was the highest in the last 10 years immediately preceding his death or retirement; provided, however, that as to any member employed by the city prior to the effective date of this act, the annual salary received by such member as a regular employee at the time of his death or retirement shall be considered "final salary" for pension or other purposes under this act, unless otherwise specified herein.

(b) "Pension fund" or "fund" shall mean the fund referred to in section 10 of this act and is the fund from which pensions and other benefits provided for in this act shall be paid.

(c) "State" shall, unless otherwise stated, mean the State of New Jersey.

(d) "City", unless otherwise specified, shall mean any city of the first class of the State having a population of less than 300,000 inhabitants.

(e) "City employee" or "employee" shall mean and include any regular employee of a city, as herein defined, or an elected or appointed official thereof. "City employee" or "employee" shall not include a member of the fire or police department or an employee of the board of education nor a transient, seasonal or temporary employee, worker or laborer. In all cases of doubt as to whether a person may be included within the meaning of employee the decisions of the pension commission shall be final.

(f) "Member" shall mean any employee included in the membership of the retirement system of the city as provided in section 3 of this act.

(g) "Widow" or "widower" shall mean the surviving unremarried spouse of a member married to such member prior to the retirement or death of such member, and said marriage having occurred at least 5 years prior to the member's death or retirement, whichever is earlier.

(h) "Dependent parent" shall mean a dependent parent or parents who is or are solely dependent as determined by the commission for support upon the member. The dependency of such a parent will be considered terminated by marriage of the parent subsequent to the death of the member.

(i) "Commission" shall mean pension commission as constituted under section 13 of this act, and shall be known as the "Pension Commission of the Employees' Retirement System of (name of city)."

(j) "Retirement system" or "system" shall mean Employees' Retirement System of (name of city) which shall be the name of retirement system provided under this act. By that name all of its business shall be transacted, its funds invested, warrants for money claims and payments made, and all of its cash and securities and other property held.

(k) "Child" shall mean a deceased member's unmarried child under the age of 18.

2. Section 7 of P. L. 1964, c. 275 (C. 43:13–22.56) is amended to read as follows:

C. 43:13-22.56 Death benefits.

7. Death benefits.

(a) Upon the death of a member in service who shall have paid into the fund the full amount of his contributions and who shall die as a result of injuries or illness received or incurred in the performance of his duties or who shall have served in the employ of the city for 20 or more years; or upon the death of a member who shall have been retired and pensioned under this act.

A pension of $2,500.00 per annum shall be paid to the surviving widow, so long as she remains unmarried, surviving widower, so long as he remains unmarried, minor children or dependent parents, as the case may be. If the pension is payable to minor children, no one of such children shall receive more than $600.00 per annum,

nor shall a pension be paid to any such child after he marries or reaches the age of 18 years.

(b) Upon the death of a member in service who shall have paid into the fund the full amount of his contributions and who shall die for causes other than injuries or illness received or incurred in the performance of his duties and who shall have served in the employ of the city for 5 or more years but less than 20 years.

A pension in an amount equal to 2½% of the member's final salary for each year of his service shall be paid to the surviving widow, so long as she remains unmarried, surviving widower, so long as he remains unmarried, minor children or dependent parents, as the case may be; provided, however, that in no instance shall such pension exceed, in the aggregate, an amount equal to $100.00 per annum for each year of the member's service. If the pension is payable to minor children, no one of such children shall receive more than $600.00 per annum, nor shall a pension be paid to any such child after he marries or reaches the age of 18 years.

In the event a pension shall be payable as a result of the death of a member in service and there are no eligible survivors at the time of such member's death, an amount equal to such member's contributions to the fund, without interest, shall be paid to his estate.

If at the time of the death of a member in service the sole eligible survivors of such member are minor children and the total of the aggregate payments on account of such children shall be an amount which is less than such member's contributions to the fund, without interest, the balance of such amount shall be payable to the guardian of such minor children.

3. Section 1 of P. L. 1967, c. 221 (C. 43:13–22.56a) is amended to read as follows:

C. 43:13-22.56a $2,500 pension.

1. Any pensioner receiving a pension as a result of the prior service by a deceased spouse to a city, whose spouse died prior to January 12, 1965, and who is still qualified to receive the pension, shall receive, in lieu of the present pension award the sum of $2,500.00.

This act shall in no way affect the provisions of section 7 (a) and (b) of the act to which this act is a supplement.

4. Section 8 of P. L. 1964, c. 275 (C. 43:13–22.57) is amended to read as follows:

C. 43:13-22.57 Priority of payments to survivors.

8. Priority of Payments to Survivors.

Upon and after the death of a member or survivor, the benefits herein provided for the remaining survivors shall be paid in the following manner of priority:

(a) To the surviving widow or widower;

(b) If no widow or widower, then to the guardian of the minor children for their exclusive use;

(c) In the event there be no surviving widow, widower or minor children, then to the dependent parent or parents in equal shares.

5. Section 10 of P. L. 1964, c. 275 (C. 43:13–22.59) is amended to read as follows:

C. 43:13-22.59 Fund and contributions thereto.

10. Fund and Contributions Thereto.

For the purpose of paying pensions pursuant to this act, a trust fund shall be and is hereby created and maintained in each city as defined in this act, as follows:

(a) In the case of a member who on the effective date of this act was a member of the pension fund in effect in said city under and by virtue of article 2, chapter 13, Title 43 of the Revised Statutes, there shall be deducted from every payment of salary to said member during the entire period of his membership subsequent to the effective date of this act and paid into the fund, the percentage of his salary applicable to his age at the time of his appointment, as follows:

Age at Appointment	% Rate of Contribution
Not exceeding 35 years	6 %
Between 35 and 36 years	6½
Between 36 and 37 years	7
Between 37 and 38 years	7½
Between 38 and 39 years	8
39 and over	8½

(b) In the case of a member not included in (a) above, there shall be deducted from every payment of salary to said member during the entire period of his membership and paid into the fund the percentage of his salary applicable to his age at the time of his entrance into membership. These percentages shall be as follows:

Age at Entrance	% Rate of Contribution
20 and under	6.20%
21	6.20
22	6.30
23	6.40
24	6.50
25	6.60
26	6.70
27	6.80
28	6.90
29	7.05
30	7.25
31	7.35
32	7.55
33	7.75
34	7.95
35	8.15
36	8.35
37	8.65
38	9.00
39	9.30
40	9.50
41	9.60
42	9.60
43	9.65
44	9.65
45	9.70
46	9.80
47	9.85
48	9.95
49	10.00
50 and over	10.15

(c) The city shall raise by taxation and pay yearly into the fund an amount equal to a certain percentage of the annual salaries of all members to be known as the normal contribution, and an additional amount equal to a percentage of such annual salaries to be known as the accrued liability contribution. The rates of such contributions shall be determined by actuarial valuation based on such interest rate and such mortality and service tables as shall be adopted by the commission.

Until the first actuarial valuation of the fund after the effective date of this act, the normal contribution shall be 7% and the accrued

liability contribution shall be 18.81% of the annual salaries of all members.

On the basis of each actuarial valuation of the fund made after the effective date of this act, the normal contribution shall be that percentage of the annual salaries of all members computed to be required to provide the benefits payable on their account from city contributions currently accruing to such members. The accrued liability contribution shall be computed on the basis of the first actuarial valuation of the fund after the effective date of this act and shall be that percentage of the salaries of all members which shall equal 4% of that part of the total liabilities of the fund not dischargeable by the assets held, the contributions of members and the aforesaid normal contributions. After the accrued liability has been liquidated, the sole contribution payable by the city shall be the normal contribution which shall then be that percentage of the annual salaries of all members computed by deducting from the total liabilities of the fund the amounts of assets held and the present value of the future contributions of members, and dividing the remainder by 1% of the present value of the future salaries of all members.

6. Section 4 of P. L. 1964, c. 275 (C. 43:13–22.53) is amended to read as follows:

C. 43:13-22.53 Retirement for age and service after age 60.

4. Retirement for age and service after age 60.

(a) Any member who shall have served in the employ of the city for a total of 20 or more years and who shall have attained the age of 60 years shall, upon his application to the commission but not later than upon his attainment of age 65 be retired on a pension equal to ½ of his final salary, plus ½ of 1% of such salary for each year of service in excess of 20 years, if the member has more than 20 years of service at retirement. The benefit increment of ½ of 1% shall apply only to members as of the effective date of this amendatory act; provided, however, that any present member may continue in the employ of the city upon reaching the age of 65 and until attaining the age of 70 providing the following conditions are met annually: (1) such continued employment is requested by the employee's department director and receives approval from the Director of the Department of Personnel; and (2) such employee submits to and satisfactorily completes a physical examination to determine fitness for such continued employment.

In no event shall the amount of any pension payable pursuant to the provisions of this subsection be less than $2,500.00 per annum.

(b) Any present members who shall have served in the employ of the city for a total of 20 or more years and who have attained the age of 65 years or older on the effective date of this act shall be retired in the following manner:

All members 70 years of age or older shall be retired by July 1, 1966;

All members 69 years of age or older shall be retired by July 1, 1966;

All members 68 years of age or older shall be retired by July 1, 1967;

All members 67 years of age or older shall be retired by July 1, 1968;

All members 66 years of age or older shall be retired by July 1, 1969; and

All members 65 years of age or older shall be retired by July 1, 1970.

Thereafter, all members upon attaining age 65, shall be retired. The above pension for each of the above shall be calculated in the same manner as a pension payable pursuant to section 4(a) of this act.

(c) Any member who upon his attainment of age 65 shall have served in the employ of the city for a total of less than 20 years shall be retired on a pension equal to 2% of his final salary for each year of his service; provided, however, that any such member may continue in the employ of the city upon reaching the age of 65 and until attaining the age of 70 providing the conditions specified in subsection (a) of this section are met. In no event shall the amount of any pension payable pursuant to the provisions of this subsection be less than $2,500.00 per annum.

7. Section 1 of P. L. 1967, c. 222 (C. 43:13–22.54a) is amended to read as follows:

C. 43:13-22.54a Resignation before age 60.

1. (a) Should a member resign after having completed 25 years of service for which credit has been established in the pension fund, before reaching age 60, he may elect to receive, in lieu of the payment provided in section 4 of the act to which this act is

supplementary, or the benefit provided by subsection (b) of this section, a pension in the amount of ½ of his final salary; provided, however, that such pension shall be reduced in accordance with a table of actuarial equivalents recommended by the actuary reflecting all months that the member lacks of being age 60; but in no event shall the amount of any pension payable pursuant to the provisions of this subsection be less than $2,500.00 per annum.

Upon and after the death of such pensioner, the benefits provided by section 7 of the act to which this act is supplementary shall be payable to his eligible survivors.

(b) Should a member, after having completed 15 years of service for which credit has been established in the pension fund, be separated voluntarily or involuntarily from the service, before reaching age 60, he may elect to receive, in lieu of the payment provided in section 4 of the act to which this act is supplementary, or the benefit provided by subsection (a) of this section, a deferred pension beginning at age 60, in the amount based on his years of service credited in the fund bear to the total number of years of service that he could have achieved had he continued to age 60 and qualified for the pension of ½ his final salary at the time he elected the deferred pension; but in no event shall the amount of any deferred pension payable pursuant to the provisions of this subsection be less than $2,500.00 per annum.

Upon and after the death of such pensioner, the benefits provided by section 7 of the act to which this act is supplementary shall be payable to his eligible survivors.

8. Section 6 of P. L. 1964, c. 275 (C. 43:13–22.55) is amended to read as follows:

C. 43:13-22.55 Retirement for disability.

6. Retirement for disability.

(a) Any member having 5 or more years of service who shall have become permanently disabled for the further performance of his duty, shall, by resolution of the commission or upon application of such member and approval thereof by the commission, and in either case pursuant to the certificate of a physician or physicians designated for that purpose by the commission, be retired on a pension equal to ½ of his final salary plus ½ of 1% of such salary for each year of service in excess of 20 years, if the member has more than 20 years of service at retirement; but in no event shall the amount of any pension payable pursuant to the provisions of this subsection be less than $2,500.00 per annum.

(b) Any member who shall become permanently and totally disabled as a result of a traumatic event occurring during and as a result of the performance of his regular or assigned duties and where such disability is not the result of the member's willful negligence and the member is mentally or physically incapacitated for the performance of his usual duty and of any other available duty shall, by resolution of the commission or upon application of such member and approval thereof by the commission, and in either case pursuant to the certificate of a physician or physicians designated for that purpose by the commission, be retired on a pension equal to ⅔ of his final salary, but in no event shall the amount of any disability pension payable pursuant to the provisions of this subsection be less than $2,500.00 per annum. The application to accomplish such retirement must be filed within 5 years of the original traumatic event.

A member who is retired on a disability retirement pursuant to this section shall submit himself at times to be selected by the commission but not more often than twice a year, for a physical examination by a physician or physicians designated by the commission; provided, however, that no member retired for disability whose total years of service, including his period of disability retirement, equal 20 or more years and who shall have attained age 60 shall be required to submit to such physical examination. The physician or physicians shall report to the commission the physical condition of such member and if said report certifies that the member's condition has improved so that he is no longer permanently disabled or if he is engaged in an occupation, then the amount of his pension shall be reduced to an amount which, when added to the amount of his earnings shall not exceed the salary now attributable to his former position but only after an opportunity is given such member to be represented by counsel at a hearing on the action by the commission.

9. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 535

AN ACT concerning certain roadside signs along the Garden State Parkway.

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

C. 27:12B-20a Off-premise advertising.

1. Notwithstanding any other law, rule, or regulation to the contrary, the New Jersey Highway Authority, established pursuant to section 4 of P. L. 1952, c. 16 (C. 27:12B–4), may issue a permit for off-premise advertising on any roadside sign which has been located for a period of at least 25 years as of the effective date of this act along the route of "The Garden State Parkway," constructed pursuant to section 20 of P. L. 1952, c. 16 (C. 27:12B–20); provided, however, that such off-premise advertising shall terminate 10 years following the effective date of this act; and provided further, however, that such roadside sign shall be removed at that time unless on-premise advertising is placed upon the roadside sign. For the purposes of this act, "off-premise advertising" means the display of the name, symbol, mark, product, service, or advertisement of any industry, commerce, business, occupation, trade, or service not conducted on the property on which the sign is located, and "on-premise advertising" means such a display in connection with any industry, commerce, business, occupation, trade, or service conducted on the property on which the sign is located.

2. This act shall take effect immediately.

Approved January 9, 1982.

CHAPTER 536

AN ACT to amend the "New Jersey Youth Camp Safety Act," approved January 9, 1974 (P. L. 1973, c. 375).

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

1. Section 3 of P. L. 1973, c. 375 (C. 26:12–3) is amended to read as follows:

C. 26:12-3 "Youth camps" exclude certain day programs.

3. As used in this act:

a. "Youth camp" means any parcel or parcels of land having the general characteristics and features of a camp as the term is generally understood, used wholly or in part for recreational or educational purposes and accommodating five or more children under 18 years of age for a period of, or portions of, 2 days or more, and includes a site that is operated as a day camp or as a resident camp, except that a day program which offers only a minimal recreational component shall not be considered a youth camp; however, no such program shall include any hazardous recreational activity such as but not limited to aquatics, archery, horseback riding and riflery without first obtaining the prior written approval of the Department of Health. Failure to obtain such approval or comply with the regulations established for the activity involved shall subject the program to penalties in accordance with sections 10 and 11 of P. L. 1973, c. 375 (C. 26:12–10 and 26:12–11).

b. "Youth camp safety standards" means criteria directed toward safe operations of youth camps, in such areas as, but not limited to, personnel qualifications for director and staff, ratio of staff to campers, sanitation and public health, personal health, first aid and medical services, food handling, mass feeding and cleanliness, water supply and waste disposal, water safety including use of lakes and rivers, swimming and boating equipment and practices, vehicle condition and operation, building and site design, equipment, condition and density of use, emergency evacuation procedures and fire safety.

c. "Youth camp operator" means any private agency, organization, or person, and any individual, who operates, controls or supervises a youth camp, whether such camp is operated for profit or not for profit.

d. "Commissioner" means the Commissioner of Health or any of his authorized deputies, representatives, agents or employees.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 537

AN ACT concerning the operation of motor vehicles by persons under the influence of intoxicating liquor or drugs and amending R. S. 39:4–50 and section 2 of P. L. 1981, c. 512.

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:

Operation of a motor vehicle by person under influence of intoxicating liquor or drug.

39:4–50. (a) A person who operates a motor vehicle while under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug, 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, shall be subject, for the first offense, to a fine of not less than $250.00 nor more than $400.00 or imprisonment for a term of not more than 30 days or both, in the discretion of the court, and shall forthwith forfeit his right to operate a motor vehicle over the highways of this State for a period of not less than 6 months nor more than 1 year. Except as hereinafter provided, for a second violation, he 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 or may be sentenced to imprisonment for a term of not more than 90 days, and shall forfeit his right to operate a motor vehicle over the highways of this State for a period of 2 years upon conviction, and, after the expiration of said period, he may make application to the Director of the Division of Motor Vehicles for a license to operate a motor vehicle, which application may be granted at the discretion of the director, consistent with subsection (b) of this section. Except as hereinafter provided, for a third or subsequent violation, he shall be subject to a fine of $1,000.00, and shall be sentenced to imprisonment for a term of not less than 180 days, except that the court may lower such term for each day, not exceeding 90 days, served performing community service in such form and on such terms as the court shall deem appropriate under the circumstances and shall

thereafter forfeit his right to operate a motor vehicle over the highways of this State for 10 years. If the driving privilege of any person is under revocation or suspension for a violation of any provision of this Title 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. A court that imposes a term of imprisonment under this section may sentence the person so convicted to the county jail, to the workhouse of the county wherein the offense was committed, or to an inpatient rehabilitation program approved by the Director of the Division of Motor Vehicles.

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) In addition to any other requirements provided by law, a person convicted under this section must satisfy the requirements of a program of alcohol education or rehabilitation approved by the Director of the Division of Motor Vehicles. Failure to satisfy such requirements shall result in a driver license revocation or suspension or continuation of revocation or suspension until such requirements are satisfied, unless stayed by court order in accordance with Rule 7:8–2 of the N. J. Court Rules, 1969, or R. S. 39:5–22. A fee, not to exceed $30.00, shall be payable to the director from every person required to satisfy the requirements of a program of alcohol education or rehabilitation under the provisions of this section.

(c) Upon conviction of a violation of this section, the court shall collect forthwith the New Jersey driver's license or licenses of the person so convicted and forward such license or licenses to the Director of the Division of Motor Vehicles. In the event that a person convicted under this section is the holder of any out-of-state driver's license, the court shall not collect the license but shall notify forthwith the director who shall, in turn, notify appropriate officials in the licensing jurisdiction. The court shall, however, revoke the nonresident's driving privilege to operate a motor vehicle in this State in accordance with this section.

(d) The Director of the Division of Motor Vehicles shall promulgate administrative rules and regulations in order to effectuate the purposes of this act.

2. Section 2 of P. L. 1981, c. 512 (C. 39:4–50.4a) is amended to read as follows:

C. 39:4-50.4a 6-month revocation for refusal to submit to chemical test.

2. 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, shall refuse to submit to the chemical test provided for in section 2 of P. L. 1966, c. 142 (C. 39:4–50.2) when requested to do so, for 6 months unless the refusal was in connection with a subsequent offense under this section, in which case the revocation period shall be for 2 years.

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 under the influence of intoxicating liquor or a narcotic, hallucinogenic, or habit-producing drug or marihuana, whether the person was placed under arrest, 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 chemical test shall satisfy the requirements of a program of alcohol education or rehabilitation pursuant to the provisions of R. S. 39:4–50. The revocation shall be independent of any revocation imposed by virtue of a conviction under the provisions of R. S. 39:4–50.

In addition to issuing a revocation, the municipal court shall fine a person convicted under this section, a fine of not less than $250.00 nor more than $500.00.

3. This act shall take effect immediately but shall apply only to offenses committed after the effective date of the act.

Approved January 12, 1982.

CHAPTER 538

AN ACT to amend and supplement the "Pesticide Control Act of 1971," approved June 1, 1971 (P. L. 1971, c. 176) and repealing the "Economic Poison Act of 1951," approved July 17, 1951 (P. L. 1951, c. 316).

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

1. Section 9 of P. L. 1971, c. 176 (C. 13:1F–9) is amended to read as follows:

C. 13:1F-9 Powers of department.

9. The department shall have power, in addition to those granted by any other law, to

a. Conduct and supervise research programs for the purpose of determining the effects and hazards of the use and application of pesticides on man and his environment; and in furtherance of this research effort the commissioner shall consider the School of Agriculture of Rutgers, The State University, as a primary source of assistance;

b. Conduct and supervise Statewide programs of pesticide control education including the preparation and distribution of information relating to pesticide control;

c. Enter and inspect any building or place, except private residences, for the purpose of investigating an actual or suspected violation of law relating to pesticides and ascertaining compliance or noncompliance with any rules, regulations or orders of the department;

d. Receive or initiate complaints of violations of applicable laws, rules, regulations and orders relating to pesticides and institute legal proceedings for the prevention of such violations and for the recovery of penalties, in accordance with law;

e. With the approval of the Governor, cooperate with, and receive money from, the Federal Government, the State Government, or any county or municipal government or from private sources for the study and control of pesticides;

f. Declare as a pest any form of plant or animal life or virus which is injurious to plants, man, domestic animals, articles, or substances;

g. Determine whether pesticides are highly toxic to man;

h. Determine standards of coloring or discoloring for pesticides;

i. Subject pesticides to the requirements of section 11 of P. L. 1971, c. 176 (C. 13:1F–11);

j. Cooperate with, and enter into agreement with, any other agency of this State, or the United States, and any other state or agency thereof for the purpose of carrying out the provisions of this act and securing uniformity of regulations, in order to avoid confusion endangering the public health, resulting from diverse requirements, particularly as to the labeling and coloring of pesticides, and to avoid increased costs due to the necessity complying with such diverse requirements in the manufacture and sale of such pesticides;

k. Have the power, in accordance with a fee schedule adopted as a rule or regulation in accordance with the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.), to establish and charge fees for any of the services it performs, which fees shall be annual or periodic as the department shall determine. The fees charged by the department pursuant to this section shall reflect the actual or projected expense incurred by the department in the performance of the service for which the fee is charged. All fees collected pursuant to this section shall be deposited in the Environmental Services Fund created pursuant to P. L. 1975, c. 232 and kept separate from other receipts deposited therein and appropriated for the operation of the Pesticide Control Program in the Department of Environmental Protection.

2. Section 14 of P. L. 1971, c. 176 (C. 13:1F–14) is amended to read as follows:

C. 13:1F-14 Severability.

14. This act shall be liberally construed to effectuate the purpose and intent thereof.

If any clause, sentence, paragraph, or part of this act shall for any reason be judged invalid by any court of competent jurisdiction, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

C. 13:1F-15 Annual registration of pesticides.

3. (New section) a. Every pesticide which is held, used, distributed, sold, or offered for sale within this State or delivered for

transportation or transported in intrastate commerce or between points within this State through any point outside this State shall be registered annually with the department. All registrations of products shall expire on December 31, following date of issuance, unless such registration shall be renewed annually, in which event the expiration date shall be extended for each year of renewal registration, or until otherwise terminated; provided, that within the discretion of the commissioner, or his authorized representative, a change in the labeling or formula of a pesticide may be made within the current period of registration, without requiring a re-registration of the product;

b. Each registrant, before selling or offering for sale a pesticide in this State, shall register each brand of pesticide with the department upon forms furnished by the department and shall provide the department with the information it may deem necessary;

c. The department may require the complete formula of any pesticide;

d. If it does not appear to the department that the product is such as to warrant the proposed claims for it or if the product and its labeling and other material required to be submitted do not comply with the provisions of this act or the rules and regulations issued thereunder, the registrant shall be notified of the manner in which the product, labeling, or other material required to be submitted fails to comply with this act or the rules and regulations issued thereunder, so as to afford the registrant an opportunity to make the necessary corrections. If, after receipt of such notice, such corrections are not forthcoming, the department shall deny registration;

e. The department is authorized and empowered to refuse to register, or to cancel the registration of, any brand of pesticide as herein provided, upon satisfactory proof that the registrant has been guilty of fraudulent and deceptive practices in the evasion or attempted evasion of the provisions of this act or any rules and regulations promulgated thereunder; provided, that no registration shall be revoked or refused until the registrant shall have been given a hearing by the department;

f. Nothing in this act shall be construed to restrict or prohibit sales or exchanges of pesticides to each other by importers, manufacturers, or manipulators who mix pesticide materials for sale or as preventing the free and unrestricted shipment of pesticides to manufacturers or manipulators, who have registered their brands as required by the provisions of this act.

C. 13:1F-16 Securing or impounding for violation of act.

4. (New section) a. Any pesticide that is distributed, sold, or offered for sale within this State or delivered for transportation or transported in intrastate commerce or between points within this State through any point outside this State may be secured or impounded by order of the department if it is in violation of any other provision of this act.

b. Any person aggrieved by an order of the department to secure or impound a pesticide who shall apply for a hearing within 15 days after the issuance of the order, shall be granted a hearing in accordance with law.

c. If upon hearing it shall appear that the pesticide was offered or exposed for sale, or had in possession with intent to distribute or sell, or was intended for distribution or sale in violation of any provision of this act, it shall be confiscated and disposed of by destruction or sale as the court or judge may direct, but no such article shall be sold contrary to any provisions of this act. The proceeds of any sale, less the legal costs and charges, shall be paid into the Environmental Services Fund.

d. In case the article seized is of such character that when properly marked or branded its sale is not prohibited by this act, such article shall be delivered to the owner upon the payment of the costs of the proceeding and the execution and delivery to the department as obligee, of a good and sufficient bond to the effect that such article shall not be sold or otherwise disposed of contrary to the provisions of this act or the laws of any state, territory, district of the United States, or of the United States.

Repealer.

5. "The Economic Poison Act of 1951" (P. L. 1951, c. 316; C. 4:8A–1 et seq.) is repealed.

6. This act shall take effect immediately

Approved January 12, 1982.

CHAPTER 539

AN ACT concerning exemptions from the tax on real property, and supplementing chapter 4 of Title 54 of the Revised Statutes.

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

C. 54:4-3.6c Refunds to charitable and religious associations.

1. The governing body of each municipality, by ordinance, may, upon a showing of good cause as to why a timely claim was not filed, return all taxes collected on property owned by one or more associations or corporations organized exclusively for charitable or religious purposes, which would have been exempt pursuant to R. S. 54:4–3.6 had timely claim been made therefor; provided, however, that no refund shall be made if more than 3 years have passed since the last date for filing a timely application. No interest shall be paid by the municipality on any refund made pursuant to this section.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 540

AN ACT creating a "Drought Surcharge Fund" and providing for expenditures therefrom.

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

C. App. A:6-5 Drought Surcharge Fund.

1. All such sums as have been or may be collected as excess water charges by the various water purveyors of the State, pursuant to Executive Order No. 104, shall be deposited in a fund to be known as the "Drought Surcharge Fund" to be kept separate and apart from all other State receipts and appropriated only as provided for in this act.

C. App. A:6-6 Purposes.

2. All moneys in the "Drought Surcharge Fund" are hereby appropriated to the Drought Coordinator in the Department of

Environmental Protection for disposition as directed by the Drought Coordinator, for the following purposes:

a. Water conservation promotion and the purchase of water conservation devices for distribution to water users affected by Executive Order No. 104;

b. Reimbursement, in whole or part, to water purveyors for reasonable expenses incurred in the administration and enforcement of the water surcharge program established pursuant to Executive Order No. 104, provided that the program is approved by the Drought Coordinator;

c. Reimbursement to customers and water users, in whole or in part, on proper claim therefor in such form and manner as the Drought Coordinator shall prescribe, of such sums collected from customers and water users, upon determination by the Drought Coordinator that the sums were either improperly levied, or that the sums have caused an undue hardship, or serve no useful purpose in the furtherance of the purposes of Executive Order No. 104, or such other justifiable circumstances as determined by the Drought Coordinator. Notice of the right to file for the reimbursement shall be included in customers' water bills and customers shall have 1 year from the date of receipt of the notice to file a claim; and

d. Reasonable administrative costs directly attributable to the present drought emergency incurred by the Drought Coordinator in the discharge of his duties and responsibilities under Executive Order No. 104.

C. App. A:6-7 Report of Drought Coordinator.

3. The Drought Coordinator shall, within 30 days of the effective date of this act and every 30 days thereafter, transmit a report to the President of the Senate and to the Speaker of the General Assembly, which report shall detail the status of the "Drought Surcharge Fund" and the amounts expended therefrom.

4. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 541

AN ACT concerning the child labor law and amending P. L. 1940, c. 153.

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

1. Section 7 of P. L. 1940, c. 153 (C. 34:2–21.7) is amended to read as follows:

C. 34:2-21.7 Employment certificates for minors.

7. (a) Except as permitted under section 15, no minor under 18 years of age shall be employed, permitted, or suffered to work in, about, or in connection with any gainful occupation, unless and until the person employing such minor shall procure and keep on file an employment certificate or special permit for such minor, issued by the issuing officer of the school district in which the child resides, or of the district in which the child has obtained a promise of employment if the child is a nonresident of the State; provided, that:

(1) No certificate or special permit shall be required for any child 16 years of age or over employed in agricultural pursuits;

(2) No certificate or special permit shall be required for any child 14 years of age or over employed at such times as the schools of his district are not in session, at any agricultural fair, horse, dog, or farm show the duration of which does not exceed 10 days; and

(3) No vacation certificate shall be required in the first 14 days of employment for any minor 16 years of age or over employed in food service, restaurant or retail occupations, at such times as the schools of his district are not in session.

(b) The employment covered under this section shall not require or involve work in, about, or in connection with employments prohibited by P. L. 1970, c. 115 (C. 34:2–21.15) and P. L. 1973, c. 204 (C. 34:2–21.17) of the child labor laws.

(c) Such certificate or special permit shall be issued in triplicate in such form and in accordance with such instructions as may be prescribed by the Commissioner of Education. The Commissioner of Education shall supply to the issuing officers all blank forms to be used in connection with the issuance of such certificates, and special permits as provided for in section 15.

(d) Employment certificates shall be of two kinds, regular certificates permitting employment during school hours, and vacation certificates permitting employment during the school vacation and during the school term at such times as the public schools are not in session.

(e) The original copy of the employment certificate shall be mailed by the issuing officer to the prospective employer of the minor for whom it is issued; a duplicate copy shall be mailed to the Department of Labor and Industry in Trenton as provided in section 12, and a triplicate copy shall be kept in the files of the issuing officer. The issuing officer may refuse to grant a certificate, if in his judgment, the best interests of the minor would be served by such refusal and he shall keep a record of such refusals, and the reasons therefor.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 542

AN ACT concerning the conveyance or reservation of mineral rights and supplementing Title 46 of the Revised Statutes.

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

C. 46:3-27 Exclusion of water rights.

1. Every deed or other instrument which conveys or reserves mineral rights in any land shall, unless otherwise expressly provided therein, be construed to exclude any and all water rights or consideration thereof from any conveyance or reservation of mineral rights.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 543

AN ACT appropriating funds from the Clean Waters Fund for a loan for the planning and construction of water supply facilities.

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

1. There is appropriated to the Department of Environmental Protection, from the Clean Waters Fund created pursuant to the "Clean Waters Bond Act of 1976," P. L. 1976, c. 92, the sum of $350,000.00 for the purpose of making a loan to the Township of Logan for the planning and construction of water supply facilities to serve those residential dwellings of the Township of Logan with existing contaminated private wells utilized for water supply.

2. The residential dwellings eligible for water supply service by the Township of Logan shall be determined by the governing body in consultation with the Department of Environmental Protection.

3. The loan shall be subject to such terms and conditions as shall be prescribed by the Commissioner of the Department of Environmental Protection to carry out the purpose of this act, provided that the entire loan shall be repaid within 10 years from the date of the making of the loan. The loan shall be repaid at a rate of 5% simple interest per annum thereon.

4. The loan may be made for any amount up to $350,000.00 not in excess of the entire cost of the planning and construction of the water supply facilities, but shall not be applied to any costs of engineering supervision or inspection during or after the construction of the proposed water supply facilities.

5. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 544

AN ACT to amend the title of "An act to provide for exemption from taxation in certain cases, and supplementing chapter 4 of Title 54 of the Revised Statutes," approved May 29, 1975, (P. L. 1975, c. 104), so that the same shall read "An act to provide for exemption or abatement from taxation in certain cases, and supplementing chapter 4 of Title 54 of the Revised Statutes," to amend and supplement the body of that act, and to amend P. L. 1977, c. 284.

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

Title amended.

1. The title of P. L. 1975, c. 104 is amended to read as follows: An act to provide for exemption or abatement from taxation in certain cases, and supplementing chapter 4 of Title 54 of the Revised Statutes.

Short title.

2. (New section) This amendatory and supplementary act shall be known and may be cited as the "Home Improvement Tax Cut Act."

3. Section 1 of P. L. 1975, c. 104 (C. 54:4–3.72) is amended to read as follows:

C. 54:4-3.72 Findings of Legislature.

1. The Legislature finds:

a. Efforts are being made by many of our municipalities as well as by the State and Federal Government to encourage owners, particularly, of residential properties to rehabilitate their properties and thereby curb the deterioration of residential neighborhoods.

b. As a result of the decline of such neighborhoods, many of our municipalities have and are presently engaged in extensive urban renewal and urban redevelopment projects involving vast expenditures of public funds.

c. The deterioration of neighborhoods making such renewal and redevelopment projects necessary is the result in some measure of the unwillingness of the owners and investors of residential

properties to properly maintain and improve their properties out of fear of the resulting increase in property taxes.

d. By exempting for a limited period certain home improvements from taxation, and providing for the abatement of some portion of the assessed valuation of the residential properties before improvement, much of this unwillingness and fear would not only be dissipated but such owners and investors would be encouraged to rehabilitate and improve their properties and, incidentally, their respective neighborhoods and municipalities.

4. Section 2 of P. L. 1975, c. 104 (C. 54:4–3.73) is amended to read as follows:

C. 54:4-3.73 Definitions.

2. As used in this act:

a. "Assessor" means the assessor, board of assessors or any other official or body of a taxing district charged with the duty of assessing real property for the purpose of general taxation.

b. "Completion" means substantially ready for the use for which it was intended.

c. "Dwelling" means any building or part of a building used, to be used or held for use as a home or residence, including accessory buildings located on the same premises, together with the land upon which such building or buildings are erected and which may be necessary for the fair enjoyment thereof, but shall not mean any building or part of a building, defined as a "multiple dwelling" pursuant to the "Hotel and Multiple Dwelling Law," P. L. 1967, c. 76 (C. 55:13A–1 et seq.). A dwelling shall include individual residences within a horizontal property regime or a condominium, but shall not include "general common elements" or "common elements" of such horizontal property regime or condominium as defined pursuant to the "Horizontal Property Act," P. L. 1963, c. 168 (C. 46:8A–1 et seq.), or the "Condominium Act," P. L. 1969, c. 257 (C. 46:8B–1 et seq.).

d. "Home improvement" means the improvement of a dwelling which does not change its permitted use, and shall include the modernization, rehabilitation, renovation, alteration or repair of a dwelling.

e. "Qualified municipality" means any municipality in which residential neighborhoods have been declared by the county planning board or the Commissioner of the Department of Community Affairs to be in need of rehabilitation, pursuant to section 3 of this act.

f. "Abatement" means that portion of the assessed value of a property as it existed prior to an improvement which is exempted from taxation pursuant to subsection b. of section 4 (C. 54:4–3.75b.).

g. "Exemption" means any portion of the assessor's full and true value of any improvement not regarded as increasing the taxable value of a property pursuant to subsection a. of section 4 (C. 54:4–3.75a.).

5. Section 4 of P. L. 1975, c. 104 (C. 54:4–3.75) is amended to read as follows:

C. 54:4-3.75 Exemptions; abatements.

4. a. In determining the value of real property for the purposes of taxation, qualified municipalities, after passage by the municipal governing body of a general ordinance providing for such exemptions either throughout the municipality or in designated residential neighborhoods to be specified in such ordinance, may regard the first $4,000.00 or $10,000.00 or $15,000.00, as may be specified by general ordinance, in assessor's full and true value of home improvements for each dwelling unit primarily and directly affected by a home improvement in any dwelling more than 20 years old, as not increasing the value of such property for a period of 5 years, notwithstanding that the value of the dwelling to which such improvements are made is increased thereby, provided, however, that during said period, the assessment on such dwelling shall in no case, except that of an abatement as provided in subsection b. of this section, or damage through action of the elements sufficient to warrant a reduction, be less than the assessment thereon existing immediately prior to such home improvements.

b. Any ordinance providing for exemptions may also provide for the abatement of some portion of the assessed value of property receiving such an exemption as it existed immediately prior to the improvement. Any abatement for any single property may be granted with respect to that property for a total of up to 5 years, but the annual amount of the abatement granted to any single property shall not exceed 30% of the annual amount of the exemption granted under the ordinance. The abatement period and the annual percentage of the abatement to be granted shall be set forth in the adopting ordinance, which may include a schedule providing for a different percentage of abatement, up to 30%, for each or any year of the abatement period.

6. Section 5 of P. L. 1975, c. 104 (C. 54:4–3.76) is amended to read as follows:

C. 54:4-3.76 5-year program.

5. The assessor shall determine, on October 1 of any year following the date of the completion of the improvement, the true taxable value of the improvement. The amount of tax to be paid for the first year following the completion of the improvement shall be based on the assessed valuation of the property for the previous year, plus any portion of the assessed valuation of the improvement not allowed an exemption pursuant to subsection a. of section 4 (C. 54:4–3.75a.), minus the amount of the abatement, if any, allowed pursuant to subsection b. of section 4 (C. 54:4–3.75b.). Subject to the provisions of the adopting ordinance, the property shall continue to be so treated for each of the 5 tax years subsequent to the original determination by the assessor.

7. Section 6 of P. L. 1975, c. 104 (C. 54:4–3.77) is amended to read as follows:

C. 54:4-3.77 Additional improvements.

6. Additional improvements, completed during a period in which the improved property is subject to previously granted exemption privileges, or exemption and abatement privileges, in an amount less than the maximum deductions permissible hereunder shall be qualified for additional deduction privileges, or additional exemption and abatement privileges, under the terms and conditions herein specified; provided, however, that in no tax year shall the total deduction or annual abatement for any single property exceed the maximum amount specified in section 4 hereinabove.

8. Section 7 of P. L. 1975, c. 104 (C. 54:4–3.78) is amended to read as follows:

C. 54:4-3.78 Filing of written application.

7. No exemption, or exemption and abatement, authorized pursuant to the provisions of this act, shall be granted or allowed except upon written application therefor filed with and approved by the assessor of the taxing district wherein the home improvement is made. Every such application shall be on a form prescribed by the Director of the Division of Taxation, Department of the Treasury, and provided for the use of claimants by the governing body of the municipality constituting the taxing district, and shall be filed with the assessor within 30 days, including Saturdays and Sundays, following the completion of the improvement. Every application for exemption, or exemption and abatement, of one or more improvements which qualify as improvements, within a municipality adopting the provisions of this act, as defined by this

act, and which is filed within the time specified, shall be approved and allowed by the assessor. The granting of any such exemption, or exemption and abatement, shall be recorded and made a permanent part of the official tax records of the taxing district which record shall contain a notice of the termination date.

