ACTS

OF THE

First Annual Session

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OF THE

STATE OF NEW JERSEY

2020

CHAPTER 98

AN ACT expanding eligibility under the New Jersey earned income tax credit program, amending P.L.2000, c.80.

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

1. Section 2 of P.L.2000, c.80 (C.54A:4-7) is amended to read as follows:

C.54A:4-7 New Jersey Earned Income Tax Credit program.

2. There is established the New Jersey Earned Income Tax Credit program in the Division of Taxation in the Department of the Treasury.

a. (1) A resident individual who is eligible for a credit under section 32 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.32) shall be allowed a credit for the taxable year equal to a percentage, as provided in paragraph (2) of this subsection, of the federal earned income tax credit that would be allowed to the individual or the married individuals filing a joint return under section 32 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.32) for the same taxable year for which a credit is claimed pursuant to this section, subject to the restrictions of this subsection and subsections b., c., d. and e. of this section and the modifications of paragraph (4) of this subsection.

(2) For the purposes of the calculation of the New Jersey earned income tax credit, the percentage of the federal earned income tax credit referred to in paragraph (1) of this subsection shall be:

(a) 10% for the taxable year beginning on or after January 1, 2000, but before January 1, 2001;

(b) 15% for the taxable year beginning on or after January 1, 2001, but before January 1, 2002;

(c) 17.5% for the taxable year beginning on or after January 1, 2002, but before January 1, 2003;

(d) 20% for taxable years beginning on or after January 1, 2003, but before January 1, 2008;

(e) 22.5% for taxable years beginning on or after January 1, 2008 but before January 1, 2009;

(f) 25% for taxable years beginning on or after January 1, 2009 but before January 1, 2010;

(g) 20% for taxable years beginning on or after January 1, 2010, but before January 1, 2015;

(h) 30% for taxable years beginning on or after January 1, 2015, but before January 1, 2016;

(i) 35% for taxable years beginning on or after January 1, 2016, but before January 1, 2018;

(j) 37% for the taxable year beginning on or after January 1, 2018, but before January 1, 2019;

(k) 39% for the taxable year beginning on or after January 1, 2019, but before January 1, 2020; and

(l) 40% for taxable years beginning on or after January 1, 2020.

(3) To qualify for the New Jersey earned income tax credit, if the claimant is married, except for a claimant who files as a head of household or surviving spouse for federal income tax purposes for the taxable year, the claimant shall file a joint return or claim for the credit.

(4) A resident individual who is at least 21 years of age, but cannot claim a qualifying child as defined under section 152 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.152) for the federal earned income tax credit, shall be eligible for the New Jersey earned income tax credit if that resident individual is ineligible to claim the federal earned income tax credit due to minimum age requirements. The resident individual shall meet all qualifications, except for the minimum age, for the federal earned income tax credit in order to be eligible for the New Jersey earned income tax credit. Calculation of the New Jersey earned income tax credit available to individuals pursuant to this paragraph shall be predicated on the federal maximum amount for taxpayers with no qualifying child for each taxable year beginning on and after January 1, 2020.

b. In the case of a part-year resident claimant, the amount of the credit allowed pursuant to this section shall be pro-rated, based upon that proportion which the total number of months of the claimant's residency in the taxable year bears to 12 in that period. For this purpose, 15 days or more shall constitute a month.

c. The amount of the credit allowed pursuant to this section shall be applied against the tax otherwise due under N.J.S.54A:1-1 et seq., after all other credits and payments. If the credit exceeds the amount of tax otherwise due, that amount of excess shall be an overpayment for the purposes of N.J.S.54A:9-7; provided however, that subsection (f) of N.J.S.54A:9-7 shall not apply. The credit provided under this section as a credit against the tax otherwise due and the amount of the credit treated as an overpayment shall be treated as a credit towards or overpayment of gross income tax, subject to all provisions of N.J.S.54A:1-1 et seq., except as may be otherwise specifically provided in P.L.2000, c.80 (C.54A:4-6 et al.).

d. The Director of the Division of Taxation in the Department of the Treasury shall establish a program for the distribution of earned income tax credits pursuant to the provisions of this section.

e. Any earned income tax credit pursuant to this section shall not be taken into account as income or receipts for purposes of determining the eligibility of an individual for benefits or assistance or the amount or extent of benefits or assistance under any State program and, to the extent permitted by federal law, under any State program financed in whole or in part with federal funds.

2. This act shall take effect immediately.

Approved September 29, 2020.

CHAPTER 99

AN ACT concerning public assistance benefits and repealing section 7 of P.L.1997, c.38.

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

Repealer.

1. Section 7 of P.L.1997, c.38 (C.44:10-61) is repealed.

2. The Commissioner of Human Services shall apply for such State plan amendments as may be necessary to implement the provisions of this act and to secure federal financial participation for State expenditures under the federal Temporary Assistance to Needy Families program.

3. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the Commissioner of Human Services may adopt, immediately, upon filing with the Office of Administrative Law, regulations that the commissioner determines to be necessary to implement the provisions of this act, which regulations shall be effective for a period not to exceed 365 days from the date of the filing. The commissioner shall thereafter amend, adopt, or readopt the regulations in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

4. This act shall take effect immediately.

Approved September 29, 2020.

CHAPTER 100

AN ACT concerning association assessment in planned real estate developments, and supplementing P.L.1977, c.419 (C.45:22A-21 et seq.).

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

C.45:22A-45.3 Findings, declarations relative to association assessment in planned real estate developments.

1. The Legislature finds and declares that:

a. Certain associations have interpreted that the provisions of P.L.2017, c.106 (C.45:22A-45.1 et al.), enacted on July 13, 2017, may impose new responsibilities on certain property owners to pay assessments and other charges to their associations; and

b. It is necessary and in the public interest for the Legislature to clarify that P.L.2017, c.106 (C.45:22A-45.1 et al.) did not impose new responsibilities on property owners to pay assessments and other charges.

C.45:22A-45.4 Certain assessments prohibited.

2. a. An association in a community established prior to the effective date of the "Planned Real Estate Development Full Disclosure Act," ("PREDFDA"), P.L.1977, c.419 (C.45:22A-21 et seq.), shall not be permitted to require property owners to pay assessments and other charges where the property owner's title record does not impose such an obligation, unless otherwise provided by law.

b. If, after July 13, 2017, an association has recorded a lien against an owner's property for non-payment that is based solely on the misinterpretation that P.L.2017, c.106 imposed new responsibilities on property owners to pay an association's assessments or other charges, pursuant to P.L.2020, c.100 (C.45:22A-45.3 et seq.), the lien shall be null and void. The association shall promptly discharge such lien of record and provide notice of this action to the property owner. If an association fails to discharge such null and void lien, the owner may bring an action to have the lien discharged and, if successful, shall be entitled to petition the court for an award of counsel fees.

3. This act shall take effect immediately and shall be retroactive to July 13, 2017.

Approved September 30, 2020.

CHAPTER 101

AN ACT concerning testing for COVID-19 or COVID-19 antibodies and amending P.L.2020, c.7 .

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

C.45:14-67.8 Pharmacists authorized to provide testing for COVID-19, certain circumstances.

1. a. A pharmacist licensed pursuant to P.L.2003, c.280 (C.45:14-40 et seq.) shall be authorized to order and cause to be administered to any person any test for the SARS-CoV-2 (COVID-19) or COVID-19 antibodies that the federal Food and Drug Administration granted emergency use authorization or approval, provided that:

(1) the manufacturer of the test is registered with the federal Food and Drug Administration and is included in the Establishment Registration and Device Listing database maintained by the federal Food and Drug Administration;

(2) the place of manufacture provides reasonable assurance prior to or at the time of shipment that the test is genuine; and

(3) the pharmacy practice site distributes personal protection equipment to all pharmacy staff and establishes protocols and procedures to ensure that all persons presenting at the pharmacy for any reason, including to request testing for COVID-19, maintain social distancing appropriate to prevent transmission of COVID-19, and complies with any other applicable requirements that the New Jersey Board of Pharmacy may establish.

For the purposes of this section, causing a test to be administered shall include collecting a specimen, or overseeing the collection of a specimen, and causing the specimen to be sent to a laboratory with the capacity to perform the test. The laboratory shall be authorized under federal and State law to perform the test, including, but not limited to, the federal "Clinical Laboratory Improvement Amendments of 1988 (CLIA)," Pub. L. 100-578 (42 U.S.C. s.263a), the "New Jersey Clinical Laboratory Improvement Act," P.L.1975, c.166 (C.45:9-42.26 et seq.), and associated regulations. If the test which is administered is one for which the analysis can be performed at a

CLIA-waived facility, and if the pharmacy at which the specimen is collected has a CLIA waiver, then the test may be conducted at that pharmacy. In all other cases, the test shall be conducted at an off-site laboratory, which laboratory shall report the results of the test to the pharmacist who ordered or administered the test.

b. If an individual tests positive for COVID-19 using a test administered by a pharmacist pursuant to subsection a. of this section, the pharmacist shall advise the patient on self-isolation guidance and provide the individual with any necessary resources, such as the COVID-19 Home Care Guide developed by the New Jersey Department of Health, except that, if the patient is a member of a group that is at high risk for health complications from COVID-19 or is experiencing symptoms of a severe adverse reaction to COVID-19, the pharmacist shall also advise the patient to promptly seek treatment at a hospital or contact the patient's health care provider. The pharmacist shall ensure compliance with all other State and federal requirements concerning a positive test for COVID-19, including applicable reporting and data collection requirements.

2. Section 1 of P.L.2020, c.7 is amended to read as follows:

1. a. During the Public Health Emergency and State of Emergency declared by the Governor in Executive Order 103 of 2020, the State Medicaid and NJ FamilyCare programs shall provide coverage and payment for expenses incurred in:

(1) the testing for coronavirus disease 2019, provided that a health care professional licensed in accordance with the provisions of Title 45 of the Revised Statutes, or otherwise authorized to provide health care services in this State, has issued a medical order for that testing; and

(2) the delivery of health care services through telemedicine or telehealth in accordance with the provisions of P.L.2017, c.117 (C.45:1-61 et al.).

b. The coverage shall be provided to the same extent as for any other health care services, except that no cost-sharing shall be imposed on the coverage provided pursuant to this section.

c. The Commissioner of Human Services shall apply for such State plan amendments or waivers as may be necessary to implement the provisions of this act and to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program.

3. Section 2 of P.L.2020, c.7 is amended to read as follows:

2. a. During the Public Health Emergency and State of Emergency declared by the Governor in Executive Order 103 of 2020, a carrier that offers

a health benefits plan in this State shall provide coverage and payment for expenses incurred in:

(1) the testing of coronavirus disease 2019, provided that a health care professional licensed in accordance with the provisions of Title 45 of the Revised Statutes, or otherwise authorized to provide health care services in this State, has issued a medical order for the testing; and

(2) any health care services delivered to a covered person through telemedicine or telehealth in accordance with the provisions of P.L.2017, c.117 (C.45:1-61 et al.).

b. The coverage shall be provided to the same extent as for any other health care services under the health benefits plan, except that no cost-sharing shall be imposed on the coverage provided pursuant to this section.

c. As used in this section, "carrier," means an insurance company, health service corporation, hospital service corporation, medical service corporation, or health maintenance organization authorized to issue health benefits plans in this State, and shall include the State Health Benefits Program and the School Employees' Health Benefits Program.

4. This act shall take effect immediately.

Approved September 30, 2020.

CHAPTER 102

AN ACT concerning the use of campaign funds and amending P.L.1993, c.65.

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

1. Section 17 of P.L.1993, c.65 (C.19:44A-11.2) is amended to read as follows:

C.19:44A-11.2 Permitted use of contributions.

17. a. All contributions received by a candidate, candidate committee, a joint candidates committee or a legislative leadership committee shall be used only for the following purposes:

(1) the payment of campaign expenses;

(2) contributions to any charitable organization described in section 170(c) of the Internal Revenue Code of 1954, as amended or modified, or nonprofit organization which is exempt from taxation under section 501(c)

of the Internal Revenue Code of 1954, except any charitable organization of which the candidate or a member of the candidate's immediate family is a paid officer, director or employee or receives compensation for goods or services provided to the organization;

(3) transmittal to another candidate, candidate committee, or joint candidates committee, or to a political committee, continuing political committee, legislative leadership committee or political party committee, for the lawful use by such other candidate or committee;

(4) the payment of the overhead and administrative expenses related to the operation of the candidate committee or joint candidates committee of a candidate or a legislative leadership committee;

(5) the pro rata repayment of contributors; or

(6) the payment of ordinary and necessary expenses of holding public office.

As used in this subsection, "campaign expenses" means any expense incurred or expenditure made by a candidate, candidate committee, joint candidates committee or legislative leadership committee for the purpose of paying for or leasing items or services used in connection with an election campaign, other than those items or services which may reasonably be considered to be for the personal use of the candidate, any person associated with the candidate or any of the members of a legislative leadership committee; and "member of the candidate's immediate family" means the candidate's spouse, child, parent, or sibling, and the child, parent, or sibling of the candidate's spouse.

b. No contribution received by a candidate or by the candidate committee or joint candidates committee of a candidate may be used for the payment of the expenses arising from the furnishing, staffing or operation of an office used in connection with that person's official duties as an elected public official.

c. Any funds remaining in the campaign depository of a candidate's candidate committee or joint candidates committee upon the death of the candidate shall be used only for one or more of the purposes established in subsection a. of this section by the committee's organizational treasurer or deputy treasurer or whoever has control of the depository upon the death of the candidate.

d. Expenses incurred by the holder of a public office or a candidate for child care may be paid from campaign contributions received pursuant to P.L.1973, c.83 (C.19:44A-1 et seq.) only if the expenses are for providing care for the well-being and protection of the child outside of the home, in a child care facility, or in the home of the office holder or candidate. Eligible expenses shall be those that result directly from activities in which the office holder or candidate engages for the purposes of holding public office or of a campaign for public office, and would not have otherwise been incurred but

for those activities. Child care expenses shall not include payments to a member of the office holder's or candidate's household.

The Election Law Enforcement Commission shall promulgate regulations regarding eligible expenses and shall provide written guidance upon request from an office holder or candidate prior to the expense being incurred or after the expense is incurred.

2. This act shall take effect immediately.

Approved October 8, 2020.

CHAPTER 103

AN ACT requiring the State to sell and convey to the Educational Services Commission of New Jersey certain land and improvements known as the Piscataway Regional Day School.

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

1. a. The Department of the Treasury is authorized to sell and convey, as surplus real property, all of the State's interest in the property known as the Piscataway Regional Day School, which contains 5.43± acres of land and improvements located at 1670 Stelton Road, designated as Block 9201, Lot 46.12, in the Township of Piscataway, County of Middlesex.

The property shall be sold and conveyed to the Educational Services Commission of New Jersey for the sum of one dollar.

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

2. This act shall take effect immediately.

Approved October 8, 2020.

CHAPTER 104

AN ACT concerning the Campus Sexual Assault Commission and amending P.L.2019, c.299.

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

1. Section 1 of P.L.2019, c. 299 (C.18A:61E-7) is amended to read as follows:

C.18A:61E-7 Campus Sexual Assault Commission.

1. a. There is established a Campus Sexual Assault Commission in, but not of, the Department of State. The commission shall consist of 12 members including:

(1) the Secretary of Higher Education, the Attorney General, and the Director of the Division on Women in the Department of Children and Families, or their designees, who shall serve ex officio;

(2) five public members appointed by the Governor, including a representative of the State colleges and universities established pursuant to chapter 64 of Title 18A of the New Jersey Statutes, a representative of the public research universities, a representative of the county colleges, a representative of the independent colleges and universities, and a representative of the New Jersey Coalition Against Sexual Assault; and

(3) four public members with demonstrated research or practitioner experience in issues related to campus sexual violence, including at least one student who is currently involved in campus sexual assault education or advocacy. The President of the Senate, the Speaker of the General Assembly, the Minority Leader of the Senate, and the Minority Leader of the General Assembly shall each appoint one of these public members.

b. The public members shall serve for a term of three years, but of the members first appointed: three of the members appointed by the Governor shall serve for a term of three years; one of the members appointed by the Governor, the member appointed by the President of the Senate, and the member appointed by the Speaker of the General Assembly shall serve for a term of two years; and one of the members appointed by the Governor, the member appointed by the Minority Leader of the Senate, and the member appointed by the Minority Leader of the General Assembly shall serve for a term of one year.

c. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments are made and a member may be eligible for reappointment. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term.

d. The members of the commission shall serve without compensation but shall be reimbursed for reasonable expenses necessarily incurred in the

performance of their duties within the limits of funds appropriated or otherwise made available to the commission for its purposes.

2. Section 2 of P.L.2019, c. 299 (C.18A:61E-8) is amended to read as follows:

C.18A:61E-8 Organization, meetings.

2. The commission shall organize as soon as practicable following the appointment of its members, which shall take place between 30 and 60 days after the issuance of the final report of the Working Group on Safe and Inclusive Learning Environments established pursuant to Executive Order No. 61 of 2019. The commission shall choose a chairperson from among its members and shall appoint a secretary who need not be a member of the commission. The commission shall meet quarterly, at a minimum.

3. Section 4 of P.L.2019, c.299 (C.18A:61E-10) is amended to read as follows:

C.18A:61E-10 Responsibility of commission.

4. It shall be the responsibility of the commission to further the work of the Task Force on Campus Sexual Assault established pursuant to P.L.2015, c.165. In particular, the commission shall:

a. study and evaluate emerging issues, policies, and practices concerning campus sexual assault, dating and domestic violence, and stalking on college campuses;

b. monitor the response to, and implementation of, the recommendations put forth in the report issued by the task force established pursuant to P.L.2015, c.165 and the Working Group on Safe and Inclusive Learning Environments established pursuant to Executive Order No. 61 of 2019;

c. supplement the findings and recommendations, as necessary, of the report issued by the task force established pursuant to P.L.2015, c.165;

d. monitor the progress of, and offer technical assistance to, institutions of higher education in implementing a campus climate survey. An institution of higher education shall conduct a campus climate survey at intervals no longer than four years and submit the de-identified survey data to the Office of the Secretary of Higher Education. The Office of the Secretary of Higher Education shall share the findings with the commission; and

e. develop an action plan that includes policies, programs, or procedures responsive to the issues and needs identified by institutions of higher education from their campus climate survey.

4. This act shall take effect immediately.

Approved October 19, 2020.

CHAPTER 105

AN ACT concerning certain life insurance contracts and supplementing P.L.2005, c.229 (C.17B:30B-1 et seq.).

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

C.17B:30B-18 Engaging in stranger-originated life insurance prohibited.

1. a. No person shall directly or indirectly engage in any act, practice or arrangement that constitutes stranger-originated life insurance.

b. A contract, agreement, arrangement, or transaction, including, but not limited to, a financing agreement or any other arrangement or understanding entered into, whether written or verbal, for the furtherance or aid of a stranger-originated life insurance policy or practice shall be void and unenforceable at the outset.

c. A trust that is created to give the appearance of an insurable interest and that is used to initiate or procure policies for investors shall be in violation of the insurable interest laws of this State and the prohibition against wagering on life.

d. Notwithstanding the provisions of N.J.S.17B:25-4, a life insurer may contest a life insurance policy on the grounds that it was obtained by a stranger-originated life insurance practice, as defined in this section, at any time.

e. (1) As used in this section, "stranger-originated life insurance" or "STOLI" means an act, practice or arrangement to initiate or procure the issuance of a policy in this State for the benefit of a third-party investor who, at the time of policy inception has no insurable interest under the laws of this State in the life of the insured.

(2) STOLI practices shall include, but shall not be limited to, cases in which: (a) a policy is purchased with resources or guarantees from or through a person or entity who, at the time of policy inception, could not lawfully initiate or procure the policy himself, herself, or itself; and (b) at the time of policy inception, there exists an arrangement or agreement, to transfer, directly or indirectly, the ownership of that policy or the policy benefits to a third party.

f. A STOLI arrangement shall not include an otherwise lawful viatical settlement contract as permitted by the "Viatical Settlements Act," P.L.2005, c.229 (C.17B:30B-1 et seq.).

C.17B:30B-19 Violations, remedies, penalties.

2. a. The Commissioner of Banking and Insurance may seek an injunction in a court of competent jurisdiction and may apply for temporary and permanent orders that the commissioner determines are necessary to restrain the person from committing a violation of this act.

b. Any person damaged by the acts of a person in violation of this act may bring a civil action against the person committing the violation in a court of competent jurisdiction.

c. The commissioner may issue, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a cease and desist order upon a person that violates any provision of this act, any regulation or order adopted by the commissioner, or any written agreement entered into with the commissioner.

d. When the commissioner finds that an activity in violation of this act presents an immediate danger to the public that requires an immediate final order, the commissioner may issue an emergency cease and desist order reciting with particularity the facts underlying the findings. The emergency cease and desist order shall be effective immediately upon service of a copy of the order on the respondent and shall remain effective for 90 days. If the commissioner begins non-emergency cease and desist proceedings, the emergency cease and desist order shall remain effective, absent an order by a court of competent jurisdiction pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

e. In addition to the penalties and other enforcement provisions of this act, any person who violates this act shall be subject to civil penalties of up to $10,000 per violation which may be collected in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The commissioner's order may require a person found to be in violation of this act to make restitution to persons aggrieved by violations of this act.

f. A violation of this act shall be considered an unfair trade practice pursuant to N.J.S.17B:30-1 et seq. and shall be subject to the penalties contained in N.J.S.17B:30-17.

C.17B:30B-20 Regulations.

3. The Commissioner of Banking and Insurance shall promulgate regulations implementing the provisions of this act pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

4. This act shall take effect immediately.

CHAPTER 106

AN ACT concerning parole, supplementing Title 30 of the Revised Statutes, amending P.L.1967, c.43, and repealing section 1 of P.L.1997, c.214.

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

C.30:4-123.51e Compassionate release for certain inmates.

1. a. Notwithstanding any provision of P.L.1979, c.441 (C.30:4-123.45 et seq.) to the contrary, the court may release an inmate who qualifies under this section for compassionate release at any time during the term of incarceration. An inmate granted compassionate release pursuant to this section shall be subject to custody, supervision, and conditions as provided in section 15 of P.L.1979, c.441 (C.30:4-123.59) and shall be subject to sanctions for a violation of a condition of compassionate release as if on parole as provided in sections 16 through 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.65).

b. The Commissioner of Corrections shall establish and maintain a process by which an inmate may obtain a medical diagnosis to determine whether the inmate is eligible for compassionate release. The medical diagnosis shall be made by two licensed physicians designated by the commissioner. The diagnosis shall include, but not be limited to:

(1) a description of the terminal condition, disease or syndrome, or permanent physical incapacity;

(2) a prognosis concerning the likelihood of recovery from the terminal condition, disease or syndrome, or permanent physical incapacity;

(3) a description of the inmate's physical incapacity, if appropriate; and

(4) a description of the type of ongoing treatment that would be required if the inmate is granted compassionate release.

c. A medical diagnosis to determine whether an inmate is eligible for compassionate release under this section may be initiated by the administrator, superintendent, or a staff member of a correctional facility or, upon request, submitted to the Commissioner of Corrections by the inmate, a member

of the inmate's family, or the inmate's attorney. The request shall be submitted in a manner and form prescribed by the Commissioner of Corrections.

d. (1) In the event that a medical diagnosis determines that an inmate is suffering from a grave medical condition as defined in subsection l. of this section, the Department of Corrections shall promptly notify the inmate's attorney or, if the inmate does not have an attorney, the Public Defender, to initiate the process of petitioning for compassionate release. The petition shall not be filed until a subsequent medical diagnosis determines that the inmate is suffering from a terminal condition, disease or syndrome, or a permanent physical incapacity as defined in subsection l. of this section and the Department of Corrections issues to the inmate a Certificate of Eligibility for Compassionate Release.

(2) In the event that a medical diagnosis determines that an inmate is suffering from a terminal condition, disease or syndrome, or permanent physical incapacity as defined in subsection l. of this section, the Department of Corrections shall promptly issue to the inmate a Certificate of Eligibility for Compassionate Release and provide a copy of the certificate to the inmate's attorney or, if the inmate does not have an attorney, the Public Defender. An inmate who receives a Certificate of Eligibility for Compassionate Release may petition the court for compassionate release.

(3) In the event of a medical diagnosis that an inmate is suffering from a grave medical condition or upon issuance of a Certificate of Eligibility for Compassionate Release, an inmate may request representation from the Office of the Public Defender for the purpose of filing a petition for compassionate release.

e. A petition for compassionate release shall be filed with the Superior Court.

(1) The petitioner shall serve a copy of the petition in accordance with the Rules of Court on the county prosecutor who prosecuted the matter or, if the matter was prosecuted by the Attorney General, the Attorney General.

(2) The county prosecutor or the Attorney General, as the case may be, shall provide notice of the petition to any victim or member of the family of a victim entitled to notice relating to a parole or the consideration of a parole under the provisions of P.L.1979, c.441 (C.30:4-123.45 et seq.), and shall notify the victim or family member of the opportunity to present a statement at the hearing on the petition or to testify to the court concerning any harm suffered by the victim or family member at the time of the hearing.

(3) Upon receipt of notice of the petition, the victim or member of the family of the victim, as the case may be, may submit any comments to the

court within 15 days following receipt of notice of the petition, including but not limited to advising the court of an intent to testify at the hearing.

(4) The information contained in the petition and the contents of any comments submitted by a recipient in response thereto shall be confidential and shall not be disclosed to any person who is not authorized to receive or review the information or comments.

(5) If a recipient of a notice of the petition does not submit comments or advise the court of an intent to testify at the hearing within the 15-day period following receipt of the notice of the petition, the court may presume that the recipient does not wish to submit comments and proceed with its consideration of the petition.

(6) The prosecutor shall have 15 days to respond to the petition, which period may be extended to 30 days for good cause shown.

(7) If the court receives from the prosecutor a response objecting to the petition or is notified that a victim or a family member intends to testify to the court at the hearing, the court shall hold a hearing on the petition on an expedited basis in accordance with the Rules of Court and procedures established by the Administrative Director of the Courts. If the court does not, within the time frames established under this subsection, receive a response from the prosecutor objecting to the petition and is not notified of an intent for a victim or family member to testify, the court may make a determination on the petition without holding a hearing. Notice given under the provisions of this subsection shall be in lieu of any other notice of parole consideration required under P.L.1979, c.441 (C.30:4-123.45 et seq.).

Nothing in this subsection shall be construed to impair the right of any party to be heard pursuant to P.L.1979, c.441 (C.30:4-123.45 et seq.).

f. (1) Notwithstanding the provisions of subsection a. of section 9 of P.L.1979, c.441 (C.30:4-123.53), the court may order the compassionate release of an inmate who has been issued a Certificate of Eligibility for Compassionate Release pursuant to paragraph (2) of subsection d. of this section if the court finds by clear and convincing evidence that the inmate is so debilitated or incapacitated by the terminal condition, disease or syndrome, or permanent physical incapacity as to be permanently physically incapable of committing a crime if released and, in the case of a permanent physical incapacity, the conditions established in accordance with subsection h. of this section under which the inmate would be released would not pose a threat to public safety.

(2) No petition for compassionate release may be submitted to the court unless it is accompanied by a Certificate of Eligibility for Compassionate Release pursuant to paragraph (2) of subsection d. of this section. The court

may summarily dismiss a petition for compassionate release if the petition is submitted without a Certificate of Eligibility for Compassionate Release.

(3) The court shall provide to the inmate and the county prosecutor or Attorney General, as the case may be, written notice of its decision setting forth the reasons for granting or denying compassionate release, and the county prosecutor or Attorney General, as the case may be, shall notify any victim or member of a victim's family who received notification pursuant to paragraph (2) of subsection e. of this section of the outcome of the court's decision.

g. An order by the court granting a petition for compassionate release shall not become final for 10 days in order to permit the prosecution to appeal the court's order.

h. Whenever an inmate is granted compassionate release pursuant to this section, the court shall require, as a condition precedent to release, the State Parole Board to ensure that the inmate's release plan includes:

(1) identification of a community sponsor;

(2) verification of the availability of appropriate medical services sufficient to meet the treatment requirements identified pursuant to paragraph (4) of subsection b. of this section; and

(3) verification of appropriate housing which may include, but need not be limited to, a hospital, hospice, nursing home facility, or other housing accommodation suitable to the inmate's medical condition, disease or syndrome, or permanent physical incapacity.

The Commissioner of Corrections shall ensure that any inmate who petitions for compassionate release is provided an opportunity to apply, and is provided necessary assistance to complete the application, for medical assistance benefits under the Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) prior to any determination of ineligibility by the court as a result of the inability to verify the availability of appropriate medical services, as required pursuant to paragraph (2) of this subsection.

i. In addition to any conditions imposed pursuant to section 15 of P.L.1979, c.441 (C.30:4-123.59), as a condition of compassionate release, the State Parole Board may require an inmate to submit to periodic medical diagnoses by a licensed physician.

j. If, after review of a medical diagnosis required under the provisions of subsection i. of this section, the State Parole Board determines that a parolee granted compassionate release is no longer so debilitated or incapacitated by a terminal condition, disease or syndrome, or by a permanent physical incapacity as to be physically incapable of committing a crime or, in the case of a permanent physical incapacity, the parolee poses a threat to public safety, the State Parole Board shall so notify the prosecutor, who may initiate

proceedings to return the inmate to confinement in an appropriate facility designated by the Commissioner of Corrections.

The prosecutor shall provide notice of the request to return the parolee to confinement to the parolee and the parolee's attorney or, if the parolee does not have an attorney, the Public Defender. The parolee shall have 15 days after receipt of the notice to object to the return to confinement, which period may be extended to 30 days for good cause shown. If the Superior Court receives from the parolee an objection to the request to return the parolee to confinement, the court shall hold a hearing on an expedited basis in accordance with the Rules of Court and procedures established by the Administrative Director of the Courts to determine whether the parolee should be returned to confinement pursuant to this subsection. If the court does not receive a timely objection to the return to confinement, the court may make a determination on the request without holding a hearing. The parolee shall be returned to confinement if the court finds, by a preponderance of the evidence, that the parolee poses a threat to public safety because the parolee is no longer debilitated or incapacitated by a terminal condition, disease or syndrome, or by a permanent physical incapacity. Nothing in this subsection shall be construed to limit the authority of the board, an appropriate board panel, or parole officer of the State Parole Board to address a violation of a condition of parole pursuant to sections 16 through 21 of P.L.1979, c.441 (C.30:4-123.60 through 30:4-123.65).

k. The denial of a petition for compassionate release or the return of a parolee to confinement under the provisions of subsection j. of this section shall not preclude an inmate from being considered for parole, if eligible, pursuant to subsection a. of section 7 of P.L.1979, c.441 (C.30:4-123.51).

l. For purposes of this section:

"Grave medical condition" means a prognosis by the licensed physicians designated by the Commissioner of Corrections pursuant to subsection b. of this section that an inmate has more than six months but not more than 12 months to live or has a medical condition that did not exist at the time of sentencing and for at least three months has rendered the inmate unable to perform activities of basic daily living, resulting in the inmate requiring 24-hour care.

"Terminal condition, disease or syndrome" means a prognosis by the licensed physicians designated by the Commissioner of Corrections pursuant to subsection b. of this section that an inmate has six months or less to live.

"Permanent physical incapacity" means a prognosis by the licensed physicians designated by the Commissioner of Corrections pursuant to subsection b. of this section that an inmate has a medical condition that renders the inmate

permanently unable to perform activities of basic daily living, results in the inmate requiring 24-hour care, and did not exist at the time of sentencing.

2. Section 5 of P.L.1967, c.43 (C.2A:158A-5) is amended to read as follows:

C.2A:158A-5 Duties of public defender.

5. It shall be the duty of the Public Defender to provide for the legal representation of any indigent defendant who is formally charged with the commission of an indictable offense.

All necessary services and facilities of representation (including investigation and other preparation) shall be provided in every case. The factors of need and real value to a defense may be weighed against the financial constraints of the Public Defender's office in determining what are the necessary services and facilities of representation.

Representation as herein provided for shall include any direct appeal from conviction and such post-conviction proceedings as would warrant the assignment of counsel pursuant to the court rules.

Representation for indigent defendants (a) may be provided in any federal court in any matter arising out of or relating to an action pending or recently pending in a court of criminal jurisdiction of this State and (b) may be provided in any federal court in this State where indigent defendants are charged with the commission of a federal criminal offense and where the representation is under a plan adopted pursuant to the Criminal Justice Act of 1964 (18 U.S.C. s. 3006A).

The Public Defender also shall provide for the legal representation of any eligible inmate who is serving a custodial prison sentence and requests assistance in petitioning the Superior Court for compassionate release in accordance with section 1 of P.L.2020, c.106 (C.30:4-123.51e).

Repealer.

3. Section 1 of P.L.1997, c.214 (C.30:4-123.51c) is repealed.

4. This act shall take effect on the first day of the fourth month following enactment, provided however, that the Commissioner of Corrections, State Parole Board, and Administrative Director of the Courts may take such anticipatory action as deemed necessary to effectuate the provisions of this act.

Approved October 19, 2020.

CHAPTER 107

AN ACT requiring State, county, and municipal law enforcement agencies to establish minority recruitment and selection programs and supplementing Title 52 of the Revised Statutes.

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

C.52:17B-4.9 Definitions.

1. For the purposes of this act:

"Law enforcement agency" means a department, division, bureau, commission, board or other authority of the State or of any political subdivision thereof which has by statute or ordinance the responsibility of detecting and enforcing the general criminal laws of this State.

"Law enforcement officer" means any person who is employed as a permanent full-time member of an enforcement agency, who is statutorily empowered to act for the detection, investigation, arrest, and conviction of persons violating the criminal laws of this State and statutorily required to successfully complete a training course approved, or certified as being substantially equivalent to an approved course, by the Police Training Commission pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.).

C.52:17B-4.10 Establishment of minority recruitment and selection program.

2. a. Each law enforcement agency in this State shall establish a minority recruitment and selection program in accordance with guidelines established by the Attorney General pursuant to section 4 of this act. The program shall seek to remedy past discrimination in furtherance of the goal of the agency being comprised of law enforcement officers who reflect the diversity of the population of the community the agency is charged with protecting. In implementing the program, the law enforcement agency shall make a good faith effort to meet specific goals for recruiting and hiring minorities and females within established time frames. The program shall include methods of evaluating whether these goals are met and provide for additional contingent measures to be taken if the program fails to meet its specific goals.

b. The minority recruitment and selection program established pursuant to subsection a. of this section shall be posted on the official Internet website of each law enforcement agency.

c. The county prosecutor shall monitor the results of the minority recruitment and selection programs established by county and municipal law enforcement agencies within the jurisdiction of the prosecutor as required in

subsection a. of this section. The county prosecutor shall annually report this information to the Attorney General.

d. The Attorney General shall monitor the results of the minority recruitment and selection program established by the Division of State Police and, in consultation with the respective commissioner of any other State department that maintains a law enforcement agency, the programs established by other State law enforcement agencies as required in subsection a. of this section.

e. The Attorney General shall annually report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the President of the Senate and the Speaker of the General Assembly a summary of the results obtained pursuant to subsection d. of this section and the results reported by the county prosecutors pursuant to subsection c. of this section. The Attorney General also shall post this summary on the official Internet website of the Department of Law and Public Safety.

C.52:17B-4.11 Annual reports.

3. a. Each State law enforcement agency, including the Division of State Police, shall annually report to the Attorney General and each municipal and county law enforcement agency in this State shall annually report to the county prosecutor with jurisdiction over the agency a report containing:

(1) the age, gender, race, and ethnicity of the law enforcement officers currently appointed to the law enforcement agency;

(2) the age, gender, race, and ethnicity of applicants for a law enforcement officer position in the preceding calendar year;

(3) the age, gender, race, and ethnicity of applicants appointed to the agency in the preceding calendar year;

(4) the reasons for denying applicants an appointment to the law enforcement agency; and

(5) the age, gender, race, and ethnicity of each law enforcement officer promoted within the agency in the preceding calendar year, including the position to which the officer was promoted.

b. Each municipal law enforcement agency shall publish in the agency's annual report the information required by subsection a. of this section.

c. Each county prosecutor shall publish in the county prosecutor's annual report the information required by subsection a. of this section for each county law enforcement agency within the jurisdiction of the county prosecutor.

d. Each State law enforcement agency shall publish in the agency's annual report the information required by subsection a. of this section.

e. The county prosecutor shall forward the information required in subsection a. of this section to the Attorney General. The Attorney General shall collect, gather, assemble, and collate the information required in subsection a. of this section into an annual report to be issued to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C:52:14-19.1), to the President of the Senate and the Speaker of the General Assembly.

f. The Attorney General shall post on the official Internet web site of the Department of Law and Public Safety each annual report required by subsection e. of this section.

C.52:17B-4.12 Guidelines, directives.

4. The Attorney General shall develop for dissemination to law enforcement agencies and county prosecutors throughout this State those guidelines or directives deemed necessary or appropriate to ensure the uniform application of this act.

5. This act shall take effect on the first day of the fourth month next following enactment.

Approved October 19, 2020.

CHAPTER 108

AN ACT concerning the installation of electric vehicle charging stations in common interest communities and supplementing P.L.1993, c.30 (C.45:22A-43 et seq.).

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

C.45:22A-48.4 Electric vehicle charging stations in common interest communities.

1. a. (1) An association formed for the management of common elements and facilities of a planned real estate development, regardless of whether organized pursuant to section 1 of P.L.1993, c.30 (C.45:22A-43), shall not adopt or enforce a restriction, covenant, bylaw, rule, regulation, master deed provision, or provision of a governing document prohibiting or unreasonably restricting the installation or use of an electric vehicle charging station in a designated parking space.

(2) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a planned real estate development, and any provision of a

master deed, bylaw, or other governing document that either prohibits or unreasonably restricts the installation or use of an electric vehicle charging station in a designated parking space, or is in conflict with the provisions of this section, is void and unenforceable.

(3) Notwithstanding any provisions of an association's governing documents concerning the grant of exclusive or limited use of any portion of a common element to a unit owner, the executive board of an association shall grant exclusive or limited use of any portion of a common element to a unit owner:

(a) to install and use an electric vehicle charging station in a unit owner's designated parking space that meets the requirements of this section, where the installation or use of the charging station requires reasonable access through, or across, the common elements for utility lines or meters; or

(b) to install and use an electric vehicle charging station through a license granted by an association pursuant to subsection e. of this section.

(4) Nothing in this section shall be construed to prohibit an association from imposing reasonable restrictions on electric vehicle charging stations.

b. An electric vehicle charging station shall meet applicable health and safety standards and requirements imposed by State and local authorities as well as all other applicable zoning, land use or other ordinances, or land use permits.

c. If association approval is required for the installation or use of an electric vehicle charging station, the application for approval shall be processed and approved by the association in the same manner as an application for approval of an architectural modification to the property, and shall not be willfully avoided or delayed. The approval or denial of an application shall be in writing. If an application is not denied in writing within 60 days from the date of receipt of the application, the application shall be deemed approved, unless that delay is the result of a reasonable request for additional information. If an association reasonably determines that the cumulative use of electricity on the premises attributable to the installation and use of electric vehicle charging stations requires the installation of additional infrastructure improvements to provide the premises with a sufficient supply of electricity, then the association may hold an application for approval in abeyance until the upgrades are completed.

d. The following provisions shall apply to installations of electric vehicle charging stations for the exclusive use of a unit owner:

(1) if required by the governing documents or the association's rules and regulations, the unit owner shall first obtain approval from the association to install the electric vehicle charging station and the association shall approve the installation if the provisions of this section are met and the unit owner agrees in writing to:

(a) comply with the association's architectural standards for the installation of the electric vehicle charging station;

(b) engage a licensed electrician to install all necessary electric lines and electrical infrastructure in compliance with the association's architectural standards;

(c) within 14 days of approval and prior to installation, obtain and maintain at all times, while the electric vehicle charging station is in place, insurance protecting the association and the other unit owners from damage as a result of the existence and operation of the electric vehicle charging station, and provide evidence of insurance specifying that insurance covers the electric vehicle charging station in the amount required under this section. Nothing in this subparagraph shall be construed as impairing the right of an association to require a unit owner to maintain homeowner's insurance under the association's governing documents or rules and regulations;

(d) pay for the electricity usage associated with the electric vehicle charging station;

(e) pay for reasonable charges imposed by an association to recover the costs of the review and approval of an application for the installation or use of an electric vehicle charging station, including, without limitation, reasonable engineering and legal fees. An association may require that anticipated review charges be placed in escrow in advance of commencing review of an application for the installation or use of an electric vehicle charging station;

(2) an association may deny an application for the installation or use of an electric vehicle charging station if the association reasonably concludes that the electric vehicle charging station constitutes a life-safety risk;

(3) if an association reasonably determines that the cumulative use of electricity on the premises attributable to the installation and use of electric vehicle charging stations requires the installation of additional infrastructure improvements to provide the premises with a sufficient supply of electricity, then the association may specially assess the cost of those additional infrastructure improvements to the unit owners who have installed electric vehicle charging stations, and have applied to install electric vehicle charging stations, in equal shares per electric vehicle charging station. An association may require a unit owner to pay a special assessment before the unit owner may install an electric vehicle charging station;

(4) any monies that a unit owner owes an association under this section shall be deemed special assessments, and the association may collect those monies from the unit owner in the same manner as the association's governing documents and applicable law provides for the collection of delinquent common expenses, rent, or other delinquent amounts, and unless any of the

following responsibilities are specifically abrogated as they relate to electric vehicle charging stations, in whole or in part, under the governing documents of the association, the unit owner and each successive unit owner of the electric vehicle charging station shall be responsible for the cost of the following items as if the items were an assessment applicable to the unit owner:

(a) any damage to the electric vehicle charging station, the parking space, a common element, a limited common element, the property of other unit owners, or separate interests, which damage results from the installation, maintenance, repair, removal, or replacement of the charging station;

(b) any maintenance, repair, and replacement of an electric vehicle charging station, and restoration of the area after removal of the electric vehicle charging station;

(c) the electricity usage associated with the electric vehicle charging station;

(d) all installation costs associated with electric vehicle charging stations; and

(e) any costs associated with an application for the installation or use of an electric vehicle charging station to satisfy applicable health and safety standards and requirements imposed by State and local authorities, including but not limited to applicable zoning, land use, and other ordinance requirements;

(5) the unit owner, and each successive unit owner, of an electric vehicle charging station shall be responsible for disclosing to prospective buyers the existence of the unit owner's electric vehicle charging station and the related responsibilities of the unit owner under this section; and

(6) except as otherwise provided in this paragraph, a unit owner, and each successive unit owner, of an electric vehicle charging station shall, at all times, maintain a homeowner's liability coverage policy in the amount of $100,000 and shall name the association as a certificate holder with the right to receive a notice of cancellation. An association may require the unit owner of an electric vehicle charging station to carry a homeowner's liability coverage policy in excess of $100,000 if the association's governing documents or rules and regulations require all unit owners to carry a greater amount. If a unit owner fails to procure or maintain insurance required under this section, the association may procure insurance on the unit owner's behalf and charge the unit owner the cost of the insurance. The unit owner shall hold the association and the other unit owners harmless from any and all claims, damages, liabilities, costs and expenses, including reasonable attorney's fees, arising out of or relating to any personal injuries, death, or damage to property that were caused by, or contributed to by, the installation, removal or use of the electric vehicle charging station.

e. The executive board of an association may license, for a defined period of time, as set forth in the license, a common area parking space for the exclusive use of a unit owner for the installation of an electric vehicle charging station. The grant of any such license shall be at the sole discretion of the board, but such grant shall not be fraudulent, unconscionable, or self-dealing.

f. An association may install electric vehicle charging stations in common element parking spaces for the use of all unit owners. An association may adopt appropriate rules and regulations for the use of common electric vehicle charging stations.

g. An association may create a parking space where one did not previously exist to facilitate the installation of an electric vehicle charging station. If an association creates a parking space to accommodate an electric vehicle charging station for the exclusive use of a unit owner, the unit owner shall be responsible for all costs associated with creating the space including but not limited to land use approvals, permits, reviews, easements, and construction costs. If a new parking space to accommodate an electric vehicle charging station for the exclusive use of a unit owner is to be located in a common element or limited common element, the provisions of subsection d. of this section shall apply.

h. The Commissioner of Community Affairs shall enforce the provisions of this section in accordance with the authority granted under section 18 of P.L.1977, c.419 (C.45:22A-38).

i. As used in this section:

"Designated parking space" means a parking space that is specifically designated for use by a particular unit owner, including, but not limited to, a garage, a deeded parking space, and a parking space in a limited common element that is restricted for use by one or more unit owners;

"Electric vehicle charging station" means a station that is designed in compliance with the State Uniform Construction Code, adopted pursuant to P.L.1975, c.217 (C.52:27D-119 et seq.), that delivers electricity from a source outside an electric vehicle into one or more electric vehicles, and that is capable of providing, at a minimum, Level 2 charging. An electric vehicle charging station may include several charge points simultaneously connecting several electric vehicles to the station and any related equipment needed to facilitate charging plug-in electric vehicles;

"Reasonable restriction" means a restriction that does not significantly increase the cost of an electric vehicle charging station or significantly decrease its efficiency or specified performance; and

"Unit owner" means the record owner of a residential dwelling unit located within an association, or, in the case of a cooperative housing corporation, a shareholder of record owning the shares appurtenant to an individual dwelling unit. This act shall not apply to the owners of commercial units, space, or interest located within an association.

2. This act shall take effect immediately.

Approved October 19, 2020.

CHAPTER 109

AN ACT requiring cost savings study, establishing the "Corrections Rehabilitation and Crime Prevention Fund," and supplementing Title 52 of the Revised Statutes.

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

C.30:4-123.51f Study to determine cost savings due to reduction of prison population; "Corrections Rehabilitation and Crime Prevention Fund."

1. a. The Commissioner of Corrections, in consultation with the Chairman of the State Parole Board and the State Treasurer, shall conduct a study to determine the fiscal impact of cost savings that may be realized from the reduction of prison population due to compassionate release and the elimination of mandatory minimum terms of parole ineligibility for certain inmates.

b. The commissioner shall issue an annual report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature setting forth the results of the study required by subsection a. of this section.

c. The Commissioner of Corrections shall deposit any cost savings realized pursuant to subsection a. of this section into a special non-lapsing fund which shall be known as the "Corrections Rehabilitation and Crime Prevention Fund." Monies in the fund shall be used to support recidivism reduction programs, including community-based and prison-based programs, such as educational and vocational training, and for other services to facilitate inmates' successful reentry.

2. This act shall take effect immediately.

Approved October 19, 2020.

CHAPTER 110

AN ACT concerning sentencing and amending N.J.S.2C:44-1.

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

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

Criteria for withholding or imposing sentences of imprisonment.

2C:44-1. a. In determining the appropriate sentence to be imposed on a person who has been convicted of an offense, the court shall consider the following aggravating circumstances:

(1) The nature and circumstances of the offense, and the role of the actor in committing the offense, 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, ill-health, or extreme youth, or was for any other reason substantially 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 of this title, 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 the defendant has been convicted;

(7) The defendant committed the offense pursuant to an agreement to 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 firefighter, acting in the performance of the officer, employee, or firefighter duties while in uniform or exhibiting evidence of his authority; the defendant committed the offense because of the status of the victim as a public servant; or the defendant committed the offense against a sports official, athletic coach or manager, acting

in or immediately following the performance of the person's duties or because of the person's status as a sports official, coach or manager;

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

(10) The offense involved fraudulent or deceptive practices committed against any department or division of State government;

(11) The imposition of a fine, penalty, or order of restitution without also imposing a term of imprisonment would be perceived by the defendant or others merely as part of the cost of doing business, or as an acceptable contingent business or operating expense associated with the initial decision to resort to unlawful practices;

(12) The defendant committed the offense against a person who the defendant knew or should have known was 60 years of age or older, or disabled;

(13) The defendant, while in the course of committing or attempting to commit the crime, including the immediate flight therefrom, used or was in possession of a stolen motor vehicle;

(14) The offense involved an act of domestic violence, as that term is defined in subsection a. of section 3 of P.L.1991, c.261 (C.2C:25-19), committed in the presence of a child under 16 years of age; and

(15) The offense involved an act of domestic violence, as that term is defined in subsection a. of section 3 of P.L.1991, c.261 (C.2C:25-19) and the defendant committed at least one act of domestic violence on more than one occasion.

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 the defendant's 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 the defendant's conduct for the damage or injury that the victim 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 the defendant 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 the defendant or the defendant's 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; and

(14) The defendant was under 26 years of age at the time of the commission of the offense.

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, or a crime of the third degree where the court finds that the aggravating factor in paragraph (5), (14), or (15) of subsection a. of this section applies, by imposing a sentence of imprisonment unless, having regard to the character and condition of the defendant, it is of the opinion that the defendant's imprisonment would be a serious injustice which overrides the need to deter such conduct by others. Notwithstanding the provisions of subsection e. of this section, the court shall deal with a person who has been convicted of theft of a motor vehicle or of the unlawful taking of a motor vehicle and who has previously been convicted of either offense by imposing a sentence of imprisonment unless, having regard to the character and condition of the defendant, it is of the opinion that 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 a 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 imprisonment is

necessary for the protection of the public under the criteria set forth in subsection a. of this section, except that this subsection shall not apply if the court finds that the aggravating factor in paragraph (5), (14) or (15) of subsection a. of this section applies or if the person is convicted of any of the following crimes of the third degree: theft of a motor vehicle; unlawful taking of a motor vehicle; eluding; strict liability vehicular homicide pursuant to section 1 of P.L.2017, c.165 (C.2C:11-5.3); if the person is convicted of a crime of the third degree constituting use of a false government document in violation of subsection c. of section 1 of P.L.1983, c.565 (C.2C:21-2.1); if the person is convicted of a crime of the third degree constituting distribution, manufacture or possession of an item containing personal identifying information in violation of subsection b. of section 6 of P.L.2003, c.184 (C.2C:21-17.3); if the person is convicted of a crime of the third or fourth degree constituting bias intimidation in violation of N.J.S.2C:16-1; if the person is convicted of a crime of the third degree under paragraph (12) of subsection b. of N.J.S.2C:12-1 or section 2 of P.L.1997, c.111 (C.2C:12-1.1); or if the person is convicted of a crime of the third or fourth degree under the provisions of section 1 or 2 of P.L.2007, c.341 (C.2C:33-29 or C.2C:33-30).

f. Presumptive Sentences. (1) Except for the crime of murder, unless the preponderance of aggravating or mitigating factors, as set forth in subsections a. and b. of this section, weighs in favor of a higher or lower term within the limits provided in N.J.S.2C:43-6, when a court determines that a sentence of imprisonment is warranted, it shall impose sentence as follows:

(a) To a term of 20 years for aggravated manslaughter or kidnapping pursuant to paragraph (1) of subsection c. of N.J.S.2C:13-1 when the offense constitutes a crime of the first degree;

(b) Except as provided in subparagraph (a) of this paragraph to a term of 15 years for a crime of the first degree;

(c) To a term of seven years for a crime of the second degree;

(d) To a term of four years for a crime of the third degree; and

(e) To a term of nine months for a crime of the fourth degree.

In imposing a minimum term pursuant to subsection b. of N.J.S.2C:43-6, 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 paragraph (1) of subsection a. of N.J.S.2C:43-7 shall have a presumptive term of life imprisonment. Unless the preponderance of aggravating and mitigating factors set forth in subsections a. and b. of this section weighs in favor of a higher or lower term within the limits authorized,

sentences imposed pursuant to paragraph (2) of subsection a. of N.J.S.2C:43-7 shall have a presumptive term of 50 years' imprisonment; sentences imposed pursuant to paragraph (3) of subsection a. of N.J.S.2C:43-7 shall have a presumptive term of 15 years' imprisonment; and sentences imposed pursuant to paragraph (4) of subsection a. of N.J.S.2C:43-7 shall have a presumptive term of seven years' imprisonment.

In imposing a minimum term pursuant to subsection b. of N.J.S.2C:43-7, 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 the defendant was convicted. If the court does impose sentence pursuant to this paragraph, or if the court imposes a noncustodial or probationary sentence upon conviction for a crime of the first or second degree, the sentence shall not become final for 10 days in order to permit the appeal of the sentence by the prosecution.

g. Imposition of Noncustodial Sentences in Certain Cases. If the court, in considering the aggravating factors set forth in subsection a. of this section, finds the aggravating factor in paragraph (2), (5), (10), or (12) of subsection a. of this section and does not impose a custodial sentence, the court shall specifically place on the record the mitigating factors which justify the imposition of a noncustodial sentence.

h. Except as provided in section 2 of P.L.1993, c.123 (C.2C:43-11), the presumption of imprisonment as provided in subsection d. of this section shall not preclude the admission of a person to the Intensive Supervision Program, established pursuant to the Rules Governing the Courts of the State of New Jersey.

2. This act shall take effect immediately.

Approved October 19, 2020.

CHAPTER 111

AN ACT concerning public health emergency credits, amending N.J.S.2C:47-3, and amending and supplementing Title 30 of the Revised Statutes and P.L.1993, c.133 (C.2A:4A-44).

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

C.30:4-123.100 Public health emergency credits.