9. Section 7 of P. L. 1977, c. 284 (C. 54:4–3.79a) is amended to read as follows:

C. 54:4-3.79a Notice to taxpayers.

7. The Department of Community Affairs shall prepare, in sufficient quantity for distribution to residential property owners in municipalities electing to offer exemptions, or exemptions and abatements, pursuant to this act, a notice for taxpayers describing the exemption program or exemption and abatement program and the application procedure therefor. Any qualified municipality which has adopted a general ordinance providing for exemptions, or exemptions and abatements, pursuant to this act shall include said notice in the mailing of annual property tax bills to each owner of a dwelling located in an area in which exemptions, or exemptions and abatements, may be allowed pursuant to the ordinance during the first year following adoption of said ordinance.

10. Section 8 of P. L. 1977, c. 284 (C. 54:4–3.79b) is amended to read as follows:

C. 54:4-3.79b Amended municipal ordinances.

8. Any municipality which has adopted an ordinance pursuant to this act declaring neighborhoods "endangered by blight" may proceed, on the initiative of the governing body, to amend such ordinance declaring neighborhoods to be "in need of rehabilitation," provided, however, that any exemption granted and in force shall not be discontinued by virtue of such amended ordinance.

Any municipality which has adopted an ordinance pursuant to P. L. 1975, c. 104 (C. 54:4–3.72 et seq.) may amend that ordinance to adopt the exemption and abatement provisions of this amendatory and supplementary act, but any exemption previously granted and in force shall not be discontinued by virtue of the amendment. The amendment may provide that the abatement provisions of this amendatory and supplementary act shall apply to properties for which exemptions are currently granted and in force on the date of the amended ordinance, but only for each full year remaining of the exemption period previously granted. This shall not prevent a municipality from granting exemptions, or exemptions and abate-

ments, under the amended ordinance for subsequent improvements to such a property.

11. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 545

AN ACT concerning the retention of seniority rights of employees in the classified service of Civil Service, amending R. S. 11:21–9, and amending and supplementing P. L. 1942, c. 253.

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

1. R. S. 11:21–9 is amended to read as follows:

Seniority rights.

11:21–9. Coincident with, and subsequent to, the adoption of this subtitle, the seniority rights of officers and employees shall be based upon the length of their respective prior and continuous services, and such additional and continuous services as they may render.

In computing the length of service of officers and employees for purposes of determining their seniority rights under this section, all time hereafter during which they shall be absent from duty on leave, without pay, shall be deducted therefrom; provided, however, that if an officer or employee shall be absent on leave, without pay, pursuant to assignment by or approval of the appointing authority and for further education or training directly related in character to the employment from which he is on leave and designed to improve his competence or increase his capacity therein, the time so spent shall not be deducted under this paragraph, and provided, further, that if an officer or employee shall be absent from duty on leave, without pay, to fill any elective public office, as provided in section 1 of P. L. 1942, c. 253 (C. 11:24A–7), the time so spent shall not be deducted under this paragraph.

2. Section 1 of P. L. 1942, c. 253 (C. 11:24A–7) is amended to read as follows:

C. 11:24A-7 Leave to fill elective public office.

1. Any person holding office, position or employment, other than for a fixed term or period, in the classified service of any county, municipality or school district operating under Title 11 of the

Revised Statutes, upon his written request, shall be granted leave of absence, without pay, to fill any elective public office for the period of the term of such office. Upon the expiration of said term of office, such person shall be entitled to resume the office, position or employment held by him at the time of the granting of said leave of absence; provided, he shall apply therefor before the expiration of his said leave of absence; and provided, he shall return to duty within 6 years after the commencement of his leave of absence. The time spent in serving the term of an elective public office by such person, up to a maximum of 6 years from the commencement of the leave of absence, shall be included in the computation of such person's seniority rights.

All appointments to the office, position or employment of such person, during the period of 6 years from the date such leave of absence commences, shall be made from eligible lists as other appointments are made, and such appointments shall during such 6-year period be held to be temporary only and shall be terminated on the return to duty within such 6-year period, of the person to whom the leave of absence was granted.

In the event that the term of the elective public office of the person to whom a leave of absence was granted pursuant to the provisions hereof expires after 6 years from the commencement of such leave of absence, the name of such person, upon the expiration of such 6-year period, shall be placed on a special reemployment list which shall take precedence over all lists for any office, position or employment similar to that held by such person at the time of the commencement of his leave of absence; and such person upon expiration of the term of his elective public office after such 6-year period shall be entitled to reemployment in the office, position or employment held by him at the commencement of his leave of absence, if the same is vacant, or otherwise to any similar office, position or employment.

C. 11:21-9.1 Up to 6 years included in computation of seniority rights.

3. (New section) Any person who, on or after January 1, 1979 and prior to the effective date of this amendatory and supplementary act, returned to office, position or employment following a leave of absence without pay to fill an elective office shall have a period of time on such a leave of absence, up to a maximum of 6 years, included in the computation of his seniority rights.

4. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 546

A SUPPLEMENT to the "Sales and Use Tax Act," approved April 27, 1966 (P. L. 1966, c. 30; C. 54:32B–1 et seq.).

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

C. 54:32B-8.36 Recycling equipment exempt from sales tax.

1. Receipts from the sales of recycling equipment are exempt from the tax imposed under the "Sales and Use Tax Act." For purposes of this section "recycling equipment" means any equipment which is used exclusively to sort and prepare solid waste for recycling or in the recycling of solid waste. "Recycling equipment" does not include conventional motor vehicles, or any equipment used in a process after the first marketable product is produced, or in the case of recycling iron or steel, any equipment used to reduce the waste to molten state and in any process thereafter.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 547

AN ACT to amend and supplement the "municipal port authorities law," approved February 15, 1961 (P. L. 1960, c. 192).

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

1. Section 15 of P. L. 1960, c. 192 (C. 40:68A–43) is amended to read as follows:

C. 40:68A-43 Municipal powers relative to port authorities.

15. a. Any municipality shall have power, in the discretion of its governing body, and pursuant to ordinance:

(1) To appropriate moneys for the purposes of the municipal port authority, and to loan or donate such moneys to the municipal port authority in such installments and upon such terms as may be agreed upon with the municipal port authority;

(2) To covenant and agree with the municipal port authority to pay to, or on order of, the authority annually or at shorter intervals as a subsidy for the promotion of its purposes, amounts not to exceed those stated in the ordinance;

(3) To unconditionally guarantee the punctual payment of the principal and interest of bonds of the authority; and

(4) Upon authorization by it in accordance with law of the performance of any act or thing which it is empowered by law to authorize and perform, and after appropriation of the moneys necessary, if any, for such performance, to covenant and agree with the authority to do and perform that act or thing and concerning the time, manner and other details of the action or performance.

b. Any guaranty of bonds of an authority made pursuant to this section shall be evidenced by endorsement thereof on the bonds, executed in the name of the municipality and on its behalf by the officer designated in the ordinance authorizing such guaranty, and the municipality shall thereupon and thereafter be obligated to pay the principal of and interest on the bonds in the same manner and to the same extent as in the case of bonds issued by it. Any guaranty of bonds of the authority and any ordinance authorizing the guaranty is subject to all statutory or other debt limitations including particularly any limitation or requirement under or pursuant to the "Local Bond Law" (N. J. S. 40A:2–1 et seq.), and the principal amount of bonds guaranteed pursuant to the ordinance shall be included in the gross and net debt of the municipality for the purpose of determining the indebtedness of the municipality under or pursuant to that law. Any payment made by a municipality pursuant to a guaranty shall be considered "debt service" for purposes of the municipal spending limitations in P. L. 1976, c. 68, s. 3 (C. 40A:4–45.3).

c. Every municipality which shall make any contract, covenant or agreement with an authority or pledge to an authority pursuant to this section is hereby authorized and directed to do and perform any and all acts or things necessary, convenient or desirable to carry out and perform the same and to provide for the payment or discharge of any obligation thereunder in the same manner as other obligations of the municipality. Every authority is hereby empowered to accept, and make and enter into, any of the contracts, covenants, agreements or contractual provisions referred to in this section and is hereby authorized and directed to do and perform any and all acts and things necessary, convenient or desirable to

carry out and perform the same. The contract, covenant, agreement or pledge, and any instrument making or evidencing the same, may be pledged or assigned by the authority to secure its bonds and thereafter may not be modified except as provided by the terms of that instrument or by the terms of that pledge or assignment.

2. Section 23 of P. L. 1960, c. 192 (C. 40:68A–51) is amended to read as follows:

C. 40:68A-51 No personal, State or county liability.

23. Neither the members of the municipal port authority nor any person executing bonds issued pursuant to this act shall be liable personally on the bonds by reason of the issuance thereof. Bonds or other obligations issued pursuant to this act shall not be in any way a debt or liability of the State, and bonds or other obligations issued by a municipal port authority pursuant to this act shall not be in any way a debt or liability of the State or of any county or municipality and shall not create or constitute any indebtedness, liability or obligation of the State or of any county or municipality, except a municipality which in accordance with section 15 of P. L. 1960, c. 192 (C. 40:68A–43) shall have guaranteed payment of principal and interest on the bonds or other obligations. Nothing in this act contained shall be construed to authorize any municipal port authority to incur any indebtedness on behalf of or in any way to obligate the State or any county.

C. 40:68A-43.1 Local Finance Board approval required.

3. (New section) In accordance with rules and regulations which the Local Finance Board is hereby authorized to adopt, municipal port authorities created pursuant to P. L. 1960, c. 192 (C. 40:68A–29 et seq.) are subject to the following provisions:

(a) Every authority shall be required to submit an annual budget to the Local Finance Board for approval.

(b) The issuance of any obligations of an authority, agreements regarding municipal guaranties of authority bonds, financing agreements entered into by an authority, and all leases, sales or dispositions of real property made by an authority shall be subject to the approval of the Local Finance Board.

4. This act shall take effect 120 days after enactment.

Approved January 12, 1982.

CHAPTER 548

AN ACT exempting certain real estate from property subject to levy and amending N. J. S. 2A:17–17.

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

1. N. J. S. 2A:17–17 is amended to read as follows:

Judgments for employment wage tax exempt.

2A:17–17. All real estate shall be liable to be levied upon and sold by executions to be issued on judgments obtained in any court of record in this State, except county district courts, for the payment and satisfaction of the debt, damages, sum of money and costs so recovered or to be recovered; but no real estate of any testator or intestate shall be sold or in anywise affected by any judgment or execution against executors or administrators. No judgment obtained for the payment and satisfaction of any employment wage tax, including penalties, shall be enforced pursuant to this section.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 549

A SUPPLEMENT to "An act making appropriations for the support of the State government and the several public purposes for the fiscal year ending June 30, 1982 and regulating the disbursement thereof," approved June 30, 1981 (P. L. 1981, c. 190).

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

1. DIRECT STATE SERVICES

THE JUDICIARY

Public Safety and Criminal Justice

15 Judicial Services

The Director of the Division of Budget and Accounting shall transfer from the sums appropriated for Services Other than Personal such sums as may be required to the account of Personal Services, New Positions to fund up to 16 official court reporter positions as may be established by the Supreme Court.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 550

AN ACT concerning certain salary reduction agreements between boards of education and their employees and amending N. J. S. 18A:66–127.

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

1. N. J. S. 18A:66–127 is amended to read as follows:

Annuities for board of education employees.

18A:66–127. Any board of education may enter into an agreement with any of its employees whereby the employee agrees to take a reduction in salary with respect to amounts earned after the effective date of such agreement in return for the board's agreement to use a corresponding amount to purchase for the employee an annuity, as defined by N. J. S. 17B:17–5, from any company authorized to sell such annuities under the provisions of Title 17B of the New Jersey Statutes, or to invest in a custodial account for the employee through a broker-dealer or agent registered pursuant to the provisions of sections 9 and 10 of the "Uniform Securities Law (1967)," P. L. 1967, c. 93 (C. 49:3–56 and C. 49:3–57).

Any such annuity shall be purchased by means of an individual or group annuity contract which may provide for continuance of purchase payments during total disability, and under which

the rights of such employee to such contract shall be nonforfeitable. Any such custodial account shall be established in accordance with and maintained to meet the requirements of section 403 (b) (7) of the Federal Internal Revenue Code of 1954 as amended. Every such agreement shall specify the amount of such reduction, the effective date thereof, and shall be legally binding and irrevocable with respect to the amounts earned while the agreement is in effect. The total amount of the reductions in an employee's salary pursuant hereto, for any calendar year, shall not, when added to the contributions made in such year on behalf of such employee in accordance with section 7 of P. L. 1963, c. 123 (C. 52:18A–113), exceed the limitations set forth in P. L. 93–406 (Employment Retirement Income Security Act of 1974) and Section 415 (c) of the Internal Revenue Code of 1954 as amended for such year. Any such agreement may be terminated upon notice in writing by either party.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 551

AN ACT concerning certain contracts for the purchase or lease of energy conservation equipment or services, and amending P. L. 1971, c. 198.

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

1. Section 15 of P. L. 1971, c. 198 (C. 40A:11–15) is amended to read as follows:

C. 40A:11-15 Duration of certain contracts.

15. Duration of certain contracts. All purchases, contracts or agreements shall be made for a period not to exceed 12 consecutive months, except that contracts or agreements may be entered into for longer periods of time as follows:

(1) Supplying of

(a) Fuel for heating purposes, for any term not exceeding in the aggregate, 2 years;

(b) Fuel or oil for use of airplanes, automobiles, motor vehicles or equipment for any term not exceeding in the aggregate, 2 years;

(2) (Deleted by amendment.)

(3) The collection and disposal of garbage and refuse, for any term not exceeding in the aggregate, 5 years;

(4) The recycling of solid waste, for any term not exceeding 25 years, when such contract is in conformance with a solid waste management plan approved pursuant to P. L. 1970, c. 39 (C. 13:1E–1 et seq.), and with the approval of the Division of Local Government Services and the Department of Environmental Protection;

(5) Data processing service, for any term of not more than 3 years;

(6) Insurance, for any term of not more than 3 years;

(7) Leasing or servicing of automobiles, motor vehicles, electronic communications equipment, machinery and equipment of every nature and kind, for a period not to exceed 3 years; provided, however, such contracts shall be entered into only subject to and in accordance with the rules and regulations promulgated by the Director of the Division of Local Government Services of the Department of Community Affairs;

(8) The supplying of any product or the rendering of any service by a telephone company which is subject to the jurisdiction of the Board of Public Utilities for a term not exceeding 5 years;

(9) Any single project for the construction, reconstruction or rehabilitation of any public building, structure or facility, or any public works project, including the retention of the services of any architect or engineer in connection therewith, for the length of time authorized and necessary for the completion of the actual construction;

(10) The providing of food services to county colleges and county assisted institutions of higher education for any term not exceeding 3 years;

(11) On-site inspections undertaken by private agencies pursuant to the "State Uniform Construction Code Act" (P. L. 1975, c. 217; C. 52:27D–119 et seq.) for any term of not more than 3 years;

(12) The performance of work or services or the furnishing of materials or supplies for the purpose of conserving energy in build-

ings owned by, or operations conducted by, the contracting unit, the entire price of which to be established as a percentage of the resultant savings in energy costs, for a term not to exceed ten years; provided, however, that such contracts shall be entered into only subject to and in accordance with rules and regulations promulgated by the Department of Energy establishing a methodology for computing energy cost savings.

All multi-year leases and contracts entered into pursuant to this section 15, except contracts for the leasing or servicing of equipment supplied by a telephone company which is subject to the jurisdiction of the Board of Public Utilities or construction contracts authorized pursuant to subsection (9) above or contracts and agreements for the provision of work or the supplying of equipment to promote energy conservation authorized pursuant to subsection (12) above, shall contain a clause making them subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation, or contain an annual cancellation clause.

The Division of Local Government Services shall adopt and promulgate rules and regulations concerning the methods of accounting for all contracts that do not coincide with the fiscal year.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 552

A SUPPLEMENT to "An act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1982 and regulating the disbursement thereof," approved June 30, 1981 (P. L. 1981, c. 190).

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

1. The following amount is appropriated from the General State Fund for the purposes specified:

DIRECT STATE SERVICES

DEPARTMENT OF HUMAN SERVICES

Special Government Services

83 Services to Veterans

7520 Division of Veterans' Services

Special Purpose:

Establishment, including soil, water and other tests necessary to determine the appropriateness of each proposed cemetery site; and the operation, maintenance and financing by the State of one or more veterans' cemeteries ..... ($150,000.00)

Total Appropriation, Division of Veterans' Services $150,000.00

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 553

AN ACT establishing a program of assistance for supportive services in congregate housing facilities in the Department of Community Affairs and making an appropriation therefor.

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

C. 52:27D-182 Short title.

1. This act shall be known and may be cited as the "Congregate Housing Services Act."

C. 52:27D-183 Findings and declarations.

2. The Legislature finds and declares that: the housing requirements of the growing population of senior citizens are significantly different from the rest of the population due to functional or social impairments and progressive limitations of mobility and physical capabilities over time; as a result of the absence of specially designed housing with supportive services, elderly persons suffering from short-term or permanent disability or the natural consequences of aging are often subject to inappropriate,

premature or overextended institutionalization resulting in over-utilization of costly services and the negative impact of the institutional environment on the individual's emotional and physical well-being; a need exists to fill this gap in the housing continuum between independent living and institutionalization for those senior citizens who do not require highly intensive support systems yet cannot maintain a totally independent lifestyle; congregate housing has proven to be a successful and cost effective means of fulfilling basic shelter and everyday service needs of elderly persons thereby enabling them to preserve their dignity and independence in a secure environment.

The Legislature further finds and declares that critical deficiencies in the availability of congregate housing services are partially attributable to the inability of a large percentage of the elderly population on fixed or limited incomes to absorb the cost of the services as part of the rental payments.

The Legislature, therefore, declares it to be the policy of this State to promote the health, safety and welfare of its senior citizens by encouraging the development of congregate facilities where none presently exist and by providing financial assistance to those frail elderly persons who are in need of basic services but cannot afford the cost of such services. The Legislature further declares that the provision of congregate housing service subsidies for frail elderly persons is a public purpose for which moneys may be expended or granted and the enactment of this act is in the public interest.

C. 52:27D-184 Definitions.

3. As used in this act:

a. "Commissioner" means the Commissioner of the Department of Community Affairs or his designee;

b. "Congregate housing facility" means that part of a residential housing facility which incorporates subsidized senior citizen housing consisting of individualized apartment units and supportive services needed by project residents who are functionally or socially impaired to enable them to maintain or to return to a semi-independent lifestyle and to avoid premature institutionalization;

c. "Department" means the Department of Community Affairs;

d. "Disabled person" means a person having an impairment which is expected to be of long-continued and indefinite duration

and substantially impedes the person's ability to live independently unless the person receives supportive services;

e. "Eligible participant" refers to a project resident who is of low income or suffering economic hardship because of medical or personal reasons and is in need of supportive services but cannot afford the total cost of such services;

f. "Low income" shall be determined by the commissioner pursuant to regulations promulgated under this act, except that the commissioner shall take into account the Federal Department of Housing and Urban Development standards for low income for the various communities within this State;

g. "Project resident" means a disabled person or a person 62 years of age and over who resides in a congregate housing facility;

h. "Qualified housing agency" means any nonprofit or limited dividend housing sponsor, owner, entity, or individual, or any municipality, county or public authority constructing, maintaining or operating a congregate housing facility under a federal low or moderate income housing program, under a New Jersey Housing Finance Agency program or under other programs for low and moderate income occupancy;

i. "Service subsidy" means the sum necessary to provide supportive services to an eligible participant in excess of that individual's ability to pay for services as determined by regulations promulgated by the commissioner;

j. "Supportive services" includes a meal program which shall include at least one hot meal a day providing at least one-third of the Recommended Daily Dietary Allowance as determined by the Nutrient Standard Method of menu planning, housekeeping assistance, personal care assistance, and other services conducive to the maintenance of independent living.

C. 52:27D-185 Contracts with qualified housing agencies.

4. The Commissioner of the Department of Community Affairs is authorized to enter into contracts with qualified housing agencies utilizing sums appropriated under this act to provide service subsidies to eligible participants and to establish congregate housing facilities.

The commissioner shall also take such actions as he deems necessary to implement this act including the provision of advisory and technical assistance, and training and education programs to assist housing agencies to develop supportive service programs and to qualify for financial assistance under this act.

C. 52:27D-186 Application to include plan for supportive services.

5. Whenever any qualified housing agency makes an application to the Commissioner of the Department of Community Affairs for assistance under this act, the agency shall include, as part of the application, a plan specifying the type and priorities of the supportive services it proposes to provide during the term of the contract. The plan, including fee schedules, shall be related to the needs and characteristics of the project residents eligible for assistance and other residents in need of supportive services.

Each application submitted by the housing agency for assistance under this act shall contain a statement affirming that the supportive services provided will not duplicate any services which are already accessible, affordable and sufficiently available to eligible project residents under programs administered by any federal, State or local agency or any public or private agency or organization and that fees established for services provided under this act are reasonable.

C. 52:27D-187 Evaluation of applications.

6. In evaluating applications for assistance under this act, the commissioner shall take into consideration:

a. The supportive services to be provided and the relationship of each to the needs and characteristics of the project residents who are to receive the services;

b. How quickly supportive services will be established following approval of the application;

c. The adequacy of local social services in assisting project residents to maintain independent living and avoid unnecessary institutionalization;

d. The reasonableness of fee schedules established for each supportive service. These fees shall not exceed the cost of providing the services.

C. 52:27D-188 Rules and regulations.

7. The commissioner is authorized to adopt rules and regulations in accordance with the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.) as he may deem necessary to effectuate the purposes of this act. The rules and regulations shall provide for at least the following:

a. Standards for the provision of supportive services under this act;

b. Procedures for determination of eligible participants of service subsidies which shall accord each individual fair treatment and due process;

c. Procedures for the review and evaluation of the performance of the qualified housing agencies under this act;

d. An annual evaluation of the effectiveness of the supportive services program to be submitted by the qualified housing agency receiving assistance under this act;

e. Accounting and other standards to prevent any fraudulent or inappropriate use of funds under this act;

f. Procedures for reallocation of funds if services are not established within 6 months after funding approval is granted, if services do not meet the standards promulgated under this act, or if funds are unexpended for whatever reason, except that the 6 month period may be extended by the commissioner where justified.

C. 52:27D-189 Hiring of personnel; allocation for administration.

8. The commissioner is empowered to hire, employ or assign such secretarial, clerical or other technical or professional personnel as shall be required to provide technical assistance, conduct performance evaluations and otherwise secure the accountability of the qualified housing agency for compliance with the provisions of this act.

The commissioner may, with the approval of the Director of the Division of Budget and Accounting in the Department of the Treasury, allocate from any appropriation made to implement this act, an amount not to exceed $60,000.00 for the administration of this act.

C. 52:27D-190 Residents to provide assistance to participants.

9. Each qualified housing agency shall, to the maximum extent practicable, utilize project residents of congregate housing facilities who do not themselves require supportive services, to participate in providing assistance to eligible participants receiving such services. Such persons shall be paid wages which shall not be lower than the State minimum wage.

Employment provided under this section shall be limited to a maximum of 5 hours per day and 20 hours per week for each participating resident. No services or wages provided to an eligible participant under this act may be treated as income for the purposes of any other program or provision of State law.

C. 52:27D-191 Annual report to Legislature.

10. The Commissioner of the Department of Community Affairs shall report annually to the Legislature an evaluation of the effectiveness of this act. The Legislature shall, upon receiving the report, issue as it may deem necessary and proper, recommenda-

tions for administrative or legislative changes affecting the implementation of this act and make appropriations as are necessary to implement this act.

11. There is appropriated to the Department of Community Affairs from investment income earned on the Casino Revenue Fund the sum of $500,000.00 to fund the program of assistance for supportive services in congregate housing facilities.

12. This act shall take effect 180 days after enactment.

Approved January 12, 1982.

CHAPTER 554

AN ACT concerning motor vehicle registrations in certain cases and amending P. L. 1974, c. 162, R. S. 39:3–20 and R. S. 39:3–25.

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

1. R. S. 39:3–20 is amended to read as follows:

Commercial motor vehicle registrations.

39:3–20. For the purpose of this act gross weight means the weight of both the vehicle and its load. a. The director is authorized to issue registrations for commercial motor vehicles other than omnibuses or motor-drawn vehicles upon application therefor and payment of a fee based on the gross weight of the vehicle including the gross weight of all vehicles in any combination of vehicles of which the commercial motor vehicle is the drawing vehicle. The gross weight of a disabled commercial vehicle or combination of disabled commercial vehicles being removed from a highway shall not be included in the calculation of the registration fee for the drawing vehicle.

Except as otherwise provided in this subsection, every registration for a commercial motor vehicle other than an omnibus or motor-drawn vehicle shall expire and the certificate thereof shall become void on the last day of the eleventh calendar month following the month in which the certificate was issued. The minimum registration fee shall be $50.00 plus $8.50 for each 1,000 pounds or portion thereof in excess of 5,000 pounds.

Commercial motor vehicles other than omnibuses or motor-drawn vehicles for which commercial motor vehicle registrations had been issued prior to the effective date of this act and which expire March 31, 1982 shall be issued commercial registrations which, in the director's discretion, shall expire on a date to be fixed by him, which date shall not be sooner than 4 months nor later than 16 months following the date of issuance of the registration. The fees for such registrations shall be fixed by the director in amounts proportionately less or greater than the fees established by this subsection.

b. The director is also authorized to issue registrations for commercial motor vehicles having three or more axles and a gross weight over 40,000 pounds but not exceeding 70,000 pounds, upon application therefor and proof to the satisfaction of the director that the applicant is actually engaged in construction work or in the business of supplying material, transporting material, or using such registered vehicle for construction work.

Except as otherwise provided in this subsection, every registration for these commercial motor vehicles shall expire and the certificate thereof shall become void on the last day of the eleventh calendar month following the month in which the certificate was issued.

The registration fee shall be $16.00 for each 1,000 pounds or portion thereof of gross weight including the gross weight of all vehicles in any combination of which such commercial motor vehicle is the drawing vehicle. "Constructor" registrations issued prior to the effective date of this act which expire June 30, 1982 shall be issued contractor vehicle registrations which, in the director's discretion, shall expire on a date to be fixed by him, which date shall not be sooner than 4 months nor later than 16 months following the date of issuance of the registration. The fees for the registration shall be fixed by the director in amounts proportionately less or greater than the fees established by this subsection.

Such commercial motor vehicle shall be operated in compliance with the speed limitations of Title 39 of the Revised Statutes and shall not be operated at a speed greater than 30 miles per hour when one or more of its axles has a load which exceeds the limitations prescribed in R. S. 39:3–84.

c. The director is also authorized to issue registrations for each of the following solid waste vehicles: two-axle vehicles having a gross weight not exceeding 42,000 pounds; tandem three-axle and four-axle vehicles having a gross weight not exceeding 60,000

pounds; four-axle tractor-trailer combination vehicles having a gross weight not exceeding 60,000 pounds. Registration is based upon application to the director and proof to his satisfaction that the applicant is actually engaged in the performance of solid waste disposal or collection functions and holds a certificate of convenience and necessity therefor issued by the Board of Public Utilities.

Except as otherwise provided in this subsection, every registration for a solid waste vehicle shall expire and the certificate thereof shall become void on the last day of the eleventh calendar month following the month in which the certificate was issued.

The registration fee shall be $50.00 plus $8.50 for each 1,000 pounds or portion thereof in excess of 5,000 pounds.

Solid waste vehicles for which commercial motor vehicle registrations had been issued prior to the effective date of this act and which shall expire June 30, 1982 shall be issued solid waste registrations which, in the director's discretion, shall expire on a date to be fixed by him, which date shall not be sooner than 4 months or later than 16 months following the date of issuance of the registration. The fees for the registration shall be fixed by the director in amounts proportionately less or greater than the fees established by this subsection.

d. The director is also authorized to issue registrations for commercial motor-drawn vehicles upon application therefor. The registration year for commercial motor-drawn vehicles shall be April 1 to the following March 31 and the fee therefor shall be $18.00 for each such vehicle.

At the discretion of the director, an applicant for registration for a commercial motor-drawn vehicle may be provided the option of registering such vehicle for a period of 4 years. In the event that the applicant for registration exercises the 4-year option, a fee of $64.00 for each such vehicle shall be paid to the director in advance.

If any commercial motor-drawn vehicle registered for a 4-year period is sold or withdrawn from use on the highways, the director may, upon surrender of the vehicle registration and plate, refund $16.00 for each full year of unused prepaid registration.

e. It shall be unlawful for any vehicle or combination of vehicles registered under this act having gross weight in excess of the gross weight provided on the registration certificate to be operated on the highways of this State.

In the event that a commercial motor vehicle registered under this act is found on a highway in combination with a commercial motor-drawn vehicle properly registered in any other state, Federal district or Canadian province which imposes registration weight fees on such commercial motor-drawn vehicles, the drawing vehicle registered under this act shall have a gross weight registration equal to at least one-half of the gross weight of the combination of vehicles. If it does not, the operation of said vehicles on the highways of this State shall be unlawful.

The 5% allowance provided by section 5 of P. L. 1950, c. 142 (C. 39:3–84.3) shall be applicable as heretofore to all registered weight limitations provided in this section, except that in no event shall the gross weight of any vehicle or combination of vehicles exceed the Federal maximum as such may be amended from time to time established for vehicles operated on the National System of Interstate and Defense Highways. In the case of a commercial motor vehicle registered under this act in combination with a commercial motor-drawn vehicle properly registered in any other state, Federal district or Canadian province which imposes registration weight fees on such commercial motor-drawn vehicles, the 5% allowance shall be applied and added to the registered weight of the drawing vehicle registered under this act. If the resulting sum is equal at least to one-half of the combined gross weight of the mixed combination, then the mixed combination shall be in compliance with the registration requirements of this section.

Moneys realized from the increase of the fees for registrations issued pursuant to the provisions of this act shall be paid into the State Treasury and credited to the General State Fund and available for general State purposes.

This section shall not be construed to supersede or repeal the provisions of section 39:3–84, 39:4–75, or 39:4–76 of this Title.

2. Section 2 of P. L. 1974, c. 162 (C. 39:3–19.2) is amended to read as follows:

C. 39:3-19.2 School vehicles.

2. The Director of Motor Vehicles shall have the authority to issue upon application therefor a license plate for school vehicles marked "School Vehicle Type I" or "School Vehicle Type II" as the application may indicate is warranted in accordance with the definition of these vehicles contained in R. S. 39:1–1. Except as otherwise provided in this section, every registration for a school vehicle shall expire and the certificate thereof shall become void on

the last day of the eleventh calendar month following the month in which the certificate was issued.

School vehicles for which school vehicle registrations had been issued prior to the effective date of this act and which expire June 30, 1982 shall be issued registrations which, in the director's discretion, shall expire on a date to be fixed by him, which date shall not be sooner than 4 months nor later than 16 months following the date of issuance of the registration. The fees for such registrations shall be fixed by the director in amounts proportionately less or greater than the fees established by this section.

No fee shall be charged the United States Government, the State of New Jersey, a local school district, a regional school district, or a county vocational or technical school upon application for a Type I or Type II school vehicle license plate.

All other applicants for license plates herein authorized of the "School Vehicle Type I" kind shall pay an annual registration fee of $140.00. All other applicants for license plates herein authorized of the "School Vehicle Type II" shall pay an annual registration fee of $40.00.

3. R. S. 39:3–25 is amended to read as follows:

Farm truck license plates.

39:3–25. In addition to the motor vehicle licenses authorized to be issued pursuant to the provisions of this chapter, the director shall issue, upon application therefor, a license plate for trucks marked "farmer," which shall be issued upon evidence satisfactory to the director that the applicant is a farmer and is actually engaged in the growing, raising and producing of farm products as an occupation. License plates issued under authority of this section shall be placed upon motor trucks engaged exclusively in the carrying or transportation of applicant's farm products, raised or produced on his farm, and farm supplies, and not engaged in hauling for hire.

Applicants for license plates herein authorized shall pay therefor at a rate equal to ½ the present registration fee provided for trucks by this chapter.

Except as otherwise provided in this section, every registration for a farm truck shall expire and the certificate thereof shall become void on the last day of the eleventh calendar month following the month in which the certificate was issued.

Farm trucks for which farm truck registrations had been issued prior to the effective date of this act and which expire June 30, 1982 shall be issued registrations which, in the director's discretion, shall expire on a date to be fixed by him, which date shall not be sooner than 4 months nor later than 16 months following the date of issuance of the registration. The fees for such registrations shall be fixed by the director in amounts proportionately less or greater than the fees established by this section.

The term "farmer" as used in this section means any person engaged in the commercial raising, growing and producing of farm products on a farm not less than 3 acres in area, and who does not engage in the business of buying farm products for resale; and the term "farm products" means any crop, livestock or fur products.

4. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 555

AN ACT creating a commission to determine the necessity of, examine the factors involved with, and assess the fiscal commitments necessary for creating and maintaining a chair of women's studies at Douglass College and making an appropriation therefor.

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

1. The Legislature finds and declares that:

a. There has been a phenomenal growth in women's studies with over 325 colleges and universities establishing interdisciplinary programs in the field;

b. The women's studies curriculum reinterprets longtime academic approaches to the study of women and provides a multidimensional view of women and their position in past and present society;

c. The goal of a women's studies curriculum is to improve the status of women, a group whom our educational system continues to channel into a handful of low-paying fields with little or no

advancement opportunity, by providing the skills development, technical training, and encouragement necessary to prepare them for competing in the modern workplace;

d. Even though society can no longer afford to underutilize the talents and resources of over half of its population, only one major university has established a chair of women's studies in a nation in which over 50% of the matriculating students are women; and

e. Douglass College of Rutgers, The State University is nationally recognized as being in the forefront of the women's educational movement and an intellectual center for women's studies, and the establishment of such a chair at Douglass will make the State and Rutgers prestigious leaders in a vital area.

2. There is created a commission which shall consist of 16 members: four of whom shall be appointed by the Governor, four by the President of the Senate, four by the Speaker of the General Assembly, and four by the Chairman of the Board of Governors of Rutgers, The State University. All members shall serve without compensation. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made.

3. The commission shall organize as soon as may be after the appointment of its members and shall select a chairman from among its members and a secretary, who need not be a member of the commission.

4. It shall be the duty of the commission to determine the necessity of, examine the factors involved with, and assess the fiscal commitments necessary for creating and maintaining a chair of women's studies at Douglass College.

5. 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, board, bureau, commission or agency as it may require and as may be available to it for that purpose, and to employ such stenographic and clerical assistants and incur such traveling and other miscellaneous expenses as it may deem necessary, in order to perform its duties, and as may be within the limits of funds appropriated or otherwise made available to it for these purposes.

6. The commission may meet and hold hearings at such place or places as it shall designate during the session or recesses of the Legislature and shall submit a final report to the Governor and the

Legislature within 1 year from the effective date of this act. The commission shall terminate upon submission of the report, unless a later date is specified by the Governor.

7. There is appropriated $1,000.00 for the purposes of this act.

8. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 556

AN ACT concerning unemployment compensation and temporary disability benefits and amending R. S. 43:21–14 and P. L. 1981, c. 190.

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

1. R. S. 43:21–14 is amended to read as follows:

Employers' contribution reports.

43:21–14. (a) In addition to such reports as the Director of the Division of Unemployment and Temporary Disability Insurance may require under the provisions of subsection (g) of section 43:21–11 of this chapter (R. S. 43:21–1 et seq.), every employer shall file with the division periodical contribution reports on such forms and at such times as the director shall prescribe, to disclose the employer's liability for contributions under the provisions of this chapter (R. S. 43:21–1 et seq.), and at the time of filing each contribution report shall pay the contributions required by this chapter (R. S. 43:21–1 et seq.) for the period covered by such report. The director may require that such reports shall be under oath of the employer. Any employer who shall fail to file any report, required by the director, on or before the last day for the filing thereof shall pay a penalty of $1.00 for each day of delinquency until and including the tenth day following such last day and, for any period of delinquency after such tenth day, a penalty of $1.00 a day or 20% of the amount of the contributions due and payable by the employer for the period covered by the report, whichever is the lesser; if there be no liability for contributions for the period covered by any contribution report or in the case of any report other than a contribution report, the employer or em-

ploying unit shall pay a penalty of $1.00 a day for each day of delinquency in filing or $15.00, whichever is the lesser; provided, however, that when it is shown to the satisfaction of the director that the failure to file any such report was not the result of fraud or an intentional disregard of this chapter (R. S. 43:21–1 et seq.), or the regulations promulgated hereunder, the director, in his discretion, may remit or abate any unpaid penalties heretofore or hereafter imposed under this section and he may also, in his discretion, ratify any remission or abatement of penalties heretofore allowed by the Unemployment Compensation Commission, its executive director or acting executive director, or the Division of Employment Security, its director or acting director. On or before October 1 of each year, the director shall submit to the Commissioner of Labor a report covering the 12-month period ending on the preceding June 30, and showing the names and addresses of all employers for whom the director remitted or abated any penalties, or ratified any remission or abatement of penalties, and the amount of such penalties with respect to each employer. Any employer who shall fail to pay the contributions due for any period on or before the date they are required by the division to be paid, shall pay interest on the amount thereof from such date until the date of payment thereof at the rate of 1% a month through June 30, 1981 and at the rate of 1¼% a month after June 30, 1981. Upon the written request of any employer or employing unit, filed with the division on or before the due date of any report or contribution payment, the director, for good cause shown, may grant, in writing, an extension of time for the filing of such report or the paying of such contribution with interest at the applicable rate; provided, no such extension shall exceed 30 days and that no such extension shall postpone payment of any contribution for any period beyond the day preceding the last day for filing tax returns under Title IX of the Federal Social Security Act for the year in which said period occurs.

(b) The contributions, penalties, and interest due from any employer under the provisions of this chapter (R. S. 43:21–1 et seq.), from the time they shall be due, shall be a personal debt of the employer to the State of New Jersey, recoverable in any court of competent jurisdiction in a civil action in the name of the State of New Jersey; provided, however, that except in the event of fraud, no employer shall be liable for contributions or penalties unless contribution reports have been filed or assessments have been made in accordance with subsection (c) or (d) of this

section before 4 years have elapsed from the last day of the calendar year with respect to which any contributions become payable under this chapter (R. S. 43:21–1 et seq.), nor shall any employer be required to pay interest on any such contribution unless contribution reports were filed or assessments made within such 4-year period; provided further, that if such contribution reports were filed or assessments made within the 4-year period, no civil action shall be instituted, nor shall any certificate be issued to the Clerk of the Superior Court under subsection (e) of this section, except in the event of fraud, after 6 years have elapsed from the last day of the calendar year with respect to which any contributions become payable under this chapter (R. S. 43:21–1 et seq.), or July 1, 1958, whichever is later. Payments received from an employer on account of any debt incurred under the provisions of this chapter (R. S. 43:21–1 et seq.) may be applied by the division on account of the contribution liability of the employer and then to interest and penalties, and any balance remaining shall be recoverable by the division from the employer. Upon application therefor, the division shall furnish interested persons and entities certificates of indebtedness covering employers, employing units and others for contributions, penalties and interest, for each of which certificate the division shall charge and collect a fee of $0.25 per name, no such certificate to be issued, however, for a fee of less than $1.00. All fees so collected shall be paid into the unemployment compensation administration fund.