1. a. In addition to credits awarded pursuant to R.S.30:4-92; section 3 of P.L.2009, c.330 (C.30:4-92a); and R.S.30:4-140, whenever a public health emergency, pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), has been declared by the Governor and is in effect, the commissioner also shall award inmates public health emergency credits in accordance with this section if the public health emergency:

(1) arises as a result of a communicable or infectious disease; and

(2) results in substantial modifications to department-wide correctional facility operations.

b. Except as provided in subsection d. of this section, public health emergency credits shall be awarded to any inmate in the custody of the Commissioner of Corrections who:

(1) is serving a sentence or receiving jail credits applicable to the sentence; and

(2) is scheduled to be released from the custody of the Commissioner of Corrections within 365 days.

c. The public health emergency credits awarded pursuant to this section shall provide further remission from both the maximum and minimum term of the inmate's sentence, including the statutory mandatory minimum term, at the rate of 122 days for each month, or portion thereof, served during the declared emergency. An inmate shall not be awarded public health emergency credits in excess of 244 days of remission for any declared emergency.

d. Public health emergency credits shall not be awarded to an inmate serving a sentence in a State correctional facility for:

(1) murder pursuant to N.J.S.2C:11-3;

(2) aggravated sexual assault pursuant to subsection a. of N.J.S.2C:14-2; or

(3) any offense enumerated in N.J.S.2C:47-1 and whose conduct was characterized by a pattern of repetitive, compulsive behavior.

e. Nothing in this section shall be deemed to limit an inmate's eligibility for parole consideration as provided for in section 10 of P.L.1948, c.84 (C.30:4-123.1 et seq.).

f. An inmate who was in the custody of the Commissioner of Corrections during the Public Health Emergency and State of Emergency declared by the Governor in Executive Order 103 of 2020 concerning the coronavirus disease 2019 pandemic shall receive public health emergency credits in accordance with this section.

g. An inmate scheduled to be released from the custody of the Commissioner of Corrections following an award of public health emergency credits pursuant to this section shall be released on the scheduled release date based on the award of public health emergency credits.

h. An inmate who is released from custody following an award of public health emergency credits pursuant to this section shall be prohibited from making contact with any victim of the crime for which the inmate was serving a sentence, as set forth in section 5 of P.L.2020, c.111 (C.30:4-123.103), which prohibition shall remain in force until the time that the inmate was scheduled to be released from custody prior to the award of public health emergency credits.

i. Prior to releasing an inmate from the custody of the commissioner following an award of public health emergency credits pursuant to section 1 of P.L.2020, c.111 (C.30:4-123.100), the commissioner shall:

(1) notify the inmate in writing of the prohibition against making contact with any victim of the crime for which the inmate was convicted pursuant to section 5 of P.L.2020, c.111 (C.30:4-123.103);

(2) notify the inmate in writing that a violation of the prohibition against contact with a victim is a crime of the fourth degree;

(3) require the inmate to acknowledge in writing the receipt of the written notifications related to the contact prohibition provided pursuant to this subsection.

j. In addition to the requirements set forth in subsection i. of this section and any other relevant provision under current law related to the provision of information and services to inmates, prior to releasing an inmate from the custody of the commissioner following an award of public health emergency credits pursuant to section 1 of P.L.2020, c.111 (C.30:4-123.100), the commissioner shall compile and disseminate to inmates information concerning organizations and programs, whether faith-based or secular programs, which provide assistance and services to inmates reentering society after a period of incarceration.

k. Within 30 days prior to an inmate's release from the custody of the commissioner following an award of public health emergency credits pursuant to section 1 of P.L.2020, c.111 (C.30:4-123.100), the commissioner shall provide any available information related to the inmate's:

(1) eligibility for Medicaid;

(2) housing information;

(3) identification information; and

(4) eligibility for any other benefits and services.

l. Subject to the availability of the testing resources of the Department of Corrections, an inmate shall be tested for COVID-19 prior to the inmate's release from the custody of the commissioner following an award of public health emergency credits pursuant to section 1 of P.L.2020, c.111 (C.30:4-123.100) if the inmate is released during the Public Health Emergency and State of Emergency declared by the Governor in Executive Order 103 of 2020 concerning the coronavirus disease 2019 pandemic.

C.2A:4A-44.2 Application of public health emergency credits to juvenile.

2. a. Except as provided in subsection b. of this section, the award of public health emergency credits pursuant to section 1 of P.L.2020, c.111 (C.30:4-123.100) shall apply to any juvenile serving a sentence in a State correctional facility operated by the Juvenile Justice Commission who due to the expiration of the juvenile's term of commitment is scheduled to be released from custody within 365 days.

b. Public health emergency credits shall not be awarded to any juvenile serving a sentence in a State correctional facility operated by the Juvenile Justice Commission for:

(1) murder pursuant to N.J.S.2C:11-3;

(2) aggravated sexual assault pursuant to subsection a. of N.J.S.2C:14-2; or

(3) any offense enumerated in N.J.S.2C:47-1 and who is deemed a repetitive, compulsive sex offender.

c. A juvenile who was serving a sentence in a State correctional facility operated by the Juvenile Justice Commission during the Public Health Emergency and State of Emergency declared by the Governor in Executive Order 103 of 2020 concerning the coronavirus disease 2019 pandemic shall receive public health emergency credits in accordance with section 1 of P.L.2020, c.111 (C.30:4-123.100).

d. A juvenile scheduled to be released from the custody of the Juvenile Justice Commission following an award of public health emergency credits pursuant to section 1 of P.L.2020, c.111 (C.30:4-123.100) shall be released on the scheduled release date based on the award of public health emergency credits.

e. (1) Notwithstanding the provisions of subsection d. of this section, a juvenile scheduled to be released from the custody of the Juvenile Justice Commission following an award of public health emergency credits pursuant to section 1 of P.L.2020, c.111 (C.30:4-123.100) whose scheduled release date is less than 45 days after the effective date of P.L.2020, c.111 (C.30:4-123.100 et al.) shall be released within 45 days after the effective date, in order to allow the Juvenile Justice Commission to devise and implement a

release plan for the juvenile and arrange for services to be provided to the juvenile upon release.

(2) A juvenile who is released from custody following an award of public health emergency credits pursuant to this section shall be prohibited from making contact with a victim as set forth in section 5 of P.L.2020, c.111 (C.30:4-123.103), which prohibition shall remain in force until the time that the juvenile was scheduled to be released prior to the award of public health emergency credits.

f. Prior to releasing a juvenile from the custody of the Juvenile Justice Commission following an award of public health emergency credits pursuant to section 1 of P.L.2020, c.111 (C.30:4-123.100), the Executive Director of the Juvenile Justice Commission shall:

(1) notify the juvenile in writing of the prohibition against making contact with any victim of the crime for which the juvenile was serving a sentence pursuant to section 5 of P.L.2020, c.111 (C.30:4-123.103);

(2) notify the juvenile that a violation of the prohibition against contact with the victim is a crime of the fourth degree; and

(3) require the juvenile to acknowledge in writing the receipt of the notifications provided pursuant to this subsection.

C.30:4-123.101 Identification of inmates scheduled to be released; notification.

3. a. The Commissioner of Corrections shall immediately identify any inmate who is scheduled to be released from custody within 365 days as a result of the award of public health emergency credits pursuant to section 1 of P.L.2020, c.111 (C.30:4-123.100).

b. Notwithstanding any provision of law to the contrary, the Commissioner of Corrections shall provide notice to the prosecutor of the county in which the inmate was convicted or the Attorney General if the matter was prosecuted by the Attorney General. The notice shall include:

(1) the name of any inmate who is scheduled to be released from the custody of the Commissioner of Corrections within 365 days as a result of the award of public health emergency credits;

(2) the date on which the inmate is scheduled to be released from custody based on the award of public health emergency credits; and

(3) the date on which the inmate was scheduled to be released from custody prior to the award of public health emergency credits.

c. The Commissioner of Corrections shall make available to the public on the Internet website of the Department of Corrections, in both English and Spanish, information concerning:

(1) the procedures for filing an application for a restraining order pursuant to the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et seq.);

(2) resources for victims of domestic violence; and

(3) procedures established by the court for filing a petition to dissolve the prohibition established pursuant to section 5 of P.L.2020, c.111 (C.30:4-123.103) prohibiting an inmate from making contact with any victim of the crime for which the inmate is serving a sentence .

C.30:4-123.102 Actions of prosecutor, Attorney General.

4. a. Upon receipt of notice from the Commissioner of Corrections that an inmate is scheduled to be released from custody within 365 days based on the award of public health emergency credits pursuant to section 1 of P.L.2020, c.111 (C.30:4-123.100), the prosecutor or Attorney General may, prior to the inmate's scheduled release date:

(1) use any reasonable means available to notify any identifiable victim of the crime for which the inmate is incarcerated of the inmate's scheduled release date;

(2) notify the identifiable victim that the law prohibits the inmate from having any contact with the victim unless a petition is filed with the court to dissolve the prohibition;

(3) notify the victim of the duration of the prohibition against contact;

(4) notify the victim of the penalties imposed for the inmate's violation of the prohibition against contact;

(5) provide information to the victim concerning the procedures for filing a petition with the court to dissolve the prohibition against the inmate having contact with the victim; and

(6) provide information to the victim concerning the procedures for filing an application for a restraining order pursuant to the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et seq.), and resources for victims of domestic violence.

b. The Attorney General shall make available to the public on the Internet website of the Department of Law and Public Safety, in both English and Spanish, information concerning:

(1) the procedures for filing an application for a restraining order pursuant to the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et seq.);

(2) resources for victims of domestic violence; and

(3) procedures for filing with the court a petition to dissolve the prohibition established pursuant to section 5 of P.L.2020, c.111 (C.30:4-123.103)

prohibiting an inmate or juvenile, as the case may be, from making contact with the victim.

C.30:4-123.103 Prohibition against making contact with victim.

5. a. An inmate who is released from the custody of the Commissioner of Corrections or a juvenile who is released from the custody of the Juvenile Justice Commission following an award of public health emergency credits pursuant to section 1 of P.L.2020, c.111 (C.30:4-123.100), from the date of release until the date the inmate or juvenile, as the case may be, was scheduled to be released prior to the award of public health emergency credits, shall be prohibited from purposely or knowingly making contact with any victim of the crime for which the inmate or juvenile was serving a sentence.

For purposes of this subsection, making contact with a victim shall include contact made personally by the inmate or juvenile, as the case may be, or through an agent, and shall include but not be limited to: personal, written, electronic, or telephone contact or communication; or entering the residence, property, school, or place of employment of the victim.

b. A violation of subsection a. of this section shall be a crime of the fourth degree.

c. (1) A petition may be filed with the court to dissolve the prohibition established pursuant to the provisions of this section prohibiting an inmate or juvenile, as the case may be, from making contact with the victim in accordance with procedures established by the court.

(2) The Director of the Administrative Office of the Courts shall provide the Department of Corrections, Juvenile Justice Commission, and Attorney General with information concerning the procedures established by the court for filing a petition to dissolve the prohibition established pursuant to this section prohibiting an inmate or juvenile, as the case may be, from making contact with any victim of the crime for which the inmate or juvenile was serving a sentence.

C.2A:4A-44.3 Identification of juveniles scheduled for release.

6. a. The Executive Director of the Juvenile Justice Commission shall immediately identify any juvenile who is scheduled to be released from the custody of the Juvenile Justice Commission within 365 days as a result of the award of public health emergency credits pursuant to section 1 of P.L.2020, c.111 (C.30:4-123.100).

b. Notwithstanding any provisions of law to the contrary, the Executive Director of the Juvenile Justice Commission shall provide notice to the prosecutor of the county in which the juvenile was adjudicated delinquent or the

Attorney General if the matter was prosecuted by the Attorney General. The notice shall include:

(1) the name of any juvenile who, due to the expiration of the juvenile's term of commitment, is scheduled to be released from the custody of the Juvenile Justice Commission within 365 days as a result of the award of public health emergency credits;

(2) the date on which the juvenile is scheduled to be released from custody based on the award of public health emergency credits; and

(3) the date on which the juvenile was scheduled to be released from custody prior to the award of public health emergency credits.

c. The Executive Director of the Juvenile Justice Commission shall make available to the public on the Internet website of the Juvenile Justice Commission, in both English and Spanish, information concerning:

(1) the procedures for filing an application for a restraining order pursuant to the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et seq.);

(2) resources for victims of domestic violence; and

(3) procedures for filing with the court a petition to dissolve the prohibition established pursuant to section 5 of P.L.2020, c.111 (C.30:4-123.103) prohibiting a juvenile from making contact with any victim of the crime for which the juvenile was serving a sentence.

C.2A:4A-44.4 Actions of prosecutor, Attorney General.

7. Notwithstanding the provisions of any law to the contrary, upon receipt of notice from the Executive Director of the Juvenile Justice Commission that a juvenile is scheduled to be released from the custody of the Juvenile Justice Commission within 365 days based on the award of public health emergency credits pursuant to section 1 of P.L.2020, c.111 (C.30:4-123.100), the prosecutor or Attorney General, prior to the juvenile's scheduled release date, may:

a. use any reasonable means available to notify any identifiable victim of the crime for which the juvenile is serving a sentence in a State correctional facility operated by the Juvenile Justice Commission of the juvenile's scheduled release date;

b. notify the identifiable victim that the law prohibits the juvenile from having any contact with the victim unless a petition is filed with the court to dissolve the prohibition in accordance with the procedures established by the court;

c. notify the victim of the duration of the prohibition against the juvenile having contact with the victim;

d. notify the victim of the penalties imposed for the juvenile's violation of the prohibition against contact;

e. provide information to the victim concerning how a petition may be filed with the court to dissolve the prohibition against the juvenile having contact with the victim; and

f. provide information to the victim concerning the procedures for filing an application for a restraining order pursuant to the "Prevention of Domestic Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et seq.), and resources for victims of domestic violence.

C.30:4-123.55f Reduction of term of supervision of parolee during public health emergency.

8. a. Whenever a public health emergency, pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), has been declared by the Governor and is in effect, the term of supervision of a parolee shall be reduced by the award of public health emergency credits pursuant to this section if the public health emergency arises as a result of a communicable or infectious disease.

b. Except as provided in subsection d. of this section, public health emergency credits shall be awarded to any person who is serving a sentence of parole supervision if the full maximum term for which the parolee was sentenced, or the term authorized by the parolee's disposition, expires within 365 days.

c. The public health emergency credits awarded pursuant to this section shall reduce the term of supervision of a parolee at the rate of 122 days for each month, or portion thereof, served during the declared emergency. A parolee shall not be awarded public health emergency credits in excess of 244 days of remission for any declared emergency.

d. Public health emergency credits shall not be awarded to a parolee who has been sentenced to a special sentence of community supervision for life or parole supervision for life.

e. A parolee for whom a warrant has been issued by the State Parole Board and parole revocation proceedings have been initiated shall be ineligible to receive public health emergency credits.

f. Nothing in this section shall be deemed to limit a parolee's eligibility to receive parole compliance credits pursuant to section 5 of P.L.2019, c.364 (C.30:4-123.55e).

9. Section 5 of P.L.2019, c.364 (C.30:4-123.55e) is amended to read as follows:

C.30:4-123.55e Parole compliance credits.

5. Notwithstanding the provisions of subsection a. of section 7 of P.L.1979, c.441 (C.30:4-123.51), any person granted parole, except a person serving a parole term set forth in subsection c. of section 2 of P.L.1997, c.117 (C.2C:43-7.2) or section 2 of P.L.1994, c.130 (C.2C:43-6.4), shall have the parole term reduced by parole compliance credits at a rate of one day for every six days of parole supervision the person has completed.

Credits awarded pursuant to this section shall cease to accrue upon the issuance of a warrant by the State Parole Board and initiation of parole revocation proceedings. Any credits earned pursuant to this section shall be forfeited upon the revocation of parole.

Any compliance credits awarded pursuant to this section based on actions for which parole revocation proceedings were initiated, but did not result in a revocation of parole and return to custody, shall be forfeited upon a determination by the board panel or board that the actions for which compliance credits were awarded violated a condition of parole.

Nothing in this section shall be deemed to limit a parolee's eligibility to receive public health emergency credits pursuant to section 8 of P.L.2020, c.111 (C.30:4-123.55f).

10. This act shall take effect on the sixteenth day next following the date of enactment; however, the Commissioner of Corrections, Attorney General, Executive Director of the Juvenile Justice Commission, Chairman of the State Parole Board, and Director of the Administrative Office of the Courts shall take any anticipatory action necessary in advance thereof to effectuate the purposes of this act.

Approved October 19, 2020.

CHAPTER 112

AN ACT concerning staffing requirements for nursing homes and supplementing Title 30 of the Revised Statutes.

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

C.30:13-18 Minimum staffing requirements for nursing homes.

1. a. Notwithstanding any other staffing requirements as may be established by law, every nursing home as defined in section 2 of P.L.1976, c.120

(C.30:13-2) or licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) shall maintain the following minimum direct care staff -to-resident ratios:

(1) one certified nurse aide to every eight residents for the day shift;

(2) one direct care staff member to every 10 residents for the evening shift, provided that no fewer than half of all staff members shall be certified nurse aides, and each staff member shall be signed in to work as a certified nurse aide and shall perform certified nurse aide duties; and

(3) one direct care staff member to every 14 residents for the night shift, provided that each direct care staff member shall sign in to work as a certified nurse aide and perform certified nurse aide duties.

b. Upon any expansion of resident census by the nursing home, the nursing home shall be exempt from any increase in direct care staffing ratios for a period of nine consecutive shifts from the date of the expansion of the resident census.

c. (1) The computation of minimum direct care staffing ratios shall be carried to the hundredth place.

(2) If the application of the ratios listed in subsection a. of this section results in other than a whole number of direct care staff, including certified nurse aides, for a shift, the number of required direct care staff members shall be rounded to the next higher whole number when the resulting ratio, carried to the hundredth place, is fifty-one hundredths or higher.

(3) All computations shall be based on the midnight census for the day in which the shift begins.

d. Nothing in this section shall be construed to affect any minimum staffing requirements for nursing homes as may be required by the Commissioner of Health for staff other than direct care staff, including certified nurse aides, or to restrict the ability of a nursing home to increase staffing levels, at any time, beyond the established minimum.

e. The minimum direct care staffing ratios required by this section shall not apply to any pediatric long-term care facility licensed by the Department of Health.

f. As used in this section, "direct care staff member" means any registered professional nurse, licensed practical nurse, or certified nurse aide who is acting in accordance with that individual's authorized scope of practice, and pursuant to documented employee time schedules.

C.26:2H-12.96 Employment of certain homemaker-home health aides.

2. A long-term care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) may employ certified homemaker-home health aides to work as certified nurse aides, provided that the homemaker-home health aide

is enrolled in a qualified certified nurse aide program and is working toward certification as a certified nurse aide.

3. a. There is established in, but not of, the Department of Labor and Workforce Development the Special Task Force on Direct Care Workforce Retention and Recruitment. The purpose of the task force shall be to:

(1) evaluate current direct care staffing levels in the State;

(2) examine policies and procedures used to track data on direct care staffing, including workforce turnover rates in long-term care, staffing statistics, and vacancy rates;

(3) examine the effectiveness of staff retention and recruitment strategies and initiatives that are in place for direct care staff;

(4) identify any existing circumstances that allow for a shortage or surplus of direct care staff;

(5) develop recommendations for legislation, policies, and short-term and long-term strategies for the retention and recruitment of direct care staff to ensure an adequate workforce is in place to provide high-quality, cost-effective health care; and

(6) develop recommendations for a waiver process.

b. The task force shall take appropriate actions to effectuate its purposes, including, but not limited to, engaging in the evaluation of workplace practices and organizational cultures, advancement opportunities, job supports and incentives, training opportunities, wages and benefits, educational initiatives, and certification reciprocity rules.

c. The task force shall consist of 16 members, as follows:

(1) the Commissioner of Labor and Workforce Development, the Commissioner of Human Services, the Commissioner of Health, the Secretary of Higher Education, and the New Jersey Long-Term Care Ombudsman, or their designees, who shall serve ex officio;

(2) two members of the Senate appointed by the President of the Senate, which members shall not be from the same political party;

(3) two members of the General Assembly appointed by the Speaker of the General Assembly, which members shall not be from the same political party; and

(4) seven public members, including:

(a) one direct care staff professional who has experience as a certified nurse aide in a not-for-profit nursing facility, one direct care staff professional who has experience as a certified nurse aide in a for-profit nursing facility, and one representative of the Health Care Association of New Jersey, to be appointed by the Governor;

(b) one representative from a Statewide majority labor representative in non-profit or for-profit nursing facilities and one representative of the New Jersey Hospital Association, to be appointed by the President of the Senate; and

(c) one representative of the American Association of Retired Persons and one representative of LeadingAge New Jersey and Delaware, to be appointed by the Speaker of the General Assembly.

d. All appointments to the task force shall be made within 120 days after the effective date of this act. Any vacancies in the membership shall be filled in the same manner as the original appointments. The members of the task force shall serve without compensation but may be reimbursed for reasonable expenses incurred in the performance of their duties, within the limits of funds made available to the task force for this purpose.

e. The Department of Labor and Workforce Development shall provide professional and clerical staff to the task force as necessary to carry out its duties and effectuate its purposes.

f. The task force shall organize as soon as practicable, but not more than 120 days after the effective date of this act. The task force shall meet and hold hearings at the times and places it may deem appropriate and necessary to fulfill its duties and effectuate its purposes under this section. The task force shall hold at least one public hearing in each of the northern, central, and southern regions of the State, the purpose of which hearings shall be to meet with long-term care providers and solicit their input and recommendations regarding the retention and recruitment of direct care staff.

g. No later than one year after the date of the task force's organizational meeting, the task force shall prepare and submit to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, a report of its activities under this section. The report shall identify the task force's findings on long-term care issues and its recommendations for addressing those issues.

h. The task force shall expire upon submission of the report required pursuant to subsection g. of this section.

C.30:13-19 Rules, regulations.

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

5. This act shall take effect of the first day of the fourth month next following the date of enactment, but the Commissioner of Health may take

such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act. Section 3 of this act shall expire upon submission of the task force's report required pursuant to subsection g. of section 3 of this act.

Approved October 23, 2020.

CHAPTER 113

AN ACT concerning the implementation, by long-term care facilities, of policies, protocols, and procedures to prevent the social isolation of facility residents and supplementing Title 26 of the Revised Statutes.

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

C.26:2H-12.97 Definitions relative to the prevention of social isolation in certain facilities.

1. As used in this act:

"Cohorting" means the same as that term is defined by section 1 of P.L.2019, c.243 (C.26:2H-12.87).

"Commissioner" means the Commissioner of Health.

"Department" means the Department of Health.

"Long-term care facility" or "facility" means a nursing home, assisted living facility, comprehensive personal care home, residential health care facility, or dementia care home licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

"Religious and recreational activities" includes any religious, social, or recreational activity that is consistent with the resident's preferences and choosing, regardless of whether the activity is coordinated, offered, provided, or sponsored by facility staff or by an outside activities provider.

"Resident" means a senior citizen or other person who resides in a long-term care facility.

"Social isolation" means a state of isolation wherein a resident of a long-term care facility is unable to engage in social interactions and religious and recreational activities with other facility residents or with family members, friends, and external support systems.

C.26:2H-12.98 Social isolation prevention policies required.

2. a. The Department of Health shall require each long-term care facility in the State, as a condition of facility licensure, to adopt and implement written policies, provide for the practical availability of technology to facility residents, and ensure that appropriate staff and other capabilities are in place, to prevent the social isolation of facility residents.

b. The social isolation prevention policies adopted by each long-term care facility pursuant to this section shall:

(1) authorize, and include specific protocols and procedures to encourage and enable, residents of the facility to engage in in-person contact, communications, and religious and recreational activities with other facility residents and with family members, friends, and other external support systems, except when such in-person contact, communication, or activities are prohibited, restricted, or limited, as permitted by federal and State statute, rule, or regulation;

(2) authorize, and include specific protocols and procedures to encourage and enable, residents to engage in face-to-face or verbal/auditory-based contact, communication, and religious and recreational activities with other facility residents and with family members, friends, and other external support systems, through the use of electronic or virtual means and methods, including, but not limited to, computer technology, the Internet, social media, videoconferencing, and other innovative technological means or methods, whenever such residents are subject to restrictions that limit their ability to engage in in-person contact, communications, or religious and recreational activities as authorized by paragraph (1) of this subsection;

(3) provide for residents of the facility who have disabilities that impede their ability to communicate, including, but not limited to, residents who are blind, deaf, or deaf-blind, residents who have Alzheimer's disease or other related dementias, and residents who have developmental disabilities, to be given access to assistive and supportive technology as may be necessary to facilitate the residents' engagement in face-to-face or verbal/auditory-based contact, communications, and religious and recreational activities with other residents, family members, friends, and other external support systems, through electronic means, as provided by paragraph (2) of this subsection;

(4) include specific administrative policies, procedures, and protocols governing: (a) the acquisition, maintenance, and replacement of computers, videoconferencing equipment, distance-based communications technology, assistive and supportive technology and devices, and other technological equipment, accessories, and electronic licenses, as may be necessary to ensure that residents are able to engage in face-to-face or verbal/auditory-based contact, communications, and religious and recreational activities with other

facility residents and with family members, friends, and external support systems, through electronic means, in accordance with the provisions of paragraphs (2) and (3) of this subsection; (b) the use of environmental barriers and other controls when the equipment and devices acquired pursuant to this section are in use, especially in cases where the equipment or devices are likely to become contaminated with bodily substances, are touched frequently with gloved or ungloved hands, or are difficult to clean; and (c) the regular cleaning of the equipment and devices acquired pursuant to this paragraph and any environmental barriers or other physical controls used in association therewith;

(5) require appropriate staff to assess and regularly reassess the individual needs and preferences of facility residents with respect to the residents' participation in social interactions and religious and recreational activities, and include specific protocols and procedures to ensure that the quantity of devices and equipment maintained on-site at the facility remains sufficient, at all times, to meet the assessed social and activities needs and preferences of each facility resident;

(6) require appropriate staff, upon the request of a resident or the resident's family members or guardian, to develop an individualized visitation plan for the resident, which plan shall: (a) identify the assessed needs and preferences of the resident and any preferences specified by the resident's family members; (b) address the need for a visitation schedule, and establish a visitation schedule if deemed to be appropriate; (c) describe the location and modalities to be used in visitation; and (d) describe the respective responsibilities of staff, visitors, and the resident when engaging in visitation pursuant to the individualized visitation plan;

(7) include specific policies, protocols, and procedures governing a resident's requisition, use, and return of devices and equipment maintained pursuant to this act, and require appropriate staff to communicate those policies, protocols, and procedures to residents; and

(8) designate at least one member of the therapeutic recreation or activities department, or, if the facility does not have such a department, designate at least one senior staff member, as determined by facility management, to train other appropriate facility employees, including, but not limited to, activities professionals and volunteers, social workers, occupational therapists, and therapy assistants, to provide direct assistance to residents, upon request and on an as-needed basis, as necessary to ensure that each resident is able to successfully access and use, for the purposes specified in paragraphs (2) and (3) of this subsection, the technology, devices, and equipment acquired pursuant to this paragraph.

c. The department shall distribute civil monetary penalty (CMP) funds, as approved by the federal Centers for Medicare and Medicaid Services, and any other available federal and State funds, upon request, to facilities for communicative technologies and accessories needed for the purposes of this act.

C.26:2H-12.99 Inspections; violations, penalties.

3. a. Whenever the department conducts an inspection of a long-term care facility, the department's inspector shall determine whether the long-term facility is in compliance with the provisions of this act and the policies, protocols, and procedures adopted pursuant thereto.

b. In addition to any other applicable penalties provided by law, a long-term care facility that fails to comply with the provisions of this act or properly implement the policies, protocols, and procedures adopted pursuant thereto:

(1) shall be liable to pay an administrative penalty, the amount of which shall be determined in accordance with a schedule established by department regulation, which schedule shall provide for an enhanced administrative penalty in the case of a repeat or ongoing violation; and

(2) may be subject to adverse licensure action, as deemed by the department to be appropriate.

c. Whenever a complaint received or an investigation conducted by the Office of the State Long-Term Care Ombudsman discloses evidence that a long-term care facility has failed to comply with the provisions of this act or to properly implement the policies, protocols, and procedures adopted pursuant thereto, the Office of the State Long-Term Care Ombudsman shall refer the matter to the department as provided by section 7 of P.L.1977, c.239 (C.52:27G-7) and, notwithstanding such referral, may take any other appropriate investigatory or enforcement action, with respect to the matter, as may be authorized by P.L.1977, c.239 (C.52:27G-1 et seq.).

4. Within 60 days after the enactment of this act, and notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of Health shall, immediately upon filing proper notice with the Office of Administrative Law, adopt rules and regulations as may be necessary to implement the provisions of this act. The rules and regulations shall include, but need not be limited to, minimum standards for the social isolation prevention policies to be adopted pursuant to section 2 of this act and a penalty schedule to be used pursuant to section 3 of this act. The rules and regulations adopted pursuant to this section shall remain in effect for a period of not more than one year

after the date of filing and, thereafter, shall be adopted, amended, or readopted by the commissioner in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

Approved October 23, 2020.

CHAPTER 114

AN ACT concerning paratransit services, the establishment of regional paratransit coordinating councils, and supplementing Title 27 of the Revised Statutes.

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

C.27:25-35 Short title.

1. This act shall be known and may be cited as the "Paratransit Services Improvement Act."

C.27:25-36 Findings, declarations relative to paratransit services.

2. The Legislature hereby finds and declares:

The current system for paratransit services is fragmented and includes various providers from different levels of government as well as from private enterprise in different regions, counties, and service areas. The ultimate impact of the current system is poor service, including but not limited to long trip times, poor communication of trip status, and high costs.

Access Link, which is a program administered by the New Jersey Transit Corporation that was established to enable the State to meet the minimum standards of the federal "Americans with Disabilities Act of 1990" (42 U.S.C. s.12101 et seq.), provides the majority of paratransit trips in the State. The Access Link Program, which uses contract providers with a very high per trip cost, should restructure the program so that contract providers serve as a safety net for paratransit within the State, not as the primary provider of paratransit services within the State as is currently the case. Community organizations that provide paratransit services for individuals with developmental disabilities have provided evidence to the Legislature that certain paratransit services may be provided in a way that is objectively safer, has shorter average trip times, and costs less per passenger mile. The average cost per trip for

Access Link trips is, in many cases, triple the cost of similar paratransit services. Accordingly, it should be an objective of the State to direct service for regular and recurring paratransit trips away from Access Link contract providers, where possible, and toward other providers, including those funded through the Department of Human Services and the Division of Vocational Rehabilitation Services within the Department of Labor and Workforce Development, to both improve the quality of service and reduce costs.

In addition to Access Link, county transit providers provide paratransit services to senior citizens and individuals with disabilities. The level of service available varies widely from county to county and the source of State funding for these services, the Casino Revenue Fund, has experienced reduced revenues in recent years. Furthermore, organizations at the county level have been charged by the New Jersey Transit Corporation with developing local coordination transportation plans within each county but these organizations typically do not coordinate regionally and many organizations do not have common platforms or systems for requesting, sharing, and completing trips.

Direct administrative connections and coordination between agencies and organizations that provide programs and services for disabled persons, generally, and transit agencies that provide transit trips for those individuals would assist the State in improving the quality of service and reducing State costs.

Building these relationships will help the State, community organizations, and transit agencies develop best practices for providing paratransit services, which will lead to additional improvements in the quality of services and additional reductions in costs.

The current system is insufficient to meet the needs of persons with disabilities in the State, including the use of routing software that has proven to be wholly inadequate to serve the special needs of the disabled community.

It is essential that the State improve coordination, share best practices, advance proven models, and improve the efficiency of the system.

C.27:25-37 Definitions relative to paratransit services.

3. For the purposes of P.L.2020, c.114 (C.27:25-35 et seq.):

"Community organization" means an organization that provides programs and services to persons with disabilities.

"Corporation" means the New Jersey Transit Corporation.

"Corporation paratransit service" means the paratransit service that is managed, administered, or provided directly through the New Jersey Transit Corporation's operating budget, as a part of the Access Link program or any

successor program to meet the requirements of the "Americans with Disabilities Act of 1990" (42 U.S.C. s.12101 et seq.), and does not include services directly provided by county transit agencies.

"County transit agency" means a transportation service organized under or in conjunction with a county government to provide trips to senior citizens and residents with disabilities under the "Senior Citizen and Disabled Resident Transportation Assistance Act," P.L.1983, c.578 (C.27:25-25 et seq.).

"Department" means, unless another meaning clearly applies, the Department of Human Services.

"Paratransit provider" means any organization or entity that provides paratransit services, including State and local transit agencies, directly or through contract service, and community organizations that provide transportation trips, either directly or through a third party, funded by the Department of Human Services or the Division of Vocational Rehabilitation Services within the Department of Labor and Workforce Development.

"Paratransit service" means and includes any transportation service other than fixed route transportation service, except that "paratransit service" does not include private or charter services provided by taxicabs, limousines, or transportation network companies.

C.27:25-38 Standards for corporation paratransit service.

4. The corporation shall ensure that all corporation paratransit service shall adhere to the following standards:

a. All corporation paratransit service shall be required by the corporation to implement and utilize routing, scheduling, and dispatch software that can interact with comparable software used by most county transit agencies and other paratransit providers, allowing a trip requested by a customer via the Access Link Program's user interface to be fulfilled by any paratransit provider that chooses to utilize a compatible software package without any additional action on the part of the customer. Specifically, the software package implemented and utilized by corporation paratransit service pursuant to this section shall be interoperable with Access Link trip brokerage software developed pursuant to subsection b. of this section and software developed pursuant to paragraph (1) of subsection b. of section 5 of P.L.2020, c.114 (C.27:25-39).

b. In structuring the Access Link program, the corporation shall: (1) actively develop a methodology whereby customer trips can be tracked, and identify any trips requested by customers that are regular and recurring in nature; (2) track and document these regular and recurring trips by pickup location, source of the request including by phone, website, or mobile application, and relevant regular or recurring characteristics, including, but not

limited to, daily, weekly, monthly intervals, or several trips from a single source or to a single destination; (3) make information about these regular and recurring trips available to other paratransit providers in the State, including county transit agencies and community organizations that provide transportation service, either directly or through a third party, funded by the Department of Human Services or the Division of Vocational Rehabilitation Services within the Department of Labor and Workforce Development; (4) develop a system that allows county transit agencies and community organizations that provide paratransit service to voluntarily compete to conduct these regular and recurring trips, which would have otherwise been provided by contract providers under the Access Link program, by establishing a new Access Link program structure under a brokerage model, which may include but not be limited to the use of a trip scheduling software application, where the corporation is able to realize contract or operating cost savings when it shifts requested regular and routine trips from an Access Link contract provider to a paratransit provider that is able to provide these trips at a lower cost; (5) develop a system that provides a payment equal to a portion of the savings from the shifting of trips in paragraph (4) of this subsection to the paratransit provider that provides the trips in place of the Access link provider; and (6) shift trips out of the Access Link program, and to other State agencies or entities if it is found that a regular and recurring trip requested through the Access Link program is better provided under a different program through the Department of Human Services or the Department of Labor and Workforce Development, especially those trip requests that would not otherwise be eligible to be provided under the Access Link program.

c. Following the effective date of P.L.2020, c.114 (C.27:25-35 et seq.), the corporation shall not enter into any contract, or exercise any option to extend an existing contract, concerning the provision of Access Link service unless the contract or option includes a provision that the fixed costs of the contract or option shall be proportionately reduced to reflect any reduction in the provision of regular and recurring trips provided by the contractor that are subsequently fulfilled by another paratransit provider. The corporation shall establish minimum operating standards for any paratransit provider that may wish to participate in this program to ensure that all applicable federal standards are met by the paratransit provider and that adequate safeguards are provided to customers.

d. The corporation shall utilize the paratransit best practices training module developed pursuant to subsection b. of section 5 of P.L.2020, c.114 (C.27:25-39) and the best practices training package developed pursuant to

subsection d. of section 5 of P.L.2020, c.114 (C.27:25-39) in meeting the requirements of this section. The corporation, when establishing the corporation paratransit service software specifications required pursuant to subsection a. of this section, shall ensure that the software package is affordable for the corporation to adopt and easy to interface with the existing software used by various paratransit providers that seek to compete for Access Link trips.

C.27:25-39 Paratransit best practices pilot program.

5. a. (1) The New Jersey Transit Corporation, in consultation with the Department of Human Services, shall develop and implement a paratransit best practices pilot program.

(2) The corporation, in consultation with the department, shall select a qualified community organization to assist it in developing and implementing the pilot program. The qualified community organization shall meet the following criteria:

(a) the organization shall operate a facility that provides services to persons with intellectual or developmental disabilities;

(b) the organization shall directly provide paratransit services to persons with disabilities with those services paid, in whole or in part, by funds received from the Department of Human Services and the Division of Vocational Rehabilitation Services within the Department of Labor and Workforce Development;

(c) within the previous five years, the organization has received a Federal Transit Administration grant awarded by and administered through the New Jersey Transit Corporation for improvement to paratransit services;

(d) during the previous five-year period, the organization has demonstrated improvement in key performance metrics, including average trip time, vehicle accidents, and cost per passenger mile for paratransit services; and

(e) the organization provides transportation trips on a sufficient scale, including at least 250 daily trips under normal operating conditions.

b. Phase one of the pilot program shall include the following:

A training module for paratransit best practices shall be developed jointly by the qualified community organization and the New Jersey Transit Corporation in consultation with the department. The training module shall include: (1) an integrated paratransit software package that includes trip generation and scheduling, GPS directions for drivers, a mobile application for users that allows for trip requests, confirmation of trip requests, and trip status updates, and a trip accounting system; (2) a driver safety system that includes dashboard cameras, incident monitoring, and driver training; (3) assistance in hiring staff if necessary to fully implement the transportation sys-

tem and train existing staff in the use of new technologies and business processes; (4) a curriculum that educates agencies about fleet management and specialized driver training for the needs of paratransit users; (5) personalized agency culture training; and (6) agency training on how to develop synergies between optimal transportation practices and the other programmatic needs of paratransit providers who provide transportation trips funded by the Department of Human Services.

c. Phase two of the pilot program shall include the following:

The corporation, in consultation with the department, shall establish an application process where up to five paratransit providers that provide transportation trips directly funded by the Department of Human Services or the Division of Vocational Rehabilitation Services within the Department of Labor and Workforce Development are selected by the corporation, in consultation with the qualified community organization, to receive training in paratransit best practices from the qualified community organization. When selecting service providers to receive training, the corporation shall consider the cost for the paratransit provider to adopt these best practices, which may include but is not necessarily limited to the acquisition of new software, hiring of staff, and any necessary changes in vehicle fleet composition as well as potential savings that the paratransit provider will be likely to realize from reducing average trip time, vehicle accidents, and cost per passenger mile by adopting these best practices and the likelihood that those savings could self-fund the adoption of the best practices. Any paratransit providers selected to participate in the pilot program shall receive training from the qualified community organization.

d. Phase three of the pilot program shall include the following:

(1) If the efficiencies realized by the paratransit providers that received training in phase two are sufficient to justify widespread adoption, then the corporation, in consultation with the department and the qualified community organization, shall expand the training program by further developing the module into a best practices training package designed in a manner that allows a paratransit provider to independently adopt the best practices and software on its own, or in conjunction with assistance provided generally through the paratransit coordinating councils established in accordance with section 6 of P.L.2020, c.114 (C.27:25-40). It is intended that this phase three training module shall allow for the eventual integration of paratransit services throughout the State. Integration of paratransit services shall mean the widespread adoption of the software package developed pursuant to phase one of the pilot program, or similarly compatible software package, so that requested trips by customers may be fulfilled, if possible, by any applicable paratransit provider, and that paratransit

providers shall meet the minimum operating standards established by the New Jersey Transit Corporation so that those paratransit providers may compete for regular and routine Access Link trips under the revised Access Link program as described in section 4 of P.L.2020, c.114 (C.27:25-38).

If the efficiencies realized in phase two do not justify expansion of the training program further, then the corporation, in consultation with the department and the qualified community organization, shall determine an alternate method of integrating paratransit services throughout the State in a manner that allows paratransit providers that meet minimum operating standards to compete for regular and routine Access Link trips under the revised Access Link program as described in section 4 of P.L.2020, c.114 (C.27:25-38).

(2) The regional paratransit coordinating councils shall be established in accordance with section 6 of P.L.2020, c.114 (C.27:25-40).

e. The New Jersey Transit Corporation shall utilize the complete paratransit best practices training module, including the associated software package, when making changes to corporation paratransit service to comply with the requirements of section 4 of P.L.2020, c.114 (C.27:25-38).

f. (1) The New Jersey Transit Corporation shall enter into a contract with the qualified community organization that compensates the qualified community organization for its costs in developing the paratransit best practices training module as required for phase one of the pilot program as established in subsection b. of this section, and providing the training module as a publicly available resource that can be utilized by other paratransit providers in the State and used by the corporation for its own paratransit services. If phases one and two of the pilot program are determined to be successful, the corporation shall also enter into a contract with the qualified community organization to further develop the training module into a self-administered best practices training package as required for phase three of the pilot program in subsection d. of this section. The self-administered best practices training package shall also be a publicly available resource that can be utilized by other paratransit providers in the State and by the corporation for its own paratransit services.

(2) The corporation shall enter into a contract with the qualified community organization for the actual training of agencies under the pilot program, which shall include performance standards as the corporation shall deem appropriate to ensure that the agencies being trained are adequately prepared to implement safer, more efficient, user friendly, and customer-focused transportation services.

(3) To the extent possible, the corporation shall require paratransit providers being trained under the program to first utilize operating savings resulting from adoption of the paratransit best practices training pilot program

to fund the costs of software, staff, and equipment that may be required under the program, and limiting the overall costs of the program.

C.27:25-40 Regional paratransit coordinating councils.

6. a. There are hereby established six separate regional paratransit coordinating councils in furtherance of the purposes of P.L.2020, c.114 (C.27:25-35 et seq.). The regional paratransit coordinating councils shall be organized as follows:

(1) one council shall cover the counties of Atlantic, Cape May, Cumberland, Gloucester, and Salem;

(2) one council shall cover the counties of Burlington, Camden, and Ocean;

(3) one council shall cover the counties of Mercer, Middlesex, and Monmouth;

(4) one council shall cover the counties of Hunterdon, Sussex, and Warren;

(5) one council shall cover the counties of Essex, Morris, Somerset, and Union; and

(6) one council shall cover the counties of Bergen, Hudson, and Passaic.

b. Each regional paratransit coordinating council shall have the following members:

(1) one designee of the Director of the Division of Developmental Disabilities in the Department of Human Services;

(2) one designee of the New Jersey Transit Corporation who works on the Access Link program or the Senior Citizen and Disabled Resident Transportation Assistance Program;

(3) one representative of any company or entity that has contracted with the New Jersey Transit Corporation to provide Access Link paratransit service within the region;

(4) one representative of each county office of aging within the respective region to be chosen by the county executive director or by the board of freeholders, as applicable;

(5) one representative of each county transportation agency or other comparable entity within the respective region that provides paratransit service for a county under the Senior Citizen and Disabled Resident Transportation Assistance Program;

(6) one representative from each county chapter of the Arc of New Jersey, or a successor organization, within the respective region;

(7) one individual that represents one or more members of the Alliance for the Betterment of Citizens with Disabilities, or a successor organization, within the respective region;

(8) one representative of Community Access Unlimited, or a successor organization, within the respective region;

(9) one representative of the New Jersey Association of Community Providers, or a successor organization, within the respective region;

(10) one representative of the New Jersey Council on Special Transportation, or a successor organization, within the respective region;

(11) one representative of Easterseals New Jersey, or a successor organization, within the respective region; and

(12) one representative within the respective region, to be selected by the corporation in consultation with the department, of providers of transportation services to senior citizens or to individuals requiring transportation for health care services.

c. Each agency with an eligible representative of a regional paratransit coordinating council provided in subsection b. of this section shall submit information, in a form and manner determined by the Executive Director of the New Jersey Transit Corporation, to the executive director not later than 30 days following the enactment of P.L.2020, c.114 (C.27:25-35 et seq.) and on or before January 1 of each year thereafter identifying the name and contact information for the person to represent each respective agency. The term for each member on the regional paratransit coordinating council shall be one year provided, however, that any member may be selected to serve on the council for subsequent terms at the discretion of the respective agency. The executive director may appoint one member of each regional paratransit coordinating council to serve as the chair of that council.

d. Each regional paratransit coordinating council shall meet not less than quarterly, with the first meeting happening not less than 60 days following the enactment of P.L.2020, c.114 (C.27:25-35 et seq.). The chair, in consultation with the other members of the council, shall set meeting dates and shall lead the coordination effort. The members shall serve without compensation but may be reimbursed by the corporation, for reasonable expenses incurred in the execution of their duties.

e. The purpose of the regional paratransit coordinating councils is to exchange best practices among paratransit providers within the State. Those best practices shall include but are not limited to scheduling and routing, fleet maintenance, driver training, customer communications, safety practices, and improving the customer usability experience. The councils are also to establish a system to exchange information among and between paratransit providers so that: (1) each paratransit provider may provide basic information to its customers about other paratransit service options within each respective region; (2) paratransit providers may eventually share customer

trip requests amongst each other; and (3) a single platform may eventually be developed that enables a paratransit user to visit a single platform or place to request a trip, and that trip may be distributed amongst the paratransit providers in a manner that optimizes State cost and customer experience. The councils shall also exchange budget information and investigate more efficient means of organizing the New Jersey Transit Corporation's expenditures for paratransit services, use of State casino revenue funds, and appropriations for the division and department related to paratransit services, for the purpose of coordinating these three respective funding pools to eliminate any duplicative funding, and to direct trips and funding to service providers that offer the highest quality service and overall best value.

f. The county plans required under section 6 of P.L.1983, c.578 (C.27:25-30) and any committees or groups organized to effectuate the purposes of the "Senior Citizen and Disabled Resident Transportation Assistance Act," P.L.1983, c.578 (C.27:25-25 et seq.) shall be consolidated into the regional paratransit coordinating councils. If necessary, county level subcommittees of the regional paratransit coordinating councils may be established to more effectively develop county plans; however, following the effective date of P.L.2020, c.114 (C.27:25-35 et seq.) county plans shall also take into account the larger regional and Statewide goals of integrating paratransit service and creating a more cohesive user experience under the pilot program established in P.L.2020, c.114 (C.27:25-35 et seq.).

g. The New Jersey Transit Corporation shall utilize each regional paratransit coordinating council to disseminate information about the new Access Link program structure developed pursuant to section 4 of P.L.2020, c.114 (C.27:25-38) and coordinate with the council in determining the operating standards required for paratransit providers to compete to provide Access Link trips and when developing the system for paying paratransit providers to provide regular and routine trips requested through the Access Link program.

h. The regional paratransit coordinating councils shall also advise other paratransit providers in each region and develop support materials to assist other paratransit providers in adopting and implementing the best practices training package developed under phase three of the pilot program established pursuant to paragraph (1) of subsection d. of section 5 of P.L.2020, c.114 (C.27:25-39).

C.27:25-41 Evaluation of paratransit best practices training materials, program.

7. The corporation, in consultation with the department, shall develop a framework to evaluate the efficacy of the paratransit best practices training materials as well as the training program. Within 180 days of the completion of

phase two and within 180 days of completion of phase three of the pilot program, the corporation shall deliver a report to the Governor and the Legislature. Each report shall include feedback from the agencies that received training, a fiscal analysis of each agency with projections on how the implementation of the training will impact each agency's safety performance, average trip times, cost per trip, number of trips provided, and overall impact on each agency's core mission of serving people with disabilities. The department and corporation shall conduct a survey of consumers of paratransit services within the pilot program and shall include feedback from these consumers in the report. The report shall include recommendations from the department and the corporation concerning whether the pilot program should be extended or made permanent, suggested changes to the program, opportunities for improvement, and the potential for future savings. The report shall also identify the extent to which software from the pilot has been integrated into the corporation's paratransit services, the analysis that determined how to execute the integration required under the first part of phase three of the pilot program, and findings from the department and the corporation about the overall change in coordination between paratransit providers throughout the State at the time of the report.

8. This act shall take effect immediately.

Approved October 30, 2020.

CHAPTER 115

AN ACT concerning the hiring, retention, and benefits of certain public employees during the public health hazard posed by coronavirus disease 2019 (COVID-19) and supplementing P.L.2007, c.92 (C.43:15C-1 et seq.) and P.L.1969, c.242 (C.18A:66-169 et seq.).

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

1. Notwithstanding the provisions of section 7 of P.L.1954, c.84 (C.43:15A-7), section 65 of P.L.1954, c.84 (C.43:15A-65), section 27 of P.L.1966, c.217 (C.43:15A-57.2), or any other law or regulation to the contrary, during the Public Health Emergency or State of Emergency declared by the Governor in Executive Order No. 103 of 2020, reenrollment in the Public Employees' Retirement System shall not be a condition of full-time

employment with a public agency or other participating employer for a retired member who retired for any reason other than disability, has had a bona fide severance from employment, and is returning to work on a temporary basis in response to the Public Health Emergency or State of Emergency. This provision applies to a retired member who retired for any reason other than disability, has completed at least a 30-day separation from his or her employer from the date of retirement or the date of board approval, whichever is later, and returns to work for an employer in a State-administered retirement system on a temporary basis in response to the Public Health Emergency or State of Emergency. A retired member returning to work on a temporary basis pursuant to this section shall be deemed a temporary appointment for civil service purposes but shall not be subject to the limitation on service time set forth in N.J.A.C.4A:4-1.7.

2. Notwithstanding the provisions of section 3 of P.L.1944, c.255 (C.43:16A-3), section 20 of P.L.1971, c.175 (C.43:16A-15.3), or any other law or regulation to the contrary, during the Public Health Emergency or State of Emergency declared by the Governor in Executive Order No. 103 of 2020, reenrollment in the Police and Firemen's Retirement System of New Jersey shall not be a condition of employment as a full-time policeman or fireman for a retired member who retired for any reason other than disability, has had a bona fide severance from employment, and is returning to work on a temporary basis in response to the Public Health Emergency or State of Emergency. This provision applies to a retired member who retired for any reason other than disability, has completed at least a 30-day separation from his or her employer from the date of retirement or the date of board approval, whichever is later, and returns to work for an employer in a State-administered retirement system on a temporary basis in response to the Public Health Emergency or State of Emergency. A retired member returning to work on a temporary basis pursuant to this section shall be deemed a temporary appointment for civil service purposes but shall not be subject to the limitation on service time set forth in N.J.A.C.4A:4-1.7.

3. Notwithstanding the provisions of section 5 of P.L.1965, c.89 (C.53:5A-5) or any other law or regulation to the contrary, during the Public Health Emergency or State of Emergency declared by the Governor in Executive Order No. 103 of 2020, reenrollment in the State Police Retirement System shall not be a condition of employment as a full-time officer, noncommissioned officer, or trooper for a retired member who retired for any reason other than disability, has had a bona fide severance from employment,

and is returning to work on a temporary basis in response to the Public Health Emergency or State of Emergency. This provision applies to a retired member who retired for any reason other than disability, has completed at least a 30-day separation from his or her employer from the date of retirement or the date of board approval, whichever is later, and returns to work for an employer in a State-administered retirement system on a temporary basis in response to the Public Health Emergency or State of Emergency. A retired member returning to work on a temporary basis pursuant to this section shall be deemed a temporary appointment for civil service purposes but shall not be subject to the limitation on service time set forth in N.J.A.C.4A:4-1.7.

4. Notwithstanding the provisions of sections 3 and 7 of P.L.1961, c.49 (C.52:14-17.27 and C. 52:14-17.31) or any other law or regulation to the contrary, during the Public Health Emergency or State of Emergency declared by the Governor in Executive Order No. 103 of 2020, immediately upon hire, a person shall be deemed an employee eligible for participation in the State Health Benefits Program, provided such person is or was hired as a new employee on or after February 3, 2020 to provide services needed because of the coronavirus disease 2019 (COVID-19) pandemic. If a retiree is returning to work on a temporary basis in response to the Public Health Emergency or State of Emergency and already enrolled in the State Health Benefits Program as a retiree, the retiree shall continue to maintain the same health benefits coverage with the same terms concerning health benefits coverage, including, but not limited to any contributions, during the retiree's temporary return to employment.

5. Notwithstanding the provisions of section 10 of P.L.1985, c.439 (C.40A:14-146.17) or any other law or regulation to the contrary, during the Public Health Emergency or State of Emergency declared by the Governor in Executive Order No. 103 of 2020, there shall be no limit on the number of Class Two special law enforcement officers employed by a local unit.

6. Notwithstanding the provisions of section 3 of P.L.1998, c.146 (C.52:17B-69.2) or any other law or regulation to the contrary, during the Public Health Emergency or State of Emergency declared by the Governor in Executive Order No. 103 of 2020, any person who has completed a training course pursuant to section 2 of P.L.1998, c.146 (C.52:17B-69.1), commonly referred to as Alternate Route Training, shall be eligible for appointment as a Class Two special law enforcement officer by a local unit, in accordance with P.L 1985, c.439 (C.40A:14-146.8 et seq.), and based upon conditions set by the Police Training Commission in accordance with the Police

Training Act, P.L.1961, c.56 (C.52:17B-66 et seq.), for such time as the Public Health Emergency or State of Emergency remains in effect.

7. Notwithstanding the provisions of section 5 of P.L.1965, c.89 of P.L.1983, c.403 (C.53:5A-5) or any other law or regulation to the contrary, members of the 160th Class of the New Jersey State Police Academy, which commenced training on February 24, 2020, shall be enrolled in the State Police Retirement System, P.L.1965, c.89 (C.53:5A-1 et seq.), and contributions by the State and the member shall commence, on August 7, 2020, the originally scheduled date of their academy graduation which was extended as a result of the Public Health Emergency and State of Emergency declared by the Governor in Executive Order No. 103 of 2020. The period of membership commencing August 7, 2020 and thereafter shall be deemed creditable service as a member of the system for purposes of section 6 of P.L.1965, c.89 (C.53:5A-6). In addition, upon completion of pre-service training and graduation from the New Jersey State Police Academy, members of the 160th Class of the New Jersey State Police Academy shall be eligible for appointment as sworn members of the New Jersey State Police at that time regardless of age, notwithstanding the provisions of R.S.53:1-9 relating to the maximum age requirement for appointment as a member of the State Police.