(c) If any employer shall fail to make any report as required by the rules and regulations of the division pursuant to the provisions of this chapter (R. S. 43:21–1 et seq.), the division may make an estimate of the liability of such employer from any information it may obtain, and, according to such estimate so made, assess such employer for the contributions, penalties, and interest due the State from him, give notice of such assessment to the employer, and make demand upon him for payment.

(d) After a report is filed under the provisions of this chapter (R. S. 43:21–1 et seq.) and the rules and regulations of the division, the division shall cause the report to be examined and shall make such further audit and investigation as it may deem necessary, and if therefrom there shall be determined that there is a deficiency with respect to the payment of the contributions due from such employer, the division shall assess the additional contributions, penalties, and interest due the State from such employer, give

notice of such assessment to the employer, and make demand upon him for payment.

(e) As an additional remedy, the division may issue to the Clerk of the Superior Court of New Jersey a certificate stating the amount of the employer's indebtedness under this chapter (R. S. 43:21–1 et seq.) and describing the liability, and thereupon the clerk shall immediately enter upon his record of docketed judgments such certificate or an abstract thereof and duly index the same. Any such certificate or abstract heretofore or hereafter docketed from the time of docketing shall have the same force and effect as a judgment obtained in the Superior Court of New Jersey and the division shall have all the remedies and may take all the proceedings for the collection thereof which may be had or taken upon the recovery of such a judgment in a civil action upon contract in said court. Such debt, from the time of docketing thereof, shall be a lien on and bind the lands, tenements and hereditaments of the debtor.

The Clerk of the Superior Court shall be entitled to receive for docketing such certificate $0.50, and for a certified transcript of such docket $0.50. If the amount set forth in said certificate as a debt shall be modified or reversed upon review, as hereinafter provided, the Clerk of the Superior Court shall, when an order of modification or reversal is filed, enter in the margin of the docket opposite the entry of the judgment the word "modified" or "reversed," as the case may be, and the date of such modification or reversal.

The employer, or any other party having an interest in the property upon which the debt is a lien, may deposit the amount claimed in the certificate with the Clerk of the Superior Court of New Jersey, together with an additional 10% of the amount thereof, or $100.00, whichever amount is the greater, to cover interest and the costs of court, or in lieu of depositing the amount in cash, may give a bond to the State of New Jersey in double the amount claimed in the certificate, and file the same with the Clerk of the Superior Court. Said bond shall have such surety and shall be approved in the manner required by the Rules of the Supreme Court.

After the deposit of said money or the filing of said bond, the employer or any other party having an interest in the said property, may, after exhausting all administrative remedies, secure judicial review of the legality or validity of the indebtedness or the amount thereof, and the said deposit of cash shall be as security

for and the bond shall be conditioned to prosecute the judicial review with effect.

Upon the deposit of said money or the filing of the said bond with the Clerk of the Superior Court, all proceedings on such judgment shall be stayed until the final determination of the cause, and the moneys so deposited shall be subject to the lien of the indebtedness and costs and interest thereon, and the lands, tenements, and hereditaments of said debtor shall forthwith be discharged from the lien of the State of New Jersey and no execution shall issue against the same by virtue of said judgment.

(f) If not later than 2 years after the calendar year in which any moneys were erroneously paid to, or collected by the division, whether such payments were voluntarily or involuntarily made or made under mistake of law or of fact, an employer, employing unit, or employee who has paid such moneys shall make application for an adjustment thereof, the said moneys shall, upon order of the director, be either credited or refunded, without interest, from the appropriate fund. For like cause and within the same period, credit or refund may be so made on the initiative of the director.

(g) All interest and penalties collected pursuant to this section shall be paid into a special fund to be known as the unemployment compensation auxiliary fund; all moneys in this special fund shall be deposited, administered and disbursed, in the same manner and under the same conditions and requirements as is provided by law for other special funds in the State Treasury, and shall be expended, under legislative appropriation, for the purpose of aiding in defraying the cost of the administration of this chapter (R. S. 43:21–1 et seq.) and for essential and necessary expenditures in connection with programs designed to stimulate employment. The Treasurer of the State shall be ex officio the treasurer and custodian of this special fund and, subject to legislative appropriation, shall administer the fund in accordance with the directions of the division. Any balances in this fund shall not lapse at any time, but shall be continuously available, subject to legislative appropriation, to the division for expenditure. The State Treasurer shall give a separate and additional bond conditioned upon the faithful performance of his duties in connection with the unemployment compensation auxiliary fund in an amount to be fixed by the division, the premiums for such bond to be paid from the moneys in the said special fund.

2. The following item in P. L. 1981, c. 190 on page 91 is amended to read as follows:

DEPARTMENT OF LABOR

Economic Planning, Development and Security

54 Manpower and Employment Services

3. This act shall take effect immediately and shall be retroactive to July 1, 1981.

Approved January 12, 1982.

CHAPTER 557

AN ACT appropriating funds from the Public Purpose Buildings Construction Fund for a State grant to assist in the construction of a county correctional facility.

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

1. There is appropriated to the Department of Corrections from the Public Purpose Buildings Construction Fund created pursuant to the "New Jersey Public Purpose Buildings Construction Bond Act of 1980" (P. L. 1980, c. 119) the sum of $950,000.00 for a State grant to assist in meeting the construction costs of a county correctional facility in Gloucester county.

2. The Commissioner of the Department of Corrections is authorized to negotiate and enter into an agreement with the appropriate county officials regarding the terms and conditions upon which the grant may be made. At a minimum, however, the terms and conditions shall provide for:

a. The availability and use of a specific number of beds to be reserved for prisoners remanded by the State, and

b. Per diem rates favorable to the State in recognition of its contribution to the construction costs of the facility.

3. In order to provide flexibility in administering the provisions of this act, the Commissioner of Corrections may apply to the Director of the Division of Budget and Accounting for permission to transfer a part of any item to any other item within the respective department accounts in the Public Purpose Buildings Construction Fund. The transfer shall be made upon the written

approval of the director and of the Legislative Budget Officer in the Office of Legislative Services.

4. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 558

A SUPPLEMENT to "An act making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 1982 and regulating the disbursement thereof," approved June 30, 1981 (P. L. 1981, c. 190).

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

1. In addition to the amounts appropriated in P. L. 1981, c. 190, the following sums are appropriated out of the General Fund for the following purposes:

LEGISLATIVE BRANCH
71 Legislative Activities
Legislature

01-0001 Senate		$260,000
Personal Services:		
Salaries and Wages	($200,000)	
Members' Staff Services	($60,000)	
02-0002 General Assembly		$520,000
Personal Services:		
Salaries and Wages	($400,000)	
Members' Staff Services	($120,000)	
Total Appropriation, Legislature		$780,000

DEPARTMENT OF CORRECTIONS
16 Detention and Rehabilitation
7040 State Prison, Trenton

07-7040 Institutional Control and Supervision		$2,201,000
Salaries and Wages	($2,201,000)	
08-7040 Institutional Care Program		$415,000

Salaries and Wages	($215,000)	
Services Other Than Personal	($200,000)	
19-7040 Physical Plant and Support Services		$221,000
Additions and Improvements		
and Equipment	($221,000)	
Total Appropriation—		
State Prison, Trenton		$2,837,000
7050 State Prison, Rahway		
07-7050 Institutional Control and Supervision		$1,393,000
Salaries and Wages	($1,393,000)	
08-7050 Institutional Care Program		$185,000
Salaries and Wages	($31,000)	
Services Other Than Personal	($154,000)	
Total Appropriation—		
State Prison, Rahway		$1,578,000
7060 State Prison, Leesburg		
07-7060 Institutional Control and Supervision		$150,000
Salaries and Wages	($150,000)	
08-7060 Institutional Care Program		$51,000
Salaries and Wages	($51,000)	
Total Appropriation—		
State Prison, Leesburg		$201,000
7080 Correctional Institution for Women, Clinton		
07-7080 Institutional Control and Supervision		$132,000
Salaries and Wages	($132,000)	
08-7080 Institutional Care Program		$10,000
Salaries and Wages	($10,000)	
Total Appropriation—Correctional		
Institution for Women, Clinton		$142,000
7090 Adult Diagnostic and Treatment Center, Avenel		
07-7090 Institutional Control and Supervision		$102,000
Salaries and Wages	($102,000)	
08-7090 Institutional Care Program		$23,000
Salaries and Wages	($23,000)	
Total Appropriation—Adult Diagnostic and		
Treatment Center, Avenel		$125,000

7110 Youth Reception and Correction Center, Yardville

07-7110 Institutional Control and Supervision ...		$301,000
Salaries and Wages	($301,000)	
08-7110 Institutional Care Program		$49,000
Salaries and Wages	($18,000)	
Services Other Than Personal	($31,000)	
Total Appropriation—Youth Reception and Correction Center, Yardville		$350,000

7120 Youth Correctional Institution, Bordentown

07-7120 Institutional Control and Supervision ...		$309,000
Salaries and Wages	($309,000)	
08-7120 Institutional Care Program		$133,000
Salaries and Wages	($41,000)	
Services Other Than Personal	($92,000)	
Total Appropriation—Youth Correctional Institution, Bordentown		$442,000

7130 Youth Correctional Institution, Annandale

07-7130 Institutional Control and Supervision ...		$352,000
Salaries and Wages	($352,000)	
08-7130 Institutional Care Program		$116,000
Salaries and Wages	($8,000)	
Services Other Than Personal	($108,000)	
Total Appropriation—Youth Correctional Institution, Annandale		$468,000

7210 Training School for Boys, Skillman

07-7210 Institutional Control and Supervision ..		$263,000
Salaries and Wages	($263,000)	
08-7210 Institutional Care Program		$4,000
Salaries and Wages	($2,000)	
Services Other Than Personal	($2,000)	
Total Appropriation—Training School for Boys, Skillman		$267,000

7220 Training School for Boys, Jamesburg	
07-7220 Institutional Control and Supervision ...	$237,000
Salaries and Wages .....($237,000)	
08-7220 Institutional Care Program	$25,000
Salaries and Wages .....($19,000)	
Services Other Than Personal .....($6,000)	
Total Appropriation—Training School for Boys, Jamesburg	$262,000
17 Parole and Community Programs	
7010 Office of Parole and Community Programs	
03-7010 Parole	$36,000
Salaries and Wages .....($36,000)	
04-7010 Community Programs	$100,000
Special Purpose:	
Essex House (SLEPA) .....($100,000)	
Total Appropriation—Office of Parole and Community Programs	$136,000
19 Central Planning, Direction and Management	
01-7000 Planning Management and General Support	$50,000
Grants:	
Transportation Assistance for Inmates' Families, Visitation .....($50,000)	
02-7000 Program Operations Support	$13,778,000
Special Purpose:	
Purchase of service for inmates incarcerated in county penal facilities .....($11,401,000)	
Purchase of service for inmates incarcerated in Federal penal facilities .....($127,000)	
Juvenile separation programs (JJDP) .....($750,000)	
Start-up costs for new facility ....($1,500,000)	
Total Appropriation—Central Planning, Direction and Management	$13,828,000
Total Appropriation—Department of Corrections	$20,636,000

STATE AID

Department of Education

31. Direct Educational Services and Assistance—State Aid

04-5030	Adult and Continuing Education Programs	$809,914*
State Aid:		
	High School Equivalency	($390,372)*
	Adult Education	($419,542)*

33. Supplemental Education and Training Programs—State Aid

20-5120	General Vocational Education Programs	$1,691,046*
State Aid:		
	Local Vocational Aid	($1,691,046)*
	Total Appropriation—Department of Education	$2,500,960*

2. A portion of the total amount appropriated in this act for purchase of service for inmates incarcerated in county penal facilities may be used for operational costs of the Fort Dix stockade or other inmate housing which may be available, provided, however, that an application for transfer is made by the Commissioner of the Department of Corrections and approved by the Director of the Division of Budget and Accounting.

3. This act shall take effect immediately.

Approved January 12, 1982.

* Deleted in its entirety by line item veto of the Governor. See statement following.

STATEMENT TO ASSEMBLY BILL NO. 3749 (OCR)

Pursuant to Article V, Section I, Paragraph 15 of the Constitution, I am appending to Assembly Bill No. 3749 (OCR) at the time of signing it this statement of the items, or parts thereof, to which I object so that each item, or part thereof, so objected to shall not take effect:

On Page 4, after Line 13:

"STATE AID

DEPARTMENT OF EDUCATION

31. Direct Educational Services and Assistance—State Aid

04-5030	Adult and Continuing Education Programs	$809,914
	State Aid:	
	High School Equivalency ($390,372)	
	Adult Education ($419,542)	

33. Supplemental Education and Training Programs—State Aid

20-5120	General Vocational Education Programs	$1,691,046
	State Aid:	
	Local Vocational Aid ($1,691,046)	
	Total Appropriation—Department of Education	$2,500,960."

This item is deleted in its entirety.

This supplemental appropriation was introduced to deal with the pressures on our correctional system caused by overcrowding. In the course of consideration by the Legislature, various amounts have been added for other programs.

At the request of Governor-elect Kean, I have deleted $2,500,960 of this supplemental funding for high school equivalency, adult education and vocational education programs. I am advised that he wishes to further evaluate the need for these expenditures, and I have agreed to provide him an opportunity to do so.

Respectfully,

[SEAL] /s/ BRENDAN BYRNE,
Attest: *Governor.*

/s/ HAROLD L. HODES,
Chief of Staff, Secretary.

CHAPTER 559

AN ACT to amend "An act temporarily suspending the statutory maximum rate of interest limitations applicable to borrowings by counties, municipalities, school, and other districts, State agencies and other public authorities and agencies," approved July 3, 1969 (P. L. 1969, c. 137), as said title was amended by P. L. 1970, c. 49 and validating certain transactions.

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

1. Section 1 of P. L. 1969, c. 137 (C. 31:1–7) is amended to read as follows:

C. 31:1-7 No limit on interest rate.

1. Notwithstanding the provisions of any other law, statute or regulation applicable to or constituting any limitation on the maximum rate of interest per annum payable on bonds, notes or other obligations, or as to annual interest cost to maturity of money borrowed or received upon issuance of bonds, notes or other obligations, every county, municipality, school district, body corporate and politic, district or public authority, agency, commission or other public institution heretofore or hereafter created by the State, any county, or municipality or by one or more counties or municipalities, is hereby authorized and empowered to contract to pay interest on or an interest cost per annum for money borrowed and evidenced by bonds, notes or other obligations without limit as to the rate of interest per annum payable thereon or as to the annual interest cost to maturity of the money borrowed.

2. (New section) Any county or municipal financing undertaken after December 31, 1981 and before the effective date of this act is hereby validated, ratified and confirmed irrespective of its failure to meet any statutory interest rate limitations; provided all other provisions of applicable law have been met.

3. This act shall take effect immediately and shall be retroactive to December 31, 1981.

Approved January 12, 1982.

CHAPTER 560

AN ACT to amend the "New Jersey Public Transportation Act of 1979," approved July 17, 1979 (P. L. 1979, c. 150).

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

1. Section 16 of P. L. 1979, c. 150 (C. 27:25–16) is amended to read as follows:

C. 27:25-16 Exemption from taxation.

16. The exercise of the powers granted by this act shall be in all respects for the benefit of the people of the State, and since the improvement, operation, and maintenance of public transportation services by the corporation constitute the performance of essential governmental functions, neither the corporation nor any wholly owned business corporation or other entity shall be required to pay taxes or assessments upon any public transportation project or any property acquired or used under the provisions of this act, including but not limited to, sales taxes, real property taxes or assessments, corporate franchise taxes or income taxes.

Because of the special nature of such property, the leasing for private use of a part of a structure that is part of any property whose primary use is as a public transportation passenger facility and which is located within an area in need of rehabilitation, as defined in section 2 of P. L. 1977, c. 12 (C. 54:4–3.96), shall not serve to remove the tax exemption of the corporation for the leased portion of the property, and shall not subject the lessee to taxation, the provisions of chapter 29A of Title 54 of the Revised Statutes and P. L. 1949, c. 177 (C. 54:4–2.3 et seq.) notwithstanding.

However, any property owned by the corporation or any wholly owned business corporation or other entity shall be considered "State" property as defined in P. L. 1977, c. 272 (C. 54:4–2.2a), and shall be subject to the in lieu tax payments provided in that act. In order that municipalities not suffer the loss of taxes by reason of the acquisition of property during 1980 by the corporation or any wholly owned business corporation or other entity under the provisions of this act, the corporation shall pay annually in two installments, May 1 and November 1, to each municipality, beginning in tax year 1981, a sum equal to the taxable value of the property, as determined for the tax year 1981, multiplied by the

1981 general tax rate for the municipality where the property is located.

Moreover, the corporation is hereby authorized and empowered, in its discretion, to enter into a voluntary agreement or agreements with any county or municipality, whereby it will undertake to pay an additional fair and reasonable sum or sums annually in connection with any property used primarily as a public transportation passenger facility, a portion of which is leased for private use, which is located within an area in need of rehabilitation, as defined in section 2 of P. L. 1977, c. 12 (C. 54:4–3.96).

Nothing in this subsection shall deprive any municipality of replacement revenues that it would otherwise receive pursuant to sections 19 through 24 of P. L. 1966, c. 139 (C. 54:29A–24.1 et seq.).

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 561

AN ACT to amend "An act creating districts for the election of members to the House of Representatives of the United States of America to serve in the 98th Congress and each subsequent Congress, and repealing sections 1 and 2 of P. L. 1966, c. 156," approved ....., 19.... (P. L. ....., c. ....) (now pending before the Legislature as Senate Bill No. 3518 of 1981).

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

1. Section 2 of P. L. ....., c. ..... (C.....) (now pending before the Legislature as Senate Bill No. 3518 of 1981) is amended to read as follows:

2. For the purpose of electing members of the House of Representatives of the United States of America from the State of New Jersey to serve in the 98th Congress and each subsequent Congress, the State of New Jersey shall be divided into the following 14 single-member districts:

First. The county of Gloucester and that portion of the county of Camden embracing Audubon, Audubon Park, Barrington,

Bellmawr, Berlin, Berlin township, Brooklawn, Camden, Chesilhurst, Clementon, Gibbsboro, Gloucester city, Gloucester township, Haddonfield, Haddon Heights, Hi-Nella, Laurel Springs, Lindenwold, Magnolia, Mount Ephraim, Pine Hill, Pine Valley, Runnemede, Somerdale, Stratford, Tavistock, Voorhees, Waterford, Winslow and Woodlynne.

Second. The counties of Salem, Cumberland, Cape May and Atlantic, that portion of the county of Ocean embracing Barnegat, Barnegat Light, Beach Haven, Eagleswood, Harvey Cedars, Little Egg Harbor, Long Beach, Ocean, Ship Bottom, Stafford, Surf City, Tuckerton, and that portion of the county of Burlington embracing Bass River, Tabernacle and Washington.

Third. That portion of the county of Monmouth embracing Aberdeen, Allenhurst, Asbury Park, Atlantic Highlands, Avon, Belmar, Bradley Beach, Deal, Eatontown, Englishtown, Fair Haven, Hazlet, Highlands, Interlaken, Keansburg, Keyport, Loch Arbour, Long Branch, Manalapan, Manasquan, Matawan, Middletown, Monmouth Beach, Neptune city, Neptune township, Oceanport, Ocean, Red Bank, Sea Bright, Sea Girt, South Belmar, Spring Lake, Spring Lake Heights, Union Beach, West Long Branch, that portion of the county of Ocean embracing Bay Head, Brick, Lakewood, Mantoloking, Point Pleasant Beach, Point Pleasant, and that portion of the county of Middlesex embracing Old Bridge.

Fourth. That portion of the county of Burlington embracing Beverly, Bordentown city, Bordentown township, Burlington city, Burlington township, Chesterfield, Cinnaminson, Delanco, Delran, Edgewater Park, Florence, Mansfield, Maple Shade, Palmyra, Pemberton borough, Pemberton township, Riverside, Riverton borough, Springfield, Willingboro, Wrightstown and Fieldsboro, that portion of the county of Camden embracing Merchantville and Pennsauken, that portion of the county of Mercer embracing East Windsor, Ewing, Hamilton, Hightstown, Lawrence, Trenton, Washington and West Windsor, that portion of the county of Middlesex embracing Plainsboro and that portion of the county of Monmouth embracing Allentown, Roosevelt and Upper Freehold.

Fifth. The counties of Hunterdon and Warren, that portion of the county of Sussex not in the twelfth district, that portion of the county of Bergen embracing Allendale, Mahwah, Ramsey, Upper Saddle River and Waldwick, that portion of the county of Mercer embracing Hopewell, Hopewell township, and Pennington, that por-

tion of the county of Morris embracing Chester, Chester township, Harding, Mendham, Mendham township, Passaic and Washington, that portion of the county of Passaic embracing Ringwood and West Milford, and that portion of the county of Somerset embracing Bedminster, Bernards, Bernardsville, Branchburg, Bridgewater, Far Hills, Hillsborough, Millstone, Montgomery, Peapack-Gladstone, Raritan, Rocky Hill, Somerville and Warren.

Sixth. That portion of the county of Middlesex embracing Carteret, East Brunswick, Edison, Helmetta, Highland Park, Metuchen, Milltown, New Brunswick, Perth Amboy, Piscataway, Sayreville, South Amboy, South Plainfield, South River, Spotswood and Woodbridge and that portion of the county of Union embracing Linden, Rahway and Winfield.

Seventh. That portion of the county of Middlesex embracing Cranbury, Dunellen, Jamesburg, Middlesex, Monroe, North Brunswick and South Brunswick, that portion of the county of Mercer embracing Princeton and Princeton township, that portion of the county of Somerset embracing Bound Brook, Franklin, Manville, North Plainfield and South Bound Brook, that portion of the county of Union embracing Clark, Cranford, Elizabeth, Fanwood, Garwood, Plainfield, Roselle, Roselle Park, Scotch Plains and Westfield and that portion of the county of Monmouth embracing Freehold, Freehold township, Marlboro and Millstone.

Eighth. That portion of the county of Bergen embracing Elmwood Park, Fair Lawn, Garfield, Paramus and Wallington, that portion of the county of Morris embracing Butler, Lincoln Park, Pequannock and Riverdale and that portion of the county of Passaic embracing Bloomingdale, Clifton, Haledon, Hawthorne, North Haledon, Passaic, Paterson, Pompton Lakes, Prospect Park, Wanaque and Wayne.

Ninth. That portion of the county of Bergen embracing Alpine, Bergenfield, Bogota, Cliffside Park, Closter, Creskill, Demarest, Dumont, Edgewater, Emerson, Englewood, Englewood Cliffs, Fairview, Fort Lee, Franklin Lakes, Glen Rock, Hackensack, Harrington Park, Haworth, Hillsdale, Hohokus, Leonia, Maywood, Midland Park, Montvale, New Milford, Northvale, Norwood, Old Tappan, Oradell, Palisades Park, Park Ridge, Ridgefield Park, Ridgewood, River Edge, River Vale, Rochelle Park, Rockleigh, Saddle River, Teaneck, Tenafly, Washington township, Westwood, Woodcliff Lake, Wyckoff and Oakland.

Tenth. That portion of the county of Essex embracing East Orange, Glen Ridge, Irvington, Newark, South Orange and Harrison and that portion of the county of Union embracing Hillside.

Eleventh. That portion of the county of Bergen embracing Carlstadt, East Rutherford, Hasbrouck Heights, Lodi, Lyndhurst, Moonachie, North Arlington, Rutherford, Saddle Brook, South Hackensack, Teterboro and Wood-Ridge, that portion of the county of Essex embracing Orange, Belleville, Bloomfield, Caldwell, Cedar Grove, Essex Fells, Fairfield, Maplewood, Montclair, North Caldwell, Nutley, Roseland, Verona, West Caldwell and West Orange, that portion of the county of Hudson embracing Kearny and East Newark, that portion of the county of Morris embracing East Hanover and that portion of the county of Passaic embracing Little Falls, Totowa and West Paterson.

Twelfth. That portion of the county of Essex embracing Livingston and Millburn, that portion of the county of Morris embracing Boonton, Boonton township, Chatham, Chatham township, Denville, Dover, Florham Park, Hanover, Jefferson, Kinnelon, Madison, Mine Hill, Montville, Morris Plains, Morris township, Morristown, Mountain Lakes, Mount Arlington, Mount Olive, Netcong, Parsippany-Troy Hills, Randolph, Rockaway, Rockaway township, Roxbury, Victory Gardens and Wharton, that portion of the county of Somerset embracing Green Brook and Watchung, that portion of the county of Sussex embracing Hopatcong and that portion of the county of Union embracing Berkeley Heights, Kenilworth, Mountainside, New Providence, Springfield, Summit and Union township.

Thirteenth. That portion of the county of Burlington embracing Eastampton, Evesham, Hainesport, Lumberton, Medford Lakes, Medford, Moorestown, Mount Holly, Mount Laurel, New Hanover, North Hanover, Shamong, Southampton, Westhampton and Woodland, that portion of the county of Ocean embracing Beachwood, Berkeley, Dover, Island Heights, Jackson, Lacey, Lakehurst, Lavallette, Ocean Gate, Pine Beach, Plumstead, Seaside Heights, Seaside Park, South Toms River and Manchester, that portion of the county of Monmouth embracing Brielle, Colts Neck, Farmingdale, Holmdel, Howell, Little Silver, Rumson, Shrewsbury, Shrewsbury township, Tinton Falls and Wall and that portion of the county of Camden embracing Cherry Hill, Collingswood, Haddon, Lawnside and Oaklyn.

Fourteenth. That portion of the county of Hudson embracing Bayonne, Guttenberg, Hoboken, Jersey City, North Bergen, Secaucus, Union City, Weehawken and West New York and that portion of the county of Bergen embracing Little Ferry and Ridgefield.

2. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 562

AN ACT to amend the "New Jersey Automobile Reparation Reform Act," approved June 20, 1972 (P. L. 1972, c. 70).

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

1. Section 4 of P. L. 1972, c. 70 (C. 39:6A–4) is amended to read as follows:

C. 39:6A-4 Personal injury protection coverage, regardless of fault.

4. Personal injury protection coverage, regardless of fault.

Every automobile liability insurance policy insuring an automobile as defined in this act against loss resulting from liability imposed by law for bodily injury, death and property damage sustained by any person arising out of ownership, operation, maintenance or use of an automobile shall provide additional coverage, as defined hereinbelow, under provisions approved by the Commissioner of Insurance, for the payment of benefits without regard to negligence, liability or fault of any kind, to the named insured and members of his family residing in his household who sustained bodily injury as a result of an accident involving an automobile, to other persons sustaining bodily injury while occupying the automobile of the named insured or while using such automobile with the permission of the named insured and to pedestrians, sustaining bodily injury caused by the named insured's automobile or struck by an object propelled by or from such automobile. "Additional coverage" means and includes:

a. Medical expense benefits. Payment of all reasonable medical expenses incurred as a result of personal injury sustained in an automobile accident. In the event of death, payment shall be made

to the estate of the decedent. In the event benefits paid by an insurer pursuant to this subsection are in excess of $75,000.00 on account of personal injury to any one person in any one accident, such excess shall be paid by the insurer in consultation with the Unsatisfied Claim and Judgment Fund Board and shall be reimbursable to the insurer from the Unsatisfied Claim and Judgment Fund pursuant to section 2 of this act.

b. Income continuation benefits. The payment of the loss of income of an income producer as a result of bodily injury disability, subject to a maximum weekly payment of $100.00. Such sum shall be payable during the life of the injured person and shall be subject to an amount or limit of $5,200.00, on account of injury to any one person, in any one accident.

c. Essential services benefits. Payment of essential services benefits to an injured person shall be made in reimbursement of necessary and reasonable expenses incurred for such substitute essential services ordinarily performed by the injured person for himself, his family and members of the family residing in the household, subject to an amount or limit of $12.00 per day. Such benefits shall be payable during the life of the injured person and shall be subject to an amount or limit of $4,380.00, on account of injury to any one person in any one accident.

d. Survivor benefits. In the event of the death of an income producer as a result of injuries sustained in an accident entitling such person to benefits under section 4 of this act, the maximum amount of benefits which could have been paid to the income producer, but for his death, under section 4b. shall be paid to the surviving spouse, or in the event there is no surviving spouse, then to the surviving children, and in the event there are no surviving spouse or surviving children, then to the estate of the income producer.

In the event of the death of one performing essential services as a result of injuries sustained in an accident entitling such person to benefits under section 4c. of this act, the maximum amount of benefits which could have been paid such person, under section 4c., shall be paid to the person incurring the expense of providing such essential services.

e. Funeral expenses benefits. All reasonable funeral, burial and cremation expenses, subject to a maximum benefit of $1,000.00, on account of the death to any one person in any one accident shall be payable to decedent's estate.

Benefits payable under this section shall not be assignable or subject to levy, execution, attachment or other process for satisfaction of debts.

2. This act shall take effect immediately.

Approved January 18, 1982.

CHAPTER 563

AN ACT to amend the title of "An act appropriating $4,000,000.00 from the Beaches and Harbor Fund for State matching grants to local governments to research, plan, acquire, develop, construct and maintain beach restoration, maintenance and protection facilities, projects and programs; directing the Department of Environmental Protection to prepare a comprehensive beach protection plan and to research a funding formula for such facilities and to report to the Legislature on such funding formula; and providing for possible reimbursement to certain local governments based on such formula," approved November 24, 1978 (P. L. 1978, c. 157) so that the same shall read "An act concerning State grants to local governments to research, plan, acquire, develop, construct and maintain beach restoration, maintenance and protection facilities, projects and programs; directing the Department of Environmental Protection to prepare a comprehensive beach protection plan; and allocating $20,000,000.00, and appropriating $4,000,000.00, from the Beaches and Harbor Fund"; to amend and supplement the body of said act; and repealing sections 6, 7 and 8 thereof.

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

1. The title of P. L. 1978, c. 157 is amended to read as follows:

AN ACT concerning State grants to local governments to research, plan, acquire, develop, construct and maintain beach restoration, maintenance and protection facilities, projects and programs; directing the Department of Environmental Protection to pre-

pare a comprehensive beach protection plan; and allocating $20,000,000.00, and appropriating $4,000,000.00, from the Beaches and Harbor Fund.

2. Section 3 of P. L. 1978, c. 157 is amended to read as follows:

3. There is hereby appropriated to the State Department of Environmental Protection from the Beaches and Harbor Fund created pursuant to the "Beaches and Harbors Bond Act of 1977" (P. L. 1977, c. 208) the sum of $4,000,000.00 for the purpose of State grants to local governments for researching, planning, acquiring, developing, constructing and maintaining beach restoration, maintenance and protection facilities, projects and programs including administrative costs and for the purpose of preparing the comprehensive beach protection plan required herein. State grants to local governments shall provide 75% of the costs with 25% to be provided by grantee local governments.

3. (New section) The Department of Environmental Protection shall pay to any local government which has received a State beach restoration, maintenance or protection grant prior to the effective date of this amendatory and supplementary act such additional sum as may be necessary in order to conform with the provisions of section 2 hereof.

Repealer.

4. Sections 6, 7 and 8 of P. L. 1978, c. 157 are repealed

5. This act shall take effect immediately.

Approved January 18, 1982.

CHAPTER 564

AN ACT concerning the membership of county library commissions, and amending R. S. 40:33–7.

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

1. R. S. 40:33–7 is amended to read as follows:

County library commissions.

40:33–7. a. Should the governing body not enter into the contract provided for in section 40:33–6 of this Title, it shall within

60 days after this article becomes operative, appoint a commission to be known as "the county library commission." The commission shall consist of five members. On the first commission one member shall be appointed for 1 year; one for 2 years; one for 3 years; one for 4 years and one for 5 years, and thereafter all appointments shall be for terms of 5 years, except in the case of appointments to fill vacancies occurring other than by expiration of term, which vacancies shall be filled in the same manner as appointments are made, but for the unexpired terms only. The county library commission shall serve without compensation.

b. In addition to the members appointed pursuant to subsection a. above, the governing body may appoint two additional members for terms of 4 and 5 years respectively. Thereafter all future appointments shall be for terms of 5 years, except for vacancies which shall be filled for the unexpired terms only.

2. This act shall take effect immediately.

Approved January 18, 1982.

CHAPTER 565

A SUPPLEMENT to "An act to provide for the creation, setting apart, maintenance and administration of a city employees' retirement system in cities of the first class having, at the time of the enactment of this act, a population in excess of 400,000 inhabitants; and merging and superseding the provisions of pension funds established pursuant to article 2 of chapter 13, chapters 18 and 19, of Title 43 of the Revised Statutes, in said cities," approved November 22, 1954 (P. L. 1954, c. 218; C. 43:13–22.3 et seq.).

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

C. 43:13-22.49a Adoption of ordinance.

1. Notwithstanding the provisions of P. L. 1954, c. 218 (C. 43:13–22.3 et seq.) or any other law, the governing body of a city, as defined by P. L. 1954, c. 218 (C. 43:13–22.3 et seq.), may adopt an ordinance which makes elected officials of such city eligible for the special retirement benefits provided by this act. Upon the adop-

tion of such an ordinance, all elected officials of the city shall become members of the retirement system of the city.

C. 43:13-22.49b 5% contribution.

2. A separate account shall be established in the pension fund created pursuant to section 27 of P. L. 1954, c. 218 (C. 43:13–22.29) for each elected official of the city, and all contributions based on service as an elected official of the city shall be credited to this account, as distinguished from any other account that the elected official may have as a result of other public service covered by the retirement system. The elected official shall contribute at a rate equal to 5% of his official salary, which contribution shall be deducted from his salary at the time or times it is paid, and which shall be exclusive of any other contribution required of the member for Social Security, contributory death benefits or deductions for any other purpose.

An elected official of the city who is enrolled on the basis of other public service before, during, or after his service as such an elected official shall contribute for such other service at the rate of contribution required of other members of the system.

C. 43:13-22.49c Purchase of credit for previous service.

3. Notwithstanding any other law regarding the purchase of service credit, an elected official of the city may purchase credit for all previous service as such an elected official by paying into the pension fund 5% of the salaries he received in such prior periods, in which event he shall agree to make such purchase within 1 year after the effective date of this supplementary act or during the first year of service as an elected official in the city. If the request for the purchase is received beyond the 1-year period, interest shall be added to the amount of the arrearage obligation at an interest rate to be determined by the pension commission after consultation with the actuary. The purchase of service credit may be by lump sum or in regular installments over a maximum period of 10 years.

In the case of any elected official of the city coming under the provisions of this section, full pension credit for the period of service for which arrears are being paid by the member shall be given upon the payment of at least one-half of the total arrearage obligation and the completion of 1 year of service as an elected official of the city and the making of such arrears payments, except that in the case of retirement pursuant to section 17 of P. L. 1954, c. 218 (C. 43:13–22.19) and section 6 of P. L. 1972, c. 122 (C. 43:13–22.19a) and to this supplementary act, the total membership

credit for such service shall be in direct proportion as the amount paid bears to the total amount of the arrearage obligation of the member.

No member shall receive credit for any service as an elected official of the city for which he has not contributed as required by this section.

C. 43:13-22.49d Remission of public employees' deductions.

4. In the case of an elected official who is a member of the Public Employees' Retirement System pursuant to section 75 of P. L. 1954, c. 84 (C. 43:15A–75), all accumulated deductions standing to the credit of such an official shall be remitted to the retirement system of the city within 120 days following the receipt of the ordinance as prescribed in section 10 of this supplementary act. Such deductions shall be adjusted for all years prior to the adoption of the ordinance to determine either an overpayment or shortage in the separate account on the basis of the percentage of salary provided for in section 3 of this supplementary act. Overpayments shall be refunded, and shortages shall be established as arrearage obligations to be satisfied in the same manner as any other arrearage obligation established pursuant to section 3.

Within 180 days following the receipt of the ordinance, the pro rata part of the reserve fund constituting the employer's obligations under P. L. 1954, c. 84 (C. 43:15A–1 et seq.) applicable to the elected official's account shall be remitted to the retirement system of the city.

Interest at the rate of 6% per annum shall be added to the employer's obligation if such moneys are not remitted within the periods prescribed by this section.

C. 43:13-22.49e Pension upon retirement.

5. a. A member who shall have attained 60 years, upon retirement from service as an elected official of the city, shall receive a pension equal to 3% of final compensation as an elected official of the city for each year of creditable service as such an official. In no event shall the pension payable under this section exceed two-thirds of final compensation.

b. The death benefit provided in section 18 of P. L. 1954, c. 218 (C. 43:13–22.20) shall apply in the case of any member retiring under the provisions of this section.

c. No member shall be eligible to retire pursuant to this section until he has terminated all public service covered by the retirement system.

C. 43:13-22.49f Termination of service before age 60.

6. A member who shall have served as an elected official of the city for at least 10 years and having made contributions therefor to the retirement system, and who ceases to be an elected official of the city for any reason other than death before reaching age 60, may, upon termination of such service as such an elected official and all other public service covered by the retirement system, elect to receive, in lieu of the payment provided in section 29 of P. L. 1954, c. 218 (C. 43:13–22.31):

a. The payments provided for in section 6 of P. L. 1972, c. 122 (C. 43:13–22.19a) if he so qualifies under the section; or

b. The payments provided for in section 17 of P. L. 1954, c. 218 (C. 43:13–22.19) if he so qualifies under the section; or

c. A deferred pension, beginning on the first day of the month following his attainment of age 60 and the filing of an application therefor, which shall be equal to 3% of final compensation as an elected official for each year of creditable service as such an elected official.

The benefit payable pursuant to this section shall be subject to the maximum pension provisions of section 5 of this supplementary act.

C. 43:13-22.49g Ineligibility for benefits.

7. A member making contributions pursuant to the provisions of this supplementary act who is not eligible for any benefits hereunder may, upon termination of such service as an elected official of the city, elect to receive a refund of his contributions in accordance with the provisions of section 29 of P. L. 1954, c. 218 (C. 43:13–22.31); but if an elected official of the city is a member of the retirement system on the basis of other public service, no application for a refund of contributions may be approved until he has terminated all service covered by the system and makes application for a refund of all contributions made to the retirement system. If all or any part of a member's service as an elected official of the city is applied toward qualifying for benefits under any other provisions of P. L. 1954, c. 218 (C. 43:13–22.3 et seq.), no return of contributions made on the basis of service as an elected official of the city shall be approved; in that event, service established as an elected official of the city and salaries pertaining thereto shall be credited in the same manner as all other service and salaries covered by the retirement system.

b. At the time of retirement, a member enrolled on the basis of service as an elected official of the city as well as other public

service shall be permitted to elect the largest possible pension if he qualifies for benefits under both the provisions of this supplementary act and P. L. 1954, c. 218 (C. 43:13–22.3 et seq.). Upon the election of the retirement benefits provided by service as an elected official of the city by this supplementary act, an application for a refund of contributions made on the basis of such other public service may be approved.

c. An elected official of the city electing to receive a pension under any other law of the State shall be ineligible to receive a pension for the same service under this supplementary act or P. L. 1954, c. 218 (C. 43:13–22.3 et seq.).