8. Notwithstanding the provisions of subsection c. of section 8 of P.L.1965, c.89 (C.53:5A-8) or any other law or regulation to the contrary, a member appointed to the State Police who attains the age of 55 years while in active service on or after the effective date of this act shall not be required to retire and may continue in active service during the Public Health Emergency or State of Emergency declared by the Governor in Executive Order No. 103 of 2020.

9. Notwithstanding the provisions of section 3 of P.L.1955, c.257 (C.43:15A-99), section 5 of P.L.1944, c.255 (C.43:16A-5), or any other law or regulation to the contrary, a member of the Police and Firemen's Retirement System of New Jersey or a law enforcement officer, as defined in section 1 of P.L.1955, c.257 (C.43:15A-97), who is a member of the Public Employees' Retirement System, and who attains the mandatory retirement age set forth in section 3 of P.L.1955, c.257 (C.43:15A-99) or section 5 of P.L.1944, c.255 (C.43:16A-5) applicable to that officer or member while in active service on or after the effective date of this act shall not be required to retire and may continue in active service during the Public Health Emergency

or State of Emergency declared by the Governor in Executive Order No. 103 of 2020.

C.18A:66-175.1 Distribution under alternative benefit program.

10. Notwithstanding the provisions of section 9 of P.L.1969, c.242 (C.18A:66-175) or any other law or regulation to the contrary, a member or participant in the alternate benefit program who elects to receive a distribution under a federal stimulus program in response to the coronavirus disease 2019 (COVID-19) pandemic, including, but not limited to, a "coronavirus-related distribution" under the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136 (2020), shall not have his or her membership or participation terminated and shall not be considered retired.

C.43:15C-5.1 Receipt of distributions prior to severance from employment.

11. Notwithstanding the provisions of section 1 of P.L.2007, c.92 (C.43:15C-1), N.J.A.C. 17:6-10.2, or any other law or regulation to the contrary, a participant in the defined contribution retirement program may elect to receive, prior to the participant's severance from employment, a distribution under a federal stimulus program in response to the coronavirus disease 2019 (COVID-19) pandemic, including, but not limited to, a "coronavirus-related distribution" under the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136 (2020).

12. This act shall take effect immediately and shall be retroactive to April 6, 2020. Sections 1 through 9 of this act shall expire when the Governor declares both the Public Health Emergency and State of Emergency to be over.

Approved October 30, 2020.

CHAPTER 116

AN ACT concerning workers' compensation and amending P.L.2019, c.387 and R.S.34:15-13.

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

1. Section 2 of P.L.2019, c.387 is amended to read as follows:

2. P.L.2019, c.387 shall take effect immediately, and shall apply to all pending traumatic accident claims or occupational disease or injury cases which have not yet been adjudicated by a Judge of Workers Compensation or approved for settlement under R.S.34:15-22 on or after the date of enactment of P.L.2019, c.387. P.L.2019, c.387 shall not be applicable to cases which have been reopened by an Application to Modify a Formal Award pursuant to R.S.34:15-27.

2. R.S. 34:15-13 is amended to read as follows:

Death benefits, burial expenses; computation and distribution.

34:15-13. Except as hereinafter provided, in case of death, compensation shall be computed, but not distributed, on the following basis:

a. For one or more dependents, 70% of wages.

b. (Deleted by amendment, P.L.2003, c.253).

c. (Deleted by amendment, P.L.2003, c.253).

d. (Deleted by amendment, P.L.2003, c.253).

e. (Deleted by amendment, P.L.2003, c.253).

f. The term "dependents" shall apply to and include any or all of the following who are dependent upon the deceased at the time of accident or the occurrence of occupational disease, or at the time of death, namely: husband, wife, parent, stepparents, grandparents, children, stepchildren, grandchildren, child in esse, posthumous child, illegitimate children, brothers, sisters, half brothers, half sisters, niece, nephew. Legally adopted children shall, in every particular, be considered as natural children. Dependency shall be conclusively presumed as to the decedent's spouse and to any natural child of a decedent under 18 years of age or, if enrolled as a full-time student, under 23 years of age, who was actually a part of the decedent's household at the time of the decedent's death. Every provision of this article applying to one class shall be equally applicable to the other, except for the surviving spouses of members of the State Police or members of fire or police departments or forces who die in line of duty. Should any dependent of a deceased employee die during the period covered by such weekly payments the right of such dependent to compensation under this section shall cease, but should the surviving spouse of a deceased employee, other than the surviving spouse of a deceased member of the State Police or member of a fire or police department or force who died in line of duty, remarry during such period and before the total compensation is paid, the spouse shall be entitled to receive the remainder of the compensation which would have been due the spouse had the spouse not remarried,

or 100 times the amount of weekly compensation paid immediately preceding the remarriage, whichever is the lesser. If the deceased was a member of the State Police or member of a fire or police department or force who died in the line of duty, the compensation shall be paid to the surviving spouse during the entire period of survivorship, even if the surviving spouse remarries, but the surviving spouse shall not receive a lump sum payment pursuant to this subsection. The foregoing schedule applies only to persons wholly dependent, and in the case of persons only partially dependent, except in the case of the surviving spouse and children who were actually a part of the decedent's household at the time of death, the compensation shall be such proportion of the scheduled percentage as the amounts actually contributed to them by the deceased for their support constituted of his total wages and the provision as to a minimum of 20% of the average weekly wage as set forth in subsection a. of R.S.34:15-12 shall not apply to such compensation. In determining the number of dependents, where the deceased employee was a minor, the number of persons dependent upon the deceased employee shall be determined in the same way as if the deceased employee were an adult, notwithstanding any rule of law as to the person entitled to a minor's wages. Nothing in this subsection pertaining to the surviving spouse of a member of the State Police or member of a fire or police department or force who died in the line of duty shall be construed to entitle the surviving spouse to resumed payments of compensation if that surviving spouse received a lump sum payment pursuant to this subsection or remarried prior to the effective date of P.L.2013, c.62.

g. Compensation shall be computed upon the foregoing basis. Distribution shall be made among dependents, if more than one, according to the order of the Division of Workers' Compensation, which shall, when applied to for that purpose, determine, upon the facts being presented to it, the proportion to be paid to or on behalf of each dependent according to the relative-dependency. Payment on behalf of infants shall be made to the surviving parent, if any, or to the statutory or testamentary guardian.

h. If death results from the accident or occupational disease, whether there be dependents or not, expenses of the last sickness of the deceased employee shall be paid in accordance with the provisions for medical and hospital service as set forth in R.S.34:15-15. In addition, the cost of burial and of a funeral, not to exceed $5,000, shall be paid to the dependent or other person having paid the costs of burial and the funeral. In the event that the dependent or other person has paid less than $5,000 for the costs of burial and the funeral, the dependent or other person shall be reimbursed in the amount paid

and, if the costs of burial and the funeral exceed the amount so paid, the difference between the said amount and $5,000 or so much thereof as may be necessary to pay the cost of burial and the funeral, shall be paid to the undertaker or embalmer or the dependent or other person having paid the costs of burial and the funeral. In the event that no part of the costs of burial and the funeral have been paid, the amount of such cost of burial and the funeral, not to exceed $5,000 , shall be paid to the undertaker or embalmer or the dependent or other person who is to pay the costs of burial and the funeral.

i. In computing compensation to those named in this section, except husband, wife, parents and stepparents, and except as otherwise provided in this section, only those under 18 or over 40 years of age shall be included and then only for that period in which they are under 18 or over 40; provided, however, that payments to such physically or mentally deficient persons as are for such reason dependent shall be made during the full compensation period of 450 weeks.

j. The maximum compensation in case of death shall be subject to the maximum compensation as stated in subsection a. of R.S.34:15-12 and a minimum of 20% of average weekly wages per week as set forth in subsection a. of R.S.34:15-12, except in the case of partial dependency as provided in this section. This compensation shall be paid, in the case of a surviving spouse, other than a surviving spouse of a member of the State Police or member of a fire or police department or force who died in the line of duty, during the entire period of survivorship or until such surviving spouse shall remarry and, in the case of other dependents, during 450 weeks and if at the expiration of 450 weeks there shall be one or more dependents under 18 years of age, compensation shall be continued for such dependents until they reach 18 years of age, or 23 years of age while enrolled as a full-time student, at the schedule provided under subsection a. of this section. If the deceased was a member of the State Police or member of a fire or police department or force who died in the line of duty, the compensation shall be paid to the surviving spouse during the entire period of survivorship, even if the surviving spouse remarries, but the surviving spouse shall not receive a lump sum payment pursuant to subsection f. of this section.

3. This act shall take effect immediately.

Approved October 30, 2020.

CHAPTER 117

AN ACT concerning single-use plastic carryout bags, single-use paper carryout bags, polystyrene foam food service products, and single-use plastic straws, supplementing Title 13 of the Revised Statutes, and amending P.L.2002, c.128.

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

C.13:1E-99.126 Findings, declarations relative to certain single-use products.

1. The Legislature finds and declares that, since 1950, global annual production of plastics has increased from two million tons to over 381 million tons; that approximately one third of all plastics produced are single-use plastics, which are plastics designed to be used only once and then thrown away; and that an estimated 100 billion single-use plastic carryout bags and 25 billion styrofoam plastic coffee cups are thrown away in the United States each year.

The Legislature further finds that, in 2017, only 8.4 percent of plastics in the United States were recycled; that most single-use plastics are disposed of in landfills, are incinerated, or become litter in waterways and oceans; that plastics released in the environment do not biodegrade, but instead break down into smaller pieces, known as microplastics, which accumulate in the natural environment and are eaten by fish and other marine life; and that microplastic pollution moves through natural food webs and accumulates in fish and shellfish tissues, which means microplastics and associated pollutants can move into the food chain.

The Legislature further finds that approximately eight million tons of plastic end up in the oceans annually; that, without action, scientists estimate that by 2050 the mass of plastic pollution in the ocean will exceed the mass of fish; that currently, there is a collection of litter in the North Pacific Ocean, known as the Great Pacific Garbage Patch, that is 7.7 million square miles and is composed primarily of plastics; that one study found plastics in the gut of every sea turtle examined and in 90 percent of seabirds examined; and that plastics have been known to cause death or reproductive failure in sea turtles, birds, and other organisms that ingest plastic.

The Legislature further finds that, as plastics break down through photodegradation, they release harmful chemicals such as bisphenol A (BPA) into the environment that have been linked to health problems in humans; that these chemicals enter the food chain when consumed by marine life; and that

single-use plastic waste creates visual pollution, degrades water quality, and impacts the tourism, fishing, and shipping industries, all of which are major contributors to the New Jersey economy.

The Legislature therefore determines that it is no longer conscionable to permit the unfettered use and disposal of single-use plastics in the State; that New Jersey must do its part to minimize plastic pollution in the ocean, and to ensure that future generations have a clean and healthy environment to live, work, and recreate in; that banning or limiting the use of single-use plastic carryout bags, polystyrene foam food service products, and single-use plastic straws is a significant step in this effort, as these items are among the most significant sources of beach and ocean pollution; that New Jersey joins several other states and hundreds of municipalities across the country in banning or limiting the use of single-use plastics; and that such bans and limitations have drastically lowered consumer consumption of single-use plastics.

The Legislature further finds that single-use paper carryout bags use as much or more energy and resources to manufacture and transport than single-use plastic carryout bags and contribute to harmful air emissions. Consequently, the Legislature further determines that it is in the public interest to prohibit grocery stores from providing single-use paper carryout bags.

The Legislature further finds that the State's nascent hemp-growing industry, regulated through the New Jersey Department of Agriculture's Division of Plant Industry, would be a significant force in creating biodegradable raw materials that can be turned into hemp-based bio-packaging, which breaks down in approximately 90 days versus the dozens of years it takes petroleum-based plastics to break down into microplastics in the ocean.

C.13:1E-99.127 Definitions relative to certain single-use products.

2. As used in P.L.2020, c.117 (C.13:1E-99.126 et al.):

"Carryout bag" means a bag that is provided by a store or food service business to a customer for the purpose of transporting groceries, prepared foods, or retail goods. "Carryout bag" shall not include:

(1) a bag used solely to contain or wrap uncooked meat, fish, or poultry;

(2) a bag used solely to package loose items such as fruits, vegetables, nuts, coffee, grains, baked goods, candy, greeting cards, flowers, or small hardware items;

(3) a bag used solely to contain live animals, such as fish or insects sold in a pet store;

(4) a bag used solely to contain food sliced or prepared to order, including soup or hot food;

(5) a laundry, dry cleaning, or garment bag;

(6) a bag provided by a pharmacy to carry prescription drugs;

(7) a newspaper bag; and

(8) any similar bag, as determined by the department pursuant to rule, regulation, or guidance.

"Department" means the Department of Environmental Protection.

"Food service business" means a business that sells or provides food for consumption on or off the premises, and includes, but is not limited to, any restaurant, café, delicatessen, coffee shop, convenience store, grocery store, vending truck or cart, food truck, movie theater, or business or institutional cafeteria, including those operated by or on behalf of any governmental entity.

"Grocery store" means a self-service retail establishment that occupies at least 2,500 square feet and that sells household foodstuffs for off-site consumption, including, but not limited to, fresh produce, meat, poultry, fish, deli products, dairy products, canned foods, dry foods, beverages, baked foods, or prepared foods. "Grocery store" shall not include an establishment that handles only prepackaged food that does not require time or temperature controls for food safety.

"Hemp product" means a finished product with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent that is derived from or made by processing a hemp plant or plant part and prepared in a form available for commercial sale.

"Person" means any individual, corporation, company, association, society, firm, partnership, joint stock company, or governmental entity.

"Plastic" means a synthetic material made from linking monomers through a chemical reaction to create an organic polymer chain that can be molded or extruded at high heat into various solid forms retaining their defined shapes during the life cycle and after disposal.

"Polystyrene foam" means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by a number of techniques, including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene).

"Polystyrene foam food service product" means a product made, in whole or in part, of polystyrene foam that is used for selling or providing a food or beverage, and includes, but is not limited to, a food container, plate, hot or cold beverage cup, meat or vegetable tray, cutlery, or egg carton.

"Reusable carryout bag" means a carryout bag that: (1) is made of polypropylene, PET nonwoven fabric, nylon, cloth, hemp product, or other machine washable fabric; (2) has stitched handles; and (3) is designed and manufactured for multiple reuse.

"Single-use paper carryout bag" means a carryout bag made of paper that is not a reusable carryout bag.

"Single-use plastic carryout bag" means a carryout bag made of plastic that is not a reusable carryout bag.

"Store" means any grocery store, convenience store, liquor store, pharmacy, drug store, or other retail establishment.

C.13:1E-99.128 Dispensing of single-use plastic carryout bags prohibited.

3. a. Beginning 18 months after the effective date of P.L.2020, c.117 (C.13:1E-99.126 et al.):

(1) no store or food service business shall provide or sell a single-use plastic carryout bag to a customer; and

(2) no grocery store shall provide or sell a single-use paper carryout bag to a customer.

b. A municipality or county shall not adopt any rule, regulation, code, or ordinance concerning the regulation or prohibition of single-use plastic carryout bags or single-use paper carryout bags after the effective date of P.L.2020, c.117 (C.13:1E-99.126 et al.).

c. Beginning 18 months after the effective date of P.L.2020, c.117 (C.13:1E-99.126 et al.), this section shall supersede and preempt any municipal or county rule, regulation, code, or ordinance concerning the regulation or prohibition of single-use plastic carryout bags or single-use paper carryout bags that was enacted prior to the effective date of P.L.2020, c.117 (C.13:1E-99.126 et al.).

C.13:1E-99.129 Dispensing of polystyrene form food service products prohibited.

4. a. Beginning 18 months after the effective date of P.L.2020, c.117 (C.13:1E-99.126 et al.), no person shall sell or offer for sale in the State any polystyrene foam food service product.

b. Beginning 18 months after the effective date of P.L.2020, c.117 (C.13:1E-99.126 et al.), no food service business shall provide or sell any food in a polystyrene foam food service product.

c. The following products shall be exempt from the provisions of subsections a. and b. of this section for a period of two years beginning 18 months after the effective date of P.L.2020, c.117 (C.13:1E-99.126 et al.):

(1) disposable, long-handled polystyrene foam soda spoons when required and used for thick drinks;

(2) portion cups of two ounces or less, if used for hot foods or foods requiring lids;

(3) meat and fish trays for raw or butchered meat, including poultry, or fish that is sold from a refrigerator or similar retail appliance;

(4) any food product pre-packaged by the manufacturer with a polystyrene foam food service product; and

(5) any other polystyrene foam food service product as determined necessary by the department.

d. The department may extend any exemption provided for in subsection c. of this section for additional periods not to exceed one year upon a written determination that there is no cost-effective and readily available alternative for the item. An exemption shall expire after one year unless the department extends the exemption pursuant to this subsection.

e. The department may, upon written application by a person or food service business, waive the provisions of subsection a. or b. of this section for the person or food service business for a period not to exceed one year, if:

(1) there is no feasible and commercially available alternative for a specific polystyrene foam food service product; or

(2) the person or food service business has less than $500,000 in gross annual income and there is no reasonably affordable, commercially-available alternative to the polystyrene foam food service product.

The department shall prescribe the form and manner of the application for a waiver pursuant to this subsection. The department may, upon written application, extend any waiver granted pursuant to this section for additional periods not to exceed one year.

f. A municipality or county shall not adopt any rule, regulation, code, or ordinance concerning the regulation or prohibition of polystyrene foam food service products after the effective date of P.L.2020, c.117 (C.13:1E-99.126 et al.).

g. Beginning 18 months after the effective date of P.L.2020, c.117 (C.13:1E-99.126 et al.), this section shall supersede and preempt any municipal or county rule, regulation, code, or ordinance concerning the regulation or prohibition of polystyrene foam food service products that was enacted prior to the effective date of P.L.2020, c.117 (C.13:1E-99.126 et al.).

C.13:1E-99.130 Dispensing of single-use plastic straws.

5. a. Beginning one year after the effective date of P.L.2020, c.117 (C.13:1E-99.126 et al.), a food service business shall only provide a single-use plastic straw to a customer upon the request of the customer.

b. A food service business shall maintain an adequate supply of single-use plastic straws to provide at the request of customers pursuant to subsection a. of this section.

c. Nothing in this section shall be construed to prohibit a store from selling packages of single-use plastic straws to customers, or from providing or selling a beverage pre-packaged by the manufacturer with a single-use plastic straw, including, but not limited to, a juice box.

d. Notwithstanding the provisions of subsection c. of section 6 of P.L.2020, c.117 (C.13:1E-99.131), the Department of Health shall enforce the provisions of this section. The Department of Health may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations necessary to effectuate the provisions of this section.

e. No later than four years after the effective date of P.L.2020, c.117 (C.13:1E-99.126 et al.), the Department of Health shall prepare and submit to the Plastics Advisory Council a written report evaluating the compliance of food service businesses with the requirements of this section.

f. A municipality or county shall not adopt any rule, regulation, code, or ordinance concerning the regulation or prohibition of single-use plastic straws after the effective date of P.L.2020, c.117 (C.13:1E-99.126 et al.).

g. Beginning one year after the effective date of P.L.2020, c.117 (C.13:1E-99.126 et al.), this section shall supersede and preempt any municipal or county rule, regulation, code, or ordinance concerning the regulation or prohibition of single-use plastic straws that was enacted prior to the effective date of P.L.2020, c.117 (C.13:1E-99.126 et al.).

C.13:1E-99.131 Violations, penalties.

6. a. Any person or entity that violates a provision of P.L.2020, c.117 (C.13:1E-99.126 et al.), or any rule or regulation adopted pursuant thereto, shall be subject to a warning for a first offense, up to $1,000 for a second offense, and up to $5,000 for a third or subsequent offense, to be collected in a civil action by a summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), 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 Superior Court and the municipal court shall have jurisdiction to enforce the provisions of the "Penalty Enforcement Law of 1999" in connection with P.L.2020, c.117 (C.13:1E-99.126 et al.).

b. Any penalty collected pursuant to this section shall be remitted to the State Treasurer for deposit in the Clean Communities Program Fund established pursuant to section 5 of P.L.2002, c.128 (C.13:1E-217), except that a municipality or entity certified pursuant to the "County Environmental

Health Act," P.L.1977, c.443 (C.26:3a2-21 et seq.) may retain 30 percent of any penalty it collects pursuant to subsection a. of this section.

c. The Department of Environmental Protection, a municipality, and any entity certified pursuant to the "County Environmental Health Act," P.L.1977, c.443 (C.26:3a2-21 et seq.) shall have the authority to enforce the provisions of P.L.2020, c.117 (C.13:1E-99.126 et al.). Those entities may institute a civil action for injunctive relief to enforce P.L.2020, c.117 (C.13:1E-99.126 et al.) and to prohibit and prevent a violation thereof, and the court may proceed in the action in a summary manner.

C.13:1E-99.132 Plastics Advisory Council.

7. a. There is established in the Department of Environmental Protection the Plastics Advisory Council. The council shall monitor the implementation of P.L.2020, c.117 (C.13:1E-99.126 et al.), and evaluate its effectiveness in reducing single-use plastics and plastic waste in the State.

b. The council shall consist of 16 members as follows:

(1) the Commissioner of Environmental Protection, who shall serve ex officio, or the commissioner's designee;

(2) the Commissioner of Health, who shall serve ex officio, or the commissioner's designee;

(3) the Secretary of Agriculture, who shall serve ex officio, or the secretary's designee; and

(4) the following members appointed by the Governor:

(a) two members of the academic community with expertise on the issues of single-use plastics and plastic waste;

(b) four members representing the environmental community;

(c) four members representing stores and food service businesses in the State;

(d) one member representing the polystyrene foam industry;

(e) one member representing the recycling industry; and

(f) one member representing local governments.

c. All appointments to the council shall be made no later than 90 days after the effective date of P.L.2020, c.117 (C.13:1E-99.126 et al.). The term of office of each public member shall be three years. Each member shall serve until a successor has been appointed and qualified, and vacancies shall be filled in the same manner as the original appointments for the remainder of the unexpired term. A member is eligible for reappointment to the council. The members of the council shall serve without compensation, but shall be eligible for necessary and reasonable expenses incurred in the performance

of their official duties within the limits of funds appropriated or otherwise made available for the council's purposes.

d. The council shall organize as soon as practicable following the appointment of its members and shall select a chairperson and a vice-chairperson from among its members, as well as a secretary who need not be a member of the council. A majority of the membership of the council shall constitute a quorum for the transaction of council business. The council may meet and hold hearings at the place or places it designates.

e. No later than one year after the effective date of P.L.2020, c.117 (C.13:1E-99.126 et al.), and each year thereafter, the council shall prepare and submit a written report to the Governor, the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and the respective chairpersons of the Senate Environment and Energy Committee and the Assembly Environment and Solid Waste Committee, or their successors, evaluating the implementation and effectiveness of P.L.2020, c.117 (C.13:1E-99.126 et al.), and making any recommendations for legislative or administrative action to improve the implementation or effectiveness of P.L.2020, c.117 (C.13:1E-99.126 et al.).

f. (1) The council shall also study the environmental and public health impacts of single-use plastics and micro-plastics; healthy and environmentally-friendly alternatives to single-use plastics; strategies and policies to increase the recyclability of plastics and reduce the amount of plastic entering the environment; the technological feasibility of increasing recycled content of consumer plastics and expanding the types of plastics that may be manufactured from recycled material; and ways to enhance the development and expansion of markets of post-consumer recycled plastic, including State and local purchasing and procurement practices.

(2) No later than two years after the effective date of P.L.2020, c.117 (C.13:1E-99.126 et al.), the council shall submit a written report to the Governor, the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and the respective chairpersons of the Senate Environment and Energy Committee and the Assembly Environment and Solid Waste Committee, or their successors. The written report shall summarize the analysis conducted pursuant to paragraph (1) of this subsection and recommend ways to reduce the use of plastics and the amount of plastic entering the environment, and increase the rate of recycling of plastics.

C.13:1E-99.133 Program to assist businesses with compliance.

8. No later than six months after the effective date of P.L.2020, c.117 (C.13:1E-99.126 et al.):

a. the Department of State, in consultation with the Department of Environmental Protection, shall establish a program to assist businesses in complying with the provisions of P.L.2020, c.117 (C.13:1E-99.126 et al.), including, but not limited to, developing and publishing on its Internet website guidance on compliance with the act, and establishing an online clearinghouse of vendors who provide environmentally sound alternatives to single-use plastic carryout bags, single-use paper carryout bags, polystyrene foam food service products, and single-use plastic straws; and

b. the organization under contract with the Department of Environmental Protection pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) shall, in cooperation with local governments and the business community, develop and implement a Statewide public information and education program concerning the provisions of P.L.2020, c.117 (C.13:1E-99.126 et al.). The program shall include, but need not be limited to, educational programs, public service announcements, and the distribution of free reusable carryout bags throughout the State.

C.13:1E-99.134 Rules, regulations.

9. The department shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations necessary to effectuate the provisions of P.L.2020, c.117 (C.13:1E-99.126 et al.).

10. Section 5 of P.L.2002, c.128 (C.13:1E-217) is amended to read as follows:

C.13:1E-217 Clean Communities Program Fund.

5. The Clean Communities Program Fund is established as a nonlapsing, revolving fund in the Department of the Treasury. The Clean Communities Program Fund shall be administered by the Department of Environmental Protection and credited, in addition to any appropriations made thereto, with all user fees imposed pursuant to section 4 of P.L.2002, c.128 (C.13:1E-216) or penalties imposed pursuant to section 10 of P.L.2002, c.128 (C.13:1E-222), and any sums received as voluntary contributions from private sources. Interest received on moneys in the Clean Communities Program Fund shall be credited to the fund. Unless otherwise expressly provided by the specific appropriation thereof by the Legislature, which shall take the form of a discrete legislative appropriations act and shall not be included within the annual appropriations act, all available moneys in the Clean Communities Program Fund shall be appropriated annually solely for the following purposes and no others:

a. 10 percent of the estimated annual balance of the Clean Communities Program Fund shall be used for a State program of litter pickup and removal and of enforcement of litter-related laws and ordinances in State owned places and areas that are accessible to the public. Moneys in the fund may also be used by the State to abate graffiti;

b. 50 percent of the estimated annual balance of the Clean Communities Program Fund shall be distributed as State aid to eligible municipalities with total housing units of 200 or more for programs of litter pickup and removal, including establishing an "Adopt-A-Highway" program, of public education and information relating to litter abatement and of enforcement of litter-related laws and ordinances. The amount of State aid due each municipality shall be solely calculated based on the proportion which the housing units of a qualifying municipality bear to the total housing units in the State. Total housing units shall be determined using the most recent federal decennial population estimates for New Jersey and its municipalities, filed in the office of the Secretary of State. Moneys in the fund may also be used by an eligible municipality to abate graffiti;

c. 30 percent of the estimated annual balance of the Clean Communities Program Fund shall be distributed as State aid to eligible municipalities with total housing units of 200 or more for programs of litter pickup and removal, including establishing an "Adopt-A-Highway" program, of public education and information relating to litter abatement and of enforcement of litter-related laws and ordinances. The amount of State aid due each municipality shall be solely calculated based on the proportion which the municipal road mileage of a qualifying municipality bears to the total municipal road mileage within the State. For the purposes of this subsection, "municipal road mileage" means that road mileage under the jurisdiction of municipalities, as determined by the Department of Transportation. Moneys in the fund may also be used by an eligible municipality to abate graffiti;

d. 10 percent of the estimated annual balance of the Clean Communities Program Fund shall be distributed as State aid to eligible counties for programs of litter pickup and removal, including establishing an "Adopt-A-Highway" program, of public education and information relating to litter abatement and of enforcement of litter-related laws and ordinances. The amount of State aid due each county shall be solely calculated based on the proportion which the county road mileage of an eligible county bears to the total county road mileage within the State. For the purposes of this subsection, "county road mileage" means that road mileage under the jurisdiction of counties, as determined by the Department of Transportation. Moneys in the fund may also be used by an eligible county to abate graffiti;

e. No eligible municipality shall receive less than $4,000 in State aid as apportioned pursuant to subsections b. and c. of this section. A municipality or county may use up to five percent of its State aid for administrative expenses;

f. Prior to the distribution of funds pursuant to subsections a. through d. of this section:

(1) $375,000 of the estimated annual balance of the Clean Communities Program Fund shall be annually appropriated to the department and made available on July 1 of every year to the organization under contract with the department pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) for a Statewide public information and education program concerning antilittering activities and other aspects of responsible solid waste handling behavior, of which up to $75,000 shall be used exclusively to finance an annual Statewide television, radio, newspaper and other media advertising campaign to promote antilittering and responsible solid waste handling behavior.

(2) in each of the first three years after the effective date of P.L.2020, c.117 (C.13:1E-99.126 et al.), $500,000 of the estimated annual balance of the Clean Communities Program Fund shall be appropriated to the department and made available on July 1 of each year to the organization under contract with the department pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) for the Statewide public information and education program developed pursuant to subsection b. of section of section 8 of P.L.2020, c.117 (C.13:1E-99.133).

The organization under contract with the department pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) shall, no later than the date on which the contract period concludes, submit a report to the Governor and the Legislature concerning its activities during the contract period and any recommendations concerning improving the program. Every eligible municipality and county shall cooperate with the organization under contract with the department pursuant to section 6 of P.L.2002, c.128 (C.13:1E-218) in providing information concerning its program of litter pickup and removal.

No later than May 31, 2008, 25 percent of the estimated annual balance of the Clean Communities Program Fund shall be appropriated to the State Recycling Fund established pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96). These moneys shall be used by the Department of Environmental Protection for direct recycling grants to counties and municipalities, up to a maximum appropriation of $4,000,000.

g. As used in this section, "graffiti" means any inscription drawn, painted or otherwise made on a bridge, building, public transportation vehicle, rock, wall, sidewalk, street or other exposed surface on public property.

The department may carry forward any unexpended balances in the Clean Communities Program Fund as of June 30 of each year.

11. This act shall take effect immediately.

Approved November 4, 2020.

CHAPTER 118

AN ACT concerning the corporation business tax, amending various parts of the statutory law and supplementing P.L.1945, c.162.

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

1. Section 1 of P.L.1997, c.334 (C.34:1B-7.42a) is amended to read as follows:

C.34:1B-7.42a Corporation business tax benefit certificate transfer program.

1. a. The New Jersey Economic Development Authority shall establish within the New Jersey Emerging Technology and Biotechnology Financial Assistance Program established pursuant to P.L.1995, c.137 (C.34:1B-7.37 et seq.), a corporation business tax benefit certificate transfer program to allow new or expanding emerging technology and biotechnology companies in this State with unused amounts of research and development tax credits otherwise allowable which cannot be applied for the credit's tax year due to the limitations of subsection b. of section 1 of P.L.1993, c.175 (C.54:10A-5.24) and unused prior net operating loss conversion carryover or net operating loss carryover pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4), to surrender those tax benefits for use by other corporation business taxpayers in this State, provided that the taxpayer receiving the surrendered tax benefits is not affiliated with a corporation that is surrendering its tax benefits under the program established under P.L.1997, c.334. For the purposes of this section, the test of affiliation is whether the same entity directly or indirectly owns or controls 5% or more of the voting rights or 5% or more of the value of all classes of stock of both the taxpayer receiving the benefits and a corporation that is surrendering the benefits. The tax benefits may be used on the corporation business tax returns to be filed by those taxpayers in exchange for private financial assistance to be provided by the corporation business taxpayer that is the recipient of the corporation business tax benefit

certificate to assist in the funding of costs incurred by the new or expanding emerging technology and biotechnology company. For purposes of this subsection, a member of a combined group may sell prior net operating loss conversion carryover to other members of the combined group, if otherwise applicable and allowable under section 2 of P.L.1997, c.334 (C.54:10A-4.2) and this section; provided, however, such sale of prior net operating loss conversion carryover shall be made at arm's length price at the same rate as though the sale was to an unrelated taxpayer.

b. The authority, in cooperation with the Division of Taxation in the Department of the Treasury, shall review and approve applications by new or expanding emerging technology and biotechnology companies in this State with unused but otherwise allowable carryover of research and development tax credits pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24), and unused but otherwise allowable prior net operating loss conversion carryover or net operating loss carryover pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4), to surrender those tax benefits in exchange for private financial assistance to be made by the corporation business taxpayer that is the recipient of the corporation business tax benefit certificate in an amount equal to at least 80% of the amount of the surrendered tax benefit. Provided that the amount of the surrendered tax benefit for a surrendered research and development tax credit carryover is the amount of the credit, and provided that the amount of the surrendered tax benefit for a surrendered prior net operating loss conversion carryover or net operating loss carryover is that amount for the tax year in which the benefit is transferred and subsequently multiplied by the corporation business tax rate provided pursuant to subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-5). The authority shall be authorized to approve the transfer of no more than $60,000,000 of tax benefits in a State fiscal year. If the total amount of transferable tax benefits requested to be surrendered by approved applicants exceeds $60,000,000 for a State fiscal year, the authority, in cooperation with the Division of Taxation in the Department of the Treasury, shall not be authorized to approve the transfer of more than $60,000,000 for that State fiscal year and shall allocate the transfer of tax benefits by approved companies using the following method:

(1) an eligible applicant with $250,000 or less of transferable tax benefits shall be authorized to surrender the entire amount of its transferable tax benefits;

(2) an eligible applicant with more than $250,000 of transferable tax benefits shall be authorized to surrender a minimum of $250,000 of its transferable tax benefits;

(3) (Deleted by amendment, P.L.2009, c.90.)

(4) an eligible applicant with more than $250,000 shall also be authorized to surrender additional transferable tax benefits determined by multiplying the applicant's transferable tax benefits less the minimum transferable tax benefits that company is authorized to surrender under paragraph (2) of this subsection by a fraction, the numerator of which is the total amount of transferable tax benefits that the authority is authorized to approve less the total amount of transferable tax benefits approved under paragraphs (1), (2), and (5) of this subsection and the denominator of which is the total amount of transferable tax benefits requested to be surrendered by all eligible applicants less the total amount of transferable tax benefits approved under paragraphs (1), (2), and (5) of this subsection;

(5) The authority shall establish the boundaries for three innovation zones to be geographically distributed in the northern, central, and southern portions of this State. Of the $60,000,000 of transferable tax benefits authorized for each State fiscal year, $10,000,000 shall be allocated for the surrender of transferable tax benefits exclusively by new and expanding emerging technology and biotechnology companies that operate within the boundaries of the innovation zones, except that any portion of the $10,000,000 that is not so approved shall be available for that State fiscal year for the surrender of transferable tax benefits by new and expanding emerging technology and biotechnology companies that do not operate within the boundaries of an innovation zone.

If the total amount of transferable tax benefits that would be authorized using the above method exceeds $60,000,000 for a State fiscal year, then the authority, in cooperation with the Division of Taxation in the Department of the Treasury, shall limit the total amount of tax benefits authorized to be transferred to $60,000,000 by applying the above method on an apportioned basis.

For purposes of this section transferable tax benefits include an eligible applicant's unused but otherwise allowable prior net operating loss conversion carryover or net operating loss carryover determined pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4) for the tax year in which the benefit is transferred and subsequently multiplied by the corporation business tax rate as provided in subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-5) plus the total amount of the applicant's unused but otherwise allowable carryover of research and development tax credits. An eligible applicant's transferable tax benefits shall be limited to net operating losses and research and development tax credits that the applicant requests to surrender in its application to the authority and shall not, in total, exceed the maximum amount of tax benefits that the applicant is eligible to surrender.

No application for a corporation business tax benefit transfer certificate shall be approved in which the new or expanding emerging technology or biotechnology company (1) has demonstrated positive net operating income in any of the two previous full years of ongoing operations as determined on its financial statements issued according to generally accepted accounting standards endorsed by the Financial Accounting Standards Board; or (2) is directly or indirectly at least 50 percent owned or controlled by another corporation that has demonstrated positive net operating income in any of the two previous full years of ongoing operations as determined on its financial statements issued according to generally accepted accounting standards endorsed by the Financial Accounting Standards Board or is part of a consolidated group of affiliated corporations, as filed for federal income tax purposes, that in the aggregate has demonstrated positive net operating income in any of the two previous full years of ongoing operations as determined on its combined financial statements issued according to generally accepted accounting standards endorsed by the Financial Accounting Standards Board.

For purposes of this subsection, a member of a combined group may sell prior net operating loss conversion carryover to other members of the combined group, if otherwise applicable and allowable under section 2 of P.L.1997, c.334 (C.54:10A-4.2) and this section; provided, however, such sale of prior net operating loss conversion carryover shall be made at arm's length price at the same rate as though the sale was to an unrelated taxpayer.

The maximum lifetime value of surrendered tax benefits that a corporation shall be permitted to surrender pursuant to the program is $15,000,000. Applications must be received on or before June 30 of each State fiscal year.

The authority, in consultation with the Division of Taxation, shall establish rules for the recapture of all, or a portion of, the amount of a grant of a corporation business tax benefit certificate from the new or expanding emerging technology and biotechnology company having surrendered tax benefits pursuant to this section in the event the taxpayer fails to use the private financial assistance received for the surrender of tax benefits as required by this section or fails to maintain a headquarters or a base of operation in this State during the five years following receipt of the private financial assistance; except if the failure to maintain a headquarters or a base of operation in this State is due to the liquidation of the new or expanding emerging technology and biotechnology company.

c. The authority, in cooperation with the Division of Taxation in the Department of the Treasury, shall review and approve applications by taxpayers under the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), to acquire surrendered tax benefits approved pursuant

to subsection b. of this section which shall be issued in the form of corporation business tax benefit transfer certificates, in exchange for private financial assistance to be made by the taxpayer in an amount equal to at least 80% of the amount of the surrendered tax benefit of an emerging technology or biotechnology company in the State. A corporation business tax benefit transfer certificate shall not be issued unless the applicant certifies that as of the date of the exchange of the corporation business tax benefit certificate it is operating as a new or expanding emerging technology or biotechnology company and has no current intention to cease operating as a new or expanding emerging technology or biotechnology company.

The managerial member of a combined group shall be the member that acquires a corporation business tax benefit certificate on behalf of the combined group for use on the combined return.

The private financial assistance shall assist in funding expenses incurred in connection with the operation of the new or expanding emerging technology or biotechnology company in the State, including but not limited to the expenses of fixed assets, such as the construction and acquisition and development of real estate, materials, start-up, tenant fit-out, working capital, salaries, research and development expenditures and any other expenses determined by the authority to be necessary to carry out the purposes of the New Jersey Emerging Technology and Biotechnology Financial Assistance Program.

The authority shall require a corporation business taxpayer that acquires a corporation business tax benefit certificate to enter into a written agreement with the new or expanding emerging technology or biotechnology company concerning the terms and conditions of the private financial assistance made in exchange for the certificate. The written agreement may contain terms concerning the maintenance by the new or expanding emerging technology or biotechnology company of a headquarters or a base of operation in this State.

d. (Deleted by amendment, P.L.2009, c.90.)

2. Section 8 of P.L.2004, c.66 (C.46:15-7.2) is amended to read as follows:

C.46:15-7.2 Additional fee on certain transfers of real property over $1,000,000.

8. a. In addition to all other fees imposed under P.L.1968, c.49 (C.46:15-5 et seq.), there is imposed a fee upon the grantee of a deed for the transfer of real property:

(1) that is classified pursuant to the requirements of N.J.A.C.18:12-2.2 as Class 2 "residential";

(2) (a) that includes property classified pursuant to the requirements of N.J.A.C.18:12-2.2 as Class 3A: "farm property (regular)" but only if the property includes a building or structure intended or suited for residential use, and

(b) any other real property, regardless of class, that is effectively transferred to the same grantee in conjunction with the property described in subparagraph (a) of this paragraph;

(3) that is a cooperative unit as defined in section 3 of P.L.1987, c.381 (C.46:8D-3); or

(4) that is classified pursuant to the requirements of N.J.A.C.18:12-2.2 as Class 4A "commercial properties" that is transferred for consideration in excess of $1,000,000 recited in the deed, which fee shall be an amount equal to 1 percent of the entire amount of such consideration, which fee shall be collected by the county recording officer at the time the deed is offered for recording and remitted to the State Treasurer not later than the 10th day of the month following the month of collection for deposit into the General Fund.

b. (1) The fee imposed by subsection a. of this section shall not apply to a deed if the grantee of the deed for the transfer of real property is an organization determined by the federal Internal Revenue Service to be exempt from federal income taxation pursuant to paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.501.

(2) The fee imposed by subsection a. of this section shall not apply to a deed if the transfer of real property is incidental to a corporate merger or acquisition and the equalized assessed value of the real property transferred is less than 20% of the total value of all assets exchanged in the merger or acquisition. A grantee shall claim this exemption from imposition of the fee at the time the deed is offered for recording by filing with the county recording officer such information, in addition to the affidavit of consideration filed by one or more of the grantee parties named in the deed or by the grantee's legal representative pursuant to subsection d. of this section, as the Director of the Division of Taxation in the Department of the Treasury may prescribe as to constitute a filing of a protest of the assessment of the fee and by paying any other recording fees not exempted pursuant to this paragraph. This additional information shall be forwarded by the county recording officer to the director along with the grantee's affidavit of consideration, and shall be deemed to be and have the effect of a protest of a finding by the director of a deficiency of payment of the fee filed on the date on which the deed is recorded.

(3) The fee imposed by subsection a. of this section shall not apply to a deed if the transfer of real property is entered into on or after January 1, 2021 and is an intercompany transfer between combined group members as part

of the unitary business, as those terms are used in section 4 of P.L.1945, c.162 (C.54:10A-4).

c. The fee imposed by subsection a. of this section shall be subject to the provisions of the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.; provided however, that notwithstanding the provisions of subsection a. of R.S.54:49-14, a taxpayer may file a claim under oath for refund at any time within 90 days after the payment of any original fee and that subsection b. of R.S.54:49-14 shall not apply to any additional fee assessed.

d. (1) If a transfer includes property classified pursuant to the requirements of N.J.A.C.18:12-2.2 as Class 4 property of any type, an affidavit of consideration shall be filed by one or more of the grantor parties named in the deed or by the grantor's legal representative declaring the consideration and shall be annexed to and recorded with the deed as a prerequisite for the recording of the deed. The filing of an affidavit of consideration pursuant to this paragraph shall be in addition to the filing, if any, pursuant to paragraph (2) of this subsection.

(2) Whether or not the transfer is exempt, pursuant to subsection b. of this section or any other provision of law, from payment of the fee pursuant to subsection a. of this section, if a transfer includes property otherwise subject to subsection a. of this section, then an affidavit of consideration shall be filed by one or more of the grantee parties named in the deed or by the grantee's legal representative declaring the consideration and shall be annexed to and recorded with the deed as a prerequisite for the recording of the deed. The filing of an affidavit of consideration pursuant to this paragraph shall be in addition to the filing, if any, pursuant to paragraph (1) of this subsection.

(3) An affidavit of consideration filed pursuant to paragraph (1) or paragraph (2) of this subsection shall clearly and entirely state the consideration, the county and municipality in which the property is situate, and the block and lot description of the real property conveyed.

(4) One copy of each affidavit of consideration filed and recorded with deeds pursuant to this subsection shall be forwarded by the county recording officer to the Director of the Division of Taxation in the Department of the Treasury on the tenth day of the month following the month of the filing of the deed.

3. 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" or "director" shall mean the Director of the Division of Taxation of the State Department of the Treasury.

(b) "Allocation factor" shall mean the proportionate part of a taxpayer's net worth or entire net income used to determine a measure of its tax under this act.

(c) "Corporation" shall mean any corporation, joint-stock company or association and any business conducted by a trustee or trustees wherein interest or ownership is evidenced by a certificate of interest or ownership or similar written instrument, any other entity classified as a corporation for federal income tax purposes, and any state or federally chartered building and loan association or savings and loan association.

(d) "Net worth" shall mean the aggregate of the values disclosed by the books of the corporation for (1) issued and outstanding capital stock, (2) paid-in or capital surplus, (3) earned surplus and undivided profits, and (4) surplus reserves which can reasonably be expected to accrue to holders or owners of equitable shares, not including reasonable valuation reserves, such as reserves for depreciation or obsolescence or depletion. Notwithstanding the foregoing, net worth shall not include any deduction for the amount of the excess depreciation described in paragraph (2) (F) of subsection (k) of this section. The foregoing aggregate of values shall be reduced by 50% of the amount disclosed by the books of the corporation for investment in the capital stock of one or more subsidiaries, which investment is defined as ownership (1) of at least 80% of the total combined voting power of all classes of stock of the subsidiary entitled to vote and (2) of at least 80% of the total number of shares of all other classes of stock except nonvoting stock which is limited and preferred as to dividends. In the case of investment in an entity organized under the laws of a foreign country, the foregoing requisite degree of ownership shall effect a like reduction of such investment from the net worth of the taxpayer, if the foreign entity is considered a corporation for any purpose under the United States federal income tax laws, such as (but not by way of sole examples) for the purpose of supplying deemed paid foreign tax credits or for the purpose of status as a controlled foreign corporation. In calculating the net worth of a taxpayer entitled to reduction for investment in subsidiaries, the amount of liabilities of the taxpayer shall be reduced by such proportion of the liabilities as corresponds to the ratio which the excluded portion of the subsidiary values bears to the total assets of the taxpayer.

In the case of banking corporations which have international banking facilities as defined in subsection (n), the foregoing aggregate of values shall also be reduced by retained earnings of the international banking facility. Retained earnings means the earnings accumulated over the life of such facility and shall not include the distributive share of dividends paid and federal income taxes paid or payable during the tax year.

If in the opinion of the director, the corporation's books do not disclose fair valuations the director may make a reasonable determination of the net worth which, in his opinion, would reflect the fair value of the assets, exclusive of subsidiary investments as defined aforesaid, carried on the books of the corporation, in accordance with sound accounting principles, and such determination shall be used as net worth for the purpose of this act.

(e) (Deleted by amendment, P.L.1998, c.114.)

(f) "Investment company" shall mean any corporation whose business during the period covered by its report consisted, to the extent of at least 90% thereof of holding, investing and reinvesting in stocks, bonds, notes, mortgages, debentures, patents, patent rights and other securities for its own account, but this shall not include any corporation which: (1) is a merchant or a dealer of stocks, bonds and other securities, regularly engaged in buying the same and selling the same to customers; or (2) had less than 90% of its average gross assets in New Jersey, at cost, invested in stocks, bonds, debentures, mortgages, notes, patents, patent rights or other securities or consisting of cash on deposit during the period covered by its report; or (3) is a banking corporation, a savings institution, or a financial business corporation as defined in the Corporation Business Tax Act.

(g) "Regulated investment company" shall mean any corporation which for a period covered by its report, is registered and regulated under the Investment Company Act of 1940 (54 Stat. 789), as amended.

(h) "Taxpayer" shall mean any corporation, any combined group filing a mandatory or elective New Jersey combined return, and any partnership required, or consenting, to report or to pay taxes, interest or penalties under this act. "Taxpayer" shall not include a partnership that is listed on a United States national stock exchange.

(i) "Fiscal year" shall mean an accounting period ending on any day other than the last day of December on the basis of which the taxpayer is required to report for federal income tax purposes.

(j) Except as herein provided, "privilege period" shall mean the calendar or fiscal accounting period for which a tax is payable under this act.

(k) "Entire net income" shall mean total net income from all sources, whether within or without the United States, and shall include the gain derived from the employment of capital or labor, or from both combined, as well as profit gained through a sale or conversion of capital assets.

For the purpose of this act, the amount of a taxpayer's entire net income shall be deemed prima facie to be equal in amount to the taxable income, before net operating loss deduction and special deductions, which the taxpayer is required to report, or, if the taxpayer is classified as a partnership for federal tax purposes, would otherwise be required to report, to the United States Treasury Department for the purpose of computing its federal income tax, provided however, that in the determination of such entire net income,

(1) Entire net income shall exclude for the periods set forth in paragraph (2)(F)(i) of this subsection, any amount, except with respect to qualified mass commuting vehicles as described in section 168(f)(8)(D)(v) of the Internal Revenue Code as in effect immediately prior to January 1, 1984, which is included in a taxpayer's federal taxable income solely as a result of an election made pursuant to the provisions of paragraph (8) of that section.

(2) Entire net income shall be determined without the exclusion, deduction or credit of:

(A) The amount of any exemption or credit allowed in any law of the United States imposing any tax on or measured by the income of corporations.

(B) Any part of any income from dividends or interest on any kind of stock, securities or indebtedness, except as provided in paragraph (5) of subsection (k) of this section.

(C) Taxes paid or accrued to the United States, a possession or territory of the United States, a state, a political subdivision thereof, or the District of Columbia, or to any foreign country, state, province, territory or subdivision thereof, on or measured by profits or income, or business presence or business activity, or the tax imposed by this act, or any tax paid or accrued with respect to subsidiary dividends excluded from entire net income as provided in paragraph (5) of subsection (k) of this section.

(D) (Deleted by amendment, P.L.1985, c.143.)

(E) (Deleted by amendment, P.L.1995, c.418.)

(F) (i) The amount by which depreciation reported to the United States Treasury Department for property placed in service on and after January 1, 1981, but prior to taxpayer fiscal or calendar accounting years beginning on and after the effective date of P.L.1993, c.172, for purposes of computing federal taxable income in accordance with section 168 of the Internal Revenue Code in effect after December 31, 1980, exceeds the amount of depreciation determined in accordance with the Internal Revenue Code provisions

in effect prior to January 1, 1981, but only with respect to a taxpayer's accounting period ending after December 31, 1981; provided, however, that where a taxpayer's accounting period begins in 1981 and ends in 1982, no modification shall be required with respect to this paragraph (F) for the report filed for such period with respect to property placed in service during that part of the accounting period which occurs in 1981. The provisions of this subparagraph shall not apply to assets placed in service prior to January 1, 1998 of a gas, gas and electric, and electric public utility that was subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998.

(ii) For the periods set forth in subparagraph (F)(i) of paragraph (2) of this subsection, any amount, except with respect to qualified mass commuting vehicles as described in section 168(f)(8)(D)(v) of the Internal Revenue Code as in effect immediately prior to January 1, 1984, which the taxpayer claimed as a deduction in computing federal income tax pursuant to a qualified lease agreement under paragraph (8) of that section.

The director shall promulgate rules and regulations necessary to carry out the provisions of this section, which rules shall provide, among others, the manner in which the remaining life of property shall be reported.

(G) (i) The amount of any civil, civil administrative, or criminal penalty or fine, including a penalty or fine under an administrative consent order, assessed and collected for a violation of a State or federal environmental law, an administrative consent order, or an environmental ordinance or resolution of a local governmental entity, and any interest earned on the penalty or fine, and any economic benefits having accrued to the violator as a result of a violation, which benefits are assessed and recovered in a civil, civil administrative, or criminal action, or pursuant to an administrative consent order. The provisions of this paragraph shall not apply to a penalty or fine assessed or collected for a violation of a State or federal environmental law, or local environmental ordinance or resolution, if the penalty or fine was for a violation that resulted from fire, riot, sabotage, flood, storm event, natural cause, or other act of God beyond the reasonable control of the violator, or caused by an act or omission of a person who was outside the reasonable control of the violator.

(ii) The amount of treble damages paid to the Department of Environmental Protection pursuant to subsection a. of section 7 of P.L.1976, c.141 (C.58:10-23.11f), for costs incurred by the department in removing, or arranging for the removal of, an unauthorized discharge upon failure of the discharger to comply with a directive from the department to remove, or arrange for the removal of, the discharge.

(H) The amount of any sales and use tax paid by a utility vendor pursuant to section 71 of P.L.1997, c.162.

(I) Interest paid, accrued or incurred for the privilege period to a related member, as defined in section 5 of P.L.2002, c.40 (C.54:10A-4.4), except that a deduction shall be permitted to the extent that the taxpayer establishes by clear and convincing evidence, as determined by the director, that: (i) a principal purpose of the transaction giving rise to the payment of the interest was not to avoid taxes otherwise due under Title 54 of the Revised Statutes or Title 54A of the New Jersey Statutes, (ii) the interest is paid pursuant to arm's length contracts at an arm's length rate of interest, and (iii)(aa) the related member was subject to a tax on its net income or receipts in this State or another state or possession of the United States or in a foreign nation, (bb) a measure of the tax includes the interest received from the related member, and (cc) the rate of tax applied to the interest received by the related member is equal to or greater than a rate three percentage points less than the rate of tax applied to taxable interest by this State pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

A deduction shall also be permitted if the taxpayer establishes by clear and convincing evidence, as determined by the director, that the disallowance of a deduction is unreasonable, or the taxpayer and the director agree in writing to the application or use of an alternative method of apportionment under section 8 of P.L.1945, c.162 (C.54:10A-8); nothing in this subsection shall be construed to limit or negate the director's authority to otherwise enter into agreements and compromises otherwise allowed by law.