C. 43:13-22.49h Repeal of ordinance.

8. a. If the governing body of the city later repeals the ordinance which it enacted pursuant to section 1 of this supplementary act, a member enrolled on the basis of service as an elected official shall, upon filing an application therefor, receive a return of his contributions as an elected official pursuant to section 29 of P. L. 1954, c. 218 (C. 43:13–22.31) unless the member continues in the retirement system pursuant to subsection b. of this section or has retired pursuant to this act.

b. Any member who shall have served as an elected official of the city for at least 10 years and contributed to the retirement system, or who shall have attained the retirement age of 60, may continue to avail himself of the special benefits provided by this supplementary act, except that only creditable service rendered as an elected official up to the time of the repeal of the ordinance shall be included for the purposes of computing the special benefits.

c. In the case of an elected official of the city who retires pursuant to the provisions of this act and is receiving or is eligible to receive the special benefits provided by this act, the repeal of the ordinance by the governing body shall not affect the benefits which such member is receiving or is eligible to receive, nor the obligation of the city to fund those benefits.

C. 43:13-22.49i Membership in public employees' system.

9. Upon the repeal of the ordinance by the governing body of the city, any elected official of the city who receives a refund of his contributions to the retirement system may become a member of the Public Employees' Retirement System pursuant to section 75 of P. L. 1954, c. 84 (C. 43:15A–75) and may purchase credit for previous service as an elected official of the city pursuant to the provisions of subsection b. of section 8 of P. L. 1954, c. 84 (C. 43:15A–8b.).

C. 43:13-22.49j Copy of ordinance to Division of Pensions.

10. Upon the adoption of an ordinance pursuant to section 1 of this supplementary act or the repeal of such an ordinance, the governing body of the city shall make available to the Division of Pensions a copy of the ordinance or the repeal, as the case may be.

11. This act shall take effect immediately.

Approved January 12, 1982.

CHAPTER 566

AN ACT appropriating $10,000,000.00 from the Natural Resources Fund for the purpose of restoring the State shoreline of the New York Harbor.

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

1. There is hereby appropriated to the Department of Environmental Protection from the Natural Resources Fund created pursuant to the "Natural Resources Bond Act of 1980" (P. L. 1980, c. 70) the sum of $10,000,000.00 for the purpose of removing piers, bulkheads, sunken vessels and other derelict structures adjacent to the waterfront that contribute to the source of drift along the New Jersey shoreline of the New York Harbor, which sum shall include administrative costs.

2. Such sum shall be made available by the sale of bonds authorized by the "Natural Resources Bond Act of 1980" (P. L. 1980, c. 70).

3. The expenditure of the sum appropriated by this act is subject to the provisions and conditions of P. L. 1980, c. 70.

4. This act shall take effect immediately, but shall remain inoperative unless and until approval by the voters of the "Natural Resources Bond Act of 1980" (P. L. 1980, c. 70).

Approved January 12, 1982.

CHAPTER 567

AN ACT to amend the "Mortgage Guaranty Insurance Act," approved August 12, 1968 (P. L. 1968, c. 248).

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

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

C. 17:46A-2 Definitions.

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

(a) "Mortgage guaranty insurance" means (1) insurance against financial loss by reason of nonpayment of principal, interest and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a lien or charge on real estate, provided the improvement on such real estate is a residential building or a condominium unit or buildings designed for occupancy by not more than four families;

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

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

(b) "Authorized real estate security" means a note, bond or other evidence of indebtedness not exceeding 95% of the fair market value of the real estate, secured by a mortgage, deed of trust, or other instrument constituting a first lien or charge on real estate; provided:

(1) The real estate loan secured in such manner is one which a bank, savings and loan association, or an insurance company, which

is supervised and regulated by a department of this State or an agency of the Federal Government, is authorized to make.

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

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

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

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

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

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

2. Section 4 of P. L. 1968, c. 248 (C. 17:46A–4) is amended to read as follows:

C. 17:46A-4 Limitations and restrictions for transacting business.

4. Limitations and restrictions for transacting business.

(a) Mortgage guaranty insurance may be transacted in this State only by a stock insurance company holding a certificate of authority for the transaction of such insurance, and shall be written only to insure loans secured by authorized real estate securities as defined in section 2 of this act.

(b) A mortgage guaranty insurance company shall not insure loans secured by properties in a single housing tract or a contiguous tract in excess of 10% of the insurance company's policyholders' surplus. In determining the amount of such risk, applicable reinsurance in any assuming insurance company authorized to transact mortgage guaranty insurance in this State shall be deducted from the total direct risk insured. "Contiguous," for the purposes of this section, means not separated by more than ½ mile.

(c) A mortgage guaranty insurance company shall limit its coverage to a maximum of 25% of the outstanding balance of the

loan insured, but the liability of the insurance company shall in no event exceed the actual loss. In lieu of paying the percentage of the loan insured as specified in the policy, a mortgage guaranty insurance company may elect to pay the entire indebtedness to the insured and acquire title to the authorized real estate security.

(d) (Deleted by amendment; P. L. 1975, c. 122, s. 2.)

(e) (1) A mortgage guaranty insurance company which anywhere transacts any class of insurance other than mortgage guaranty insurance is not eligible for the issuance of a certificate of authority to transact mortgage guaranty insurance in this State nor for the renewal thereof.

(2) A mortgage guaranty insurance company which anywhere transacts the classes of insurance defined in paragraph (a) (2) or (a) (3) of section 2 of this act is not eligible for a certificate of authority to transact in this State the class of mortgage guaranty insurance defined in paragraph (a) (1) of section 2 of this act.

(f) Nothing in this act shall be construed as limiting the right of any mortgage guaranty insurance company to impose reasonable requirements upon the lender with regard to the terms of any note or bond or other evidence of indebtedness secured by a mortgage or deed of trust, such as requiring a stipulated down payment by the borrower.

3. This act shall take effect immediately.

Approved January 18, 1982.

CHAPTER 568

AN ACT concerning filing of copies of petitions of appeal to county board of taxation and filing of copies of complaint to the tax court and amending R. S. 54:2–40 and R. S. 54:3–21.

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

1. R. S. 54:2–40 is amended to read as follows:

Service of copies of complaints; copies of judgments of tax court.

54:2–40. A copy of the complaint shall be served by the plaintiff upon the county board of taxation whose judgment is the subject

of such review, or its secretary, and upon the assessor and the clerk of the taxing district who shall forthwith notify the collector, and such other municipal officials as the governing body shall direct of the content thereof. Service of such copies shall be evidenced by affidavit upon the original complaint filed with the tax court or service thereon acknowledged. A copy of each judgment of the tax court whether of affirmance, reversal, modification or otherwise shall be sent to the taxpayer and, at the same time, to the assessor and the clerk of the taxing district who shall forthwith notify the collector and the county tax administrator of the county in which said taxing district is situated. The tax court shall also give prompt notice to the taxpayer and, at the same time, to the assessor and the clerk of the taxing district who shall forthwith notify the collector and the county tax administrator of the county in which the taxing district is situated, of the withdrawal or dismissal of complaints filed with the tax court.

2. R. S. 54:3–21 is amended to read as follows:

Petition of appeal.

54:3–21. A taxpayer feeling aggrieved by the assessed valuation of his property, or feeling that he is 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 August 15 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 August 15 file a petition of appeal directly with the tax court, if the assessed valuation of the property subject to the appeal exceeds $750,000.00, and any party to an appeal pending on July 1, 1979 before a county board of taxation in which the assessed valuation of the property involved exceeds $750,000.00 shall be entitled, upon application to the county board, to have the appeal transferred to the tax court by the county board. A copy thereof shall also be filed with the assessor of the taxing district and with the clerk of the taxing district who shall forthwith notify the collector and such other municipal officials as the governing body shall direct of the content thereof. The petition shall set forth the cause of complaint, the nature and location of the assessed property and the relief sought. The petition shall be signed and sworn to by the petitioner or his agent, and shall be in such form and contain such further information as may be from

time to time prescribed by rule of the board, for the better understanding and determination of the appeal. The tax court may, on or after April 1 next following the filing of the petition of appeal proceed to hear and determine all issues raised therein.

3. This act shall take effect immediately.

Approved January 18, 1982.

CHAPTER 569

AN ACT defining the criteria for minimum sentences and amending N. J. S. 2C:43–6.

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

1. N. J. S. 2C:43–6 is amended to read as follows:

Sentence of imprisonment for crime; ordinary terms; mandatory terms.

2C:43–6. Sentence of Imprisonment for Crime; Ordinary Terms; Mandatory Terms.

a. Except as otherwise provided, a person who has been convicted of a crime may be sentenced to imprisonment, as follows:

(1) In the case of a crime of the first degree, for a specific term of years which shall be fixed by the court and shall be between 10 years and 20 years;

(2) In the case of a crime of the second degree, for a specific term of years which shall be fixed by the court and shall be between 5 years and 10 years;

(3) In the case of a crime of the third degree, for a specific term of years which shall be fixed by the court and shall be between 3 years and 5 years;

(4) In the case of a crime of the fourth degree, for a specific term which shall be fixed by the court and shall not exceed 18 months.

b. As part of a sentence for any crime, where the court is clearly convinced that the aggravating factors substantially outweigh the mitigating factors, as set forth in subsections a. and b. of 2C:44–1, the court may fix a minimum term not to exceed one-half of the term set pursuant to subsection a., or one-half of the term set pursuant to a maximum period of incarceration for a crime set

forth in any statute other than this code, during which the defendant shall not be eligible for parole; provided that no defendant shall be eligible for parole at a date earlier than otherwise provided by the law governing parole.

c. A person who has been convicted under 2C:39–4a. or of a crime under any of the following sections: 2C:11–3, 2C:11–4, 2C:12–1b., 2C:13–1, 2C:14–2a., 2C:14–3a., 2C:15–1, 2C:18–2, 2C:29–5, who, while in the course of committing or attempting to commit the crime, including the immediate flight therefrom, used or was in possession of a firearm as defined in 2C:39–1f., shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at, or between, one-third and one-half of the sentence imposed by the court or 3 years, whichever is greater, or 18 months in the case of a fourth degree crime, during which the defendant shall be ineligible for parole. The minimum terms established by this section shall not prevent the court from imposing presumptive terms of imprisonment pursuant to 2C:44-1f.(1) except in cases of crimes of the fourth degree. A person who has been convicted of an offense enumerated by this subsection and who used or possessed a firearm during its commission, attempted commission or flight therefrom and who has been previously convicted of an offense involving the use or possession of a firearm as defined in 2C:44–3d., shall be sentenced by the court to an extended term as authorized by 2C:43–7c., notwithstanding that extended terms are ordinarily discretionary with the court.

d. The court shall not impose a mandatory sentence pursuant to subsection c. of this section, 2C:43–7c. or 2C:44–3d., unless the ground therefor has been established at a hearing. At the hearing, which may occur at the time of sentencing, the prosecutor shall establish by a preponderance of the evidence that the weapon used or possessed was a firearm. In making its finding, the court shall take judicial notice of any evidence, testimony or information adduced at the trial, plea hearing, or other court proceedings and shall also consider the presentence report and any other relevant information.

2. This act shall take effect immediately.

Approved January 18, 1982.

CHAPTER 570

AN ACT concerning municipal appropriations for fire protection in certain cases and amending N. J. S. 40A:14–35.

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

1. N. J. S. 40A:14–35 is amended to read as follows:

Aid to fire department in adjoining municipality.

40A:14–35. The governing body of a municipality may appropriate such sums of money as shall be deemed necessary to aid a municipal paid or part-paid fire department and force in an adjoining municipality, or annually appropriate a sum of money not exceeding $25,000.00 to aid a board of fire commissioners in a fire district or an independent or a volunteer fire company in an adjoining municipality if such department and force, or fire district or company own and maintain their own apparatus and equipment and habitually respond to fires in the first named municipality.

In any instance wherein any of the members of such a fire department and force, fire district or fire company are either answering or returning from a call for the purpose of aiding an adjoining municipality they shall not be liable for personal injuries or property damage caused by them in rendering such aid.

2. This act shall take effect immediately.

Approved January 18, 1982.

CHAPTER 571

AN ACT concerning the taking of woodcock, and amending R. S. 23:3–23 and R. S. 23:3–25.

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

1. R. S. 23:3–23 is amended to read as follows:

Special woodcock hunting stamp.

23:3–23. No person shall at any time hunt for, kill or pursue with a gun or any firearm of any kind or character, any woodcock,

unless he has first procured, as hereinafter provided, a special stamp therefor, in addition to the license required by article 1 of this chapter (23:3–1 et seq.), and unless at the time of hunting he has the license and stamp on his person and exhibits the same for inspection to any conservation officer, deputy conservation officer, police officer or other person requesting to see them.

The stamp issued under sections 23:3–23 to 23:3–27 of this Title shall be designated as the "special woodcock hunting stamp," and shall authorize its holder to hunt woodcock at the time and in the manner provided by law. The stamp shall be invalid from the date of its issuance when issued to a person not entitled thereto hereunder.

2. R. S. 23:3–25 is amended to read as follows:

$2 fee.

23:3–25. The fee for this stamp shall be $2.00. The amounts remitted to the State Treasury for stamps issued under section 23:3–24 of this Title shall be placed to the credit of the "hunters' and anglers' license fund," mentioned in section 23:3–12 of this Title.

3. This act shall take effect January 1, 1982.

Approved February 26, 1982.

JOINT RESOLUTIONS

Joint Resolutions

JOINT RESOLUTION No. 1

A JOINT RESOLUTION providing for the designation of a "Four Chaplains Sunday" in New Jersey by the Governor.

WHEREAS, On February 3, 1943, the *S.S. Dorchester* was attacked and sunk by enemy submarines in the North Atlantic, resulting in the loss of 700 men, among whom were four United States Army Chaplains whose faith, courage, devotion and selflessness in this action exemplified the most noble ideals of their calling and the most inspiring acts of brotherly love; and

WHEREAS, Known to millions as the Four Chaplains, Reverend George Fox, Protestant, of Vermont; Rabbi Alexander D. Goode, of Washington, D.C.; Father Johnny P. Washington, Catholic, of Newark, New Jersey; and Reverend Clark V. Poling, Protestant, of New York City, chose to remain with the sinking *Dorchester* after assisting in the evacuation of the vessel and giving their own life jackets to four young servicemen; and

WHEREAS, In commemoration of the sinking of the *Dorchester* and the self-sacrifice of Reverend Fox, Rabbi Goode, Father Washington and Reverend Poling, the Chapel of Four Chaplains, an interfaith memorial and sanctuary for brotherhood, was opened in 1951 at a site on the campus of Temple University, in Philadelphia, and will, therefore, celebrate its thirtieth anniversary in February of this year; and

WHEREAS, It is altogether fitting and proper for the State of New Jersey to take the occasion of the thirtieth anniversary of the opening of the Chapel of Four Chaplains to officially recognize the nobility of the actions of Reverend Fox, Rabbi Goode, Father Washington and Reverend Poling on that dark, long distant night of February 3, 1943, and to encourage appropriate public observance of a special day designated to honor their humanity; now, therefore,

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

1. That the Governor designate the first Sunday in February of each year as "Four Chaplains' Sunday," a day on which citizens can reflect upon the ideals of brotherly love and faith in God.

2. That the Governor is hereby respectfully requested to issue a proclamation making a declaration to that effect and urging the appropriate observance thereof.

3. That duly authenticated copies of this resolution be transmitted to the American Legion and American Legion Auxiliary, Department of New Jersey.

4. This joint resolution shall take effect immediately.

Approved January 30, 1981.

JOINT RESOLUTION No. 2

A JOINT RESOLUTION designating the week of February 1 to February 7, 1981 as Catholic Schools Week.

WHEREAS, The Catholic schools of the State of New Jersey will be celebrating Catholic Schools Week in the State during the period February 1 to February 7, 1981; and

WHEREAS, The Catholic schools in the State of New Jersey have had over a century of service educating millions of Jerseyans in preparation for their responsibilities as citizens of this State and as members of society; and

WHEREAS, Parents who send their children to nonpublic schools assist the State in reducing the rising costs of public education; and

WHEREAS, The 577 Catholic schools in the State currently provide over 200,000 students with a well-rounded educational program in moral values and community services; and

WHEREAS, The welfare of the State requires that this and future generations of school-age children be assured ample opportunity

to develop to the fullest their intellectual capacities; and that in the exercise of their constitutional rights to choose nonpublic education for their children, parents who support such education make a major contribution to the public welfare; now, therefore,

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

1. That the week of February 1 to February 7, 1981 is designated as Catholic Schools Week in the State of New Jersey to be recognized as such by State and municipal agencies throughout New Jersey.

2. That the Governor and the Legislature of the State of New Jersey hereby call on all of the citizens of the State to recognize the contribution Catholic schools make to education in the State and commend their faculties, students and parents for their dedication and devotion to the quality education furnished the future citizens of this State.

3. This joint resolution shall take effect immediately.

Approved February 3, 1981.

JOINT RESOLUTION No. 3

A JOINT RESOLUTION designating the week of February 22, through February 28, 1981, as State Autistic Week.

WHEREAS, The National Society for Autistic Children celebrated National Autistic Week throughout the United States during the period December 1 to December 6, 1980; and

WHEREAS, The National Society for Autistic Children has addressed the problems of autistic children for almost 20 years, and presently serves over 5,000 autistic persons of this State; and

WHEREAS, The New Jersey Society for Autistic Children and Adults, an affiliate of the National Society, provides support and assistance to New Jersey's autistic children and adults and their families as well as to Eden Institute and Princeton Child Development Institute in Princeton, the Search Day Program in Ocean

township and the Douglass Developmental Disability Center in New Brunswick; and

WHEREAS, These agencies, established by concerned parents and professionals, provide a meaningful learning and living experience for individuals; and

WHEREAS, The New Jersey Council of Organizations and Schools for Autistic Children and Adults supports the efforts of those working on behalf of the autistic population; and

WHEREAS, Research has now established that autism is a disability that has a distinct and separate set of physiologically related characteristics and symptoms, for which services should be geared carefully to the distinctly individual needs of these children and adults; and

WHEREAS, The welfare of the State requires that this and future generations of autistic children and adults be assured ample residential, educational and vocational opportunities to develop to the fullest of their capabilities; and

WHEREAS, It is fitting that this State do everything possible to assist the charitable activities of the National Society for Autistic Children, by drawing attention to the humane nature and worthiness of their activities; now, therefore,

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

1. That the week of February 22 through February 28, 1981, is formally designated as "State Autistic Week" in the State of New Jersey.

2. That the Governor, by appropriate proclamation, so proclaim the week of February 22 through February 28, 1981, as "State Autistic Week."

3. This joint resolution shall take effect immediately.

Approved February 18, 1981.

JOINT RESOLUTION No. 4

A JOINT RESOLUTION recognizing the establishment of the National Guard Militia Museum of New Jersey and requesting the Secretary of State to authorize the Museum to reproduce the Great Seal of the State of New Jersey.

WHEREAS, The National Guard Militia Museum of New Jersey has been established at the New Jersey Military Academy in Sea Girt; and

WHEREAS, The Museum will be funded by the Federal Government, National Guard Association contributions, outside contributions, and sustaining memberships; and

WHEREAS, To commemorate its founding, the Museum plans to offer its charter members a medal bearing the Great Seal of the State of New Jersey; now, therefore,

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

1. That the State of New Jersey recognizes the founding of the National Guard Militia Museum of New Jersey and, to aid in the Museum's success, pledges the cooperation and support of all State agencies and departments, especially the New Jersey Historical Commission; and

2. That the Secretary of State authorize the Museum to reproduce, according to standards established by him, the Great Seal of the State of New Jersey on a commemorative medal.

3. This joint resolution shall take effect immediately.

Approved February 25, 1981.

JOINT RESOLUTION No. 5

A JOINT RESOLUTION designating the week of March 8 through 14, 1981 as "Women's History Week."

WHEREAS, The significant and diverse roles of women in the historical development of the State of New Jersey and the United States of America have not been accorded a recognition commensurate with their importance and value to society and in all too many instances have been ignored, dismissed or stereotyped; and

WHEREAS, The limited public awareness of and appreciation for the impact of women's historic heritage on the political, economic and cultural events which have shaped our destiny have denied for all citizens the opportunity to gain a more complete and faithful understanding of our historical development as well as a greater sense of pride in our individual and united achievements; and

WHEREAS, The purpose of Women's History Week, which is now recognized and observed in numerous states in conjunction with "International Women's Day" on March 8, is to celebrate the contributions of women in history, to direct public attention to the varied and vast scope of participation in the development of our society by those who constitute 50% of its population, and to encourage further study of women's activities and accomplishments; and

WHEREAS, It is altogether fitting and proper that this State join with others throughout this great Nation to promote public understanding of and pride in the significant individual and collective accomplishments of women and the value and importance of these contributions to the historical development of this State and Nation; now, therefore,

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

1. That the week of March 8 through 14, 1981 is designated as "Women's History Week" in the State of New Jersey in recognition of the significant and diverse contributions of women to the

development of both the State of New Jersey and the United States of America.

2. That the Governor and the Legislature call upon all citizens of the State, all educational institutions and all other public and private agencies and organizations to celebrate Women's History Week by appropriate observances.

3. This joint resolution shall take effect immediately.

Approved March 9, 1981.

JOINT RESOLUTION No. 6

A JOINT RESOLUTION designating the 7-day period of March 15 through March 21, 1981, as "Poison Prevention Week" in New Jersey and providing for a proclamation therefor by the Governor.

WHEREAS, The theme for the 1981 campaign of National Poison Prevention Week is "Children Act Fast . . . So Do Poisons"; and

WHEREAS, All citizens of this State should be made aware of the ever-present dangers posed by potentially poisoning household and industrial substances; and

WHEREAS, Children are too often permitted access to commonly used drugs, medicines, and toxic household products such as polishes, cleaners, lighter fluids, anti-freeze, and paint solvents; and

WHEREAS, The informational and educational achievements of the annual Poison Prevention Week programs have been instrumental in awakening individuals to the need for poison prevention; and

WHEREAS, Our State Health Department has been working with its local government counterparts and other Statewide organizations in programs to inform the people of the State about the hazards of accidental poisoning; now, therefore,

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

1. That the 7-day period of March 15 through March 21, 1981, is formally designated "Poison Prevention Week" in the State of New Jersey.

2. That the Governor, by appropriate proclamation, so proclaim the 7-day period of March 15 through March 21, 1981, as "Poison Prevention Week."

3. That the Governor call upon the appropriate agencies of State and local government and private organizations to continue their efforts to publicize and combat poisoning hazards and emphasize the need to use properly child-resistant packaging for medicines and potentially hazardous household products.

4. This joint resolution shall take effect immediately.

Approved March 23, 1981.

JOINT RESOLUTION No. 7

A JOINT RESOLUTION creating a commission to study governmental laws and regulations relating to fire safety standards.

WHEREAS, The issue of the adequacy of fire regulations and fire safety standards has been of continuing concern to the government of this State and to its people; and

WHEREAS, However, it has become of an even greater concern, tragically because of the recent fire disasters in Bradley Beach and Keansburg, New Jersey, Las Vegas, Nevada and Westchester county, New York; and

WHEREAS, All of these conflagrations have left in their wake the question of whether the loss of human life and property could have been prevented or lessened by the imposition of stricter or more comprehensive fire safety standards and regulations; and

WHEREAS, It is in the interest of the public health, safety and welfare for the State to coordinate a thorough examination of the fire safety laws and regulations presently being imposed by governmental entities and the enforcement of those laws and regulations; now, therefore,

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

1. There is created a commission to be comprised of 16 members appointed as follows:

a. Two from among the members of the Senate, by the President of the Senate, and shall not be of the same political party;

b. Two from among the members of the General Assembly, by the Speaker of the General Assembly, and shall not be of the same political party;

c. Eight citizens of the State, to be appointed jointly by the President of the Senate and Speaker of the General Assembly, including a representative of a volunteer fire organization, a fire safety code administration or enforcement agency, the fire insurance industry, the construction industry, a consumer agency, a local government construction code official, and the New Jersey State Fire Prevention Association and the New Jersey Paid Fire Chiefs Association, and no more than four of whom shall be of the same political party; and

d. Four citizens of the State, to be appointed by the Governor, and no more than two of whom shall be of the same political party.

2. The commission shall organize as soon as may be after the appointment of its members and shall select a chairman from among its members and a secretary who need not be a member of the commission.

3. It shall be the duty of the commission to conduct a thorough examination and study of existing fire safety standards and regulations imposed by governmental entities in this State. The commission shall determine whether these standards and regulations are adequate in terms of life safety; the deficiencies thereof and any ways in which they can be corrected; methods to improve the coordination of the promulgation and enforcement of these standards and regulations; and methods to reduce duplication and to supplement existing standards and regulations to make them more comprehensive and effective.

The commission shall make recommendations with respect to legislative and administrative changes necessary or desirable to accomplish its findings on the foregoing.

4. 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, board, bureau, commission or agency

as it may require and as may be available to it for these purposes, and to employ such stenographic and clerical assistants and incur such traveling and other miscellaneous expenses as it may deem necessary, in order to perform its duties, and as may be within the limits of funds appropriated or otherwise made available to it for these purposes.

5. The commission may meet and hold hearings at such place or places as it shall designate during the sessions or recesses of the Legislature and shall report its findings and recommendations to the Governor and the Legislature within 1 year of the effective date of this resolution, or as long as may be necessary to complete its work, but not to exceed 1 year and 6 months from the effective date of this resolution, accompanying the same with any legislative bills which it may desire to recommend for adoption by the Legislature.

6. This joint resolution shall take effect immediately and shall expire upon the submission by the commission of its report pursuant to section 5 hereof.

Approved March 27, 1981.

JOINT RESOLUTION No. 8

A JOINT RESOLUTION designating the Institute of Forensic Science located at the College of Medicine and Dentistry of New Jersey as the Edwin H. Albano Institute of Forensic Science.

WHEREAS, Dr. Edwin H. Albano is retiring at the age of 71 after having served as the State Medical Examiner from 1972 until the present with integrity, dedication and distinction, as well as having served as President of the State Board of Medical Examiners; and

WHEREAS, After graduating from medical school Dr. Albano decided on a career of service to the residents of this State; and

WHEREAS, A pathologist virtually from the time he graduated from medical school, Dr. Albano was strongly influenced by a revered mentor, the late Dr. Harrison S. Martland; and

WHEREAS, Through his commitment and determination to correct the critical flaws of an antiquated coroner system, Dr. Albano's efforts ultimately resulted in the creation of the Office of the State Medical Examiner; and

WHEREAS, Beyond Dr. Albano's professional eminence he has been a person of unfailing kindness and compassion as his availability as a friend and physician is legendary in Essex county; and

WHEREAS, Because his long and distinguished career in forensic medicine epitomizes selfless devotion to bettering the human condition it is fitting and proper that Dr. Edwin H. Albano's service to the citizens of this State be recognized; now, therefore,

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

1. That the Institute of Forensic Science located at the New Jersey College of Medicine and Dentistry be designated the Edwin H. Albano Institute of Forensic Science.

2. This joint resolution shall take effect immediately.

Approved May 20, 1981.

JOINT RESOLUTION No. 9

A JOINT RESOLUTION directing the New Jersey Department of Labor and Industry to study the need, feasibility and costs of establishing an occupational safety and health program for employees of the State of New Jersey, its political subdivisions and school districts.

WHEREAS, More than a decade since enactment of the Federal Occupational Safety and Health Act of 1970, employees of the State and its political subdivisions remain without the work place protections provided to private sector employees; and

WHEREAS, Improved work place conditions that reduce the incidence and severity of job related accidents or illnesses would provide appreciable benefits not only to public employees but

also, by contributing to a healthier and more productive work force, to public employers, and the State's taxpayers and economy; and

WHEREAS, Some 24 states have incorporated, by statute, State public employee safety plans in their private sector programs for the enforcement of Federal occupational and health standards; and

WHEREAS, A comprehensive State plan or program for public employment would allow interested political subdivisions of the State to better secure the safety and health of their employees; and

WHEREAS, In order to make an informed judgment on the most appropriate State plan for public employee occupational safety and health, the State Legislature requires additional information on the nature, incidence and severity of job related injuries and illnesses, and identification of alternative strategies with respect to, among other things, standard setting, inspection, training and information, and enforcement, and the respective costs and benefits of each strategy; now, therefore,

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

1. That the State Department of Labor and Industry is directed to study the nature, incidence and severity of work related injuries and illnesses of employees of the State, its political subdivisions and school districts and to identify alternative occupational safety and health planning strategies dealing therewith, and the respective costs and benefits of each.

2. That in conducting this study, the Department of Labor and Industry shall be encouraged to consult and coordinate its efforts with any other State department, agency or instrumentality, including any political subdivision of the State and with representatives of public employer and employee organizations. The Department of Labor and Industry shall issue a report and recommendations for legislative action to the Governor and the Legislature no later than 180 days following the filing of this resolution.

3. This joint resolution shall take effect immediately.

Approved May 28, 1981.

JOINT RESOLUTION No. 10

A JOINT RESOLUTION declaring the reenactment of the Battle of Monmouth an annual event in this State and designating the Company of Associated Militia of Monmouth County as the official State agent for planning and executing the reenactment and activities related thereto.

WHEREAS, The Company of Associated Militia of Monmouth County is planning to stage an encampment and reenactment for the 203rd Anniversary of the Battle of Monmouth on Saturday and Sunday, June 27 and 28, 1981, at Monmouth Battlefield State Park; and

WHEREAS, Fought on June 28, 1778, the Battle of Monmouth in the American Revolution was famous for the bravery and discipline of Washington's troops in successfully countering the repeated attacks of Sir Henry Clinton's British forces and for the legendary exploits of Mary Ludwig Hays, remembered in history as Molly Pitcher, who carried water for the American soldiers and served on the crew of her husband's artillery piece; and

WHEREAS, The educational and historic value to the citizens of this State of reconstructing this battle makes it fitting to establish the celebration of its anniversary as an annual event in the care of an experienced professional organization; now, therefore,

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

1. That the reenactment of the Battle of Monmouth be declared an annual event in the State of New Jersey.

2. That the Company of Associated Militia of Monmouth County be designated the official State agent for planning and executing the reenactment and activities related thereto.

3. This joint resolution shall take effect immediately.

Approved June 29, 1981.

New Jersey State Library

JOINT RESOLUTION No. 11

A JOINT RESOLUTION directing the New Jersey Department of Labor and Industry to prepare action plans for providing customized training for operating a VHF television station.

WHEREAS, New Jersey is one of only two states in the Nation that does not have a commercial VHF station assigned to it and, as a consequence, it has been denied the valuable benefits which derive from access to the most significant communications medium in American life; and

WHEREAS, Existing New Jersey UHF stations provide vital and necessary communications service for the citizens of this State, but cannot fully compensate for the lack of commercial VHF broadcasting; and

WHEREAS, New Jersey residents must rely primarily on New York City and Philadelphia commercial VHF stations for the bulk of their news and public affairs programming and, in general, these stations have not provided this State with adequate and proper service; and

WHEREAS, The Federal Communications Commission should remedy New Jersey's impoverished broadcast situation by allocating one or more commercial VHF television stations to New Jersey locations; and

WHEREAS, A study of the manpower and skills needed to operate a VHF station should be made to prepare plans for providing customized training for the employees of such a future station; now, therefore,

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

1. That the State Department of Labor and Industry is directed to prepare a study of the manpower and skills required to operate a VHF television station and to prepare action plans for providing customized training to such personnel.

2. That the Department of Labor and Industry shall issue a report to the Governor and to the Legislature no later than 6 months following approval of this resolution.

3. This joint resolution shall take effect immediately.

Approved July 27, 1981.

JOINT RESOLUTION NO. 12

A JOINT RESOLUTION designating the park to be built by the State of New Jersey above the Route 18 extension in the city of New Brunswick as the "Frank M. Deiner, Sr., Park."

WHEREAS, There is proposed to be built by the State of New Jersey a park above the Route 18 extension in the city of New Brunswick in an area between Rutgers University dormitories and the Raritan river; and

WHEREAS, It is customary and fitting that facilities of this nature be appropriately named so as to commemorate outstanding citizens who have made significant contributions to the life of the State; and

WHEREAS, The city of New Brunswick and the State of New Jersey lost one of its most distinguished citizens in 1971 with the death of Frank M. Deiner, Sr.; and

WHEREAS, Mr. Deiner was deemed by many people as being the Dean of Political Writers for many years, through his 57-year career as a newspaperman and basically political reporter, primarily for The Home News; and

WHEREAS, During his long and outstanding career as a news reporter, Mr. Deiner so ably covered the celebrated Halls-Mills murders and the Lindbergh kidnapping; now, therefore,

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

1. That the Commissioner of Transportation shall designate the park proposed to be built by the State of New Jersey above the Route 18 extension in the city of New Brunswick in an area between Rutgers University dormitories and the Raritan river as the "Frank M. Deiner, Sr., Park."

2. That the Commissioner of Transportation is authorized to erect appropriate signs bearing such name.

3. This joint resolution shall take effect immediately.

Approved August 3, 1981.

JOINT RESOLUTION NO. 13

A JOINT RESOLUTION designating the roadway to be built by the State of New Jersey as part of the Route 18 extension in the city of New Brunswick as the "Hugh N. Boyd Parkway."

WHEREAS, A roadway is to be built by the State of New Jersey as part of the Route 18 extension in the city of New Brunswick from the Albany Bridge to the John A. Lynch Bridge between the Raritan river and Rutgers University; and

WHEREAS, It is customary and fitting that a section of this major vehicular artery be appropriately named so as to commemorate an outstanding citizen who has made a significant contribution to the life of the State, the counties of Middlesex and Somerset and the city of New Brunswick; and

WHEREAS, This region, the city of New Brunswick and the State of New Jersey lost one of its most outstanding, dedicated and civic-minded citizens in 1979; and

WHEREAS, Mr. Hugh N. Boyd was the Publisher and President of the Home News Publishing Company and was considered a leading newspaper publisher under whose leadership the Home News achieved many outstanding commendations for its news coverage, investigative reporting and editorial excellence; and

WHEREAS, Mr. Boyd maintained an active interest in the professional societies of publishing, served as chairman of the Freedom of Information Center and many committees, and was an elected officer of the New Jersey Press Association, Middle Atlantic Newspaper Conference, the National Editorial Association, the International Press Institute, and the Associated Press; and

WHEREAS, Mr. Boyd's civic activities brought generosity and enlightment to the community and the State of New Jersey with service to the Chamber of Commerce, American Red Cross, St. Peter's and Middlesex Hospitals; with membership on the Rutgers University Bicentennial Commission and the New Jersey State Lottery Commission as a result of appointment by several Governors; and with membership on the New Jersey Council of Princeton University; now, therefore,

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

1. That the Commissioner of Transportation shall designate the highway to be built by the State of New Jersey as part of the Route 18 extension in the city of New Brunswick from the Albany Bridge to the John A. Lynch Bridge between the Raritan river and Rutgers University as the "Hugh N. Boyd Parkway."

2. That the Commissioner of Transportation is authorized to erect appropriate road markers bearing such name.

3. This joint resolution shall take effect immediately.

Approved August 3, 1981.

JOINT RESOLUTION NO. 14

A JOINT RESOLUTION designating the Bergen County Regional Day School for the Handicapped as the Norman A. Bleshman School.

WHEREAS, The Bergen County Regional Day School for the Handicapped is operated by the State for the purpose of providing education to multiply handicapped children; and

WHEREAS, The school is administered by the Special Services School District of Bergen County; and

WHEREAS, It is appropriate that this school should bear the name of an outstanding citizen of New Jersey who has dedicated his life to the needs of the handicapped; and

WHEREAS, Norman A. Bleshman served handicapped children as a member of the Bergenfield Board of Education, the Special Education Committee of the New Jersey School Boards Association, the Bergen County Special Education Committee, the Bergen County Board of Special Services and the Association for Children with Learning Disabilities; and

WHEREAS, Because of his commitment to the needs of multiply handicapped children, Mr. Bleshman organized the effort to gain approval for the Bergen County Regional Day School for the Handicapped; now, therefore,

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

1. That the Bergen County Regional Day School for the Handicapped be designated as the Norman A. Bleshman School.

2. This joint resolution shall take effect immediately.

Approved August 6, 1981.

JOINT RESOLUTION NO. 15

A JOINT RESOLUTION designating the Ninth Street causeway in Ocean City as the Howard S. Stainton Memorial Causeway.

WHEREAS, The Ninth Street causeway is a major causeway connecting Ocean City in Cape May county and Somers Point in Atlantic county; and

WHEREAS, This important causeway contributes in a meaningful way to the development of Atlantic and Cape May counties and is a gateway to the southern part of New Jersey; and

WHEREAS, It is appropriate that this causeway should bear the name of an outstanding citizen of New Jersey; and

WHEREAS, The late Howard S. Stainton was a resident of Ocean City who, during his life, made a valuable contribution to the State as a civic leader, merchant and philanthropist; now, therefore,

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

1. That the causeway commonly known as the Ninth Street causeway in Ocean City be designated as the Howard S. Stainton Memorial Causeway.

2. That the Commissioner of Transportation is authorized to erect appropriate route and directional signs bearing such name.

3. This joint resolution shall take effect immediately.

Approved August 7, 1981.

JOINT RESOLUTION NO. 16

A JOINT RESOLUTION designating the week of December 6, through December 12, 1981, as State Autistic Week.

WHEREAS, The National Society for Autistic Children is celebrating National Autistic Week throughout the United States during the period December 6 to December 12, 1981; and

WHEREAS, The National Society for Autistic Children has addressed the problems of autistic children for almost 20 years, and presently serves over 8,000 autistic persons of this State; and

WHEREAS, The New Jersey Society for Autistic Children and Adults, an affiliate of the National Society, provides support and assistance to New Jersey's autistic children and adults and their families as well as to Eden Institute and Princeton Child Development Institute in Princeton, the Search Day Program in Ocean township and the Douglass Developmental Disability Center in New Brunswick; and

WHEREAS, These agencies, established by concerned parents and professionals, provide a meaningful learning and living experience for individuals; and

WHEREAS, The New Jersey Council of Organizations and Schools for Autistic Children and Adults supports the efforts of those working on behalf of the autistic population; and

WHEREAS, Research has now established that autism is a disability that has a distinct and separate set of physiologically related characteristics and symptoms, for which services should be geared carefully to the distinctly individual needs of these children and adults; and

WHEREAS, The welfare of the State requires that this and future generations of autistic children and adults be assured ample residential, 12-month educational and vocational opportunities to develop to the fullest of their capabilities; and

WHEREAS, It is fitting that this State do everything possible to assist the charitable activities of the National Society for Autistic Children, by drawing attention to the humane nature and worthiness of their activities; now, therefore,

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

1. That the week of December 6 through December 12, 1981, is formally designated as "State Autistic Week" in the State of New Jersey.

2. That the Governor, by appropriate proclamation, so proclaim the week of December 6 through December 12, 1981, as "State Autistic Week."

3. This joint resolution shall take effect immediately.

Approved December 7, 1981.

JOINT RESOLUTION No. 17

A JOINT RESOLUTION declaring the week beginning December 10, 1981 as "Human Rights Week" in this State.

WHEREAS, On December 10, 1948, the General Assembly of the United Nations adopted the Universal Declaration of Human Rights; and

WHEREAS, The said Declaration is a significant milestone in the progress of humanity towards the goals of defining, establishing, and protecting the basic rights inherent in all human beings by virtue of their humanity; and

WHEREAS, The principles underlying the said Declaration have been more recently embodied in the Helsinki Agreement, entered into by 33 European nations, as well as the United States and Canada, which agreement has initiated a further phase in the struggle to establish basic human rights on a secure and universal basis; and

WHEREAS, It is fitting that the continuing, world-wide effort to secure human rights should be accorded formal and appropriate public recognition and observance; now, therefore,

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

1. That the week beginning December 10, 1981 is hereby declared and set aside as "Human Rights Week" in New Jersey; and all citizens and all public and private agencies and organizations in this State are urged to recognize the "Human Rights Week" by appropriate observances thereof.

2. This joint resolution shall take effect immediately.

Approved December 8, 1981.

JOINT RESOLUTION No. 18

A JOINT RESOLUTION directing the Department of Higher Education to conduct a study of the necessity for and the feasibility of establishing laryngectomee speech rehabilitation courses in New Jersey State colleges and universities.

WHEREAS, The number of laryngectomees in New Jersey increases by approximately 250 per year; and

WHEREAS, There is a serious shortage of speech pathologists in this State trained in laryngectomee speech rehabilitation; and

WHEREAS, As a result of this shortage, laryngectomees are often forced to travel outside the State in search of speech rehabilitation or rely upon the services of nonprofessional untrained volunteers or go without needed services altogether; and

WHEREAS, Although there are State colleges and universities in New Jersey having speech pathology programs, they do not offer instruction in laryngectomee speech rehabilitation; now, therefore,

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

1. That the Department of Higher Education is directed to conduct a study of the necessity for and the feasibility of establishing laryngectomee speech rehabilitation courses in New Jersey State colleges and universities.

2. That the Department of Higher Education shall issue a report to the Governor and to the Legislature no later than June 30, 1981.

3. This joint resolution shall take effect immediately.

Approved December 28, 1981.

JOINT RESOLUTION No. 19

A JOINT RESOLUTION designating the State bridge on Route 46 over the Hackensack river which connects Ridgefield Park and Little Ferry in the county of Bergen as the "Vietnam Veterans Memorial Bridge."

WHEREAS, Members of the Armed Forces of the United States serving in Southeast Asia during the Vietnam conflict performed their service valiantly under the most trying conditions; and

WHEREAS, The performance in battle of American soldiers, sailors, marines, and airmen in Vietnam was by all measures the equal of that of their counterparts in previous times of national crisis; and

WHEREAS, It is appropriate that the citizens of this State express gratitude to those who loyally and selflessly sacrificed a substantial portion of their lives in the name of the people of the United States to serve in a struggle far from home; and

WHEREAS, It is altogether fitting and proper that the dedication, faith, valor, and patriotism of the veterans of Vietnam be memorialized by the State of New Jersey; now, therefore,

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

1. That the Commissioner of Transportation shall designate the State bridge on Route 46 over the Hackensack river which connects Ridgefield Park and Little Ferry in the county of Bergen as the "Vietnam Veterans' Memorial Bridge."

2. That the Commissioner of Transportation is authorized to erect appropriate signs bearing such name.

3. This joint resolution shall take effect immediately.

Approved December 30, 1981.

JOINT RESOLUTION No. 20

A JOINT RESOLUTION designating the 7 day period of January 24 through January 30, 1982, as "Red Ribbon Week" in New Jersey in remembrance of the 2,528 persons missing in action from the Vietnam War and providing for a proclamation therefor by the Governor.

WHEREAS, The nation has never fully and properly expressed its gratitude to those 2,528 Americans who remain missing in action from the Vietnam War; and

WHEREAS, Eight years after the ending of hostilities between this nation and North Vietnam, it may well be that as many as 300 Americans remain in captivity in Southeast Asia; and

WHEREAS, The performance of America's missing soldiers, sailors, marines, airmen, and civilians in the Vietnam War was by all measures the equal of that of their counterparts in previous times of national crisis; and

WHEREAS, The citizens of this State are proud to commemorate the dedication, faith, valor, and patriotism of our Vietnam M.I.A.'s; now, therefore,

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

1. That the 7 day period of January 24 through January 30, 1982, be formally designated as "Red Ribbon Week" in New Jersey in remembrance of the 2,528 persons missing in action from the Vietnam War.

2. That the Governor, by appropriate proclamation, so proclaim the 7 day period of January 24 through January 30, 1982, as "Red Ribbon Week."

3. That the Governor call upon the citizens of this State and interested groups and organizations to observe that week with appropriate ceremonies and activities, and initiate and coordinate appropriate ceremonies and activities within the executive branch for the observance thereof.

4. This joint resolution shall take effect immediately.

Approved December 30, 1981.

AMENDMENTS ADOPTED IN 1981 TO THE 1947 CONSTITUTION

Amendments to the 1947 Constitution

ARTICLE IV, SECTION VII, PARAGRAPH 2

Amend Article IV, Section VII, paragraph 2, of the Constitution of the State of New Jersey to read as follows:

2. No gambling of any kind shall be authorized by the Legislature unless the specific kind, restrictions and control thereof have been heretofore submitted to, and authorized by a majority of the votes cast by, the people at a special election or shall hereafter be submitted to, and authorized by a majority of the votes cast thereon by, the legally qualified voters of the State voting at a general election, except that, without any such submission or authorization;

A. It shall be lawful for bona fide veterans, charitable, educational, religious or fraternal organizations, civic and service clubs, senior citizen associations or clubs, volunteer fire companies and first-aid or rescue squads to conduct, under such restrictions and control as shall from time to time be prescribed by the Legislature by law, games of chance of, and restricted to, the selling of rights to participate, the awarding of prizes, in the specific kind of game of chance sometimes known as bingo or lotto, played with cards bearing numbers or other designations, five or more in one line, the holder covering numbers as objects, similarly numbered, are drawn from a receptacle and the game being won by the person who first covers a previously designated arrangement of numbers on such a card, when the entire net proceeds of such games of chance are to be devoted to educational, charitable, patriotic, religious or public-spirited uses, and in the case of senior citizen associations or clubs to the support of such organizations, in any municipality, in which a majority of the qualified voters, voting thereon, at a general or special election as the submission thereof shall be prescribed by the Legislature by law, shall authorize the conduct of such games of chance therein.

B. It shall be lawful for the Legislature to authorize, by law, bona fide veterans, charitable, educational, religious or fraternal organizations, civic and service clubs, volunteer fire companies and

first-aid or rescue squads to conduct games of chance of, and restricted to, the selling of rights to participate, and the awarding of prizes, in the specific kinds of games of chance sometimes known as raffles, conducted by the drawing for prizes or by the allotment of prizes by chance, when the entire net proceeds of such games of chance are to be devoted to educational, charitable, patriotic, religious or public-spirited uses, in any municipality, in which such law shall be adopted by a majority of the qualified voters, voting thereon, at a general or special election as the submission thereof shall be prescribed by law and for the Legislature, from time to time, to restrict and control, by law, the conduct of such games of chance and

C. It shall be lawful for the Legislature to authorize the conduct of State lotteries restricted to the selling of rights to participate therein and the awarding of prizes by drawings when the entire net proceeds of any such lottery shall be for State institutions, State aid for education.

D. It shall be lawful for the Legislature to authorize by law the establishment and operation, under regulation and control by the State, of gambling houses or casinos within the boundaries, as heretofore established, of the city of Atlantic City, county of Atlantic, and to license and tax such operations and equipment used in connection therewith. Any law authorizing the establishment and operation of such gambling establishments shall provide for the State revenues derived therefrom to be applied solely for the purpose of providing funding for reductions in property taxes, rental, telephone, gas, electric, and municipal utilities charges of, eligible senior citizens and disabled residents of the State, and for additional or expanded health services or benefits or transportation services or benefits to eligible senior citizens and disabled residents, in accordance with such formulae as the Legislature shall by law provide. The type and number of such casinos or gambling houses and of the gambling games which may be conducted in any such establishment shall be determined by or pursuant to the terms of the law authorizing the establishment and operation thereof.

Adopted November 3, 1981.

Effective December 3, 1981.

ARTICLE V, SECTION I, PARAGRAPH 14

Amend Article V, Section I, paragraph 14, of the Constitution of the State of New Jersey to read as follows:

14. (a) When a bill has finally passed both houses, the house in which final action was taken to complete its passage shall cause it to be presented to the Governor before the close of the calendar day next following the date of the session at which such final action was taken.

(b) A passed bill presented to the Governor shall become law:

(1) if the Governor approves and signs it within the period allowed for his consideration; or,

(2) if the Governor does not return it to the house of origin, with a statement of his objections, before the expiration of the period allowed for his consideration; or,

(3) if, upon reconsideration of a bill objected to by the Governor, two-thirds of all the members of each house agree to pass the bill.

(c) The period allowed for the Governor's consideration of a passed bill shall be from the date of presentation until noon of the forty-fifth day next following or, if the house of origin be in temporary adjournment on that day, the first day subsequent upon which the house reconvenes; except that:

(1) if on the said forty-fifth day the Legislature is in adjournment sine die, any bill then pending the Governor's approval shall be returned, if he objects to it, at a special session held pursuant to subparagraph (d) of this paragraph;

(2) any bill passed between the forty-fifth day and the tenth day preceding the expiration of the second legislative year shall be returned by the Governor, if he objects to it, not later than noon of the day next preceding the expiration of the second legislative year;

(3) any bill passed within 10 days preceding the expiration of the second legislative year shall become law only if the Governor signs it prior to such expiration, or the Governor returns it to the House of origin, with a statement of his objections, and two-thirds of all members of each House agree to pass the bill prior to such expiration.

(d) For the purpose of permitting the return of bills pursuant to this paragraph, a special session of the Legislature shall convene, without petition or call, for the sole purpose of acting upon

bills returned by the Governor, on the forty-fifth day next following adjournment sine die of the regular session; or, if the second legislative year of a 2-year Legislature will expire before said forty-fifth day, then the day next preceding the expiration of the legislative year.

(e) Upon receiving from the Governor a bill returned by him with his objections, the house in which it originated shall enter the objections at large in its journal and proceed to reconsider it. If, upon reconsideration, on or after the third day following its return, or the first day of a special session convened for the sole purpose of acting on such bills, two-thirds of all the members of the house of origin agree to pass the bill, it shall be sent, together with the objections of the Governor, to the other house; and if, upon reconsideration, it is approved by two-thirds of all the members of the house, it shall become a law. In all such cases the votes of each house shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journals of the respective houses.

(f) The Governor, in returning with his objections a bill for reconsideration at any general or special session of the Legislature, may recommend that an amendment or amendments specified by him be made in the bill, and in such case the Legislature may amend and re-enact the bill. If a bill be so amended and re-enacted, it shall be presented again to the Governor, but shall become a law only if he shall sign it within 10 days after presentation; and no bill shall be returned by the Governor a second time.

Adopted November 3, 1981.

Effective December 3, 1981.

ARTICLE VIII, SECTION V, PARAGRAPH 1

Amend Article VIII of the Constitution of the State of New Jersey by adding a new Section V, paragraph 1, as follows:

Section V

1. No lands that were formerly tidal flowed, but which have not been tidal flowed at any time for a period of 40 years, shall be deemed riparian lands, or lands subject to a riparian claim, and the passage of that period shall be a good and sufficient bar to

any such claim, unless during that period the State has specifically defined and asserted such a claim pursuant to law. This section shall apply to lands which have not been tidal flowed at any time during the 40 years immediately preceding adoption of this amendment with respect to any claim not specifically defined and asserted by the State within 1 year of the adoption of this amendment.

Adopted November 3, 1981.

Effective December 3, 1981.

EXECUTIVE ORDERS

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 103

WHEREAS, Executive Order No. 94 declared a state of emergency in certain communities of northeastern New Jersey as a response to unusually dry weather conditions in 1980; and

WHEREAS, Continued drought conditions in New Jersey have aggravated water shortages throughout the State; and

WHEREAS, The conservation measures imposed by Executive Orders No. 94, 96, and 97 have not reduced water consumption at a rate adequate to preserve dwindling water supplies in the State; and

WHEREAS, The continued drought emergency imposes significant and irreparable harm to the health, safety and welfare of the residents of this State, as well as to the industries located herein, and in order to prevent such harm, immediate action must be taken; and

WHEREAS, The Delaware River Basin is experiencing severe water shortages and the Delaware River Basin Commission has adopted a resolution requesting the Governors of the member states to implement a program to restrict the non-essential consumption of water supplies in the Basin; and

WHEREAS, On January 15, 1981 the Delaware River Basin Commission restricted the quantities of water which could be exported out of the Delaware River Basin, thereby affecting the availability of water supplies in certain areas outside of the Basin; and

WHEREAS, The management and control of the situation is beyond the capabilities of local authorities; and

WHEREAS, Drought conditions have continued and additional municipalities are now facing severe water shortages;

Now, Therefore, I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and the statutes of this State, do hereby declare a state of emergency and ORDER and DIRECT as follows:

1. I declare that a state of emergency exists in portions of the Delaware River Basin and its tributaries thereto, as described in Attachment A, attached hereto and made a part hereof, and in the Raritan River Basin, as described in Paragraph 4, and also described in Attachment A, by reason of the facts and circumstances set forth above.

2. I hereby prohibit the following uses of fresh water in the areas described in Attachment A:

a. The watering of lawns.

b. The non-commercial washing of automobiles.

c. The washing of streets, driveways or sidewalks.

d. The serving of water in restaurants, clubs or eating places unless specifically requested by the individual.

e. The use of water for flushing sewers by municipalities or any public or private individual or entity except as deemed necessary and approved in the interest of public health or safety by the municipal health officials.

f. The use of fire hydrants by fire companies for testing fire apparatus and for fire department drills except as deemed necessary in the interest of public safety and specifically approved by the municipal governing body.

g. The use of fire hydrants by municipal road departments, contractors and all others, except as necessary for fire fighting or protection purposes.

h. The filling or refilling of private residential swimming pools.

I hereby amend previous Executive Orders affecting nonessential water use to conform with Paragraph 2 hereof.

3. Commercial and industrial users are directed to:

a. Examine water needs to determine where non-potable water can be utilized in place of potable water for processing and other requirements and report such determinations to the Commissioner of Environmental Protection and aforementioned water companies.

b. Reduce potable water usage insofar as possible without affecting employment levels.

4. The municipalities listed on Attachment A within the Raritan Basin are those municipalities, or portions thereof, served with water supplies from the Middlesex Water Company, the Elizabethtown Water Company, and the customers of the Trenton Water Company and the Water Facilities Operation Element, Division of Water Resources, Department of Environmental Protection.

5. The Commissioner of Environmental Protection shall have full authority, in consultation with the Board of Public Utilities, to adopt such rules, regulations, orders and directives as she shall deem necessary to effect the above listed restrictions or any other water conservation measures to restrict the use of non-essential water resources. The Commissioner may provide for such exemptions or exclusions from any rule, regulation, order or directive adopted, if she shall determine that there is not a need or a necessity for uniform application of such rule, regulation, order or directive.

6. The Commissioner of the Department of Environmental Protection is hereby authorized to take such emergency measures as may be necessary to reallocate waters in the region subject to law, to share equitably the water resources of the region. The Commissioner shall consult with the Water Policy and Supply Council of the Department but consultation shall not be required in any case where the Commissioner shall determine that the exigencies of time will not permit.

7. It shall be the duty of every person in this State or doing business in this State, and the members of the governing body, and of each and every official, agent or employee of every political subdivision in this State and of each member of all other governmental bodies, agencies and authorities in this State of any nature whatsoever, fully to cooperate in all matters concerning this emergency.

8. All citizens in non-emergency areas are urged now to comply with water use restrictions imposed by the water companies servicing their area.

9. Any person who shall violate any of the provisions of this Order or shall impede or interfere with any action or taken pursuant to this shall be subject to the penalties provided by law under section 17 of P. L. 1942, c. 251 (C. App. A:9–49).

10. This Order shall remain in effect until terminated by action of the Governor.

11. This Order shall take effect immediately.

[SEAL] Given, under my hand and seal this 22nd day of January, in the year of Our Lord, one thousand nine hundred and eighty-one, and of the Independence of the United States, the two hundred and fifth.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ HAROLD L. HODES,
Chief of Staff, Secretary.

Attachment A

New Jersey Municipalities within the Delaware River Basin

Burlington County

Beverly City
Bordentown City
Bordentown Township
Burlington City
Burlington Township
Chesterfield Township
Cinnaminson Township
Delanco Township
Delran Township
Eastampton Township
Edgewater Park Township
Evesham Township
Fieldsboro Borough
Florence Township
Hainesport Township
Lumberton Township
Mansfield Township
Maple Shade Township
Medford Township
Medford Lakes Township
Moorestown Township
Mount Holly
Mount Laurel Township
New Hanover Township
North Hanover Township
Palmyra Borough
Pemberton Borough
Pemberton Township
Riverside Township
Riverton Borough
Southampton Township
Springfield Township
Westampton Township
Willingboro
Wrightstown Borough

Camden County

Audubon Borough
Audubon Park Borough
Barrington Borough
Bellmawr Borough
Berlin Township
Brooklawn Borough
Camden City
Cherry Hill Township

Camden County (Cont.)

Clementon Borough
Collingswood Borough
Gibbsboro Borough
Gloucester City
Gloucester Township
Haddon Township
Haddonfield Borough
Haddon Heights Borough
Hi-Nella Borough
Laurel Springs Borough
Lawnside Borough
Lindenwold Borough
Magnolia Borough
Merchantville Borough
Mount Ephraim Borough
Oaklyn Borough
Pennsauken Township
Pine Hill
Pine Valley
Runnemede Borough
Somerdale Borough
Stratford Borough
Tavistock Borough
Voorhees Township
Woodlynne Borough

Gloucester County

Deptford Township
East Greenwich Township
Glassboro Borough
Greenwich Township
Harrison Township
Logan Township
Mantua Township
National Park Borough
Paulsboro Borough
Pitman Borough
South Harrison Township
Swedesboro Borough
Washington Township
Wenonah Borough
West Deptford Township
Westville Borough
Woodbury City
Woodbury Heights
Woolwich Township

Hunterdon County

Alexandria Township
Bethlehem Township
Bloomsbury Borough
Delaware Township
Franklin Township
Frenchtown Borough
Hampton Borough
Holland Township
Kingwood Township
Lambertville City
Milford Borough
Stockton Borough
West Amwell Township

Mercer County*

Ewing Township
Hamilton Township
Hopewell Borough
Hopewell Township
Lawrence Township
Pennington Borough
Trenton City
Washington Township

* See also list of municipalities to be placed on ban because they are affected by Delaware River water use.

Monmouth County

Allentown Borough
Upper Freehold Township

Morris County†

Jefferson Township
Mount Arlington Borough
Netcong Borough

Ocean County

Plumstead Township

Sussex County

Andover Borough
Andover Township
Branchville Borough
Byram Township
Frankford Township
Fredon Township
Green Township
Hampton Township
Hopatcong Borough
Lafayette Township
Montague Township
Newton Town
Sandyston Township
Stanhope Borough
Stillwater Township
Walpack Township

Warren County

Allamuchy Township
Alpha Borough
Belvidere Town
Blairstown Township
Franklin Township
Frelinghuysen Township
Greenwich Township
Hackettstown
Hardwick Township
Harmony Township
Hope Township
Independence Township
Knowlton Township
Liberty Township
Lopatcong
Mansfield Township
Oxford Township
Pahaquarry Township
Phillipsburg
Pohatcong Township
Washington Borough
Washington Township
White Township

Non-Essential Water Use Ban

New Jersey Municipalities Affected by Delaware River Water Use

Mercer County**

Princeton Borough
Princeton Township
West Windsor Township

† Listed for information only. All municipalities in Morris County directly under the non-essential use ban as a result of Executive Order No. 98.

** See also list of municipalities to be placed on ban as a result of being located in the Delaware River Basin.

Middlesex County

Carteret
Dunellen
East Brunswick
Edison
Highland Park
Metuchen
Middlesex
Milltown
New Brunswick
North Brunswick
Perth Amboy
Piscataway
Plainsboro
South Plainfield
Woodbridge

Somerset County

Bedminster
Bound Brook
Branchburg
Bridgewater
Franklin
Green Brook
Hillsborough
Manville
Millstone
Montgomery
North Plainfield
Raritan
Rocky Hill
Somerville
South Bound Brook
Watchung

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 104

WHEREAS, Executive Orders No. 94, 96, 97, 98 and 103 declared a state of emergency in certain communities of New Jersey as a response to unusually dry weather conditions in 1980; and

WHEREAS, Continued drought conditions in New Jersey have aggravated water shortages throughout the State and additional municipalities are now facing severe water shortages and must be placed under a Water Rationing Plan; and

WHEREAS, The conservation measures imposed by Executive Orders No. 94, 96, 97, 98 and 103 have not reduced water consumption at a rate adequate to preserve dwindling water supplies in the State; and

WHEREAS, The continued drought emergency presents the imminent threat of a disaster affecting the health, safety and welfare of the residents of this State, as well as to the industries located herein,

and in order to prevent such harm, immediate action must be taken; and

WHEREAS, The Delaware River Basin is experiencing severe water shortages and the Delaware River Basin Commission has adopted a resolution requesting the Governors of the member states to implement a program to restrict the nonessential consumption of water supplies in the Basin; and

WHEREAS, On January 15, 1981, the Delaware River Basin Commission restricted the quantities of water which could be exported out of the Delaware River Basin, thereby affecting the availability of water supplies in certain areas outside of the Basin; and

WHEREAS, As of this date major reservoirs in areas affected by this Order, excepting that of the Commonwealth Water Company (66%), have reached levels of only 22-28% of available capacity; and

WHEREAS, The management and control of the situation is beyond the capabilities of local authorities; and

WHEREAS, It is necessary for municipalities to activate local disaster control programs in order to plan for water system failure in the event drought conditions continue in the State, and that certain revisions in the Water Rationing Plan previously adopted are needed;

NOW, THEREFORE, I Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby declare and reaffirm a state of emergency and ORDER and DIRECT as follows:

1. I declare that a state of emergency exists in the hereinafter designated municipalities in the portions of the Delaware River Basin and its tributaries thereto, the Passaic-Hackensack River Basin and the Raritan River Basin as described in Attachment A, by reason of the facts and circumstances set forth above.

2. I hereby prohibit the following uses of fresh water in the areas described in Attachment A:

a. The watering of all plant growth except commercially-grown crops.

b. The washing of vehicles, except by businesses engaged exclusively in car washing (which shall be subject to the rationing plan).

c. The washing of streets, driveways, sidewalks or paved areas.

d. The serving of water in restaurants, clubs or eating places unless specifically requested by the individual.

e. The use of water for flushing sewers by municipalities or any public or private individual entity except as deemed necessary and approved in the interest of public health or safety by the municipal health officials.

f. The use of fire hydrants by fire companies for testing fire apparatus and for fire department drills except as deemed necessary in the interest of public safety and specifically approved by the municipal governing body.

g. The use of fire hydrants by municipal road departments, contractors and all others, except as necessary for fire fighting or protection purposes.

h. All outdoor recreational purposes.

i. Applications for hardship exemptions from the above prohibitions or any further prohibitions which may hereafter be added by the Drought Coordinator appointed pursuant to this Order may be submitted to the Emergency Task Force. Exemptions may be considered where no reasonable alternatives exist and where extraordinary hardship would otherwise result. However no exemption or class of exemption shall be permitted which will in any way interfere with the purposes of this Order. The applicant shall have the burden of demonstrating that an exemption should be granted.

3. Non-residential users within the geographical area described in Attachment B, with a rate of use of 250,000 gallons per day or more, are directed to:

a. Examine water needs to determine where conservation can be achieved and where non-potable water, well water and recycling systems can be used in place of existing water sources, and to report such deetrminations to the Drought Coordinator appointed pursuant hereto and the affected water purveyor within 20 days from the date hereof.

b. Submit to the Drought Coordinator within 20 days a report stating the measures which such user will be required to take in the event of an order requiring such user to cease operations on a partial or total basis, and setting forth the expected consequences to the public which might result from such a closure and the

possible alternative sources of supply of any products produced by the user or services provided by the user.

4. a. All users within the geographical area described in Attachment A shall repair leaks within their systems within 24 hours of notice thereof.

b. All purveyors within the area described in Attachment A shall repair all leaks as expeditiously as possible and shall immediately shut off all connections to abandoned buildings.

5. The Water Rationing Plan set forth in Attachment B hereto (hereinafter "Water Rationing Plan") shall apply within all those municipalities and portions of municipalities listed in said Attachment B. Attachment B is incorporated into and made a part of this Order.

6. All governmental water purveyors (e.g., municipal water departments, municipal utilities authorities, joint municipal commissions, etc.) serving one or more of the municipalities or portions of municipalities listed in Attachment B shall immediately take all actions within their statutory powers, including the adoption and issuance of ordinances, rules, regulations, rate schedules, and amendments thereto; inspection, enforcement and collection actions, and all other such actions as may be necessary to implement, administer and enforce the Water Rationing Plan, under the supervision of the Drought Coordinator appointed hereunder.

7. All such governmental water purveyors are further authorized to adopt and enforce supplements to said Water Rationing Plan, after written approval of the Drought Coordinator appointed hereunder, provided that such supplement will be possible under the Water Rationing Plan alone, and provided that such supplement will in no way interefere with the achievement of any of the purposes of this Order.

8. The Board of Public Utility Commissioners and the Department of Environmental Protection are directed to take such emergency and other measures, within their statutory power, as may be necessary to immediately authorize and direct the implementation, administration and enforcement of the Water Rationing Plan by all purveyors subject to their jurisdiction, in the area described in Attachment B, and to take all such other measures, consistent herewith, as may further the intent and purposes of this Order, after consultation with the Drought Coordinator.

9. All municipalities and counties wholly or partly within the areas described in Attachment B are hereby directed to allocate manpower and resources for the enforcement of the Water Rationing Plan and the prohibitions set forth in this Order, within their respective jurisdictions. Violations of such prohibitions and of the Water Rationing Plan, including failure to pay excess use charges or other charges imposed pursuant to the Plan, and refusal to permit access to purveyor personnel or otherwise to provide necessary billing information as required by the Water Rationing Plan, shall be prosecuted by municipal and county officials with information as to such violations. All such municipalities and counties shall submit a plan to the Emergency Task Force within 20 days, detailing what enforcement steps are being taken and what manpower has been allocated pursuant to this paragraph, and shall submit bi-weekly reports, commencing 15 days from the date hereof, setting forth the number of enforcement actions commenced and disposed of and the results thereof.

10. The governing body and chief executive of each municipality listed in Attachment B, and of each county wholly or partly within the area described in Attachment B, shall immediately take all steps necessary, including the activation of the local defense council, and direct local disaster control officers to take all steps necessary, to prepare for possible failure of water supply systems within their respective jurisdictons, and shall within 20 days submit to the Office of Emergency Management, Division of State Police, Department of Law and Public Safety, a detailed emergency plan setting forth the actions which will provide water supplies to its residents, how the municipality will provide water for firefighting purposes and health care facilities, and what steps will be taken in order to keep businesses operating wherever possible.

11. Pursuant to P. L. 1942, c. 251 (C. App. A :9–33 et seq.) and all amendments and supplements thereto, I hereby designate and appoint Paul H. Arbesman, Deputy Commissioner of the New Jersey Department of Environmental Protection, as Drought Coordinator for the State of New Jersey to supervise the administration and enforcement of the provisions of this Order in the areas of the State described in Attachments A and B. Further, I hereby delegate to the Drought Coordinator, pursuant to said laws, the power to adopt orders, rules and regulations for the purposes of implementing and enforcing the provisions of this Order; imposing further restrictions upon the non-essential use of water; requiring the

use of water conservation devices; making additions or modifications to the Water Rationing Plan; subjecting additional municipalities or purveyor service areas to the provisions of this Order and any orders, rules and regulations adopted by him; requiring purveyors to make or continue any water interconnections, and to develop, obtain or use any sources of water supply as may be designated by him; otherwise allocating or re-allocating water supplies in order that they may be shared equitably; ordering temporary, part-time or full-time closures of nonresidential users where necessary to avoid a system failure; and any other orders, rules or regulations consistent with the purposes of this Order; all as may be necessary or appropriate in order to effectuate the purposes of this Emergency Order. The Drought Coordinator may provide for such exemptions or exclusions from any such order, rule or regulation adopted pursuant hereto in any case where: a) extraordinary hardship would otherwise result; b) no reasonable alternative exists; and c) where such exemption, or class of exemptions, will not interfere with the achievement of the purposes of this Order. I hereby further delegate to the Drought Coordinator all powers and authority in sections 2 and 3 of P. L. 1942, c. 251 (C. App. A:9–34 and App. A:9–51) to utilize and employ all the available resources of State Government and of each and every political subdivision of this State, whether of men, properties or instrumentalities, and to commandeer and utilize any personal services and any privately-owned property necessary to avoid or protect against the water supply emergency.

12. The Emergency Task Force, comprising the Commissioner of Environmental Protection as Chair, the President of the Board of Public Utilities, the Commissioner of Labor and Industry, the Commissioner of Health, the Commissioner of Community Affairs and the Attorney General or their designated representatives, established by Executive Order 98, is hereby continued and shall act under the supervision of, and shall report to, the Drought Coordinator.

13. It shall be the duty of every person in this State or doing business in this State, and the members of the governing body, and of each and every official, agency or employee of every political subdivision in this State and of each member of all other governmental bodies, agencies and authorities in this State of any nature whatsoever, fully to cooperate in all matters concerning this emergency. No municipality, county or any other agency or political sub-

division of this State shall enact or enforce any order, rule, regulation, ordinance or resolution which will or might in any way conflict with any of the provisions of this Order or any of the orders, rules or regulations adopted pursuant to this Order, or which will in any way interfere with or impede the achievement of the purposes of this Order.

14. All citizens in non-emergency areas are urged to comply with water use restrictions imposed by the water companies servicing their area.

15. Any person who shall violate any of the provisions of this Order or any rules, regulations or orders issued pursuant hereto, or who shall impede or interfere with the implementation of this Order, or any rules, regulations or orders issued pursuant hereto, shall be subject to the penalties provided by law under section 17 of P. L. 1942, c. 251 (C. App. A:9–49), which may include imprisonment for a term not exceeding one year, or a fine not exceeding $175.00, or both.

16. This Order shall remain in effect until terminated by action of the Governor.

17. Executive Orders No. 94, 96, 97, 98 and 103 are hereby merged into this Order, except as inconsistent herewith; however all charges due and owing pursuant to the Water Rationing Plan adopted pursuant to Executive Order 98 shall continue to be due and owing and may be collected as if imposed pursuant to this Order. Similarly, all money collected by purveyors pursuant to the Water Rationing Plan of Executive Order 98 shall be treated as if collected pursuant to this Order.

18. This Order shall take effect immediately and shall be posted by the municipal clerks of all affected municipalities in a public place with the municipal building, immediately upon receipt.

[SEAL] Given, under my hand and seal this 7th day of February, in the year of Our Lord, one thousand nine hundred and eight-one, and of the Independence of the United States, the two hundred and fifth.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ TIMOTHY L. CARDEN,
Cabinet Secretary.

EXECUTIVE ORDER No. 104

ATTACHMENT A

List of Municipalities Under the Ban on Non-essential Water Use

Bergen County

All municipalities

Burlington County

Beverly City
Bordentown City
Bordentown Township
Burlington City
Burlington Township
Chesterfield Township
Cinnaminson Township
Delanco Township
Delran Township
Eastampton Township
Edgewater Park Township
Evesham Township
Fieldsboro Borough
Florence Township
Hainesport Township
Lumberton Township
Mansfield Township
Maple Shade Township
Medford Township
Medford Lakes Township
Moorestown Township
Mount Holly
Mount Laurel Township
New Hanover Township
North Hanover Township
Palmyra Borough
Pemberton Borough
Pemberton Township
Riverside Township
Riverton Borough
Southampton Township
Springfield Township
Westampton Township
Willingboro
Wrightstown Borough

Camden County

Audubon Borough
Audubon Park Borough
Barrington Borough
Bellmawr Borough
Berlin Township
Brooklawn Borough
Camden City
Cherry Hill Township
Clementon Borough
Collingswood Borough
Gibbsboro Borough
Gloucester City
Gloucester Township
Haddon Township
Haddonfield Borough
Haddon Heights Borough
Hi-Nella Borough
Laurel Springs Borough
Lawnside Borough
Lindenwold Borough
Magnolia Borough
Merchantville Borough
Mount Ephraim Borough
Oaklyn Borough
Pennsauken Township
Pine Hill

Camden County (Cont.)

Pine Valley
Runnemede Borough
Somerdale Borough
Stratford Borough
Tavistock Borough
Voorhees Township
Woodlynne Borough

Essex County

All municipalities

Gloucester County

Deptford Township
East Greenwich Township
Glassboro Borough
Greenwich Township
Harrison Township
Logan Township
Mantua Township
National Park Borough
Paulsboro Borough
Pitman Borough
South Harrison Township
Swedesboro Borough
Washington Township
Wenonah Borough
West Deptford Township
Westville Borough
Woodbury City
Woodbury Heights
Woolwich Township

Hudson County

All municipalities

Hunterdon County

Alexandria Township
Bethlehem Township
Bloomsbury Borough
Delaware Township
Franklin Township
Frenchtown Borough
Hampton Borough
Holland Township
Kingwood Township
Lambertville City
Milford Borough
Stockton Borough
West Amwell Township

Mercer County

Ewing Township
Hamilton Township
Hopewell Borough
Hopewell Township
Lawrence Township
Pennington Borough
Princeton Borough
Princeton Township
Trenton City
Washington Township
West Windsor Township

Middlesex County

Carteret
Dunellen
East Brunswick
Edison
Highland Park
Metuchen
Middlesex
Milltown
New Brunswick
North Brunswick
Perth Amboy
Piscataway
Plainsboro
Sayreville
South Amboy
South Plainfield
South River
Woodbridge

Monmouth County

Allentown Borough
Upper Freehold Township

Morris County

All municipalities

Ocean County

Plumstead Township

Passaic County

All municipalities

Somerset County

All municipalities

Sussex County

Andover Borough
Andover Township
Branchville Borough
Byram Township
Frankford Township
Fredon Township
Green Township
Hampton Township
Hopatcong Borough
Lafayette Township
Montaque Township
Newton Town
Sandyston Township
Stanhope Borough
Stillwater Township
Walpack Township

Union County

All municipalities

Warren County

All municipalities

EXECUTIVE ORDER No. 104

ATTACHMENT B

State of New Jersey
Emergency Water Rationing Plan

This emergency Water Rationing Plan (hereinafter "Plan") is necessary at this time to conserve our remaining stored water supplies and to reduce the daily demands of the several water supply systems in the emergency area described herein in order to forestall the imminent disaster of water system failures due to the drastically insufficient rainfall being experienced in the State.

It is imperative that water customers within the emergency area achieve an immediate and further reduction in their water use in order to extend existing water supplies and, at the same time, assure that sufficient water is available to preserve the public health and sanitation, and provide fire protection service.

In response to this need, the following measures shall be implemented by each and every water customer and water user, regardless of whether residential, commercial, industrial, municipal, or other type of water customer, who is hereby mandated to achieve an additional, immediate 25% reduction in water usage and to sustain this level of reduced usage until further notice. Should drought conditions continue, further reductions in usage may be required including the shutdown of non-residential uses. It must be emphasized that the 25% usage reduction in the emergency area is a valid and attainable figure reflective of the conditions which currently exist.

The 25% level of reduction has been determined to be necessary after studying the reports of the available supplies and requirements of each purveyor in the emergency area. The Plan provides for a uniform reduction in water usage and for an equal sacrifice on the part of each water customer.

The success of this Plan depends upon the cooperation of all water customers in the emergency area. Although the Drought Coordinator appointed pursuant to Executive Order No. 104 will retain overall authority for the supervision and administration of the Plan, the primary monitoring and threshold enforcement function will be the responsibility of the individual purveyor and the municipal and county governments, as set forth in said Executive Order.

RESIDENTIAL SERVICES

To effectively monitor the residential conservation efforts, usage for this category is divided into per person and dwelling unit basis.

Each resident in the emergency area is assigned a fixed per person usage figure. Since several individuals usually reside in individually metered dwelling units (households), the number of permanent residents in each dwelling unit will determine the amount of water that each household will be allowed to use pursuant to the Plan. Each dwelling unit (household) shall be allocated 50 gallons per day for each resident of the household. Households with only one permanent resident will have a daily allowance of 65 gallons.

The individual water purveyors shall have the responsibility of determining the water allocation for each dwelling unit (household). This can be accomplished through the use of postcard census, bill analysis, spot checks, or other verification procedures. Each purveyor shall have the authority to alter its meter reading schedules to assure compliance.

Customers are required to provide purveyor personnel with access to read meters in order to properly establish allocations. In the event a customer does not allow purveyor personnel entry to read the meter, or to verify the number of household residents, the household allotment will be reduced to 65 gallons per day. Purveyors who have been unable to obtain access to read the meter shall provide immediate written notice to the customer requiring the customer either to read the meter and submit written certification of its accuracy to the purveyor within five (5) days or to contact the purveyor within five (5) days to make an appointment for purposes of meter reading. If there is no reply from the customer, or if the purveyor is thereafter denied entry to read the meter, or to verify the number of household residents, the purveyor is hereby authorized and directed to assess the customer a service charge which shall be at a minimum $50.00 for each time that the purveyor is denied entry, and the customer shall be obliged to pay said service charge.

The owner of any building or complex with multiple dwellings without water meters for each dwelling unit shall be responsible for achieving a 25% reduction in water use and is hereby authorized and directed to take all actions necessary in order to achieve said reduction, including but not limited to the repair of all leaks, and the taking of measures to reduce pressure or reduce flow, whether

throughout the multiple dwelling, in portions thereof, or in individual fixtures, provided that such measures will not adversely affect the public health and safety. The owner shall advise the Emergency Task Force in writing of all steps taken pursuant hereto, and shall supplement such written report on a monthly basis. Upon receiving a written approval from the Emergency Task Force approving the steps taken by the owner, the owner may thereafter pass through to the residents of the individual dwelling units any excess use charge or service charge imposed pursuant to this Plan, notwithstanding any contrary provision in any lease or other contract, and no political subdivision of this State shall enact or enforce any ordinance, rule, regulation or order which shall prevent such pass through. Such owners of multiple dwellings shall be obliged to pay any such charges to the purveyor, and all occupants of the individual dwelling units shall be obliged to pay their pro rata share of said charges to the owner of the multiple dwelling. Charges passed through pursuant hereto shall be pro rated in proportion to the number of bedrooms in each building, complex, or unit thereof served by a water meter. The owner's permission to pass through charges pursuant hereto may be revoked upon written order of the Emergency Task Force upon a finding that the owner has failed to continue the measures required by this paragraph.

In order to assist residential customers in achieving their water allotment and in addition to the prohibitions on non-essential use, all residential water customers will be required to reduce their water use in every manner possible. Some examples are:

1. Locate and repair all leaks in faucets, toilets and water-using appliances.

2. Adjust all water-using appliances to use the minimum amount of water in order to achieve the appliance's purpose. Use automatic washing machines and dishwashers only with full loads. Preferably, wash dishes by hand.

3. Take shorter showers and shallower baths. Turn off shower while soaping; turn off faucet while brushing teeth, etc. Install flow restrictors in showerheads and faucets.

4. Reduce the number of toilet flushes by two person per day. Each flush uses about 5 gallons. Reduce water used per flush.

5. Use sink and tub stoppers to avoid wasting water.

6. Keep bottle of chilled drinking water in refrigerator.

7. Read the meter to determine the household's daily water use.

NONRESIDENTIAL CUSTOMERS

Nonresidential customers in the municipalities and portions of municipalities listed herein are hereby mandated to reduce their water usage by a minimum of 25%. This is consistent with the reduction goals imposed upon residential customers. Where a customer fails to provide access to meter readers, the purveyor shall set the allocation for such customers and such customer shall be subject to the $50.00 service charge described above, if the purveyor is denied access.