A deduction shall also be permitted to the extent that the taxpayer establishes by a preponderance of the evidence, as determined by the director, that the interest is directly or indirectly paid, accrued or incurred to (i) a related member in a foreign nation which has in force a comprehensive income tax treaty with the United States and the related member (aa) was subject to tax in the foreign nation on a tax base that included the payment paid, accrued, or incurred; and (bb) under which the related member's income received from the transaction was taxed at an effective tax rate equal to or greater than a rate of three percentage points less than the rate of tax applied to taxable interest by the State of New Jersey pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), provided however that the taxpayer shall disclose on its return for the privilege period the name of the related member, the amount of the interest, the relevant foreign nation, and such other information as the director may prescribe or (ii) to an independent lender and the taxpayer guarantees the debt on which the interest is required. The adjustments required by this subparagraph shall not apply to transactions between related members included in a combined group reported on a New Jersey combined return.

(J) (i) Amounts deducted for federal tax purposes pursuant to section 199 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.199, except that

this exclusion shall not apply to amounts deducted pursuant to that section that are exclusively based upon domestic production gross receipts of the taxpayer which are derived only from any lease, rental, license, sale, exchange, or other disposition of qualifying production property which the taxpayer demonstrates to the satisfaction of the director was manufactured or produced by the taxpayer in whole or in significant part within the United States but not qualified production property that was grown or extracted by the taxpayer. "Manufactured or produced" as used in this paragraph shall be limited to performance of an operation or series of operations the object of which is to place items of tangible personal property in a form, composition, or character different from that in which they were acquired. The change in form, composition, or character shall be a substantial change, and result in a transformation of property into a different or substantially more usable product.

(ii) For privilege periods beginning after December 31, 2017, notwithstanding the provisions of P.L.1945, c.162 (C.54:10A-1 et seq.) or any other law to the contrary, for the purposes of determining the amount of income pursuant to P.L.1945, c.162 (C.54:10A-1 et seq.) that is net of expenses, no amounts shall be taken as a deduction pursuant to section 199A of the Internal Revenue Code (26 U.S.C. s.199A).

(K) For privilege periods beginning after December 31, 2017, the interest deduction limitation in subsection (j) of section 163 of the Internal Revenue Code (26 U.S.C. s.163), shall apply on a pro-rata basis to interest paid to both related and unrelated parties, regardless of whether the related parties are subject to the add-back provision of either subparagraph (I) of paragraph (2) of this subsection or in section 5 of P.L.2002, c.40 (C.54:10A-4.4).

(3) The director may, whenever necessary to properly reflect the entire net income of any taxpayer, determine the year or period in which any item of income or deduction shall be included, without being limited to the method of accounting employed by the taxpayer.

(4) There shall be allowed as a deduction from entire net income of a banking corporation, to the extent not deductible in determining federal taxable income, the eligible net income of an international banking facility determined as follows:

(A) The eligible net income of an international banking facility shall be the amount remaining after subtracting from the eligible gross income the applicable expenses;

(B) Eligible gross income shall be the gross income derived by an international banking facility, which shall include, but not be limited to, gross income derived from:

(i) Making, arranging for, placing or carrying loans to foreign persons, provided, however, that in the case of a foreign person which is an individual, or which is a foreign branch of a domestic corporation (other than a bank), or which is a foreign corporation or foreign partnership which is controlled by one or more domestic corporations (other than banks), domestic partnerships or resident individuals, all the proceeds of the loan are for use outside of the United States;

(ii) Making or placing deposits with foreign persons which are banks or foreign branches of banks (including foreign subsidiaries) or foreign branches of the taxpayers or with other international banking facilities;

(iii)Entering into foreign exchange trading or hedging transactions related to any of the transactions described in this paragraph; or

(iv) Such other activities as an international banking facility may, from time to time, be authorized to engage in;

(C) Applicable expenses shall be any expense or other deductions attributable, directly or indirectly, to the eligible gross income described in subparagraph (B) of this paragraph.

(5) (A) (i) 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 for privilege periods beginning on or before December 31, 2016.

(ii) For privilege periods beginning after December 31, 2016 and before January 1, 2019, entire net income shall exclude 95% of dividends which were included in computing such taxable income for federal income tax purposes, paid or deemed 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. For the purposes of calculating the tax liability owed for the paid or deemed paid dividends included in entire net income by this subsubparagraph (ii), the taxpayer shall use either their three-year average allocation factor for the taxpayer's 2014 through 2016 tax years reported on the taxpayer's tax returns or 3.5 percent, whichever is lower.

(iii)For privilege periods beginning on and after January 1, 2019, entire net income shall exclude 95% of dividends which were included in computing such taxable income for federal income tax purposes, paid or deemed 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.

(B) Entire net income shall exclude 50% of dividends which were included in computing such taxable income for federal income tax purposes, paid or deemed paid to the taxpayer by one or more subsidiaries owned by the taxpayer to the extent of 50% or more ownership of investment, such ownership of investment calculated in the same manner as the 80% or more of ownership of investment is calculated as described in subsection (d) of this section.

(C) To the extent a subsidiary received dividends from other subsidiaries and included those dividends in its entire net income for the purposes of determining its tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and paid tax on those dividends, the taxpayer receiving those same dividends from the subsidiary shall exclude those dividends from its entire net income based on the subsidiary's allocation factor used by the subsidiary in determining its tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). This subparagraph (C) shall not apply to privilege periods ending on and after July 31, 2019.

(D) For privilege periods ending on and after July 31, 2019 but before July 31, 2020, to the extent a subsidiary received dividends from other subsidiaries and included those dividends in its entire net income for the purposes of determining its tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and paid tax on those dividends, the taxpayer receiving those same dividends from the subsidiary shall exclude those dividends from its entire net income.

(E) For privilege periods ending on and after July 31, 2020, for purposes of this paragraph (5), the members of a combined group filing a New Jersey combined return shall be treated as one taxpayer with regard to dividends and deemed dividends that were received as part of the unitary business of the combined group.

(6) (A) Net operating loss deduction. For privilege periods ending before July 31, 2019, there shall be allowed as a deduction for the privilege period the net operating loss carryover to that period.

(B) Net operating loss carryover. A net operating loss for any privilege period ending after June 30, 1984 shall be a net operating loss carryover to each of the seven privilege periods following the period of the loss and a net operating loss for any privilege period ending after June 30, 2009 shall be a net operating loss carryover to each of the twenty privilege periods following the period of the loss. The entire amount of the net operating loss for any privilege period (the "loss period") shall be carried to the earliest of the privilege periods to which the loss may be carried. The portion of the loss which shall be carried to each of the other privilege periods shall be the excess, if any, of the amount of the loss over the sum of the entire net income, computed without

the exclusions permitted in paragraphs (4) and (5) of this subsection or the net operating loss deduction provided by subparagraph (A) of this paragraph, for each of the prior privilege periods to which the loss may be carried.

(C) Net operating loss. For purposes of this paragraph the term "net operating loss" means the excess of the deductions over the gross income used in computing entire net income without the net operating loss deduction provided for in subparagraph (A) of this paragraph and the exclusions in paragraphs (4) and (5) of this subsection.

(D) Change in ownership. Where there is a change in 50% or more of the ownership of a corporation because of redemption or sale of stock and the corporation changes the trade or business giving rise to the loss, no net operating loss sustained before the changes may be carried over to be deducted from income earned after such changes. In addition where the facts support the premise that the corporation was acquired under any circumstances for the primary purpose of the use of its net operating loss carryover, the director may disallow the carryover.

(E) Notwithstanding the provisions of this paragraph (6) of subsection (k) of this section to the contrary, for privilege periods beginning during calendar year 2002 and calendar year 2003, no deduction for any net operating loss carryover shall be allowed and for privilege periods beginning during calendar year 2004 and calendar year 2005, there shall be allowed as a deduction for the privilege period so much of the net operating loss carryover as reduces entire net income otherwise calculated by 50%. If and only to the extent that any net operating loss carryover deduction is disallowed by reason of this subparagraph (E), the date on which the amount of the disallowed net operating loss carryover deduction would otherwise expire shall be extended by a period equal to the period for which application of the net operating loss was disallowed by this subparagraph.

Provided, that this subparagraph (E) shall not restrict the surrender or acquisition of corporation business tax benefit certificates pursuant to section 1 of P.L.1997, c.334 (C.34:1B-7.42a) and shall not restrict the application of corporation business tax benefit certificates pursuant to section 2 of P.L.1997, c.334 (C.54:10A-4.2).

(F) Reduction for discharge of indebtedness. A net operating loss for any privilege period ending after June 30, 2014, and any net operating loss carryover to such privilege period, shall be reduced by the amount excluded from federal taxable income under subparagraph (A), (B), or (C) of paragraph (1) of subsection (a) of section 108 of the federal Internal Revenue Code (26 U.S.C. s.108), for the privilege period of the discharge of indebtedness.

(7) The entire net income of gas, electric and gas and electric public utilities that were subject to, or would have been subject to tax if doing business in this State, the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998, shall be adjusted by substituting the New Jersey depreciation allowance for federal tax depreciation with respect to assets placed in service prior to January 1, 1998. For gas, electric, and gas and electric public utilities that were subject to, or would have been subject to tax if doing business in this State, the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998, the New Jersey depreciation allowance shall be computed as follows: All depreciable assets placed in service prior to January 1, 1998 shall be considered a single asset account. The New Jersey tax basis of this depreciable asset account shall be an amount equal to the carryover adjusted basis for federal income tax purposes on December 31, 1997 of all depreciable assets in service on December 31, 1997, increased by the excess, of the "net carrying value," defined to be adjusted book basis of all assets and liabilities, excluding deferred income taxes, recorded on the public utility's books of account on December 31, 1997, over the carryover adjusted basis for federal income tax purposes on December 31, 1997 of all assets and liabilities owned by the gas, electric, or gas and electric public utility as of December 31, 1997. "Books of account" for gas, gas and electric, and electric public utilities means the uniform system of accounts as promulgated by the Federal Energy Regulatory Commission and adopted by the Board of Public Utilities. The following adjustments to entire net income shall be made pursuant to this section:

(A) Depreciation for property placed in service prior to January 1, 1998 shall be adjusted as follows:

(i) Depreciation for federal income tax purposes shall be disallowed in full.

(ii) A deduction shall be allowed for the New Jersey depreciation allowance. The New Jersey depreciation allowance shall be computed for the single asset account described above based on the New Jersey tax basis as adjusted above as if all assets in the single asset account were first placed in service on January 1, 1998. Depreciation shall be computed using the straight line method over a thirty-year life. A full year's depreciation shall be allowed in the initial tax year. No half-year convention shall apply. The depreciable basis of the single account shall be reduced by the adjusted federal tax basis of assets sold, retired, or otherwise disposed of during any year on which gain or loss is recognized for federal income tax purposes as described in subparagraph (B) of this paragraph.

(B) Gains and losses on sales, retirements and other dispositions of assets placed in service prior to January 1, 1998 shall be recognized and reported on the same basis as for federal income tax purposes.

(C) The Director of the Division of Taxation shall promulgate regulations describing the methodology for allocating the single asset account in the event that a portion of the utility's operations are separated, spun-off, transferred to a separate company or otherwise desegregated.

(8) In the case of taxpayers that are gas, electric, gas and electric, or telecommunications public utilities as defined pursuant to subsection (q) of this section, the director shall have authority to promulgate rules and issue guidance correcting distortions and adjusting timing differences resulting from the adoption of P.L.1997, c.162 (C.54:10A-5.25 et al.).

(9) Notwithstanding paragraph (1) of this subsection, entire net income shall not include the income derived by a corporation organized in a foreign country from the international operation of a ship or ships, or from the international operation of aircraft, if such income is exempt from federal taxation pursuant to section 883 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.883.

(10) Entire net income shall exclude all income of an alien corporation the activities of which are limited in this State to investing or trading in stocks and securities for its own account, investing or trading in commodities for its own account, or any combination of those activities, within the meaning of section 864 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.864, as in effect on December 31, 1998. Notwithstanding the previous sentence, if an alien corporation undertakes one or more infrequent, extraordinary or non-recurring activities, including but not limited to the sale of tangible property, only the income from such infrequent, extraordinary or non-recurring activity shall be subject to the tax imposed pursuant to P.L.1945, c.162 (C.54:10A-1 et seq.), and that amount of income subject to tax shall be determined without regard to the allocation to that specific transaction of any general business expense of the taxpayer and shall be specifically assigned to this State for taxation by this State without regard to section 6 of P.L.1945, c.162 (C.54:10A-6). For the purposes of this paragraph, "alien corporation" means a corporation organized under the laws of a jurisdiction other than the United States or its political subdivisions.

(11) No deduction shall be allowed for research and experimental expenditures, to the extent that those research and experimental expenditures are qualified research expenses or basic research payments for which an amount of credit is claimed pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24) unless those research and experimental expenditures are also used to compute a federal credit claimed pursuant to section 41 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.41.

(12) (A) Notwithstanding the provisions of subsection (k) of section 168 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.168, subsection (b) of section 1400L of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1400L, or any other federal law, for property acquired after September 10, 2001, the depreciation deduction otherwise allowed pursuant to section 167 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.167, shall be determined pursuant to the provisions of the federal Internal Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in effect on December 31, 2001.

(B) The director shall prescribe the rules and regulations necessary to carry out the provisions of this paragraph, including, among others, those for determining the adjusted basis of the acquired property for the purposes of the Corporation Business Tax Act (1945), P.L.1945, c.162.

(13) (A) Notwithstanding the provisions of section 179 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.179, for property placed in service on or after January 1, 2004, the costs that a taxpayer may otherwise elect to treat as an expense which is not chargeable to a capital account shall be determined pursuant to the provisions of the federal Internal Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in effect on December 31, 2002.

(B) The director shall prescribe the rules and regulations necessary to carry out the provisions of this paragraph, including, among others, those for determining the adjusted basis of the acquired property for the purposes of the Corporation Business Tax Act (1945), P.L.1945, c.162.

(14) Notwithstanding the provisions of subsection (i) of section 108 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.108), for privilege periods beginning after December 31, 2008 and before January 1, 2011, entire net income shall include the amount of discharge of indebtedness income excluded for federal income tax purposes pursuant to subsection (i) of section 108 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.108), and for privilege periods beginning on or after January 1, 2014 and before January 1, 2019, entire net income shall exclude the amount of discharge of indebtedness income included for federal income tax purposes, pursuant to subsection (i) of section 108 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.108).

(15) Entire net income shall exclude the gain or income derived from the sale or assignment of a tax credit transfer certificate pursuant to section 7 of P.L.2011, c.149 (C.34:1B-248) and section 10 of P.L.2014, c.63 (C.34:1B-251).

(16) (A) There shall be allowed as a deduction an amount computed in accordance with this paragraph.

(B) For purposes of this paragraph, "net deferred tax liability" means deferred tax liabilities that exceed the deferred tax assets of the combined group, as computed in accordance with generally accepted accounting principles, and "net deferred tax asset" means that deferred tax assets exceed the deferred tax liabilities of the combined group, as computed in accordance with generally accepted accounting principles.

(C) Only publicly traded companies, including affiliated corporations participating in the filing of a publicly traded company's financial statements prepared in accordance with generally accepted accounting principles, as of the effective date of this paragraph, shall be eligible for this deduction.

(D) If the provisions of sections 18 through 23 of P.L.2018, c.48 (C.54:10A-4.6 to C.54:10A-4.11) result in an aggregate increase to the members' net deferred tax liability or an aggregate decrease to the members' net deferred tax asset, or an aggregate change from a net deferred tax asset to a net deferred tax liability, the combined group shall be entitled to a deduction, as determined in this paragraph.

(E) For 10 years beginning with the combined group's first privilege period beginning on or after January 1 of the fifth year after the effective date of P.L.2018, c.48 (C.54:10A-5.41 et al.), a combined group shall be entitled to a deduction from combined group entire net income equal to one-tenth of the amount necessary to offset the increase in the net deferred tax liability or decrease in the net deferred tax asset, or aggregate change from a net deferred tax asset to a net deferred tax liability. Such increase in the net deferred tax liability or decrease in the net deferred tax asset or the aggregate change from a net deferred tax asset to a net deferred tax liability shall be computed based on the change that would result from the imposition of the unitary reporting requirements under sections 1 and 18 through 23 of P.L.2018, c.48 (C.54:10A-5.41 and C.54:10A-4.6 to C.54:10A-4.11) but for the deduction provided under this paragraph as of the effective date of this paragraph.

(F) The deferred tax impact determined in subparagraph (E) of this paragraph must be converted to the annual Deferred Tax Deduction amount, as follows:

(i) the deferred tax impact determined in subparagraph (E) of this paragraph shall be divided by the rate determined under section 5 of P.L.1945, c.162 (C.54:10A-5) at the effective date of P.L.2018, c.48 (C.54:10A-5.41 et al.);

(ii) the resulting amount shall be further divided by the New Jersey unitary business allocation factor that was used by the combined group in the calculation of the deferred tax assets and deferred tax liabilities as described in subparagraph (E) of this paragraph;

(iii) the resulting amount represents the total net Deferred Tax Deduction available over the ten-year period as described in subparagraph (E) of this paragraph.

(G) The deduction calculated under this paragraph shall not be adjusted as a result of any events happening subsequent to such calculation, including, but not limited to, any disposition or abandonment of assets. Such deduction shall be calculated without regard to the federal tax effect and shall not alter the tax basis of any asset. If the deduction under this section is greater than combined group entire net income, any excess deduction shall be carried forward and applied as a deduction to combined group entire net income in future privilege periods until fully utilized.

(H) Any combined group intending to claim a deduction under this paragraph shall file a statement with the director on or before July 1 of the year subsequent to the first privilege period for which a combined return is required. Such statement shall specify the total amount of the deduction which the combined group claims on such form and in such manner as prescribed by the director. No deduction shall be allowed under this paragraph for any privilege period except to the extent claimed on such timely filed statement in accordance with this paragraph.

(l) "Real estate investment trust" shall mean any corporation, trust or association qualifying and electing to be taxed as a real estate investment trust under federal law.

(m) "Financial business corporation" shall mean any corporate enterprise which is (1) in substantial competition with the business of national banks and which (2) employs moneyed capital with the object of making profit by its use as money, through discounting and negotiating promissory notes, drafts, bills of exchange and other evidences of debt; buying and selling exchange; making of or dealing in secured or unsecured loans and discounts; dealing in securities and shares of corporate stock by purchasing and selling such securities and stock without recourse, solely upon the order and for the account of customers; or investing and reinvesting in marketable obligations evidencing indebtedness of any person, copartnership, association or corporation in the form of bonds, notes or debentures commonly known as investment securities; or dealing in or underwriting obligations of the United States, any state or any political subdivision thereof, or of a corporate instrumentality of any of them. This shall include, without limitation of the foregoing, business commonly known as industrial banks, dealers in commercial paper and acceptances, sales finance, personal finance, small loan and mortgage financing businesses, as well as any other enterprise employing moneyed capital coming into competition with the business of national banks; provided that the

holding of bonds, notes, or other evidences of indebtedness by individual persons not employed or engaged in the banking or investment business and representing merely personal investments not made in competition with the business of national banks, shall not be deemed financial business. Nor shall "financial business" include national banks, production credit associations organized under the Farm Credit Act of 1933 or the Farm Credit Act of 1971, Pub.L.92-181 (12 U.S.C. s.2091 et seq.), stock and mutual insurance companies duly authorized to transact business in this State, security brokers or dealers or investment companies or bankers not employing moneyed capital coming into competition with the business of national banks, real estate investment trusts, or any of the following entities organized under the laws of this State: credit unions, savings banks, savings and loan and building and loan associations, pawnbrokers, and State banks and trust companies.

(n) "International banking facility" shall mean a set of asset and liability accounts segregated on the books and records of a depository institution, United States branch or agency of a foreign bank, or an Edge or Agreement Corporation that includes only international banking facility time deposits and international banking facility extensions of credit as such terms are defined in section 204.8(a)(2) and section 204.8(a)(3) of Regulation D of the board of governors of the Federal Reserve System, 12 CFR Part 204, effective December 3, 1981. In the event that the United States enacts a law, or the board of governors of the Federal Reserve System adopts a regulation which amends the present definition of international banking facility or of such facilities' time deposits or extensions of credit, the Commissioner of Banking and Insurance shall forthwith adopt regulations defining such terms in the same manner as such terms are set forth in the laws of the United States or the regulations of the board of governors of the Federal Reserve System. The regulations of the Commissioner of Banking and Insurance shall thereafter provide the applicable definitions.

(o) "S corporation" means a corporation included in the definition of an "S corporation" pursuant to section 1361 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1361.

(p) "New Jersey S corporation" means a corporation that is an S corporation; which has made a valid election pursuant to section 3 of P.L.1993, c.173 (C.54:10A-5.22); and which has been an S corporation continuously since the effective date of the valid election made pursuant to section 3 of P.L.1993, c.173 (C.54:10A-5.22).

(q) "Public Utility" means "public utility" as defined in R.S.48:2-13.

(r) "Qualified investment partnership" means a partnership under this act that has more than 10 members or partners with no member or partner

owning more than a 50% interest in the entity and that derives at least 90% of its gross income from dividends, interest, payments with respect to securities loans, and gains from the sale or other disposition of stocks or securities or foreign currencies or commodities or other similar income (including but not limited to gains from swaps, options, futures or forward contracts) derived with respect to its business of investing or trading in those stocks, securities, currencies or commodities, but "investment partnership" shall not include a "dealer in securities" within the meaning of section 1236 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1236.

(s) "Savings institution" means a state or federally chartered building and loan association, savings and loan association, or savings bank.

(t) "Partnership" means an entity classified as a partnership for federal income tax purposes.

(u) "Prior net operating loss conversion carryover" means a net operating loss incurred in a privilege period ending prior to July 31, 2019 and converted from a pre-allocation net operating loss to a post-allocation net operating loss as follows:

(1) As used in this subsection:

"Base year" means the last privilege period ending prior to July 31, 2019.

"Base year BAF" means the taxpayer's business allocation factor as provided in sections 6 through 10 of P.L.1945, c.162 (C.54:10A-6 through C.54:10A-10) for purposes of calculating entire net income for the base year, as such section was in effect for the last privilege period ending prior to July 31, 2019.

"UNOL" means the unabsorbed portion of net operating loss as calculated under paragraph (6) of subsection (k) of this section as such paragraph was in effect for the last privilege period ending prior to July 31, 2019, that was not deductible in previous privilege periods and was eligible for carryover on the last day of the base year subject to the limitations for deduction under such subsection, including any net operating loss sustained by the taxpayer during the base year.

(2) The prior net operating loss conversion carryover shall be calculated as follows:

(A) The taxpayer shall first calculate the tax value of its UNOL for the base year and for each preceding privilege period for which there is a UNOL. The value of the UNOL for each privilege period is equal to the product of (I) the amount of the taxpayer's UNOL for a privilege period, and (II) the taxpayer's base year BAF. This result shall equal the taxpayer's prior net operating loss conversion carryover.

(B) The taxpayer shall continue to carry over its prior net operating loss conversion carryover to offset its allocated entire net income as provided in sections 6 through 10 of P.L.1945, c.162 (C.54:10A-6 through C.54:10A-10) for privilege periods ending on and after July 31, 2019. Such carryover periods shall not exceed the twenty privilege periods following the privilege period of the initial loss. The entire amount of the prior net operating loss conversion carryover for any privilege period shall be carried to the earliest of the privilege periods to which the loss may be carried. The portion of the prior net operating loss conversion carryover which shall be carried to each of the other privilege periods shall be the excess, if any, of the amount of the prior net operating loss conversion carryover over the sum of the entire net income, computed without the exclusions permitted in paragraphs (4) and (5) of subsection (k) of this section allocated to this State.

(C) The prior net operating loss conversion carryover computed under this subsection shall be applied against the entire net income allocated to this State before the net operating loss carryover computed under subsection (v) of this section.

(v) "Net operating loss deduction" means the amount allowed as a deduction for the net operating loss carryover to the privilege period, calculated as follows:

(1) Net operating loss carryover. A net operating loss for any privilege period ending on or after July 31, 2019, shall be a net operating loss carryover to each of the twenty privilege periods following the period of the loss. The entire amount of the net operating loss for any privilege period shall be carried to the earliest of the privilege periods to which the loss may be carried. The portion of the loss which shall be carried to each of the other privilege periods shall be the excess, if any, of the amount of the loss over the sum of the entire net income, computed without the exclusions permitted in paragraphs (4) and (5) of subsection (k) of this section allocated to this State.

(2) Net operating loss. For purposes of this paragraph the term "net operating loss" means the excess of the deductions over the gross income used in computing entire net income, without regard to any net operating loss carryover, and computed without the exclusions in paragraphs (4) and (5) of subsection (k) of this section, allocated to this State pursuant to sections 6 through 10 of P.L.1945, c.162 (C.54:10A-6 through C.54:10A-10).

(3) Reduction for discharge of indebtedness. A net operating loss for any privilege period ending on or after July 31, 2019, and any net operating loss carryover to such privilege period, shall be reduced by the amount excluded from federal taxable income under subparagraph (A), (B), or (C) of paragraph

(1) of subsection (a) of section 108 of the federal Internal Revenue Code, 26 U.S.C. s.108, for the privilege period of the discharge of indebtedness.

(4) A net operating loss carryover shall not include any net operating loss incurred during any privilege period ending prior to July 31, 2019.

(5) Change in ownership. Where there is a change in 50% or more of the ownership of a corporation because of redemption or sale of stock and the corporation changes the trade or business giving rise to the loss, no net operating loss sustained before the changes may be carried over to be deducted from income earned after such changes. In addition, where the facts support the premise that the corporation was acquired under any circumstances for the primary purpose of the use of its net operating loss carryover, the director may disallow the carryover; provided, however, this paragraph shall not apply between members of a combined group reported on a New Jersey combined return.

(w) "Taxable net income" means entire net income allocated to this State as calculated pursuant to sections 6 through 8 of P.L.1945, c.162 (C.54:10A-6 through 54:10A-8) as modified by subtracting any prior net operating loss conversion carryforward calculated pursuant to subsection (u) of this section, and any net operating loss calculated pursuant to subsection (v) of this section.

(x) "Affiliated group" means, for purposes of section 23 of P.L.2018, c.48 (C.54:10A-4.11), an affiliated group as defined in section 1504 of the federal Internal Revenue Code, 26 U.S.C. s.1504, except such affiliated group shall include all U.S. domestic corporations that are commonly owned, directly or indirectly, by any member of such affiliated group, without regard to whether the affiliated group includes (1) corporations included in more than one federal consolidated return, (2) corporations engaged in one or more unitary businesses, or (3) corporations that are not engaged in a unitary business with any other member of the affiliated group.

For purposes of this subsection:

"U.S. domestic corporations" means: (1) business entities wherever incorporated or formed that are U.S. domestic corporations, are deemed to be, or are treated as U.S. domestic corporations under the provisions of the federal Internal Revenue Code; or (2) any entities incorporated or formed under the laws of a foreign nation that are required to file federal tax returns if such entities have effectively connected income within the meaning of the federal Internal Revenue Code; and

"Commonly owned" means that more than 50 percent of the voting control of each member of an affiliated group is directly or indirectly owned by a common owner or owners, either corporate or non-corporate, whether or not the owner or owners are members of the affiliated group. Whether voting

control is indirectly owned shall be determined in accordance with section 318 of the federal Internal Revenue Code (26 U.S.C. s.318).