In addition to the prohibitions on non-essential water usage, each nonresidential user shall take the following steps, when appropriate, to reduce usage levels:

1. Identify and repair all leaky fixtures and water-using equipment. Special attention is to be given to equipment connected directly to the water line, such as processing machines, steam-using machines, washing machines, water-cooled air conditioners and furnaces. Assure that the valves and solenoids which control water flows are shut off completely when the water-using cycle is not engaged.

2. Water-using equipment should be adjusted to use the minimum amount of water required to achieve its stated purpose.

3. Rinse cycles for laundry machines should be shortened as much as possible; lower water levels should be implemented wherever possible.

4. Temperature settings of hot water for showers should be set down at least 10 degrees to discourage lengthy shower taking.

5. Where plumbing fixtures can accommodate them, flow restricting or other water-saving devices should be installed.

6. Review usage patterns to see where other savings can be made.

7. Use nonpotable water for processing and cooling and other uses where possible.

8. Advise employees, students, patients, customers, etc., not to flush toilets after every use. Adjust float of tank-type toilets to reduce flushing volume; place flow restrictors in showerheads and faucets; close down automatic flushes overnight.

9. Adjust flushometers and automatic flushing valves to use as little water as possible or to cycle at greater intervals.

10. Encourage water-consciousness by placing water-saving posters and literature where employees, students, patients and customers, etc. will have access to them.

11. Customers should read water meters on a frequent basis to determine consumption patterns.

HARDSHIP EXEMPTION

Customers and water users affected by the above provisions may apply to the purveyor for a hardship exemption from this Plan. The purveyor shall conduct an investigation to determine what measures can be taken by the applicant to reduce water use, what alternatives may be available to the applicant, the extent of applicant's hardship and such other factors as may be relevant. The granting of exemptions may be considered where extraordinary hardship will otherwise result, where no reasonable alternatives exist, and where the granting of the exemption, or the class of exemptions, will not interfere with the purposes of this Plan. The applicant shall have the burden of demonstrating that an exemption should be granted.

Any customer denied an exemption by the purveyor may submit a copy of the denial, together with copies of all documents considered by the purveyor in connection with the exemption request, to the Emergency Task Force for administrative review and final decision.

GENERAL

Purveyors shall assess and collect an excess use charge on all customers computed as follows:

Excess Usage	*Charge for Excess*
First 300 cubic feet (2,250 gallons) or portion thereof	$5.00 per 100 cubic feet or portion thereof
Each 100 cubic feet (750 gallons) or portion thereof thereafter	$10.00 per 100 cubic feet or portion thereof

Any monies collected through excess use charges shall not be accounted for as income, but shall be placed in a reserve account for disposition as directed by the Drought Coordinator, in the discharge of duties and responsibilities under this Order.

In addition to the excess use charge, non-compliance with the rationing program will result in the following:

1. First excess usage—a warning issued to the customer by the purveyor.

2. Second excess usage—installation of a flow restrictor in the customer's service line by the purveyor for a 15-day period, thereafter to be removed only upon payment of the following fee:

Meter Size	*Fee*
5/8″ to 1″	$50.00
1½″ to 2″	$75.00
3″ or larger	Actual Cost

3. Third and subsequent excess usage—installation of a flow restrictor in the customer's service line for a period to be determined by the Drought Coordinator. Removal will require payment of a fee not to exceed $500.00.

All persons, corporations, or other entities who fail to comply with any aspect of this Plan shall be subject to a fine of up to $175.00 or imprisonment not exceeding a year or both as provided in section 17 of P. L. 1942, c. 251 (C. App. A:9-49).

EMERGENCY AREA

This Water Rationing Plan shall apply within all the municipalities and portions of municipalities included on the annexed list, and hereafter to such additional municipalities, or purveyor service areas, as may be designated by the Drought Coordinator.

Water Users in the Following Municipalities Who Are Served by Any of the Purveyors Listed Are Covered by the Rationing Program

COUNTY: Bergen

Municipality	Purveyor
All Municipalities	Allendale Water Department
	Elmwood Park Water Department
	Fair Lawn Water Department
	Garfield Water Department
	Hackensack Water Company
	Hawthorne Water Department
	Hohokus Water Department

COUNTY: Bergen (Cont.)	Purveyor
	Lodi Water Department
	Lyndhurst Water Department
	Mahwah Water Department
	North Arlington Water Department
	Oakland Water Department
	Park Ridge Water Department
	Ramsey Water Department
	Ridgewood Water Department
	Saddle Brook Water Department
	Waldwick Water Department
	Wallington Water Department

COUNTY: Essex	
Municipality	Purveyor
All Municipalities	Belleville Water Department
	Bloomfield Water Department
	Caldwell Water Department
	Cedar Grove Water Department
	Commonwealth Water Department
	East Orange Water Department
	Essex Fells Water Department
	Glen Ridge Water Department
	Jersey City Water Department
	Livingston Twp. Div. of Water
	Montclair Water Bureau
	Newark Water Department
	North Caldwell Water Department
	Nutley Water Department
	Orange Water Department
	Roseland Water Department
	South Orange Water Department
	Verona Municipal Utilities Authority
	West Caldwell Water Department

COUNTY: Hudson

Municipality	Purveyor
All Municipalities	Bayonne Water Department E. Newark Water Department Hackensack Water Company Harrison Water Department Hoboken Water Department Jersey City Water Department Kearny Water Department

COUNTY: Hunterdon

Municipality	Purveyor
Tewksbury	Elizabethtown Water Company
Lambertville	Lambertville Water Company
West Amwell	

COUNTY: Mercer

Municipality	Purveyor
Lawrence Twp.	Elizabethtown Water Company
Princeton Borough	
Princeton Twp.	
West Windsor Twp.	

COUNTY: Middlesex

Municipality	Purveyor
Carteret Borough	East Brunswick Water Department
Dunellen Borough	Edison Township Water Department
East Brunswick Twp.	Elizabethtown Water Company
Edison Twp.	Highland Park Water Department
Highland Park Borough	Middlesex Water Company
Metuchen Borough	Milltown Water Department
Middlesex Borough	New Brunswick Water Department
Milltown Borough	North Brunswick Water Department
New Brunswick City	Perth Amboy Water Department
North Brunswick Twp.	Woodbridge Township Water Department
Perth Amboy City	
Piscataway Twp.	
Plainsboro Twp.	
South Plainfield Borough	
Woodbridge Twp.	

COUNTY: Morris

Municipality	Purveyor
Butler	Butler Water Department
Chatham Borough	Chatham Water Department
Chatham Township	Commonwealth Water Company
Chester Township	Lincoln Park Water Department
Harding	Peapack-Gladstone Water Department
Kinnelon	Pequannock Water Department
Lincoln Park	Riverdale Water Department
Passaic Township	
Pequannock	
Riverdale	

COUNTY: Passaic

Municipality	Purveyor
Bloomingdale	Butler Water Department
Clifton City	Commonwealth Water Company
Haledon	Haledon Water Department
Hawthorne	Hawthorne Water Department
Little Falls	Passaic Valley Water Commission
North Haledon	Pompton Lakes M.U.A.
Passaic City	Totowa Water Department
Paterson	Wayne Twp. Division of Water
Pompton Lakes	West Paterson Water Department
Prospect Park	
Totowa	
Wayne	
West Milford	
West Paterson	

COUNTY: Somerset

Municipality	Purveyor
All Municipalities	Commonwealth Water Company
	Elizabethtown Water Company
	Franklin Twp. Department of Public Works
	Manville Water Department
	North Brunswick Water Department
	Peapack-Gladstone Water Department
	Rocky Hill Water Department

COUNTY: Union

Municipality	Purveyor
All Municipalities	City of Elizabeth Water Department
	Commonwealth Water Company
	Elizabethtown Water Company
	Rahway Water Department
	Winfield Mutual Housing Corporation

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 105

WHEREAS, It is the policy of the State of New Jersey to provide specialized transportation services for its elderly and handicapped persons in a coordinated and efficient manner; and

WHEREAS, Several State agencies, local agencies and private organizations are involved either in the distribution of funds or in the provision of specialized transportation programs for the elderly and handicapped; and

WHEREAS, Various State agencies have been working with the State's counties to establish a coordinated, consolidated, efficient transportation delivery system for elderly and handicapped persons; and

WHEREAS, The Task Force on Transportation Services for Elderly and Handicapped Citizens ("the Task Force") has completed a comprehensive review, identified programs and agencies involved in providing specialized transportation services and released its findings in a report entitled "Coordinating Specialized Transportation Services in New Jersey"; and

WHEREAS, In this report, the Task Force had identified certain actions which will aid in eliminating inefficient services and improving transportation for the elderly and handicapped;

NOW, THEREFORE, I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitu-

tion and statutes of this State, do hereby ORDER and DIRECT that:

1. The New Jersey Department of Transportation be designated as the lead agency for coordinating specialized transportation services at the State level.

2. The New Jersey Department of Transportation establish an office for the coordination of specialized transportation services. This office shall:

a. Assist counties in the establishment of offices for countywide coordination and the investigation of funding sources for such offices;

b. Perform an inventory of State operated transportation programs and recommend means of coordinating services with local operations and public transportation services;

c. Review and approve county coordination plans for specialized transportation services beginning July 1, 1983;

d. Research the feasibility of developing a Statewide non-profit organization to purchase insurance for local non-profit transportation agencies;

e. Organize the Interdepartmental Advisory Group on the Coordination of Specialized Transportation Services (the Advisory Group);

f. Standardize State fiscal and program reporting requirements for local transportation agencies in consultation with the Advisory Group;

g. Undertake an in-depth study to streamline State and federal billing and accountability regulations for local operators with assistance from the Advisory Group;

h. Complete an inventory of mandated service priorities for programs administered by State agencies;

i. Issue a technical assistance guide for local operators on the implementation of service priorities; and

j. Research and develop sources of funding for local demonstration projects for the coordination of specialized transportation services.

3. There is hereby established an Interdepartmental Advisory Group on the Coordination of Specialized Transportation Services to ensure the continuation of interagency cooperation. The members of the Advisory Group shall be the Commissioners of the

Departments of Transportation, Agriculture, Community Affairs, Education, Health, Human Services, Insurance, Labor and Industry, Treasury and the Executive Director of the New Jersey Transit Corporation or their designated representatives, and such other persons as the Governor may designate. The Commissioner of the Department of Transportation shall serve as the Chairperson of the Advisory Group. The Advisory Group shall:

a. Review and clarify State regulations on the use of vehicles purchased with State and federal funds;

b. Review the use of passenger contributions and fares in light of federal and State regulations;

c. Encourage the integration of specialized transportation services with public transit in rural areas;

d. Develop an interdepartmental policy on service priorities for specialized transportation services;

e. Identify sources of funding for specialized transportation demonstration projects and county coordination offices;

f. Standardize State fiscal and program reporting requirements for local transportation agencies; and

g. Streamline State and federal billing and accountability regulations for local operators.

4. a. The Advisory Group is authorized to call upon any department, office, division or agency of the State to supply such data, program reports, and other information, personnel and assistance as it deems necessary to discharge its responsibilities under this Order.

b. All departments and agencies are authorized and directed, to the extent not inconsistent with law, to cooperate with the Advisory Group and to furnish it with such information, personnel and assistance necessary to accomplish the purposes of this Order.

5. All State agencies require that local agencies requesting funds for specialized transportation services demonstrate coordination efforts with other local agencies, providers of specialized transportation services and public transit services.

Effective July 1, 1983, State agencies responsible for the disbursement of funds for specialized transportation services shall require that local agencies requesting such funds demonstrate that they have been included in an approved County Coordination Plan for specialized transportation services. If a local agency was not

included in a coordination plan, it may still receive funding if the specialized transportation services have been certified by the county as being consistent with such plan, and the Department of Transportation concurs.

6. There is created an Interdepartmental Committee consisting of the Departments of Transportation and Education. The Committee shall perform an in-depth study of the broader use of school buses as a community resource and present their findings by January 1, 1982.

7. This Order shall take effect immediately.

Given, under my hand and seal this 3rd day of April,
[SEAL] in the year of Our Lord, one thousand nine hundred and eighty-one, and of the Independence of the United States, the two hundred and fifth.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ HAROLD L. HODES,
Chief of Staff, Secretary.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 106

WHEREAS, The State Prisons and other penal and correctional institutions of the New Jersey Department of Corrections are housing populations of inmates in excess of their capacities and are seriously overcrowded as a result of unusually large numbers of commitments to the State institutions and commitments for terms of years which are longer than heretofore imposed; and

WHEREAS, The Department is physically unable to accept from the Sheriffs of the various counties the custody of inmates sentenced to the custody of the Commissioner of the Department of Corrections, as mandated by N. J. S. 2C:43–10e.; and

WHEREAS, Many county penal institutions of the various counties are also presently overcrowded and are housing inmate populations in excess of their capacities while other county penal institutions have available space for additional inmates; and

WHEREAS, There is a need to efficiently allocate inmates of State and county penal and correctional institutions to those institutions having available space in order to alleviate overcrowding; and

WHEREAS, The New Jersey Correctional Master Plan recommends the coordination of resources for jail operation and services by the State, while the jails remain under local jurisdiction; and

WHEREAS, These unusual conditions endanger the safety, welfare and resources of the residents of this State, and threaten loss to and destruction of property, and are too large in scope to be handled in their entirety by regular operating services of either the counties or the New Jersey Department of Corrections;

NOW, THEREFORE, I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby declare a state of emergency and ORDER and DIRECT as follows:

1. I declare that a state of emergency exists in the various State and County penal and correctional facilities by reason of the facts and circumstances set forth above.

2. I invoke such emergency powers as are conferred upon me by the Laws of 1942, Chapter 251 (C. App. A:9–33 et seq.) and all amendments and supplements thereto.

3. I hereby direct that the authority to designate the place of confinement of all inmates confined in all State and/or County penal or correctional institutions shall be exercised for the duration of this Order by the designee of the Governor.

4. I hereby designate the Commissioner of the Department of Corrections to effectuate the provisions of this Order.

5. The Commissioner may designate as a place of confinement any available, suitable, and appropriate institution or facility, whether owned by the State, a County, or any political subdivision of this State, or any other person, for the confinement of inmates confined in the State and/or County penal or correctional institutions.

6. When it appears to the satisfaction of the Commissioner that an inmate should be transferred to a penal or correctional institution or facility of the State or the various Counties more appropriate for his needs and welfare, or that of other inmates, or the security of the institution in which he has been confined, he shall

be authorized and empowered to designate the place of confinement to which the inmate shall be transferred.

7. This Order is intended to be temporary and to remain in effect only during the duration of the prison and jail overcrowding crisis.

8. I further order that the authority of the Commissioner to designate the place of confinement of any inmate may be exercised when deemed appropriate by the Commissioner regardless of whether said inmate has been sentenced or is being held in pretrial detention, except that only persons sentenced to a prison or committed to the custody of the Commissioner may be confined in a State Prison.

9. The Commissioner of the Department of Corrections shall have full authority to adopt such rules, regulations, orders and directives as he shall deem necessary to effect the above provisions.

10. The Commissioner of Corrections shall develop an appropriate compensation program for the counties.

11. It shall be the duty of every person in this State or doing business in this State, and the members of the governing body, and of each and every official, agent or employee of every political subdivision in this State and of each member of all other governmental bodies, agencies and authorities in this State of any nature whatsoever, fully to cooperate in all matters concerning this emergency.

12. Any person who shall violate any of the provisions of this Order or shall impede or interfere with any action ordered or taken pursuant to this Order shall be subject to the penalties provided by law under section 17 of P. L. 1942, c. 251 (C. App. A:9–49).

13. This Order shall remain in effect for a period of ninety days from the date of execution.

14. This Order shall take effect immediately.

Given, under my hand and seal, this 19th day of June,
[SEAL] in the year of Our Lord, one thousand nine hundred and eighty-one, and of the Independence of the United States, the two hundred and fifth.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ HAROLD L. HODES,
Chief of Staff, Secretary.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 107

WHEREAS, The tragedy and suffering of thousands of foreign nationals from Cuba, Indochina, Haiti and other nations have forced them to flee their homelands; and

WHEREAS, Thousands of these refugees from Cuba, Indochina, Haiti and other nations have arrived in the United States; and

WHEREAS, It is estimated that thousands of these refugees have either settled or will settle in this State; and

WHEREAS, As Governor of this State and as a member of the United States Delegation to the United Nations Conference of Indochinese Relations in Geneva, I am deeply concerned about the plight of all displaced, persecuted peoples and strongly support assisting them during this difficult period of resettlement; and

WHEREAS, I have previously established separate Committee on Cuban Refugee Affairs and Indochinese Resettlement Committee; and

WHEREAS, It is essential that we coordinate the activities of public and private agencies providing services to refugees settling in New Jersey;

NOW, THEREFORE, I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. That the Committee on Cuban Refugee Affairs and the Indochinese Resettlement Committee be consolidated to form the Advisory Council on Refugee Affairs.

2. That the Advisory Council on Refugee Affairs represent the interests of all refugees.

3. That this Advisory Council on Refugee Affairs shall consist of the following members or their designees:

Nicholas V. Montalto, Director, International Institute of Jersey City

Rev. Nicholas DiMarzio, Newark Archdiocese

Fr. Robert Vitello, Paterson Diocese

Doris Jankowicz, Director, Lutheran Social Services, Trenton
Dr. Seymore Siegel, Director, Jewish Family Services, Cherry Hill
Luu Phuong Nguyen, Brookdale Community College Learning Center
Enrique Arroyo, Director, Puerto Rican Congress of New Jersey, Trenton
Jerome Marc Audige, Director, Haitian-American Cultural Foundation, Newark
Israel Romero, Director, Cuban-Haitian Aid Center, Union City
Hon. Melvin Primas, Mayor, City of Camden
Hon. William Musto, Mayor, City of Union City
Hon. Patrick R. Fiorilli, Mayor, City of Vineland
Mike Fein, Metropolitan Jewish Federation
Barbara Sigmund, New Jersey Association of Counties
Jim Carroll, Heavy and General Laborers Locals 472 and 172, Newark
Counsel to the Governor (or designee), Chairperson
Ex officio:
Commissioner of the Department of Human Services (or designee)
Commissioner of the Department of Health (or designee)
Commissioner of the Department of Labor and Industry (or designee)
Commissioner of the Department of Community Affairs (or designee)
Commissioner of the Department of Education (or designee)
Chancellor of the Department of Higher Education (or designee)
Staff:
Jane Berger, Refugee Assistance Coordinator, Division of Youth and Family Services

4. The Council shall consolidate the orderly resettlement of newly arrived refugees.

5. The Council shall coordinate the activities of public and private agencies providing services to refugees settling in New Jersey.

6. The Council is authorized to call upon any department, office, division or agency of the State to supply such data, program reports and other information, personnel or assistance as it deems necessary to discharge its responsibilities pursuant to this Order.

7. Each department, office, division and agency of the State is authorized and directed, to the extent possible and not inconsistent with law, to cooperate with the Committee and to furnish it with such information, personnel and assistance as may be necessary to accomplish the purposes of this Order.

8. The Council shall meet and consult with Federal, County and local government officials and other interested public and private organizations and persons to discuss the coordination of all resettlement efforts.

9. Executive Order No. 91 is hereby repealed.

10. This Order shall take effect immediately.

[SEAL] Given under my hand and seal this 18th day of August, in the year of Our Lord, one thousand nine hundred and eighty-one, and of the Independence of the United States, the two hundred and sixth.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ HAROLD L. HODES,
Chief of Staff, Secretary.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 108

WHEREAS, The conditions in our State Prisons and other penal and correctional institutions of the New Jersey Department of Corrections specified in Executive Order No. 106, signed June 19, 1981 continue to endanger the safety, welfare and resources of the residents of this State; and

WHEREAS, Executive Order No. 106 expires on September 16, 1981;

NOW, THEREFORE, I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby declare a continuing state of emergency and ORDER and DIRECT as follows:

1. Executive Order No. 106 shall remain in effect until January 20, 1982 notwithstanding any section in it stating otherwise.

2. This Order shall take effect immediately.

[SEAL] Given, under my hand and seal this 11th day of September, in the year of Our Lord, one thousand nine hundred and eighty-one, and of the Independence of the United States, the two hundred and sixth.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ HAROLD L. HODES,
Chief of Staff, Secretary.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER NO. 109

WHEREAS, The Public Records Act, Title 47 of the Revised Statutes, places responsibility for public records and microfilm programs with the State Records Committee and Bureau of Archives and History of the Division of State Library, Archives and History, in the Department of Education; and

WHEREAS, A central microfilm unit and records storage warehouse will provide the State with a more efficient and cost-effective method of microfilming and storing records; and

WHEREAS, The New Jersey Commission on Capital Budgeting and Planning accepted and approved the State Records Committee's report entitled "Modern State Records Management and Storage Space Requirements," which recommended the consolidation of warehouse and microfilm operations; and

WHEREAS, The State Records Committee in its report entitled "Consolidation of Microfilm Units and Warehouse Operations" recommended that the microfilm and warehouse operations within the various departments set forth therein be consolidated; and

WHEREAS, A modern Records Storage Center with centralized records storage and microfilm capabilities is under construction and will be operated by the Bureau of Archives and History;

Now, THEREFORE, I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. That the Bureau of Archives and History shall operate the central microfilm facility for State agencies.

2. The Bureau of Archives and History shall have technical control over all microfilm units in State government.

3. The Bureau of Archives and History shall have authority to consolidate the following microfilm facilities. The following facilities are to be consolidated now:

a. Department of Civil Service, Division of Examinations;
b. Department of Defense;
c. Department of Environmental Protection, Division of Water Resources;
d. Department of Health, Division of Administration;
e. Department of Higher Education;
f. Department of Human Services, Division of Youth and Family Services;
g. Department of Human Services, Division of Medical Assistance;
h. Department of Human Services, Division of Public Welfare, Bureau of Management Services;
i. Department of Human Services, Pharmaceutical Assistance to the Aged Program;
j. Department of Law and Public Safety, Division of Motor Vehicles;
k. Department of the Public Advocate;
l. Department of State;
m. Department of Transportation;
n. Department of Treasury, Division of Pensions; and
o. Other newly created microfilm units in the executive branch, except those in the Department of Treasury's Administration and Taxation divisions; the Department of Law and Public Safety's Gaming Enforcement, State Police, and Criminal Justice divisions; and the Economic Development Authority.

Such consolidation will include all personnel, equipment and supplies.

4. Semicurrent records (defined as records that are used infrequently, but still retain legal, fiscal or administrative value) currently stored in leased or State-owned facilities shall be trans-

ferred to the Records Storage Center after being placed on a records retention schedule as required by P. L. 1953, c. 410 (C. 47:3–15 et seq.) and N. J. A. C. 6:66. All employees currently working with semicurrent records will be transferred to the Bureau of Archives and History.

5. The State Treasurer may exempt any of the above facilities from this executive order or he may subject any other State facilities in the executive branch to this executive order if he determines that such action is in the financial interest of the State.

6. The Bureau of Archives and History may exempt all or a portion of the records of a facility (whether named in this order or by the State Treasurer) from the provisions of this executive order if the Bureau determines that its microfilming and warehousing procedures cannot adequately serve the facility's need for security, confidentiality, immediate access to or preservation of records.

7. This Order shall take effect immediately.

[SEAL] Given, under my hand and seal this 8th day of October, in the year of Our Lord, one thousand nine hundred and eighty-one, and of the Independence of the United States, the two hundred and sixth.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ HAROLD L. HODES,
Chief of Staff, Secretary.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 110

WHEREAS, Chapter 73, P. L. 1963, finds and declares it to be the public policy of this State that public records shall be readily accessible for examination by the citizens of this State for the protection of the public interests, except as otherwise provided in said law; and

WHEREAS, Said law provides that all records which are required by law to be made, maintained or kept on file by State and local

governmental agencies are to be deemed to be public records, subject to inspection and examination and available for copying, pursuant to said law; and

WHEREAS, Said law provides that records which would otherwise be deemed to be public records, subject to inspection and examination and available for copying, pursuant to the provisions of Chapter 73, P. L. 1963, may be excluded therefrom by Executive Order of the Governor or by any regulation promulgated under the authority of any Executive Order of the Governor; and

WHEREAS, Executive Order No. 48, issued by Governor Richard J. Hughes, excluded State Police investigative files from public scrutiny and prohibited the disclosure of the contents of such files unless ordered by a court of competent jurisdiction or by the Governor of the State of New Jersey; and

WHEREAS, Executive Order No. 9, issued by Governor Richard J. Hughes, provided that certain records including fingerprint cards, plates and photographs and other similar criminal investigation records should not be deemed public records subject to inspection; and

WHEREAS, The State Police are in custody of voluminous records and exhibits relating to the investigation of the kidnapping and death of the Lindbergh child which took place in 1932, and the apprehension of Bruno Hauptmann who was convicted and executed as the perpetrator of that crime in 1936; and

WHEREAS, For the past several years repeated requests have been made by legal scholars, historians, biographers, members of the news media, and other individuals for access to records relating to the investigation and trial which took place over 45 years ago; and

WHEREAS, The Lindbergh case was and continues to be of extraordinary interest to the legal community and the public at large;

NOW, THEREFORE, I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by Chapter 73, P. L. 1963, do hereby ORDER and DIRECT:

1. The Superintendent of the State Police to make the investigative files, records and exhibits within his custody relating to the investigation of the Lindbergh kidnapping available to the public, and subject to inspection and examination and available for copying 45 days from the promulgation of this order.

2. The Superintendent is empowered in accordance with the provisions of section 2 of P. L. 1963, c. 73 (C. 47:1A–2) to establish procedures to insure that there is no risk of damage or mutilation of such files, records and exhibits and to insure that public access and right to copy such files, records and exhibits shall be during regular business hours to the extent that such access is compatible with the economic and efficient operation of his division and the transaction of its public business and to provide and assure payment of such costs as permitted by law.

3. This Order shall take effect immediately.

[SEAL] Given, under my hand and seal this 9th day of October, in the year of Our Lord, one thousand nine hundred and eighty-one, and of the Independence of the United States, the two hundred and sixth.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ HAROLD L. HODES,
Chief of Staff, Secretary.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 111

I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT that:

1. November 27, 1981, the day following Thanksgiving, shall be granted as a day off to employees who work in the executive departments of State government and who are paid from State funds, whose functions, in the opinion of their appointing authority, permit such absence.

2. An alternative day off shall be granted to the aforementioned category of employees whose functions, in the opinion of their appointing authority, preclude such absence on November 27, 1981.

[SEAL] Given, under my hand and seal this 16th day of November, in the year of Our Lord, one thousand nine hundred and eighty-one, and of the Independence of the United States, the two hundred and sixth.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ HAROLD L. HODES,
Chief of Staff, Secretary.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 112

WHEREAS, The Power Authority of the State of New York owns and operates two hydroelectric power projects on the Niagara and Saint Lawrence Rivers; and

WHEREAS, Licenses issued by the United States Government require that a portion of each project's output be made available for use in neighboring states; and

WHEREAS, Existing contracts for the sale of such power expire on June 30, 1985; and

WHEREAS, The licenses require the Power Authority to negotiate for the sale of such power with a State-appointed bargaining agent if one has been appointed;

NOW, THEREFORE, I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and statutes of this State, do hereby ORDER and DIRECT:

1. The New Jersey Board of Public Utilities, Department of Energy, is designated as the bargaining agent for the State of New Jersey for the purchase of power generated by the Power Authority of New York's hydroelectric projects on the Niagara and Saint Lawrence Rivers for the period after June 1985.

2. The Board of Public Utilities is empowered to establish regulations and control of rates for such power.

3. This Order shall take effect immediately.

Given, under my hand and seal this 17th day of
[SEAL] November, in the year of Our Lord, one thousand nine hundred and eighty-one, and of the Independence of the United States, the two hundred and sixth.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ HAROLD L. HODES,
Chief of Staff, Secretary.

STATE OF NEW JERSEY,
EXECUTIVE DEPARTMENT.

EXECUTIVE ORDER No. 113

WHEREAS, On December 5, 1980 the federal government enacted the Mortgage Subsidy Bond Tax Act of 1980 which places a ceiling on the aggregate maximum principal amount of mortgage revenue bonds which may be issued in any calendar year by all issuing authorities in a state and which will be qualified for federal income tax exemption under Section 103A of the Internal Revenue Code of 1954; and

WHEREAS, A provision in Section 1102(a) of the Mortgage Subsidy Bond Tax Act of 1980 allocates half of the State's ceiling to the State's Housing Finance Agency, which in New Jersey is the New Jersey Mortgage Finance Agency; and

WHEREAS, A provision in Section 1102(a) of the Mortgage Subsidy Bond Act of 1980 gives the governor of a state the authority to proclaim a different formula for allocating the state ceiling among the governmental units in the state which have the authority to issue qualified mortgage bonds;

NOW, THEREFORE, I, Brendan Byrne, Governor of the State of New Jersey, by virtue of the authority vested in me by the Mortgage Subsidy Bond Act of 1980 do hereby PROCLAIM, ORDER and DIRECT:

The entire State ceiling under the Mortgage Subsidy Bond Act of 1980 is hereby allocated to the New Jersey Mortgage Finance Agency.

Given, under my hand and seal this 30th day of
[SEAL] December, in the year of Our Lord, one thousand nine hundred and eighty-one, and of the Independence of the United States, the two hundred and sixth.

/s/ BRENDAN BYRNE,
Governor.

Attest:
/s/ HAROLD L. HODES,
Chief of Staff, Secretary.

REORGANIZATION PLAN

(2425)

REORGANIZATION PLAN FOR THE BUREAU OF FINANCIAL REGULATION AND ASSISTANCE

The Bureau of Financial Regulation and Assistance in the Department of the Treasury, together with all its functions, powers and duties, is hereby transferred to the Division of Local Government Services in the Department of Community Affairs. All powers exercised by officials in the Department of Treasury in direct supervision of the Bureau of Financial Regulation and Assistance are hereby transferred to the Department of Community Affairs and shall be exercised by officials in the Department of Community Affairs.

The Bureau of Financial Regulation and Assistance, as presently organized, reviews and certifies all municipal budgets, is responsible for post-audit review of municipal and county government, and provides financial guidance to local governments. The Division of Local Government Services in the Department of Community Affairs provides technical assistance to counties and municipalities in the areas of management, financial operations, purchasing, personnel, electronic data processing, debt management, inter-local services and State and Federal grants. The Division also administers the urban aid, safe and clean neighborhoods and depressed rural centers aid programs. The Department of Community Affairs is predominantly involved in local government programs and services. A closer organizational relationship between the Bureau and the other units of the Division and the Department is logical, efficient and will permit these agencies to better serve local governments and the public. This reorganization is consistent with local government budget laws which have assigned responsibilities to the Director of the Division of Local Government Services and the Local Finance Board in the Department of Community Affairs.

In accordance with the provisions of section 2 of the Executive Reorganization Act of 1969, P. L. 1969, c. 203 (C. 52:14C–2), I find and declare that this transfer and reorganization is necessary:

1. To promote the more efficient management of the Executive Branch;

2. To reduce expenditures and promote economy to the fullest extent practicable;

3. To increase the efficiency of the operations of the Executive Branch to the fullest extent practicable;

4. To group, coordinate, and consolidate agencies and functions of the Executive Branch, as nearly as practicable, according to major purposes;

5. To eliminate overlapping and duplication of effort.

All acts and parts of acts inconsistent with any of the provisions of this reorganization plan are superseded to the extent of such inconsistencies. 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.).

Any provisions of this plan which conflict with Federal law are null and void.

Filed April 27, 1981.

INDEX

INDEX

ADMINISTRATIVE PROCEDURE

Administrative law judges, appointment and confirmation, certain clarified, amends C. 52:14F–4, Ch. 328.

Administrative law judges, appointment, permanent and temporary, evaluation, amends C. 52:14F–3 et seq., Ch. 202.

Agency rules, legislative review and approval, C. 52:14B–4.1 et seq., amends C. 52:14B–2 et al., Ch. 27.

Lottery game rules, exempt from "Administrative Procedure Act," amends C. 5:9–7, Ch. 182.

AGRICULTURE

"Pesticide Control Act," incorporates part of Economic Poisons Act of 1951, fees authorized, C. 13:1F–15 and 13:1F–16, amends C. 13:1F–9 et al., repeals C. 4:8A–1 et seq., Ch. 538.

Poultry Products Promotion Tax Account, credited with unclaimed funds which escheat to the State, certain, amends section 1 of P. L. 1977, c. 382, Ch. 172.

State Agricultural Convention, organizations entitled to delegates, list reconstituted, amends R. S. 4:1–6, Ch. 284.

ALCOHOLIC BEVERAGES

Club licensees, nonprofit organizations, law enforcement members, leadership position permitted, C. 33:1–25.1 and 33:1–25.2, Ch. 267.

Licenses, certain, public sale, permitted, C. 33:1–19.3 et seq., Ch. 416.

"Limited winery license," renamed "farm winery license," production limit increased; fees, excise tax, reduced, amends R. S. 33:1–10 and 54:43–1, Ch. 280.

Wine, sale for off-premise consumption, same hours as off-premise sales, permitted, amends C. 33:1–40.3, Ch. 69.

ANIMALS

Dog registration tag fees, increased, amends C. 4:19–15.2 et al., Ch. 235.

APPROPRIATIONS

Agent Orange Commission, $75,000, Ch. 165.

Annual, Ch. 190.

Atlantic City Convention Center Authority, $90,000, Ch. 459.

"Beaches and Harbors Fund," $5,365,000, Ch. 89; $5,000,000, Ch. 157; $9,635,000, Ch. 432.

"Beaches and Harbor Fund," P. L. 1978, c. 157 appropriating $4,000,000 for matching grants to municipalities amended to provide grants to local governments, Ch. 563.

"Boarding House Rental Assistance Fund," $1,000,000, Ch. 515.

Cabinet officers, salary increases, $148,615, Ch. 474.

Camden, State aid, in lieu of tax, $420,000, Ch. 399.

"Clean Waters Bond Act of 1976," funding reallocated to certain emergency water supply projects, $18,467,230, Ch. 28.

APPROPRIATIONS (Continued)
"Clean Waters Fund," $1,520,000, Ch. 113; $6,310,000 and $800,000, Ch. 116.; $60,000, Ch. 234; $350,000, Ch. 543.
Commission to study chair of women's studies at Douglass College, $1,000, Ch. 555.
Congregate housing, supportive services, $500,000, Ch. 553.
"Controlled Dangerous Substances Therapeutic Research Act," $25,000, Ch. 72.
County colleges, State aid, $600,000, Ch. 504.
Cystic fibrosis, adult care and treatment program, $50,000, Ch. 289.
Department of Education, coordinator of deaf education, $16,000, Ch. 351.
Department of Education, hearing impaired, consultants, $55,000, Ch. 350.
Department of Education, historical projects, certain, $172,376, Ch. 168.
Department of Education, library optical scanners for the blind, $160,000, Ch. 225.
Department of Insurance, surplus lines regulation, $30,000, Ch. 250.
Division of Motor Vehicles, commuter van registration, $10,000, Ch. 139.
"Emergency Flood Control Fund," $6,347,704, Ch. 117 and Ch. 366; $8,624,762, Ch. 450.
"Energy Conservation Fund," $7,000,000, Ch. 88.
Gropp's Lake, State-owned dam, construction, $1,000,000, Ch. 158.
Gubernatorial Elections Fund, primary $6,500,000, general $2,500,000, Ch. 52.
Gubernatorial Inaugural Commission, $40,000, Ch. 518.
"Hazardous Discharge Fund," $33,000,000, Ch. 406.
Hazardous Waste Health Care Task Force, $250,000, Ch. 456.
Hopewell, Pennington, sewer interceptor costs, certain, $85,000, Ch. 400.
In lieu of tax payments, $740,604, Ch. 141.
"Institutional Construction Fund," $3,400,000, Ch. 70.
Jersey City, Hoboken joint disaster service program, $51,000, Ch. 526.
Justices and judges, salary increase, $1,744,385, Ch. 473.
"Major Hazardous Waste Facilities Siting Act," $500,000, Ch. 279.
Marie H. Katzenbach School for Deaf, speech services, $400,000, Ch. 161.
Montclair, in lieu of taxes, $87,889.90, Ch. 354.
"Mortgage Assistance Fund," $8,264,361, Ch. 367.
Mortgage bankers and mortgage brokers, regulation, $100,000, Ch. 18.
"Natural Resources Bond Act of 1980," sewerage projects grants, certain, restored, $14,267,230, Ch. 28.
"Natural Resources Fund," harbor cleanup, Delaware river and bay, $2,000,000, Ch. 368.
"Natural Resources Fund," local sewerage project grants, $9,760,268; pretreatment grant from repayment of Water Conservation Fund loans, $2,000,000, Ch. 386.
"Natural Resources Fund," State shoreline of N. Y. harbor, restore, $10,000,000, Ch. 566.
"Natural Resources Fund," water supply interconnection facilities, $7,500,000; Manasquan Reservoir project, $500,000, Ch. 29.
New Jersey Building Authority, $100,000, Ch. 120.
New Jersey School of Conservation, Montclair State College, $40,000, Ch. 148.
"Pharmaceutical Assistance to the Aged and Disabled," account transfers, $15,000,000, Ch. 499.
Public general hospitals, assistance, certain authorized, Ch. 26.

APPROPRIATIONS (Continued)
"Public Purpose Buildings Construction Fund," $64,000,000, Ch. 70; $7,000,000, Ch. 132; $6,200,000, Ch. 207; $30,000,000, Ch. 208; $1,500,000, Ch. 209; $21,289,762, Ch. 457; $950,000, Ch. 557.
"Radiation Accident Response Act," $600,000, Ch. 302.
Round Valley and Spruce Run dams, structural repairs, "Water Conservation Fund," $3,076,582, use, Ch. 146.
School desegregation orders, compliance, State aid, $200,000, Ch. 162.
Sheltered workshops, State aid, $600,000, Ch. 214.
Speedy trial program, $500,000, Ch. 517.
Spill Compensation Fund, adjusters, administrative costs, certain, $200,000, Ch. 46.
"State Land Acquisition and Development Fund" (Green Acres 1978), $58,700,000, Ch. 327; $88,000,000, Ch. 510.
Supplemental, Ch. 286.
Supplemental, Department of Corrections, $1,710,000; Department of Human Services, $5,700,000; Apportionment Commission, $200,000; transfer of appropriations to Division of Medical Assistance for medicaid, authorized, Ch. 13.
Supplemental, Legislature, $780,000; Department of Corrections, $20,636,000; Department of Education, $2,500,960, Ch. 558.
"Transportation Rehabilitation and Improvement Fund of 1979," $10,000,000 from P. L. 1980, c. 21, allocated for rehabilitation of State-owned buses, Ch. 119.
"Transportation Rehabilitation and Improvement Fund of 1979," $11,965,000 from P. L. 1980, c. 21 transferred for certain highway projects, Ch. 360.
"Transportation Rehabilitation and Improvement Fund of 1979," $24,000,000, Ch. 44; $176,100,000, Ch. 408.
Veterans' cemeteries, sites, $150,000, Ch. 552.
"Water Conservation Fund," administrative costs, certain, $1,550,000; sewerage projects grants, certain, $15,975,275, Ch. 114.
Welfare, AFDC and SSI, $11,556,835, Ch. 156.

ARTS
Motion picture production, children, employment, hours, C. 34:2-21.63b, amends C. 34:2-21.57 et al., repeals C. 34:2-21.63, Ch. 147.
State Council on the Arts, transferred to Department of Education, C. 18A:73A-1 et seq., amends C. 52:16A-25, Ch. 43.

AUTHORITIES
N. J. Building Authority, created, C. 52:18A-78.1 et seq., Ch. 120.
N. J. Building Authority, public hearing not required on projects on existing buildings, amends C. 52:18A-78.6, Ch. 528.
N. J. Public Broadcasting Authority, promotion of discussion of public issues by gubernatorial candidates, amends C. 19:44A-39, Ch. 107.
N. J. Sports and Exposition Authority, purchases and contracts, law revised, C. 5:10-21.1 et seq., repeals C. 5:10-21, Ch. 447.
N. J. Sports and Exposition Authority, 2 additional members, quorum, amends C. 5:10-4, Ch. 335.
N. J. Water Supply Authority, contract amount requiring advertising, $4,500, amends C. 58:1B-22, Ch. 509.
N. J. Water Supply Authority, established, C. 58:1B-1 et seq., Ch. 293.

AVIATION
Airport landing or take-off fees, liens, permits, amends N. J. S. 2A:44–2 et al., Ch. 159.
"Historic Aircraft." registration established, amends C. 6:1–68, Ch. 348.

BANKING
Bank stock, foreign banks and holding companies, ownership, C. 17:9A–345a, amends C. 17:9A–344 et al., repeals C. 17:9A–345.1, Ch. 484.
Branch offices, certain, establishment, amends C. 17:9A–19, Ch. 24.
Check cashing business licensees, fingerprinting required, amends C. 17:15A–3, Ch. 341.
Commercial banks, savings banks, federally chartered banks and savings and loans, parity, certain, Commissioner's power, C. 17:9A–24a and 17:9A–24b, amends C. 17:9A–24 et al., Ch. 153.
Credit unions, State chartered, parity with Federal credit unions, amends C. 17:13–27, Ch. 245.
Department licensing fees, certain, biennial, amends C. 17:16C–7 et al., Ch. 321.
Interest rates, "The State Bank Parity Act," C. 17:13B–1 and 17:13B–2, Ch. 4.
Investments, foreign bonds, certain permitted, amends C. 17:2–10, Ch. 308.
Loans, advance, increased amounts and interest rates permitted, minimum monthly repayment decreased, amends C. 17:9A–59.1 et al., Ch. 37.
Loans, terms, repayment, interest rates, charges, C. 17:1–9.1 and 46:10B–11.1, amends C. 17:9A–53 et al., Ch. 103.
Mortgage bankers and mortgage brokers, regulated, C. 17:11B–1 et seq., Ch. 18.
Nonmembers of Federal Reserve System, reserve balances, requirement prescribed by regulation, amends C. 17:9A–48 and 17:9A–49, Ch. 373.
Retail installment loans, cross-collateral and mortgage security, prohibited, C. 17:16C–39.1, amends C. 17:16C–29, Ch. 324.
Retail installment loans, savings banks, savings and loans, certain, amends C. 17:16C–1, Ch. 102.
"Savings and Loan Act (1963)," sundry amendments, C. 17:12B–48 et al., repeals C. 17:12B–150, Ch. 101.
Savings and loan associations, principal and branch offices, remote service units, sundry amendments, C. 17:12B–37.1 and 17:12B–40.1, amends C. 17:12B–8 et al., repeals C. 17:12B–25 et al., Ch. 376.
Savings and loan, capital stock association, reserves required by FSLIC, amends C. 17:12B–259, Ch. 420.
Savings and loan, restraining order, receivership, closing, expedited merger, Commissioner's authority, amends C. 17:12B–181 et al., Ch. 287.
Savings banks regulation, parity with Federal mutual savings banks, C. 17:9A–24b1 and 17:9A–24b2, Ch. 163.
Savings banks, reserve balances, requirement prescribed by regulation, amends C. 17:9A–187, Ch. 372.
Secondary mortgage lenders, certain, loan evidenced by a note secured by mortgage, collection of debt, amends C. 2A:50–2.3, Ch. 333.
"Secondary Mortgage Loan Act," sundry amendments, amends C. 17:11A–35 et al., Ch. 100.
Secondary mortgage loans, certain, permitted, sundry other amendments, C. 17:1–12, amends C. 17:12B–5 et al., Ch. 74.
Unclaimed bank deposits, time, notice required prior to payment to State, amends C. 17:9–21, Ch. 402.

BONDS
"Beaches and Harbors Bond Act of 1977," allocation of funds for county projects permitted, amends P. L. 1978, c. 157, Ch. 89.
"Community Development Bond Act of 1982," $85,000,000, Ch. 486.
"Farmland Preservation Bond Act of 1981," $50,000,000, Ch. 276.
"Hazardous Discharge Bond Act," $100,000,000, Ch. 275.
Interest rate, local units and public bodies, maximum statutory limitation suspension extended, amends C. 31:1–7, Ch. 189.
Interest rate, public bodies, maximum statutory limitation suspension, permanent, amends C. 31:1–7, Ch. 381; counties and municipalities, Ch. 559.
"Local Bond Law," financial advisors permitted to bid at public offerings, amends N. J. S. 40A:2–38, Ch. 268.
"Local Bond Law," interest rate limitation, repealed, repeals N. J. S. 40A:2–23, Ch. 215.
"Local Bond Law," issuance, purpose, major repair, reconditioning or overhaul of fire engines and apparatus, amends N. J. S. 40A:2–22, Ch. 273.
"Local Bond Law," private sale, authorized, issue of $100,000 or less, amends N. J. S. 40A:2–27, Ch. 111.
"N. J. Mortgage Assistance Bond Act of 1976," certain covenants by issuing officials authorized, amends section 9 of P. L. 1976, c. 94, Ch. 109.
"Public Purpose Buildings Construction Bond Act of 1980," limited use of bond proceeds, certain, authorized, amends section 7 of P. L. 1980, c. 119, Ch. 41.
Water Conservation Bonds, 1969, 6% interest rate ceiling, remove, referendum, amends section 10 of P. L. 1969, c. 127, Ch. 233.
"Water Supply Bond Act of 1981," $350,000,000, Ch. 261.

BRIDGES
Route 46 over Hackensack River, designated, "Vietnam Veterans' Memorial Bridge," J. R. 19.

CENSUS
Federal census, 1980, effective date, C. 52:4–4, Ch. 298.
Federal census, 1980, effects on law, sundry amendments, amends N. J. S. 2A:4–4 et al., repeals R. S. 19:4–2 et al., Ch. 462.

CHILDREN
Employment, age 16 or over, restaurant, food service or retail jobs during short school vacation, 14 days without a certificate, amends C. 34:2–21.7, Ch. 541.
Employment, motion picture productions, hours, C. 34:2–21.63b, amends C. 34:2–21.57 et al., repeals C. 34:2–21.63, Ch. 147.
Employment, theatrical productions where alcoholic beverages are sold, sundry other amendments, amends C. 34:2–21.1 et al., Ch. 331.
Juvenile delinquency, Title 39, Motor Vehicle offenses, certain, municipal court jurisdiction, amends C. 2A:4–44, Ch. 419.
Newspaper carriers, age 11, legal, amends C. 34:2–21.15, Ch. 490.
Pre-school handicapped pupils, education, certain, C. 18A:46–6.1 and 18A:46–6.2, amends N. J. S. 18A:46–1 et al., Ch. 415.
"Youth Camp Safety Act," day camps, certain, exempt, amends C. 26:12–3, Ch. 536.

CIGARETTES
Unstamped, transportation, penalty increased, amends C. 54:40A–32, Ch. 361.

CIVIL ACTIONS
Chancery Division judgments, liens on real property, amends N. J. S. 2A:16–1 et al., repeals N. J. S. 2A:16–19 and 2A:16–20, Ch. 388.
Change of name, procedure, requirements, records, penalty, amends N. J. S. 2A:52–1 and 2A:52–2, Ch. 362.
Contracts, "hold harmless" agreements, certain, void, C. 2A:40A–1 et seq., Ch. 317.
Environmental Rights Act, prevailing party, permissible counsel, expert witness fee awards increased, amends C. 2A:35A–10, Ch. 339.
Insurance benefits, automobile PIP, exempt from levy or execution, amends C. 39:6A–4, Ch. 562.
Judgment for employment wage tax, real estate not subject to levy and execution, amends N. J. S. 2A:17–17, Ch. 548.
"New Jersey Support Enforcement Act," C. 2A:17–56.7 et al., amends C. 54:1–60 and 54:1–63, repeals C. 2A:17–56.1 et seq., Ch. 417.
Public records, right to know, certain costs to prevailing party, amends C. 47:1A–4, Ch. 338.

CIVIL RIGHTS
Human Rights Week, December 10–16, 1981, J. R. 17.

CIVIL SERVICE
Classified local government service, examination waiver, provided, certain, temporary service credit, C. 11:23–10 et seq., Ch. 205.
Classified State service, examination waiver, provided, certain, temporary service credit, C. 11:9–15 et seq., Ch. 204.
County parks, employees, certain, classified service, Ch. 15.
Division of Equal Employment Opportunity and Affirmative Action, constituted in the Department of Civil Service, C. 11:2D–1 et seq., Ch. 124.
Essex County, temporary employees, certain, permanent appointment without exam, C. 11:21–5.4, Ch. 92.
Local housing authority positions, certain, unclassified, amends R. S. 11:22–2, Ch. 482.
Police reemployment list, certain, established, C. 11:22–10.4, Ch. 439.
Seniority, computation includes certain time in elective public office, C. 11:21–9.1, amends R. S. 11:21–9 and C. 11:24A–7, Ch. 545.

COLLEGES AND UNIVERSITIES
College of Medicine and Dentistry of New Jersey, designated the University of Medicine and Dentistry of New Jersey, C. 18A:64G–3.1 et al., amends C. 18A:64G–2 et al., repeals C. 18A:64G–13, Ch. 325.
County colleges, law, sundry amendments, amends N. J. S. 18A:64A–1 et al., repeals C. 18A:64A–39, Ch. 329.
Douglass College, chair of women's studies, commission study, Ch. 555.
Employees, tax shelter, reduction in salary, amount conformed to Federal law, amends C. 18A:66–190, Ch. 39.
Institute of Forensic Science, College of Medicine and Dentistry, designated the Edwin H. Albano Institute of Forensic Science, J. R. 8.
Laryngectomee speech rehabilitation courses, necessity, Department of Higher Education study, J. R. 18.
New Jersey School of Conservation, land, perpetual use under direction of Montclair State College, C. 18A:64I–1 et seq., Ch. 148.

COLLEGES AND UNIVERSITIES (Continued)
Rutgers University Cooperative Extension Service employees, certain, State Health Benefits Program qualification, Federal service, amends C. 52:14–17.32, Ch. 199.
Scholarships, public institutions, children and surviving spouses of civil defense workers and law enforcement personnel killed in line of duty, amends C. 18A:71–77, Ch. 300.
State Higher Education Assistance Authority Law, Federal Guaranteed Student Loans, parents eligible, amends N. J. S. 18A:72–10 and 18A:72–11, Ch. 206.
Tenured faculty, removal, procedure, amends N. J. S. 18A:6–18, Ch. 181.

COMMERCE AND ECONOMIC DEVELOPMENT
"Department of Commerce and Economic Development Act," Department established, C. 52:27H–1 et al., amends C. 34:1B–4, repeals C. 13:1B–15.75 et seq., Ch. 122.
Economic development fund in EDA, urban industrial park project financing from "Community Development Bond Fund," C. 34:1B–7.1 et seq., Ch. 505.
Office of Small Business Assistance, established, C. 52:27H–21.1 et seq., Ch. 283.

COMMISSIONS
Agent Orange Commission, extended, amends section 6 of P. L. 1979, c. 443, Ch. 260.
Casino Control Commission, executive secretary, salary ceiling, increased, amends C. 5:12–54, Ch. 238.
Commission on Sex Discrimination in the Statutes, extended, amends section 11 of P. L. 1978, c. 68, Ch. 94.
Commission to study creation of a chair of women's studies at Douglass College, created, Ch. 555.
Commission to study governmental laws and regulations relating to fire safety standards, created, J. R. 7.
Criminal Disposition Commission, report required annually, amends N. J. S. 2C:48–4, Ch. 110.
Palisades Interstate Park Commission, appointment of chief of police authorized, C. 32:14–4.1 and 32:14–4.2, Ch. 93.

CONFLICTS OF INTEREST
Public officials, casino representation or employment, interest, certain, prohibited, C. 52:13D–17.2, amends C. 5:12–102 et al., repeals C. 52:13D–17.1, Ch. 142.

CONSTITUTION, STATE, AMENDMENTS
Gambling revenues, Art. IV, Sec. VII, para. 2.
Gubernatorial veto, Art. V, Sec. I, para. 14.
Riparian lands, Art. VIII, Sec. V, para. 1.

CONSUMER AFFAIRS
Consumer contracts, "plain language" law, sundry amendments, applicability, effective dates, C. 56:12–4.1, amends C. 56:12–1 et al., repeals P. L. 1981, c. 274 (C. 56:12–8.1), Ch. 464.
Consumer contracts, "plain language" law, suspension, certain, permitted, C. 56:12–8.1, Ch. 274.
Local offices, consumer fraud actions, fines and costs, recover, C. 56:8–14.1, amends C. 40:23–6.47, Ch. 178.

CONSUMER AFFAIRS (Continued)
Retail installment loans, cross-collateral and mortgage security, prohibited, C. 17:16C–39.1, amends C. 17:16C–29, Ch. 324.
"Truth-in-Consumer Contract, Warranty and Notice Act," C. 56:12–14 et seq., Ch. 454.

CORPORATIONS
Business Tax, installment payment, alternate calculation, amends C. 54:10A–15.4, Ch. 343.
Business Tax, method of payment, estimated, basis, C. 54:10A–15.1 et seq., amends C. 54:10A–15 and 54:10A–19, Ch. 184.
Criminal activity, certain, ineligible to do business with public entities, list of barred corporations maintained by State Treasurer, amends N. J. S. 2C:51–2, Ch. 356.
Nonprofit, certificate of incorporation approval requirement, certain, repealed, repeals R. S. 15:1–15, Ch. 252.

CORRECTIONS
Camden, Mercer, Passaic and Union County facilities, construction, $21,289,762, Ch. 457.
"County Correctional Policy Act of 1982," county assistance program, certain, established, C. 30:8–16.3 et seq., Ch. 498.
County institutions, inmates on work release, housing at certain nonprofit organizations' facilities, C. 30:8–48.1 and 30:8–48.2, Ch. 265.
County institutions, inmates' work credits, standard, C. 30:8–28.4, repeals C. 30:8–28.1 et seq., Ch. 140.
Fort Dix stockade, operational costs authorized, Ch. 558.
Gloucester County facility, construction, $950,000, Ch. 557.
Inmate housing, trailers, purchase, $1,500,000, Ch. 209.
Medium security prison, 400-bed, construction, $30,000,000, Ch. 208.
Middlesex County facility, construction, $6,200,000, Ch. 207.

COUNTIES
Adjusters, certain, tenure, C. 30:4–34.1, amends R. S. 30:4–34, Ch. 403.
Atlantic County Improvement Authority, bonds, development fund established, C. 40:48–8.16a et al., amends C. 40:48–8.17 et al., Ch. 461.
Boards of Taxation, members, secretaries, assessor's certification required, date extended, amends R. S. 54:3–2 and 54:3–7, Ch. 192.
Budget, "cap" law exceptions, sundry amendments, C. 40A:4–45.4a, amends C. 40A:4–45.3 and 40A:4–45.4, Ch. 56.
Budget, 1981, introduction, approval and adoption dates, Ch. 14.
Codified ordinances and resolutions, "Optional County Charter Law" counties, copies to municipalities and public on request, amends C. 40:41A–102, Ch. 359.
Economy in government loan fund, joint interlocal services, energy conservation, recycling, C. 40:8B–10 et seq., amends C. 40:8B–5 and 40:8B–6, Ch. 529.
Employees, certain, discharge procedure revised, amends N. J. S. 40A:9–25 et al., Ch. 75.
Essex, temporary employees, certain, permanent Civil Service appointment without exam, C. 11:21–5.4, Ch. 92.
Improvement authorities, convention hall, powers, C. 40A:4–45.11, amends C. 40:37A–54 et al., Ch. 460.

COUNTIES (Continued)
Improvement authorities, definition of "garbage, solid waste or refuse matter" in law, amends C. 40:37A–45, Ch. 492.
Insurance programs, joint risk management services permitted, amends C. 40:8B–5, Ch. 73.
Moneys deposited, interest-bearing accounts, amends N. J. S. 40A:5–14, Ch. 196.
"Optional County Charter Law," powers over certain county agencies, amends C. 40:41A–28 et al., Ch. 48.
Police departments, sundry amendments, C. 40A:14–106.2 and 40A:14–106.3, amends N. J. S. 40A:14–106 et al., Ch. 126.
Property, not needed for public use, convey to certain nonprofit organizations or sewerage authorities, amends C. 40A:12–21, Ch. 440.
Property, not needed for public use, open public sale at auction, permitted, amends C. 40A:12–13, Ch. 330.
Purchasing agents, certification established, C. 40A:9–30.1 et seq., Ch. 380.
Undersheriffs, maximum compensation, increased, amends N. J. S. 40A:9–117, Ch. 375.
Utilities authorities, alternate members permitted, amends C. 40:14A–4 and 40:14B–4, Ch. 412.
Utilities authorities, employees, certain, terms of office, amends C. 40:14B–18, Ch. 493.
Utilities authorities, interest on overdue service charges, increased, amends C. 40:14A–21 and 40:14B–41, Ch. 530.
Utilities authorities, rate adjustments, notice and hearing requirements, amends C. 40:14A–8 et al., Ch. 125.
Utilities authorities, reorganized from sewer authorities, employees in the classified civil service, amends C. 40:14B–6, Ch. 501.

COURTS
County district court jurisdiction, $5,000; small claims jurisdiction, $1,000, amends N. J. S. 2A:6–34 et al., Ch. 223.
Intermunicipal courts, fines, costs, fees, forfeitures, distribution, amends C. 2C:46–4, Ch. 224.
Municipal jurisdiction, juvenile violations of pedestrian, bicycle and moped laws, amends C. 2A:4–44, Ch. 419.
Municipal jurisdiction, landlord registration statement violations, amends C. 46:8–27 et al., Ch. 299.
Reporters, new positions, appropriations authorized, Ch. 549.
Superior Court, Appellate Division, deputy clerk, appointment, amends N. J. S. 2A:2–7, Ch. 519.
Transcript fees, increased, amends N. J. S. 2A:11–15, Ch. 136.

CRIMES
"Code of Criminal Justice," sundry amendments and supplements, N. J. S. 2C:21–8.1 et al., amends N. J. S. 2C:1–4 et al., repeals C. 2A:170–90.1, Ch. 290.
Controlled dangerous substances, possession in other than original container, certain, disorderly person, amends C. 24:21–18, Ch. 316.
"Deadly weapon," definition expanded, amends N. J. S. 2C:11–1, Ch. 384.
Death by auto, culpability, reckless, amends N. J. S. 2C:11–5, Ch. 312.
Fingerprinting, identification required after filing complaints for certain indictable offenses, amends R. S. 53:1–15 and C. 53:1–18.1, Ch. 411.

CRIMES (Continued)
Firearms, use or possession, certain crimes, mandatory minimum terms, amends N. J. S. 2C:43-6 et al., Ch. 31.
Grand jury, information disclosure, unauthorized, crime, C. 2A:73B-3, Ch. 477.
Keys to State property, use, possession, certain, disorderly person, C. 2C:5-7 et al., Ch. 248.
Nonindictable offenses, indigents, assignment of counsel, county or municipal costs, certain, lien established, C. 40:6A-1 et seq., Ch. 364.
Racketeering activity, prohibited, C. 2C:41-1.1 et al., amends N. J. S. 2C:5-2 et al., Ch. 167.
Robbery, theft, use of force included, amends N. J. S. 2C:15-1, Ch. 22.
School property, alcoholic beverages, disorderly person, C. 2C:33-16, Ch. 197.
Sentencing disposition permitted, juvenile or adult, use of motor vehicle, license, registration suspension or revocation, amends C. 2A:4-61 and N. J. S. 2C:43-2, Ch. 269.
Threats or property damage based on race, color, creed or religion, prohibited, C. 2C:33-10 and 2C:33-11, Ch. 282.
Usury, criminal, interest rates, amends N. J. S. 2C:21-19, Ch. 104.
Victims of violent crimes, compensation, application, time extended, amends C. 52:4B-18, Ch. 307.
Victims of violent crimes, compensation, emergency awards, permitted, C. 52:4B-10.1, Ch. 258.
Victims of violent crimes, compensation, information, availability, C. 52:4B-22 and 52:4B-23, Ch. 256.
Violent Crimes Compensation Board, membership increased; tenure, certain; special senior citizens' public awareness program required, C. 52:4B-4.1 and 52:4B-24, amends C. 52:4B-3, Ch. 396.

CRIMINAL PROCEDURE
"Prevention of Domestic Violence Act," C. 2C:25-1 et seq., amends N. J. S. 2A:4-18, repeals P. L. 1981, c. 200 (C. 2C:12-4 et seq.), Ch. 426.
Sentencing, minimum term without eligibility for parole, standard for determining imposition, amends N. J. S. 2C:43-6, Ch. 569.
Sentencing, presentence report, victim's statement, amends N. J. S. 2C:44-6, Ch. 481.
Speedy trial program, established, Ch. 517.
Spousal assault, remedy, procedure, C. 2C:12-4 et seq., Ch. 200.

DOMESTIC RELATIONS
"New Jersey Support Enforcement Act," C. 2A:17-56.7 et al., amends C. 54:1-60 and 54:1-63, repeals C. 2A:17-56.1 et seq., Ch. 417.
"Prevention of Domestic Violence Act," C. 2C:25-1 et seq., amends N. J. S. 2A:4-18, repeals P. L. 1981, c. 200 (C. 2C:12-4 et seq.), Ch. 426.
"Revised Uniform Reciprocal Enforcement of Support Act (1968)," C. 2A:4-30.24 et seq., repeals C. 2A:4-30.1 et al., Ch. 243.
Shelters for victims of domestic violence, trust fund, increased marriage license fees, C. 37:1-12.1 et seq., Ch. 382.
Spousal assault, remedy, procedure, C. 2C:12-4 et seq., Ch. 200.
Support and maintenance orders, wage executions, enforcement, C. 2A:17-56.1a and 2A:17-56.6, amends C. 2A:17-56.1 and 2A:17-56.3, Ch. 203.

DRUGS
Stramonium, regulated, C. 26:2-82.1, amends C. 2A:170-77.8 et al., Ch. 441.

ELECTIONS

"Absentee Voting Law," sundry amendments, C. 19:57–24.1 and 19:57–37.1, amends C. 19:57–2 et al., repeals R. S. 19:34–58 et seq., Ch. 390.

Ballots, primary elections, U. S. Senate and gubernatorial candidates, arrangement, C. 19:23–26.1 and 19:23–26.2, Ch. 71.

"Campaign Contributions and Expenditures Reporting Act," legislative lobbying reports, requirement removed, amends C. 19:44A–2 et al., Ch. 151.

"Campaign Contributions and Expenditures Reporting Act," loans, co-signers, report required, amends C. 19:44A–8 and 19:44A–16, Ch. 337.

Congressional districts, amended, Ch. 561.

County of the first class, necessary expenses permitted, increased, amends R. S. 19:32–2, Ch. 263.

District board officers, party affiliation, amends R. S. 19:6–2, Ch. 257.

Dual candidacy for offices in Faulkner Act municipalities, prohibited, C. 40:69A–153.1, Ch. 87.

Gubernatorial inaugural fund-raising events, contribution limit exemption, certain, amends C. 19:44A–18.1, Ch. 521.

Gubernatorial, legislative candidates, financial disclosure required, C. 19:44B–1 et seq., Ch. 129.

Legislative vacancies, fill, method, C. 19:27–6.1 and 19:45–1.1, amends R. S. 19:3–28 et al., Ch. 429.

Local elective office, residency requirement clarified, amends C. 40A:9–1.13, Ch. 49.

"Municipal manager form," council candidates, ballot position by lot, C. 40:84–6.1, amends R. S. 40:84–6, Ch. 58.

Municipal, ward or district, primary candidates, petition signatures required, amends R. S. 19:23–8, Ch. 164.

Primary, irregular ballots or write-in votes, number required to win as a minimum, C. 19:14–2.1, Ch. 264.

Primary nominees, vacancy, replacement candidate, party affiliation requirement, certain, eliminated, amends R. S. 19:13–20, Ch. 346.

School election officers, voting machine instruction required, C. 18A:14–6.1, Ch. 99.

School, polling places other than schoolhouses or public buildings permitted, accessibility, amends N. J. S. 18A:14–4, Ch. 222.

School, signature copy register, record, amends N. J. S. 18A:14–50 et al., Ch. 434.

"Uniform Nonpartisan Elections Law," procedure for regular nonpartisan municipal elections in May, uniform, C. 40:45–5 et seq., amends R. S. 40:75–1 et al., repeals R. S. 40:75–3 et al., Ch. 379.

ENVIRONMENT

Discharge of harmful or destructive substances, "conveyances" used, forfeiture, C. 13:1K–1 et seq., Ch. 387.

"Environmental Rights Act" actions, prevailing party, counsel, expert witness fees, permissible award increased, amends C. 2A:35A–10, Ch. 339.

Fissionable source material, extraction or processing prohibited, C. 13:1J–1 et seq., Ch. 130.

"Forest Fire Prevention and Control Act," C. 13:9–44.1 et seq., amends R. S. 13:9–1 et al., repeals R. S. 13:8–17 et al., Ch. 369.

"Major Hazardous Waste Facilities Siting Act," C. 13:1E–49 et seq., amends C. 13:1E–42.1 and 13:1E–42.2, Ch. 279.

ENVIRONMENT (Continued)
"Pesticide Control Act," incorporates part of "Economic Poison Act of 1951," fees authorized, C. 13:1F–15 and 13:1F–16, amends C. 13:1F–9 and 13:1F–14, repeals C. 4:8A–1 et seq., Ch. 538.
"Radiation Accident Response Act," emergency response plan required, C. 26:2D–37 et seq., Ch. 302.
"Radiation Protection Act," enforcement, Department of Environmental Protection powers, penalties, C. 26:2D–23, amends C. 26:2D–2 et al., repeals C. 26: 2D–11 and 26:2D–11.3, Ch. 296.
"Recycling Act," landfill tax credited to State Recycling Fund, C. 13:1E–92 et seq., Ch. 278.
"Safe Dam Act," construction, inspection, repair and safety of dams and reservoirs, C. 58:4–8.1 and 58:4–8.2, amends R. S. 58:4–1 et al., repeals R. S. 58:4–7, Ch. 249.
Spill Compensation Fund claims, certain, allowed, private residential wells, amends C. 58:10–23.11f, Ch. 25.
Violators, forfeited bonds or securities, Department use, amends C. 13:1D–9, Ch. 446.

ESTATES
Administration of Estates—Decedents and Others, Title 3B of the New Jersey Statutes, new, N. J. S. 3B:1–1 et seq., repeals N. J. S. 3A:2–1 et al., Ch. 405.
Administrators' bonds, condition, inventory and account, real property included, amends N. J. S. 3A:7–4, Ch. 180.
Gifts to minors, sundry amendments, C. 46:38–19.1 et al., amends C. 46:38–14 et al., repeals C. 46:38–31, Ch. 377.
Minors, use of funds for child's support, restricted, amends C. 3A:6–32.1, Ch. 3.
Pensions, annuities, certain, payable to surviving spouse, inheritance tax exempt, amends R. S. 54:34–4, Ch. 152.

EVIDENCE
Clergyman's privilege, professional counseling included; psychologist's privilege, amends C. 2A:84A–23 (Rule 29) and C. 45:14B–28, Ch. 303.

EXECUTIVE ORDERS
Lindbergh kidnapping, records open to public, No. 110.
Mortgage revenue bonds, allocation of ceiling to N. J. Mortgage Finance Agency, No. 113.
Penal and correctional facilities, state of emergency, No. 106, 108.
Power Authority of State of New York, purchases from, No. 112.
Refugee Affairs, Advisory Council on, No. 107.
State employees, day off following Thanksgiving, No. 111.
State records, microfilming and storage, No. 109.
Transportation services, elderly and handicapped, coordination, No. 105.
Water shortage, state of emergency, No. 103, 104.

FIREMEN
Appointment, permanent, high school diploma or equivalency certificate required, amends N. J. S. 40A:14–9, Ch. 19.
Fire districts, bond anticipation notes, certain, authorized, C. 40A:14–86.1, Ch. 188.
Junior Firemen's Auxiliary, child labor law exemption, amends C. 34:2–21.17, Ch. 83.

FIREMEN (Continued)
Municipal appropriation to adjoining municipality's fire district or volunteer company, $25,000 permitted, amends N. J. S. 40A:14–35, Ch. 570.
Municipalities, certain, arson investigation units, creation, C. 40A:14–7.1, amends N. J. S. 2C:39–6, Ch. 409.
N. J. Firemen's Home, licensed administrator requirement, exemption, C. 30:7–5.1, Ch. 246.
Scene of a fire, sole authority, chief, superior officer or State fire warden, C. 40A:14–54.1, Ch. 435.

FIRST AID AND RESCUE SQUADS
"Volunteer First Aid and Rescue Squad Day," established, C. 36:1–9, Ch. 84.

FISH AND GAME
"Endangered and Nongame Species of Wildlife," inspections for compliance with regulations and fees, authorized, amends C. 23:2A–3 et seq., Ch. 281.
"Endangered and Nongame Species of Wildlife Conservation Fund," tax refund checkoff, established, C. 54A:9–25.2 and 54A:9–25.3, Ch. 170.
Oyster cultivation, above the southwest line in Delaware Bay, certain permitted, amends R. S. 50:1–23 et al., Ch. 62.
Woodcock, "special hunting stamp," fee, duration, amends R. S. 23:3–23 and 23:3–25, Ch. 571.

GAMES AND GAMBLING
Amusement games, prizes, fees, Amusement Games Control Commissioner set, referendum, amends C. 5:8–107 et al., Ch. 291.
Casino employees, key employees, gaming school instructors, temporary licenses, commission's authority to issue, extended, amends C. 5:12–89 et al., Ch. 195.
Casino hotel employees, licensing replaced by registration, temporary licensing of other employees continued, amends C. 5:12–1 et al., Ch. 503.
Casinos, prohibition of complimentary services to or employment of certain "public officers or employees," definitions and effective date conformed to conflicts law, C. 52:13D–17.2, amends C. 5:12–102 et al., repeals C. 52:13D–17.1, Ch. 142.
Lottery game rules, exempt from "Administrative Procedure Act," amends C. 5:9–7, Ch. 182.

HANDICAPPED PERSONS
Blind, deaf, accompanied by guide dog, public facilities, use, amends C. 10:5–29, Ch. 391.
Commodities and Services Council for blind and other severely handicapped persons, established, C. 30:6–23 et seq., Ch. 488.
Developmentally Disabled, Division of Advocacy for, established, C. 52:27E–41.1 et seq., Ch. 444.
Parking, temporary, permission authorized, sundry other amendments, C. 39:4–207.1, amends C. 39:4–204 et seq., Ch. 36.
Public buildings, barrier free, enforcement transferred to the Department of Community Affairs, sundry other amendments, amends C. 52:32–5 et al., Ch. 35.
State Autistic Week, February 22-28, 1981, J. R. 3; December 6-12, 1981, J. R. 16.

HEALTH
"Controlled Dangerous Substances Therapeutic Research Act," research program, therapeutic use of certain drugs, authorized, C. 26:2L–1 et seq., Ch. 72.
Cystic fibrosis, adult care and treatment program, established, C. 26:2–118, Ch. 289.
Diethylstilbestrol (DES) exposure, disorders, programs to identify and diagnose, established, C. 26:2–113 et seq., Ch. 288.
Hazardous Waste Health Care Task Force, established, C. 58:10–23.12 et seq., Ch. 456.
"Hereditary Disorders Act," program established, C. 26:5B–1 et seq., Ch. 502.
Local health agency, public health nurse, provisional, civil service exam permitted, C. 26:3A2–14.1, Ch. 309.
Medicaid recipients, invalid coach services, regulated, C. 30:4D–6.2 et seq., Ch. 134.
Newborn children, biochemical disorders, testing required, C. 26:2–112, amends C. 26:2–110 and 26:2–111, repeals C. 26:2–84 et seq., Ch. 357.
"Poison Prevention Week," March 15-21, 1981, J. R. 6.
Smoking, educational institutions, certain, prohibited, C. 26:3D–15 et seq., Ch. 320.
Smoking, elevators, prohibited, C. 26:3D–1 et seq., Ch. 318.
Smoking, health care facilities, physicians' waiting rooms, certain, prohibited, C. 26:3D–7 et seq., Ch. 319.
Stramonium, regulated, C. 26:2–82.1, amends C. 2A:170–77.8 et al., Ch. 441.

HIGHWAYS
Garden State Parkway, advertising signs, certain, permitted, C. 27:12B–20a, Chs. 463, 535.
"Howard S. Stainton Memorial Causeway," designated, J. R. 15.
"Hugh N. Boyd Parkway," designated, J. R. 13.
"New Jersey Ridesharing Act of 1981," C. 27:26–1 et seq., amends R. S. 34:15–36 et al., Ch. 413.
Road maintenance or repair, county or municipal, temporary speed reduction, C. 39:4–98.2, Ch. 237.

HISTORICAL AFFAIRS
Battle of Monmouth, reenactment, annual event, planning and execution, J. R. 10.
"Four Chaplains' Sunday," first Sunday in February of each year, J. R. 1.
"Women's History Week," March 8-14, 1981, J. R. 5.

HOSPITALS
Municipal appropriations, "health care facilities," permitted, C. 44:5–2a, amends C. 44:5–10.2 and R. S. 44:55–2, Ch. 145.
Public general, assistance, certain authorized, sundry other amendments, amends C. 30:9–12.32 et al., Ch. 26.

HOUSING
"Congregate Housing Services Act," supportive services program established, C. 52:27D–182 et seq., Ch. 553.
Local authorities, positions, certain, unclassified, amends R. S. 11:22–2, Ch. 482.
New Jersey Housing Finance Agency, membership increased, sundry other amendments, amends C. 55:14J–4, Ch. 67.
Projects, certain, transfer, tax exempt status continued, C. 40:55C–52.1, Ch. 506.
Tenants, displaced, certain, relocation assistance, C. 20:4–3.1, Ch. 491.

HUMAN SERVICES
Commodities and Services Council for blind and other severely handicapped persons, established, C. 30:6–23 et seq., Ch. 488.
Medicaid, PAA recipients' estates, encumbrance, recovery, certain, prohibited, C. 30:4D–7.2a, Ch. 217.
"Pharmaceutical Assistance to the Aged and Disabled," income eligibility increased, amends C. 30:4D–21, Ch. 499.
State Board of Institutional Trustees, name changed to State Board of Human Services, amends R. S. 30:1–1 et al., Ch. 115.

INSURANCE
Assigned risk business, brokers' commissions on cancelled policies or terminated contracts, amends C. 17:22–6.14a, Ch. 137.
Automobile, additional PIP coverage, option, amends C. 39:6A–10, Ch. 533.
Automobile, benefits provided to military personnel under Federal law, primary, PIP premium reduction authorized, amends C. 39:6A–6, Ch. 95.
Automobile, PIP benefits, not assignable, exempt from levy or execution, amends C. 39:6A–4, Ch. 562.
Blue Cross, Blue Shield, member totally disabled, continue, certain, C. 17:48–6.10 et seq., Ch. 455.
Fire losses, information disclosure regulated, C. 17:36–14 et seq., Ch. 45.
Group health, member totally disabled, continue, certain, C. 17B:27–51.11 et seq., Ch. 422.
"Legal Services Insurance Act," C. 17:46C–1 et al., amends C. 54:18A–2 and 54:18A–3, Ch. 160.
Life insurance, solicitors sell on a variable basis, license fees increased, amends N. J. S. 17B:28–3 and 17B:28–14, Ch. 355.
"Medical Malpractice Liability Insurance Act," extended, repeals C. 17:30D–16, Ch. 12.
Mortgage guaranty insurance, commercial or industrial purposes, authorized, amends C. 17:46A–2 and 17:46A–4, Ch. 567.
Mutual fire insurance companies, borrowing capacity limit, removed, amends R. S. 17:37–3, Ch. 244.
N. J. Insurance Underwriting Association, board of directors, membership increased, amends C. 17:37A–5, Ch. 232.
Premium taxes, installment payments, amounts, amends C. 54:18A–1, Ch. 247.
Property-Liability Insurance Guaranty Association Act, sundry technical amendments, amends C. 17:30A–2 et al., Ch. 201.
Standard valuation and nonforfeiture law, revised, C. 17B:25–20, amends N. J. S. 17B:19–2 et al., Ch. 285.
Surplus lines regulation, sundry amendments, C. 17:22–6.50a, amends C. 17:22–6.41 et al., Ch. 250.
Taxes payable, filing date, C. 54:18A–1a, amends C. 54:18A–2 and 54:18A–3, repeals C. 54:16A–1 et al., Ch. 183.
Unfair competition or deceptive practices, certain, civil penalties, amends N. J. S. 17B:30–17 et al., Ch. 452.

JOINT RESOLUTIONS
Albano Institute of Forensic Science, J. R. 8.
Autistic Week, J. R. 3, 16.
Battle of Monmouth, reenactment, J. R. 10.
Bleshman School, J. R. 14.

JOINT RESOLUTIONS (Continued)
Boyd Parkway, J. R. 13.
Catholic Schools Week, J. R. 2.
Deiner Park, J. R. 12.
Fire safety standards commission, J. R. 7.
Four Chaplains' Sunday, J. R. 1.
Human Rights Week, J. R. 17.
Laryngectomee speech rehabilitation courses, J. R. 18.
National Guard Militia Museum, J. R. 4.
Occupational safety and health program, J. R. 9.
Poison Prevention Week, J. R. 6.
Red Ribbon Week, J. R. 20.
Stainton Memorial Causeway, J. R. 15.
VHF television station, training plans, J. R. 11.
Vietnam Veterans' Memorial Bridge, J. R. 19.
Women's History Week, J. R. 5.

JUDGES
Oath of office, administration, amends C. 41:2A–1 et al., Ch. 428.
Retirement system, contributory, certain, C. 43:6A–14.2 et al., amends C. 43:6A–3 et al., Ch. 470.
Salaries, increased, amends C. 2A:1A–6, Ch. 473.
Suspension from office, without pay, no time limit, amends C. 2A:1B–5, Ch. 522.

JURIES
Grand jury, reports or statements, certain, required, C. 2A:73B–2, Ch. 476.
Grand jury, transcription required, C. 2A:73B–1, Ch. 475.
Grand jury, unauthorized disclosure of information concerning proceedings, penalties, C. 2A:73B–3, Ch. 477.

LABOR
Department of Commerce and Economic Development established, C. 52:27H–1 et al., amends C. 34:1B–4, repeals C. 13:1B–15.75 et seq., Ch. 122.
Employment agencies, "booking agencies for performing artists," sundry other amendments, C. 34:8–26.1, amends C. 34:8–24 et al., Ch. 500.
Mine safety engineers and inspectors, qualifications, amends C. 34:6–98.3, Ch. 458.
"New Products, New Jobs Act of 1980," sundry amendments, Office for Promoting Technical Innovation, C. 34:1A–69.1 et seq., amends C. 34:1A–64 and 34:1A–67, Ch. 53.
Newspaper carriers, age 11, legal, amends C. 34:2–21.15, Ch. 490.
Public employees, occupational safety and health program needs, Department of Labor study, J. R. 9.
Temporary help service firms, certain, regulated, C. 56:8–1.1, amends C. 34:8–24 et al., Ch. 1.
Unlawful employment practice or discrimination based on atypical hereditary cellular or blood trait, prohibited, amends C. 10:5–5 and 10:5–12, Ch. 185.
VHF television station, manpower and skills required, Department study, J. R. 11.
"Worker Owned Corporation Study Act," C. 34:1B–30 et seq., Ch. 82.

LANDLORD AND TENANT
Atlantic City, eviction, certain, notice and relocation rights, extended, amends section 10 of P. L. 1978, c. 139, Ch. 106.

LANDLORD AND TENANT (Continued)
Atlantic City, relocation, certain, "rent" defined, comparable housing, C. 2A:18–61.16a, amends C. 2A:18–61.15 et al., Ch. 495.
Discrimination in renting, certain, prohibited, C. 2A:42–100 et seq., repeals N. J. S. 2A:170–92, Ch. 323.
Landlord registration and disclosure, sundry amendments, C. 46:8–28.1 et seq., amends C. 46:8–27 et al., repeals C. 2A:42–97, Ch. 442.
Landlord registration statements, enforcement, municipal court, amends C. 46:8–27 et al., Ch. 299.
Mobile home park tenants, eviction, certain, advance notice extended, sundry other amendments, amends C. 2A:18–61.1 et al., Ch. 8.
"Senior Citizens and Disabled Protected Tenancy Act," C. 2A:18–61.22 et seq., amends C. 2A:18–61.1 and 2A:18–61.11, Ch. 226.
"Senior Citizens and Disabled Protected Tenancy Act," applicable to mobile home park conversions, amends C. 2A:18–61.24, Ch. 445.

LEGISLATURE
Administrative agency rules, review and approval required, C. 52:14B–4.1 et seq., amends C. 52:14B–2 et al., Ch. 27.
Apportionment Commission, excluded from "Open Public Meetings Act," amends C. 10:4–7 and 10:4–8, Ch. 176.
Internship program, high school students, established, C. 52:13G–1 et seq., Ch. 478.
Laws, other legislative printing, distribution, revised, amends R. S. 1:2–1 et al., repeals R. S. 1:2–9 et al., Ch. 448.
Legislative Activities Disclosure Act, sundry amendments, Election Law Enforcement Commission enforce, C. 52:13C–22.1 et al., amends C. 52:13C–20, Ch. 150.
Legislative agents or lobbyists, expenditure reporting required for those "expressly" related to legislation, amends C. 52:13C–22.1, Ch. 513.
Salaries increased, amends C. 52:10A–1, Ch. 472.
Vacancies, fill, method, C. 19:27–6.1 and 19:45–1.1, amends R. S. 19:3–28 et al., Ch. 429.

LIBRARIES
County library commissions, additional members, amends R. S. 40:33–7, Ch. 564.
"County Library Reorganization Law," C. 40:33–13.2d et seq., Ch. 489.
Optical scanners for use by the blind and visually impaired, purchase, C. 18A:74–4.1, Ch. 225.

MARRIAGES
License application, information required concerning VD and competency, amends R. S. 37:1–9, Ch. 254.
License fees, increased, C. 37:1–12.1 et seq., Ch. 382.

MILITARY
"Agent Orange Act," extended, amends section 6 of P. L. 1979, c. 443, Ch. 260.
Disabled veterans' property tax exemption, widow of veteran who died in active service in time of war, eligible, amends C. 54:4–3.30 and 54:4–3.31, Ch. 171.
National Guard Museum, use of Great Seal of New Jersey, certain, authorized, J. R. 4.
Paraplegic veterans' benefits, increased, Vietnam included, amends C. 38:18A–1 et seq., Ch. 424.

MILITARY (Continued)
Souvenir of deceased veterans of all military conflicts as well as the World Wars, designated, amends C. 38:25A–1 et al., Ch. 231.
Special vendors' licenses, all veterans permitted, amends R. S. 45:24–9, Ch. 270.
Vietnam War missing in action, "Red Ribbon Week," January 24-30, 1982, designated, J. R. 20.

MOBILE HOMES
Evictions, certain, advance notice extended, sundry other amendments, amends C. 2A:18–61.1 et al., Ch. 8.

Manufactured Home Construction and Safety Standards Act, State enforcement, C. 52:27D–124a et seq., amends C. 52:27D–121 and 52:27D–123, repeals C. 52:27D–25.1 et seq., Ch. 494.
Taxation, real property, moratorium, repeals C. 54:4C–1 et seq., Ch. 9; repeals Ch. 9, Ch. 358.

MOTOR FUELS
Franchisee, sale of deisel fuel or gasohol, certain, franchisor reprisals prohibited, C. 56:10–7.1, Ch. 127.
Gasoline jobber or distributor, maximum permissible bond, increased, amends R. S. 54:39–19, Ch. 352.
Sale, per liter, regulated, C. 56:6–4.1, amends C. 56:6–2 et al., Ch. 230.
Tax reports, 22nd day of each month, amends R. S. 54:39–27, Ch. 173.

MOTOR VEHICLES
Accidents, police reports, requested other than in person, fee established, amends R. S. 39:4–131, Ch. 105.
Commuter vans, registration, special plates, C. 39:3–27.19 et seq., amends R. S. 39:1–1, Ch. 139.
Crosswalks, pedestrians' right-of-way, amends R. S. 39:4–34 et seq., Ch. 220.
Driver's license, color photograph required, amends R. S. 39:3–10 and C. 39:3–10f, repeals C. 39:3–10i, Ch. 322.
Driver's license, registration, insurance I. D. card, failure to possess, later proof permitted, amends R. S. 39:3–29, Ch. 242.
Driving while on revoked list, additional suspension or revocation permitted, amends R. S. 39:3–40, Ch. 38.
Drunk driving, chemical test refusal, procedure and hearing in municipal court, penalties, C. 39:4–50.4a, amends C. 39:4–50.2, repeals C. 39:4–50.4, Ch. 512.
Drunk driving, penalties increased; chemical test refusal, penalty increased, amends R. S. 39:4–50 and C. 39:4–50.4a, Ch. 537.
Drunk driving, subsequent offenses, time between clarified, amends R. S. 39:4–50, Ch. 47.
Handicapped parking, temporary, permission authorized, sundry other amendments, C. 39:4–207.1, amends C. 39:4–204 et seq., Ch. 36.
Learners' permits, special, issued to handicapped persons, duration extended, amends C. 39:3–13.2a, Ch. 80.
License plates, reflectorized, required, amends R. S. 39:3–33, Ch. 133.
Littering, fines increased, amends R. S. 39:4–64, Ch. 143.
Moped, operation under the influence of liquor or drugs prohibited, C. 39:4–14.3g, Ch. 97.
"New Jersey Ridesharing Act of 1981," C. 27:26–1 et seq., amends R. S. 34:15–36 et al., Ch. 413.

MOTOR VEHICLES (Continued)
Parking, handicapped space, prohibits, amends R. S. 39:4–138, Ch. 20.
Registration, commercial motor vehicles, school vehicles, farm trucks, staggered issuance, amends R. S. 39:3–20 et al., Ch. 554.
Roads closed by government authority, violations, penalty, C. 39:4–94.2, Ch. 229.
Special plates, "county officers," issuance, C. 39:3–27.29 et seq., Ch. 401.
Special plates, "P.O.W.," issuance, C. 39:3–27.24 et seq., Ch. 236.
Special plates, "street rod," issuance, C. 39:3–27.27 and 39:3–27.28, Ch. 240.
Traffic control, certain, municipalities determine, C. 39:4–120.2 et seq., Ch. 437.
Traffic offenses other than parking, fines, installment payments, permitted, C. 39:4–203.1 and 39:4–203.2, Ch. 365.
Unsatisfied Claim and Judgment Fund, repayments, interest rate increased, amends C. 39:6–87, Ch. 175.

MUNICIPALITIES
Appropriations, "health care facilities," permitted, C. 44:5–2a, amends C. 44:5–10.2 and R. S. 44:5–2, Ch. 145.
"Atlantic City Convention Center Authority Act," C. 52:27H–29 et seq., repeals C. 40:54B–1 et seq., Ch. 459.
Atlantic City luxury tax, convention hall development fund established, C. 40:48–8.16a et al., amends C. 40:48–8.17 et al., Ch. 461.
Borough of Ogdensburg, police appointment, certain, Ch. 297.
Boroughs, garbage districts, operation, C. 40:90–5 et seq., Ch. 255.
Budget, "cap" law base, sale of municipal assets, treatment, sundry amendments, C. 40A:4–45.3b, amends C. 40A:4–45.2, Ch. 64.
Budget, "cap" law exception, urban aid funds, treatment, C. 40A:4–45.7 and 40A:4–45.8, Ch. 61.
Budget, "cap" law exceptions, sundry amendments, C. 40A:4–45.4a, amends C. 40A:4–45.3 and 40A:4–45.4, Ch. 56.
Budget, "cap" law referendum, notice, publication; certain actions validated, amends C. 40A:4–45.3a, Ch. 66.
Budget, "cap" law, urban aid funds, 1980 and 1981 treatment, C. 40A:4–45.9, Ch. 155.
Budget, 1981, anticipation of apportionment of utility tax receipts, certain, Ch. 65.
Budget, 1981, introduction, approval and adoption dates, Ch. 14.
Cities, second or third class, surplus lands, certain, sale permitted, amends R. S. 40:176–13, Ch. 251.
Council-Manager Plan, board of school estimate member, mayor, amends C. 40:69A–98, Ch. 68.
Dual candidacy for office in Faulkner Act municipalities, prohibited, C. 40:69A–153.1, Ch. 87.
Economy in government loan fund, joint interlocal services, energy conservation, recycling, C. 40:8B–10 et seq., amends C. 40:8B–5 and 40:8B–6, Ch. 529.
Employees, certain, discharge procedure revised, amends N. J. S. 40A:9–25 et al., Ch. 75.
Governing bodies, certain, annual organization or reorganization meeting on a Sunday, January 1, permitted, amends C. 40:45A–1, Ch. 79.
Governing bodies, certain forms of government, membership, sundry amendments, C. 40:81–5.1 et al., amends R. S. 40:72–1.1 et al., repeals R. S. 40:123–1 et seq., Ch. 427.
"Hotel Occupancy Tax Act," cities of the first class, authorized, C. 40:48E–1 et seq., Ch. 77.

MUNICIPALITIES (Continued)
In lieu tax payments, New Jersey Transit Corporation, amends C. 27:25–16, Ch. 40; agreements, certain, Ch. 560.
Insurance programs, joint risk management services permitted, amends C. 40:8B–5, Ch. 73.
"Local Tax Authorization Act," parking tax, Jersey City, authorized, C. 40:48C–1.1, Ch. 433.
Mayor-Council Plan D, certain, revaluation implementation, prohibited for 1982-83, Ch. 421.
Mayor-Council Plan E, certain, adoption of Police and Firemen's Retirement System permitted, temporary option, Ch. 404.
Moneys deposited, interest-bearing accounts, amends N. J. S. 40A:5–14, Ch. 196.
Municipal manager form, term of office, amends R. S. 40:82–3, Ch. 466.
"Municipal Ward Law," boundaries, fix, uniform method, C. 40:44–9 et seq., amends R. S. 40:131–1 et al., repeals R. S. 40:44–1 et al., Ch. 496.
Name change referendum, special election permitted, amends R. S. 40:43–4, Ch. 169.
Newark, "Local Tax Authorization Act," alcoholic beverage, parking, employer payroll taxes, extended through 1985, amends C. 40:48C–2 et al., repeals C. 40:48C–9 et al., Ch. 507.
Officers, certain, appointment, election eliminated, C. 40A:9–133.1, amends N. J. S. 40A:9–133 et al., repeals R. S. 40:87–12 et al., Ch. 394.
"Optional Municipal Charter Law," sundry amendments, C. 40:69A–25.1 et al., amends C. 40:69A–12 et al., repeals C. 40:69A–49 et al., Ch. 465.
Police force, chief, lines of authority, amends N. J. S. 40A:14–118, Ch. 266.
Port authorities, powers, C. 40:68A–43.1, amends C. 40:68A–43 and 40:68A–51, Ch. 547.
Property, not needed for public use, convey to certain nonprofit organizations or sewerage authorities, amends C. 40A:12–21, Ch. 440.
Property, not needed for public use, open public sale at auction, permitted, amends C. 40A:12–13, Ch. 330.
Real property tax exemption, home improvements, certain, amount, $15,000, amends C. 54:4–3.75, Ch. 121.
Reserve for uncollected taxes, certain, not required, Ch. 193.
Safe and Clean Neighborhoods funds, police, regularly assigned uniformed patrol duties, amends C. 52:27D–118.3, Ch. 527.
"State Uniform Construction Code Act," officials, classification, tenure, amends C. 52:27D–126, Ch. 469.
Superintendent of public works, certain, tenure, C. 40A:9–154.5 and 40A:9–154.6, Ch. 383.
Tax sale certificate, certain, State purchase, C. 54:5–34.1 et seq., Ch. 194.
Trenton, ambulance services, contribution permitted, C. 40:48–4.9, Ch. 54.
Uniform construction code inspection contracts, certain, duration extended, amends C. 40A:11–15, Ch. 2.
Unsound financial condition, supervision, sundry amendments, C. 52:27BB–66.1 et al., amends C. 52:27BB–55 et al., repeals C. 52:27BB–64 et al., Ch. 211.
Utilities authorities, alternate members permitted, amends C. 40:14A–4 and 40:14B–4, Ch. 412.
Utilities authorities, employees, certain, terms of office, amends C. 40:14B–18, Ch. 493.

MUNICIPALITIES (Continued)
Utilities authorities, interest on overdue service charges, increased, amends C. 40:14A–21 and 40:14B–41, Ch. 530.
Utility authorities, rate adjustments, notice and hearing requirements, amends C. 40:14A–8 et al., Ch. 125.
Utilities authorities, reorganized from sewer authorities, employees in the classified civil service, amends C. 40:14B–6, Ch. 501.

NURSING HOMES, ROOMING AND BOARDING HOUSES
Life safety improvement loans, authorized, C. 55:14J–52 et seq., amends C. 55:14J–15 et al., Ch. 515.
Sprinkler systems, standby fees prohibited, amends R. S. 48:19–18 et al., Ch. 514.

PARKS
"Frank M. Deiner, Sr., Park," designated, J. R. 12.

PENSIONS AND RETIREMENT
Alternate benefit program, PFRS members, certain, transfer membership, C. 18A:66–173.1, amends C. 18A:66–170 and 18A:66–173, Ch. 342.
Alternate benefit program, tax shelter salary reduction, amount conformed to Federal law, amends C. 18A:66–190, Ch. 39.
Consolidated Police and Firemen's pensions, benefits, certain, increased, amends R. S. 43:16–1 and 43:16–5, Ch. 241.
Jersey City, sundry amendments, amends C. 43:13–22.50 et al., Ch. 534.
Judges in the Division of Tax Appeals, certain, special retirement under PERS, option, temporary, Ch. 271.
Judicial Retirement System, contributory, certain, C. 43:6A–14.2 et al., amends C. 43:6A–3 et al., Ch. 470.
Municipal elective office, certain, PERS credit, purchase, option, temporary, Ch. 272.
Municipality, Mayor-Council Plan E, certain, adoption of Police and Firemen's Retirement System permitted, temporary option, Ch. 404.
Newark, elected officials, certain, retirement, under city system, permitted, C. 43:13–22.49a et seq., Ch. 565.
Passaic County, widows' or widowers' benefits extended, amends C. 43:10–18.64, Ch. 34.
"Pension Adjustment Act," 1981-82 fiscal year, adjust two-thirds of CPI, Ch. 128.
PERS, borrowing against accumulated deductions, no age limit, retiree's repayment, C. 43:15A–34.1, amends C. 43:15A–34, Ch. 55.
PERS, municipal or county employee, certain, purchase credit, C. 43:15A–75.1, Ch. 7.
PERS, part-time employee of Legislature, certain, purchase credit, Ch. 430.
PERS, temporary service, certain, purchase credit, Ch. 523.
PERS, veterans, military service time, purchase credit, C. 43:15A–60.1, Ch. 451.
Police and Firemen, borrowing against accumulated deductions, no age limit, C. 43:16A–16.2, amends C. 43:16A–16.1, Ch. 370.
Police and Firemen, credit, certain, prior service as a chanceman, C. 43:16A–4.2 and 43:16A–4.3, Ch. 198.
Police and Firemen, eligibility, Bureau of Forest Fire Management titles, amends C. 43:16A–1, Ch. 524.
Police and Firemen, eligibility, former members, certain, amends C. 43:16A–1, Ch. 532.

PENSIONS AND RETIREMENT (Continued)
Police and Firemen, member elected to public office, membership continued at same rate of contribution, amends C. 43:16A–3.4, Ch. 30.
Police and Firemen, undersheriff, certain, prior service credit purchase allowed, Ch. 33.
State-administered systems, direct deposit of pension checks, financial institutions authorized, C. 43:3C–4 and 43:3C–5, Ch. 213.
State-administered systems, prior service, credit purchase, C. 43:16A–11.6, amends N. J. S. 18A:66–15.1 and C. 43:15A–14, Ch. 479.
State-administered systems, vesting, 10 years, amends N. J. S. 18A:66–36 et al., Ch. 177.
State firefighter officers, certain, PERS membership transfer to PFRS, option, temporary, amends C. 43:16A–1, Ch. 301.
State Health Benefits Program, employer other than the State, benefits continued for retired members' survivors, amends C. 52:14–17.38, Ch. 436.
State Health Benefits Program, maximum lifetime benefit, amends C. 52:14–17.29, Ch. 483.
State Health Benefits Program, reenrollment of certain disabled retirees permitted, Ch. 76.
State Police, certain, drug prescription program coverage, extended, C. 52:14–17.29a, Ch. 304.
TPAF, borrowing against accumulated deductions, no age limit, retiree's repayment, C. 18A:66–35.1, amends N. J. S. 18A:66–35, Ch. 212.
TPAF, member, continue, certain, Peace Corps service, C. 18A:66–8.1, Ch. 431.

PLANNING AND ZONING
County planning boards, affected county drainage facilities, site plan review permitted, amends C. 40:27–6.6, Ch. 50.
Storm water management plans required, C. 40:55D–93 et seq., amends C. 40:55D–4 and 40:55D–6, Ch. 32.

POLICE
County, provisional, certain, permanent civil service appointment permitted, Ch. 305.
Municipal force, chief, lines of authority, amends N. J. S. 40A:14–118, Ch. 266.
State, retired, certain, drug prescription program coverage, extended, C. 52:14–17.29a, Ch. 304.
Victims of violent crime, compensation information, required, C. 52:4B–22 and 52:4B–23, Ch. 256.

PROFESSIONS AND OCCUPATIONS
Bio-analytical laboratory director, license, plenary or special, amends C. 45:9–42.2 et al., repeals C. 45:9–42.6 et al., Ch. 314.
Employment agencies, "booking agencies for performing artists," sundry other amendments, C. 34:8–26.1, amends C. 34:8–24 et al., Ch. 500.
Gas station franchisee, sale of deisel fuel or gasohol, certain, franchisor reprisals prohibited, C. 56:10–7.1, Ch. 127.
Licensed by Department of Banking, certain, fees, biennial, amends C. 17:16C–7 et al., Ch. 321.
Medical Society of New Jersey, delegates, specialty representation, amends R. S. 45:9–56 et seq., Ch. 123.
Notaries public, ineligible, convictions, certain, C. 52:7–20 and 52:7–21, amends C. 2A:168A–1 and 2A:168A–2, Ch. 487.

PROFESSIONS AND OCCUPATIONS (Continued)
Precious metals buyers, certain, regulated, C. 51:6A–1 et seq., repeals C. 51:5–8 and 51:6–11, Ch. 96.
Professional board members, certain, per diem compensation established, amends C. 45:1–2.5, Ch. 91.
Professional corporations, "closely allied professional services," permitted, amends C. 14A:17–3 and 14A:17–5, Ch. 425.
Psychologists, family or group counseling, privileged communications, amends C. 45:14B–28 and 2A:84A–23, Ch. 303.
"Public Movers and Warehousemen Licensing Act," C. 45:14D–1 et seq., repeals C. 48:22–1 et seq., Ch. 311.
Radiologic technologists (x-ray), regulated, licensed, C. 26:2D–24 et seq., amends C. 45:1–2.2, repeals C. 45:25–1 et seq., Ch. 295.
Temporary help service firms, certain, regulated, C. 56:8–1.1, amends C. 34:8–24 et al., Ch. 1.

PUBLIC CONTRACTS
Local public contracts, energy conservation, certain, term not to exceed 10 years, amends C. 40A:11–15, Ch. 551.

PUBLIC EMPLOYEES
Payroll deductions, union "dues," defined, amends C. 52:14–15.9e, Ch. 345.
Social security contributions, delinquent payments, interest rate, amends C. 43:22–5, repeals C. 43:22–6, Ch. 179.
State Health Benefits Program, coverage, sundry amendments, amends C. 52:14–17.29, Ch. 483.

PUBLIC MEETINGS
"Open Public Meetings Act," Apportionment Commission excluded, amends C. 10:4–7 and 10:4–8, Ch. 176.

PUBLIC RECORDS
Right to know actions, certain costs, attorney's fees to prevailing party, amends C. 47:1A–4, Ch. 338.

PUBLIC UTILITIES
"Lifeline Credit Program," credit increased, amends C. 48:2–29.17, Ch. 292.
Municipal water utility, certain, transfer permitted, C. 40:62–3.1, amends R. S. 40:62–3, Ch. 16.
"Radiation Accident Response Act," electric utilities, certain, assessment, C. 26:2D–37 et seq., Ch. 302.
Rate Counsel expenses, assessment, certain, limited, amends C. 52:27E–19, Ch. 485.
Special assessment, FY '81, conduct of certain public hearings by board, Ch. 191.
"Tenants' Lifeline Assistance Program," established, C. 48:2–29.30 et seq., amends C. 48:2–29.18 and 48:2–29.21, Ch. 210.

RACING
Atlantic City Race Track, breakage, 1981, purse supplement, certain, Ch. 154.
Monmouth Park, May 1981 racing days, parimutuel share; N. J. bred thoroughbreds, races, award program increased, amends C. 5:5–49 et al., Ch. 118.
Parimutuel pool, distribution, disposition, amends C. 5:5–66 et al., Ch. 449.

New Jersey State Library

REAL PROPERTY
Deeds or instruments, preparer signature required for recording, amends C. 46:15–13, Ch. 228.
Foreign commissioners of deeds, sundry amendments, amends R. S. 52:6–12 et al., repeals R. S. 52:6–1 et al., Ch. 395.
Mineral rights, water rights not included, rule of construction for deeds or instruments, C. 46:3–27, Ch. 542.
Recording fees, by a municipality, reduced, amends C. 22A:4–4.1, Ch. 443.

RECREATION
Swimming pools, small, certain, lifeguard, qualified, basic training, C. 26:4A–1.1, Ch. 216.

REFERENDA
Amusement games, prizes, fees, Amusement Games Control Commissioner set, amends C. 5:8–107, Ch. 291.
Water Conservation Bonds, 1969, 6% interest rate ceiling, remove, Ch. 233.

REORGANIZATION PLAN
Financial Regulation and Assistance, Bureau of, transfer from Department of Treasury to Department of Community Affairs, Division of Local Government Services.

SCHOOLS
Alcoholic beverages, school property, disorderly person, C. 2C:33–16, Ch. 197.
Annual district audits, completion time extended, amends N. J. S. 18A:23–1, Ch. 5.
Bergen County Regional Day School for the Handicapped, designated "Norman A. Bleshman School," J. R. 14.
Board member, certain, municipal or county office prohibited, amends N. J. S. 18A:12–2 and 18A:12–3, Ch. 23.
Boards of education, regional districts, organization day in first week following annual election, amends N. J. S. 18A:13–10, Ch. 371.
Catholic Schools Week, February 1-7, 1981, J. R. 2.
Crossing guards, appointment, amends C. 40A:9–154.1, Ch. 227.
Custodian of school moneys, designated treasurer of school moneys, amends N. J. S. 18A:13–14 et al., Ch. 174.
Desegregation orders, compliance, State aid, Ch. 162.
Employee salary reduction, tax shelter, investment alternative, mutual funds, amends N. J. S. 18A:66–127, Ch. 550.
Facilities, acquisition, uses, joint, certain, permitted, amends N. J. S. 18A:20–4.2 and C. 18A:20–8.2, Ch. 410.
Food service contracts, renewable without public bidding for 2 years, conditions, C. 18A:18A–42.1, Ch. 186.
Hearing-impaired children, coordinator of deaf education, appointment, C. 18A:46–2.1 et seq., Ch. 351.
Hearing-impaired children, regional consultants, Commissioner of Education appointments, C. 18A:46–3.1, Ch. 350.
Marie H. Katzenbach School for the Deaf, advisory board, appointment, C. 18A:61–2.1, Ch. 313.
Pre-school handicapped pupils, education, certain, C. 18A:46–6.1 and 18A:46–6.2, amends N. J. S. 18A:46–1 et al., Ch. 415.
State average net current expense budget per pupil, regional districts and county vocational schools, calculation, amends C. 18A:7A–25, Ch. 326.

SCHOOLS (Continued)
Suspension, expulsion grounds, possession or use of alcoholic beverages or drugs on school property, amends N. J. S. 18A:37–2, Ch. 59.
Transportation aid, remote, nonpublic school pupils, increased, C. 18A:39–1a, amends N. J. S. 18A:39–1, Ch. 57.
Transportation, private vehicles, certain, authorized, C. 18A:39–20.1, Ch. 51.

SEWERAGE
Authorities, interest on overdue service charges, increased, amends C. 40:14A–21 and 40:14B–41, Ch. 530.
Local collector system, certain, State aid for interest and debt service, amends C. 58:25–9, Ch. 468.
Local collector system, State loans, certain, repayment schedule, amends C. 58:25–9, Ch. 400.
System cleaners, certain, prohibited, C. 58:10A–15 et seq., Ch. 253.

SOLID WASTE
County improvement authorities law, definition of "garbage, solid waste or refuse matter," sludge included, amends C. 40:37A–45, Ch. 492.
Disposal facilities, certain, hours of operation established, C. 13:1E–15.1, Ch. 81.
Landfill operation, tariff required, certain, C. 48:13A–6.1, Ch. 221.
"Major Hazardous Waste Facilities Siting Act," C. 13:1E–49 et seq., amends C. 13:1E–42.1 and 13:1E–42.2, Ch. 279.
"Recycling Act," landfill tax credited to State Recycling Fund, C. 13:1E–92 et seq., Ch. 278.
Sanitary landfill, enforcement of law by county health department, fees collected, surcharges permitted, C. 13:1E–9.1 and 40A:4–45.10, amends C. 13:1E–9, Ch. 438.
"Sanitary Landfill Facility Closure and Contingency Fund Act," solid waste tax credited, C. 13:1E–100 et seq., Ch. 306.

STATE
Cabinet officers, salaries increased, amends C. 52:14–15.107, Ch. 474.
Division of Advocacy for the Developmentally Disabled, established, C. 52:27E–41.1 et seq., Ch. 444.
Division of Criminal Justice, professional employees, unclassified service, amends C. 52:17B–100, Ch. 187.
Employees' pay, direct deposit, certain, permitted, C. 52:14–15a et seq., Ch. 385.
Employment practices, equal opportunity and affirmative action program, established, C. 11:2D–1 et seq., Ch. 124.
Governor, 1982 Inaugural Commission, created, Ch. 518.
Governor, salary increased, amends C. 52:14–15.104c, Ch. 471.
Keys to property, regulation, C. 2C:5–7 et al., Ch. 248.
Law Enforcement Planning Agency, membership, legislative appointments clarified, amends C. 52:17B–144, Ch. 21.
Museum, materials or collections, certain, disposal, proceeds, use, amends N. J. S. 18A:73–6, Ch. 508.
New Jersey Building Authority, created, C. 52:18A–78.1 et seq., Ch. 120.
Population, Federal census of 1980, effective date, C. 52:4–4, Ch. 298.
Real property, certain, surplus, sale authorized, Chs. 11, 334, 398, 520.

STATUTES

Federal census, 1980, effects on law, sundry amendments, amends N. J. S. 2A:4–4 et al., repeals R. S. 19:4–2 et al., Ch. 462.

Omnibus corrections act, amends N. J. S. 2C:5–2, 2C:5–4, 2C:29–6, 2C:39–6; C. 13:1E–65, 17:9A–24, 17:9A–65, 17:46B–31, 17:48A–5; N. J. S. 18A:22–14, 18A:58–7; C. 19:44A–3, 19:44A–40, 23:2A–4, 30:1AA–5, 30:4D–7.7, 30:6AA–11, 34:2–21.17, 40:66A–8, 46:8–28, 52:14B–2, 54:18A–2, 54:18A–3, Ch. 511.

Printing, distribution, revised, amends R. S. 1:2–1 et al., repeals R. S. 1:2–9 et al., Ch. 448.

Repealers, N. J. S. 3A:31–1 et seq., public guardians of incompetent veterans, obsolete, Ch. 525.

Repealers, Title 13, State parks, State Geological Survey, solid waste, certain, regulation, sundry repealers of superseded or outmoded sections, Ch. 78.

Repealers, C. 17:10A–1 et seq., unauthorized use of credit cards, conflicted with Federal law, Ch. 98.

Uniform Commercial Code, Chapter 9, Secured Transactions, updated, C. 12A:9–114 et al., amends N. J. S. 12A:1–105 et al., Ch. 138.

TAXATION

Abatement, property taxes, improvements to multiple dwellings, property transfer, abatement continued, amends C. 54:4–3.124 and 54:4–3.129, Ch. 378.

Business personal property exemption, out-of-State acquisitions, certain, amends C. 54:11A–3.1, Ch. 397.

Corporation Business Tax, banking corporation debt, certain, net worth exclusion, amends C. 54:10A–4, Ch. 467.

Corporation Business Tax, installment payment, alternate calculation, amends C. 54:10A–15.4, Ch. 343.

Corporation Business Tax, method of payment, estimated basis, C. 54:10A–15.1 et seq., amends C. 54:10A–15 and 54:10A–19, Ch. 184.

County board members, qualification, experience, amends R. S. 54:3–2, Ch. 516.

County board members, secretaries, assessor's certification required, date extended, amends R. S. 54:3–2 and 54:3–7, Ch. 192.

"Emergency transportation tax act," conformed to New York tax, amends C. 54:8A–9 et al., Ch. 374.

Farmland assessment, deferred, certain, interest deferred, amends C. 40:56–41.2, Ch. 310.

Gross income, "all-savers certificates" interest, certain, exempt, C. 54A:6–16 et seq., amends N. J. S. 54A:5–1, Ch. 423.

Gross income refunds, checkoff, "Endangered and Nongame Species of Wildlife Conservation Fund," established, C. 54A:9–25.2 and 54A:9–25.3, Ch. 170.

Gross income tax credit, excess employee contributions, unemployment and disability insurance, C. 54A:4–4 and 54A:4–5, amends N. J. S. 54A:7–2, Ch. 453.

"Home Improvement Tax Cut Act," assessment abatement, certain, permitted, amends C. 54:4–3.72 et al., Ch. 544.

"Hotel Occupancy Tax Act," cities of the first class, authorized, C. 40:48E–1 et seq., Ch. 77.

Insurance companies, filing date, C. 54:18A–1a, amends C. 54:18A–2 and 54:18A–3, repeals C. 54:18A–12 et al., Ch. 183.

Insurance companies, premium taxes, installment payments, amounts, amends C. 54:18A–1, Ch. 247.

TAXATION (Continued)
Mobile homes, certain, assessment, real property, moratorium extended, repeals C. 54:4C–1 et seq., Ch. 9; repeals Ch. 9, Ch. 358.
Motor fuels, tax reports on the 22nd day of each month, amends R. S. 54:39–27, Ch. 173.
Motor vehicle dealers, corporation business tax, factory-assisted dealer financing, net worth and net income deductions, amends C. 54:10A–4, Ch. 259.
Municipal assessors, appointment, terms, powers and duties, boards of assessors eliminated, C. 40A:9–148.1 et al., amends N. J. S. 40A:9–146 et al., repeals R. S. 40:77–1 et al., Ch. 393.
Municipal in lieu tax payments, New Jersey Transit Corporation, amends C. 27:25–16, Ch. 40; agreements, certain, permitted, Ch. 560.
Municipal revaluation, implementation, certain, prohibited, Ch. 421.
Property, late claim for exempt status, return of tax collected, certain, permitted, C. 54:4–3.6c, Ch. 539.
Property, petitions of appeal, complaints, copies served upon assessor of taxing district, amends R. S. 54:2–40 and 54:3–21, Ch. 568.
Real property, municipal exemption, home improvements, certain, amount, $15,000, amends C. 54:4–3.75, Ch. 121.
Sales tax exempt, aircraft, boats, other vessels, nonresident purchasers, amends C. 54:32B–10, Ch. 332.
Sales tax exempt, commercial fishing boats regardless of tonnage, amends C. 54:32B–8.12, Ch. 218.
Sales tax exempt, recycling equipment, certain, C. 54:32B–8.36, Ch. 546.
Senior and disabled citizens' real property tax deduction, amount and annual income eligibility increased, C. 54:4–8.53a, amends C. 54:4–8.41 et al., Ch. 85.
Senior and disabled citizens' real property tax deduction, mobile homeowners and others, eligibility allowed, amends C. 54:4–8.41 and 54:4–8.44, Ch. 86.
State taxes, collection, enforcement procedure, authority, C. 54:49–13a, Ch. 392.
Taxpayer gross income tax refund, homestead rebate, setoff for debts owed to State agencies, C. 54A:9–8.1 et seq., Ch. 239.
Transfer inheritance tax exempt, pensions, annuities, certain, payable to surviving spouse, amends R. S. 54:34–4, Ch. 152.
Veterans' exemption, widow of veteran who died in active service in time of war, eligible, amends C. 54:4–3.30 and 54:4–3.31, Ch. 171.

TRANSPORTATION
N. J. Transit Corporation, property, certain, tax exempt, in lieu payments, amends C. 27:25–16, Chs. 40, 560.

UNEMPLOYMENT COMPENSATION
Employee contributions, excess, unemployment and disability insurance, gross income tax credit, C. 54A:4–4 and 54A:4–5, amends N. J. S. 54A:7–2, Ch. 453.
Employer contributions, unemployment compensation and temporary disability benefits, delinquent, interest rate increased, applicability, amends R. S. 43:21–14 and P. L. 1981, c. 190, Ch. 556.
"Extended Benefits Law," conformed to Federal law, C. 43:21–24.18 and 43:21–24.19, Ch. 90.
Temporary disability benefits, State Police excluded, amends C. 43:21–27, Ch. 349.

UNIFORM COMMERCIAL CODE
Chapter 9, Secured Transactions, updated, C. 12A:9–114 et al., amends N. J. S. 12A:1–105 et al., Ch. 138.

VALIDATING ACTS
County or municipal offices of consumer affairs actions, Ch. 178.
School bond proceedings, Chs. 6, 17, 42, 63, 131, 144, 166, 336, 340, 344.

WATER SUPPLY
Agricultural uses, water diversion fees prohibited, usage certification approval by county agricultural agent, Pinelands water, transportation, certain, prohibited, C. 58:1A–7.1 and 58:1A–7.2, amends C. 58:1A–6, Ch. 277.
"Drought Surcharge Fund," established, moneys appropriated, C. App. A:6–5 et seq., Ch. 540.
Municipal water utility, certain, transfer permitted, C. 40:62–3.1, amends R. S. 40:62–3, Ch. 16.
New Jersey Water Supply Authority, established, C. 58:1B–1 et seq., Ch. 293.
Raritan River, south branch, passing flow requirements during drought emergency, amends C. 58:22–8, Ch. 10.
"Safe Dam Act," construction, inspection, repair and safety of dams and reservoirs, C. 58:4–8.1 and 58:4–8.2, amends R. S. 58:4–1 et al., repeals R. S. 58:4–7, Ch. 249.
Sewerage system cleaners, certain, prohibited, C. 58:10A–15 et seq., Ch. 253.
Small water companies, acquiring company, differential rates, certain, permitted, C. 58:11–63, Ch. 389.
Small water companies, improvements to and acquisitions of, authorized under certain conditions, C. 58:11–59 et seq., Ch. 347.
Standby fees prohibited, sprinkler systems for nursing, rooming or boarding homes, amends R. S. 48:19–18 et al., Ch. 514.
Utility company, municipal extension, certain, permitted, C. 40:62–61.2 et seq., Ch. 497.
"Water Supply Management Act," C. 58:1A–1 et al., amends R. S. 58:2–2 et seq., repeals R. S. 58:1–2 et al., Ch. 262.
Wells, private residential, Spill Compensation Fund claims, certain, allowed, amends C. 58:10–23.11f, Ch. 25.

WEAPONS
"Antique firearm," definition clarified concerning date of manufacture, amends N. J. S. 2C:39–1 and 2C:58–3, Ch. 363.
"Deadly weapon," facsimile weapons included, amends N. J. S. 2C:11–1, Ch. 384.
Forfeited, military value, donation to National Guard Militia Museum, permitted, C. 2C:64–9, Ch. 112.
Handgun permits, employees of armored car company, expiration, application, C. 2C:58–4.1, amends N. J. S. 2C:58–4, Ch. 135.
Pocket-sized device, chemical substance for self-defense, possession, manufacture, transportation, sale, certain, lawful, amends N. J. S. 2C:39–6 and 2C:39–9, Ch. 480.
Possession, certain, arson investigators, C. 40A:14–7.1, amends N. J. S. 2C:39–6, Ch. 409.
Possession, certain, special agents of the Division of Taxation, amends N. J. S. 2C:39–6, Ch. 108.
Possession, corrections officers at all times, amends N. J. S. 2C:39–6, Ch. 294.
Possession, devices to repel animal attacks, public utility and Postal Service employees, amends N. J. S. 2C:39–6, Ch. 219.

WELFARE

Anti-poverty training programs, accreditation required, certain, amends C. 44:12–2, Ch. 531.

"County Welfare Per Capita Cost Limitation Act of 1981," formula established, C. 44:14–1 et seq., Ch. 60.

WORKERS' COMPENSATION

Medical witnesses, fees increased, certain, amends R. S. 34:15–64, Ch. 414.

Referees, certain, designated judges, C. 34:15–49.1, Ch. 353.

Ridesharing arrangement, employment, C. 27:26–1 et seq., amends R. S. 34:15–36 et al., Ch. 413.

Special adjustment benefit payments, not reduced by 1980 social security cost-of-living adjustment, amends C. 34:15–95.4, Ch. 149.