(y) "Combinable captive insurance company" means an entity that is treated as an association taxable as a corporation under the federal Internal Revenue Code:

(1) more than 50% of the voting stock of which is owned or controlled, directly or indirectly, by a single entity that is treated as an association taxable as a corporation under the federal Internal Revenue Code, and not exempt from federal income tax;

(2) that is licensed as a captive insurance company under the laws of this State or another jurisdiction;

(3) whose business includes providing, directly and indirectly, insurance or reinsurance covering the risks of its parent, members of its affiliated group, or both; and

(4) 50% or less of whose gross receipts for the privilege period consist of premiums from arrangements that constitute insurance for federal income tax purposes.

A combinable captive insurance company shall not be exempt under section 3 of P.L.1945, c.162 (C.54:10A-3). A captive insurance company that does not meet the definition of combinable captive insurance company shall be excluded as provided in subsection k. of section 18 of P.L.2018, c.48 (C.54:10A-4.6) and shall be exempt under section 3 of P.L.1945, c.162 (C.54:10A-3).

For purposes of this definition:

"Affiliated group" shall have the same meaning as that term is given by section 1504 of the federal Internal Revenue Code, 26 U.S.C. s.1504, except that the term "common parent corporation" as used in section 1504 of the federal Internal Revenue Code, 26 U.S.C. s.1504, shall mean any person, as defined in section 7701 of the federal Internal Revenue Code, 26 U.S.C. s.7701, and references to "at least 80%" in section 1504 of the federal Internal Revenue Code, 26 U.S.C. s.1504, shall be read as "50% or more." Section 1504 of the federal Internal Revenue Code, 26 U.S.C. s.1504, shall be read without regard to the exclusions provided for in subsection (b) of that section.

"Gross receipts" includes the amounts included in gross receipts for purposes of paragraph (15) of subsection (c) of section 501 of the federal Internal Revenue Code, 26 U.S.C. s.501, except that those amounts also include all premiums.

"Premiums" includes consideration for annuity contracts and excludes any part of the consideration for insurance, reinsurance, or annuity contracts that do not provide bona fide insurance, reinsurance, or annuity benefits.

(z) "Combined group" means the group of all companies that have common ownership and are engaged in a unitary business, where at least one company is subject to tax under this chapter, and shall include all business entities, except as provided for under any section of the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.).

A combined group shall be treated, for privilege periods ending on and after July 31, 2020, as one taxpayer for purposes of paragraph (1) of subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-5) and section 1 of P.L.2018, c.48 (C.54:10A-5.41) for the income derived from the unitary business; provided however, with regard to the surtax imposed pursuant to section 1 of P.L.2018, c.48 (C.54:10A-5.41) and for that purpose only, the portion of income that is attributable to a member which is a public utility exempt from the surtax shall not be included when computing the surtax due.

(aa) "Common ownership" means that more than 50% of the voting control of each member of a combined group is directly or indirectly owned by a common owner or owners, either corporate or non-corporate, whether or not the owner or owners are members of the combined group. Whether voting control is indirectly owned shall be determined in accordance with section 318 of the federal Internal Revenue Code, 26 U.S.C. s.318.

(bb) "Group privilege period" means, if two or more members in the combined group file in the same federal consolidated tax return, the same income year as that used on the federal consolidated tax return and, in all other cases, the privilege period of the managerial member.

(cc) "Managerial member" means if the combined group has a common parent corporation and that common parent corporation is a taxable member, the managerial member shall be the common parent corporation. In other cases, the combined group shall select a taxable member as its managerial member or, in the discretion of the director or upon failure of the combined group to select its managerial member, the director shall designate a taxable member of the combined group as managerial member.

(dd) "Member" means a business entity that is a part of a combined group.

A corporation exempt pursuant to section 3 of P.L.1945, c.162 (C.54:10A-3) from the tax imposed by P.L.1945, c.162 (C.54:10A-1 et seq.) shall not be a member of a combined group.

(ee) "Nontaxable member" means a member that is: (i) not subject to tax pursuant to the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.); or (ii) (deleted by amendment, P.L.2020, c.118 (C.54:10A-5.46 et al.).

(ff) "Taxable member" means a member that is subject to tax pursuant to the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.).

A New Jersey S corporation shall only be included as a taxable member of a combined group filing a New Jersey combined return if the New Jersey S Corporation elects to be included as a member and taxed at the same rate as the other members of the combined group. A New Jersey S corporation that does not elect to be included shall be excluded as a member of the combined return and shall file a separate return.

(gg) "Unitary business" means a single economic enterprise that is made up either of separate parts of a single business entity or of a group of business entities under common ownership that are sufficiently interdependent, integrated, and interrelated through their activities so as to provide a synergy and mutual benefit that produces a sharing or exchange of value among them and a significant flow of value among the separate parts. "Unitary business" shall be construed to the broadest extent permitted under the Constitution of the United States. A business conducted by a partnership which is in a unitary business with the combined group shall be treated as the business of the partners that are members of the combined group, whether the partnership interest is held directly or indirectly through a series of partnerships, to the extent of a partner's distributive share of partnership income. The amount of partnership income to be included in the partner's entire net income shall be determined in accordance with subsection a. of section 3 of P.L.2001, c.136 (C.54:10A-15.6) or subsection a. of section 4 of P.L.2001, c.136 (C.54:10A-15.7), as applicable. A business conducted directly or indirectly by one corporation is unitary with that portion of a business conducted by another corporation through its direct or indirect interest in a partnership.

4. Section 2 of P.L.1997, c.334 (C.54:10A-4.2) is amended to read as follows:

C.54:10A-4.2 Attachment of certificate to return for net operating loss carryover.

2. a. Notwithstanding the provisions of paragraph (6) of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4) to the contrary, a taxpayer that has acquired a corporation business tax benefit certificate pursuant to the provisions of section 1 of P.L.1997, c.334 (C.34:1B-7.42a), that includes the right to a net operating loss carryover deduction shall attach that certificate to any return the taxpayer is required to file under P.L.1945, c.162 (C.54:10A-1 et seq.), and shall determine the amount of its net operating loss carryover deduction by multiplying the surrendered net operating loss by the

new or expanding emerging technology or biotechnology company's anticipated allocation factor determined pursuant to subsection b. of section 1 of P.L.1997, c.334 (C.34:1B-7.42a) and subsequently dividing the amount by the taxpayer's allocation factor determined pursuant to section 6 of P.L.1945, c.162 (C.54:10A-6) for the tax year in which the surrendered tax benefit is used. The taxpayer shall otherwise apply the net operating loss carryover deduction as evidenced by the certificate according to the provisions of subsection (k) of section 4 of P.L.1945, c.162 and any rules or regulations the director may adopt to carry out the provisions of this section.

b. A new or expanding emerging technology or biotechnology company that has surrendered an unused net operating loss carryover pursuant to the provisions of section 1 of P.L.1997, c.334 (C.34:1B-7.42a), shall not be allowed a net operating loss carryover deduction based upon the right to such a deduction as evidenced by the corporation business tax benefit certificate and shall attach a copy of the certificate to any return the taxpayer is required to file under P.L.1945, c.162 (C.54:10A-1 et seq.).

c. The unused prior net operating loss conversion carryover deduction and unused net operating loss carryover deduction of a taxpayer under subsections (u) and (v) of section 4 of P.L.1945, c.162 (C.54:10A-4) shall also qualify to be surrendered for the purposes of this section and section 1 of P.L.1997, c.334 (C.34:1B-7.42a) by a new or expanding emerging technology or biotechnology company. A taxpayer or combined group that has acquired a corporation business tax benefit certificate pursuant to the provisions of section 1 of P.L.1997, c.334 (C.34:1B-7.42a), that includes the right to a prior net operating loss conversion carryover deduction or a net operating loss carryover deduction shall attach that certificate to any return the taxpayer or the combined group is required to file under P.L.1945, c.162 (C.54:10A-1 et seq.) and shall determine the amount of its net operating loss carryover deduction in a manner prescribed by the director by regulation for the tax year in which the surrendered tax benefit is used.

The managerial member of a combined group shall be the member acquiring the prior net operating loss conversion carryover deduction and net operating loss carryover deduction on behalf of the combined group. The taxpayer or combined group shall apply the prior net operating loss conversion carryover deduction and net operating loss carryover deduction, as evidenced by the certificate, according to the provisions of section 4 of P.L.1945, c.162 (C.54:10A-4) or section 18 of P.L.2018, c.48 (C.54:10A-4.6) and any rules or regulations the director adopts to carry out the provisions of this section.

A member of a combined group may sell prior net operating loss conversion carryover to other members of the combined group, if otherwise applicable and allowable under this section and section 1 of P.L.1997, c.334 (C.34:1B-7.42a); provided, however, such sale of prior net operating loss conversion carryover shall be made at arm's length price at the same rate as though the sale was to an unrelated taxpayer.

5. Section 27 of P.L.2002, c.40 (C.54:10A-4.5) is amended to read as follows:

C.54:10A-4.5 Carryover of net operating loss for privilege period as deduction; exceptions.

27. a. Notwithstanding any provision of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4) or of the federal Internal Revenue Code, including but not limited to 26 U.S.C. s.381 or any successor or equivalent provision, that permits a corporation to use the net operating losses of another for federal income tax purposes following certain transactions, including but not limited to those qualifying as reorganizations under the provisions of subparagraph (A), (C), (D), (F) or (G) of paragraph (1) of subsection (a) of section 368 of the federal Internal Revenue Code, 26 U.S.C. s.368, a net operating loss for a privilege period ending after June 30, 1984, may be carried over and allowed as a deduction only by the corporation that sustained the loss; provided, however, that in the case of a merger of two or more corporations pursuant to statute of this State or any other jurisdiction, the net operating loss may be carried over only by the corporation that sustained the loss and that is also the surviving corporation following the merger. The net operating loss may not be carried over by a taxpayer that changes its state of incorporation.

b. Subsection a. of this section shall not apply: (1) between members of a combined group reported on a combined return in New Jersey, or (2) between members of an affiliated group reported on the elective combined return in New Jersey, or (3) if corporations that were parties to the merger would be members of the combined group reported on a combined return in New Jersey within one group privilege period subsequent to the date of the merger, unless there is an unforeseen delay due to required approvals from federal or other state regulatory authorities that delays the finality of the merger or acquisition. In a situation where there is delay due to the regulatory approval requirements of federal or other state regulatory authorities, the corporations may petition the director, in a form and manner prescribed by the director, documenting that the corporations' plan to be a combined group filing a New Jersey combined return upon approval of the merger or acquisition

by the federal or other state regulatory authorities. Within 180 days of approval by the federal or other state regulatory authorities of the merger or acquisition, the corporations shall notify the Division of Taxation of the approval and the director shall issue a stamped certificate of attestation attesting that the net operating loss carryovers are not extinguished. The provisions of this paragraph (3) shall only apply to mergers and acquisitions occurring on or after the effective date of P.L.2020, c.118 (C.54:10A-5.46 et al.) and shall not apply to a binding agreement in effect prior to the effective date of P.L.2020, c.118 (C.54:10A-5.46 et al.).

c. For privilege periods beginning on and after January 1, 2020, the provisions of the federal Internal Revenue Code, the federal rules, limitations, and restrictions, thereto, governing federal net operating losses, federal net operating loss carryovers with regard but not limited to: mergers, acquisitions, reorganizations, spin-offs, split-offs, dissolution, bankruptcy, or any form of cessation of a business, or any other provision that limits or reduces federal net operating losses and federal net operating loss carryovers, shall apply to New Jersey net operating loss carryovers under subsection (v) of section 4 of P.L.1945, c.162 (C.54:10A-4) and the New Jersey net operating loss carryover provisions of subsection h. of section 18 of P.L.2018, c.48 (C.54:10A-4.6).

The federal rules and regulations governing federal consolidated return net operating losses and net operating loss carryovers shall apply to New Jersey net operating loss carryover provisions of subsection h. of section 18 of P.L.2018, c.48 (C.54:10A-4.6) as though the combined group filed a federal consolidated return, regardless of how the members of the combined group filed for federal purposes to the extent consistent with the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.).

6. Section 18 of P.L.2018, c.48 (C.54:10A-4.6) is amended to read as follows:

C.54:10-4.6 Determination of entire net income for member of combined group.

18. A taxable member of a combined group shall determine its entire net income from the unitary business as its share of the entire net income of the combined group in accordance with a combined unitary tax return made pursuant to this section and sections 19, 20, and 23 of P.L.2018, c.48 (C.54:10A-4.7, C.54:10A-4.8, and C.54:10A-4.11). The entire net income from the unitary business of a combined group is the sum of the entire net incomes of each taxable member and each nontaxable member of the combined group derived from the unitary business, which shall be determined as follows:

a. For a member incorporated in the United States, the income to be included in the entire net income of the combined group shall be the member's entire net income otherwise determined pursuant to the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.).

b. For a member not incorporated in the United States, the income to be included in the entire net income of the combined group shall be determined from a profit and loss statement that shall be prepared for each foreign branch or corporation in the currency in which the books of account of the branch or corporation are regularly maintained, adjusted to conform it to the accounting principles generally accepted in the United States for the presentation of those statements and further adjusted to take into account any book-tax differences required by federal or State law. The profit and loss statement of each foreign member of the combined group and the allocation factors related thereto, whether United States or foreign, shall be translated into or from the currency in which the parent company maintains its books and records on any reasonable basis consistently applied on a year-to-year or entity-by-entity basis. Income shall be expressed in United States dollars. In lieu of these procedures and subject to the determination of the director that the income to be reported reasonably approximates income as determined under the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), income may be determined on any reasonable basis consistently applied on a year-to-year or entity-by-entity basis.

c. (1) If a member of a combined group receives income from the unitary business from a partnership, the combined group's entire net income shall include the member's direct and indirect distributive share of the partnership's unitary business income.

(2) The distributive share of income received by a limited partner from a qualified investment partnership shall not be considered to be derived from a unitary business unless the general partner of such investment partnership and such limited partner have common ownership. To the extent that the limited partner is otherwise carrying on or doing business in New Jersey, it shall allocate its distributive share of income from a qualified investment partnership in accordance with subsection a. of section 3 of P.L.2001, c.136 (C.54:10A-15.6) or subsection a. of section 4 of P.L.2001, c.136 (C.54:10A-15.7) as applicable. If the limited partner is not otherwise carrying on or doing business in New Jersey, its distributive share of income from an investment partnership is not subject to tax under this chapter.

d. All dividends paid by one member to another member of the combined group shall be eliminated from the income of the recipient.

e. Except as otherwise provided by regulation, business income from an intercompany transaction among members of the same combined group shall be deferred in a manner similar to the deferral under 26 C.F.R. s.1.1502-13, as determined by the director. Upon the occurrence of either of the events set forth in paragraphs (1) and (2) of this subsection, deferred income resulting from an intercompany transaction among members of a combined group shall be restored to the income of the seller and shall be included in the net income of the combined group as if the seller had earned the income immediately before the event:

(1) The object of a deferred intercompany transaction is: (a) resold by the buyer to an entity that is not a member of the combined group, (b) resold by the buyer to an entity that is a member of the combined group for use outside the unitary business in which the buyer and seller are engaged, or (c) converted by the buyer to a use outside the unitary business in which the buyer and seller are engaged; or

(2) The buyer and seller cease to be members of the same combined group, regardless of whether the buyer and seller remain sufficiently interdependent, integrated, and interrelated through their activities so as to provide a synergy and mutual benefit that produces a sharing or exchange of value between them.

In the case of an event set forth in paragraph (2) of this subsection, no portion of the income or loss shall be included in entire net income of the combined group, but shall be included in the entire net income of the respective member.

f. A charitable expense incurred by a member of a combined group shall, to the extent allowable as a deduction pursuant to section 170 of the federal Internal Revenue Code, 26 U.S.C. s.170, be subtracted first from the combined group's entire net income, subject to the income limitations of that section applied to the entire net income of the group. A charitable deduction disallowed under section 170 of the federal Internal Revenue Code, 26 U.S.C. s.170, but allowed as a carryover deduction in a subsequent privilege period, shall be treated as originally incurred in the subsequent year by the same member and the provisions of this section shall apply in the subsequent privilege period in determining the allowable deduction for that privilege period.

g. A prior net operating loss conversion carryover incurred by a member of a combined group shall be deducted from the entire net income or loss allocated to this state pursuant to section 19 of P.L.2018, c.48 (C.54:10A-4.7) as follows:

(1) Such prior net operating loss conversion carryover deduction shall be allowed to offset only the entire net income allocated to this state of the corporation that created the prior net operating loss; the prior net operating

loss conversion carryover cannot be shared with other members of the combined group.

(2) The prior net operating loss conversion carryover deduction computed under subsection (u) of section 4 of P.L.1945, c.162 (C.54:10A-4) shall be applied against the entire net income allocated to this state of the corporation that created the prior net operating loss before the net operating loss carryover computed under subsection h. of this section.

The director shall provide regulations establishing rules on how each such corporation shall apply its prior net operating loss conversion carryover against its share of entire net income allocated as if filing on a separate entity basis.

A member of a combined group may sell prior net operating loss conversion carryover to other members of the combined group, if otherwise applicable and allowable under section 2 of P.L.1997, c.334 (C.54:10A-4.2) and section 1 of P.L.1997, c.334 (C.34:1B-7.42a); provided, however, such sale of prior net operating loss conversion carryover must be made at arm's length price at the same rate as though the sale was to an unrelated taxpayer.

h. A net operating loss carryover incurred by a member of a combined group shall be deducted from entire net income or loss allocated to this State pursuant to section 19 of P.L.2018, c.48 (C.54:10A-4.7) as follows:

(1) For privilege periods beginning on or after the first day of the initial privilege period for which a combined unitary tax return is required under this section and sections 19, 20, and 23 of P.L.2018, c.48 (C.54:10A-4.7, C.54:10A-4.8, and C.54:10A-4.11), if the computation of a combined group's entire net income allocated to this state results in a net operating loss, a taxable member of such group may carry over the net operating loss allocated to this state, as calculated under this section and sections 19 and 23 of P.L.2018, c.48 (C.54:10A-4.7 and C.54:10A-4.11), and shall be deductible from entire net income derived from the unitary business in a future privilege period to the extent that the carryover and deduction is otherwise consistent with subsection (v) of section 4 of P.L.1945, c.162 (C.54:10A-4).

(2) Where a taxable member of a combined group has a net operating loss carryover derived from a loss incurred by a combined group in a privilege period beginning on or after the first day of the initial privilege period for which a combined unitary tax return is required under this section and sections 19, 20, and 23 of P.L.2018, c.48 (C.54:10A-4.7, C.54:10A-4.8, and C.54:10A-4.11), then the taxable member may share the net operating loss carryover with other taxable members of the combined group if such other taxable members were members of the combined group in the privilege period that the loss was incurred. Any amount of net operating loss carryover

that is deducted by another taxable member of the combined group shall reduce the amount of net operating loss carryover that may be carried over by the taxable member that originally incurred the loss.

(3) Where a taxable member of a combined group has a net operating loss carryover derived from a loss incurred in a privilege period during which the taxable member was not a member of such combined group, the carryover shall remain available to be deducted by that taxable member or other group members that, in the year the loss was incurred, were part of the same combined group as such taxable member. Such carryover shall not be deductible by any other members of the combined group.

(4) A net operating loss carryover shall not include any net operating loss incurred during any privilege period beginning prior to the first day of the initial privilege period for which a combined unitary tax return is required under this section and sections 19 and 23 of P.L.2018, c.48 (C.54:10A-4.7 and C.54:10A-4.11).

(5) Where a taxable member of a combined group has a net operating loss carryover derived from a loss incurred by a combined group in a privilege period beginning on or after the first day of the initial privilege period for which a combined unitary tax return is required under this section and sections 19, 20, and 23 of P.L.2018, c.48 (C.54:10A-4.7, C.54:10A-4.8, and C.54:10A-4.11), and the taxable member departs the combined group and continues to be a taxpayer for the purposes of the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the taxable member shall be entitled to take its respective portion of the combined group net operating loss carryover and the combined group shall not be entitled to use such portion of the net operating loss carryover.

i. Tax credits earned by a member of a combined group shall be utilized as follows:

(1) If a taxable member of a combined group earns a tax credit in a privilege period beginning on or after the first day of the initial privilege period for which a combined unitary tax return is required under this section and sections 19, 20, and 23 of P.L.2018, c.48 (C.54:10A-4.7, C.54:10A-4.8, and C.54:10A-4.11), then the taxable member may share the credit with other taxable members of the combined group. Any amount of credit that is utilized by another taxable member of the combined group shall reduce the amount of credit carryover that may be carried over by the taxable member that originally earned the credit. If a taxable member of a combined group has a tax credit carryover derived from a privilege period beginning on or after the first day of the initial privilege period for which a combined unitary tax return is required under this section and sections 19, 20, and 23 of P.L.2018,

c.48 (C.54:10A-4.7, C.54:10A-4.8, and C.54:10A-4.11), then the taxable member may share the carryover credit with other taxable members of the combined group.

(2) If a taxable member of a combined group has a tax credit carryover derived from a privilege period beginning prior to the first day of the initial privilege period for which a combined unitary tax return is required under this section and sections 19, 20, and 23 of P.L.2018, c.48 (C.54:10A-4.7, C.54:10A-4.8, and C.54:10A-4.11), then the taxable member may share the carryover credit with other taxable members of the combined group.

(3) If a taxable member of a combined group has a tax credit carryover derived from a privilege period during which the taxable member was not a member of such combined group, the credit carryover shall remain available to be utilized by such taxable member or other group members.

(4) To the extent a taxable member has more than one corporation business tax credit that it may utilize in a privilege period, whether such credits were earned by said member or are available to said member in accordance with paragraphs (1), (2) and (3) of this subsection, the order of priority of the application of the credits shall be as prescribed by the director.

j. An expense of a member of the combined group that is directly or indirectly attributable to the income of any member of the combined group, which income this State is prohibited from taxing pursuant to the laws or Constitution of the United States, shall be disallowed as a deduction for purposes of determining the combined group's entire net income.

k. Nothing in this section shall apply to:

(1) A corporation or combined group which is licensed, in whole or in part, as an insurance company under the laws of this State or of another state, including corporations which are surplus lines insurers declared eligible by the Commissioner of Banking and Insurance pursuant to section 11 of P.L.1960, c.32 (C.17:22-6.45) to insure risks within this State that is not a combinable captive insurance company. Notwithstanding a provision, if any, to the contrary in this section, the income of an insurance company that is not a combinable captive insurance company, the allocation or apportionment of income related thereto and the apportionment factors of an insurance company that is not a combinable captive insurance company shall not be included in a combined unitary tax return filed under this section and sections 19, 20, and 23 of P.L.2018, c.48 (C.54:10A-4.7, C.54:10A-4.8, and C.54:10A-4.11). In addition, the dividend exclusion provisions of paragraph (5) of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4) relating to dividends paid by insurance companies to non-insurance companies included in the unitary group shall not be affected by P.L.2018, c.48 (C.54:10A-5.41 et al.).

(2) A corporation that is regulated, in whole or in part, by the Federal Energy Regulatory Commission, the New Jersey Board of Public Utilities, or similar regulatory body of another state, with respect to rates charged to customers for electric or gas services and water and wastewater services.

l. (Deleted by amendment, P.L.2020, c.118)

m. To the extent consistent with the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the federal rules and regulations governing consolidated return net operating losses and net operating loss carryovers shall apply to the New Jersey net operating loss carryover provisions under subsection h. of this section as though the combined group filed a federal consolidated return, regardless of how the members of the combined group filed for federal purposes.

n. The principles and provisions set forth in federal regulations promulgated pursuant to section 1502 of the Internal Revenue Code (26 U.S.C. s.1502), shall apply to the extent consistent with the Corporation Business Tax Act (1945), New Jersey combined group membership principles, New Jersey combined unitary return principles, and regulations set forth by the director.

o. For purposes of the deduction allowed in paragraph (4) of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4), a combined group shall be treated as one taxpayer; provided, however, a combined group shall only be eligible for the deduction if at least one of the taxable members is a banking corporation and the taxable member has an international banking facility. The income of the combined group shall not be eligible for the deduction allowed in paragraph (4) of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4) if such income was already eliminated pursuant to other subsections of this section.

p. This section shall apply to world-wide group elective combined returns and affiliated group elective combined returns in accordance with section 23 of P.L.2018, c.48 (C.54:10A-4.11). An election to file an affiliated group combined return shall be an election to treat all of the member's attributes and income as though they were from one unitary business.

q. The director shall promulgate rules and regulations necessary to carry out the provisions of this section.

7. Section 21 of P.L.2018, c.48 (C.54:10A-4.9) is amended to read as follows:

C.54:10A-4.9 Use of alternative minimum assessment credit.

21. A combined group filing a combined return that has any outstanding alternative minimum assessment credit or credits at the time of the effective

date of the repeal of section 7 of P.L.2002, c.40 (C.54:10A-5a) shall be allowed to use the credit to offset the combined group's tax liability under paragraph (1) of subsection c. of section 5 of P.L.1945, c.165 (C.54:10A-5) for the group privilege period. The remaining balance of the credit carryovers of members of the combined group from prior to the effective date of the repeal of section 7 of P.L.2002, c.40 (C.54:10A-5a) shall not reduce the combined tax liability below 50% of the tax owed by the group. The remaining balance of the credit may be carried over until used by the combined group.

8. Section 22 of P.L.2018, c.48 (C.54:10A-4.10) is amended to read as follows:

C.54:10A-4.10 Determination of managerial member.

22. a. Determination of Managerial Member. If the combined group has a common parent corporation within the meaning of the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), and that common parent corporation is a taxable member of the corporate group, the managerial member shall be the common parent corporation. In other cases, the combined group shall select a taxable member as its managerial member or, in the discretion of the director or upon failure of the combined group to select its managerial member, the director shall designate a taxable member of the combined group as managerial member. Once the election of the managerial member is made, the election shall be binding for 10 successive privilege periods, except as otherwise provided for by the director.

b. A combined group shall file a mandatory combined return under this section in the form and manner prescribed by the director. The managerial member of the combined group shall file the mandatory combined return on behalf of the taxable members of the combined group. The managerial member shall be required to file taxable member returns; file taxable member extensions for filing tax returns and other documents with the director; pay taxable member liabilities; receive taxable member findings, assessments, and notices; make and receive taxable member claims, or file taxable member protests and appeals; and shall be the responsible party liable for filing and paying the tax on behalf of the combined group.

c. The privilege period for the combined group is the privilege period of the managerial member. If a member of a combined group has a different fiscal or calendar accounting period from the combined group's privilege period, that member with a different period shall report amounts from its return for its fiscal or calendar accounting year that ends during the group privilege period.

d. Each taxable member of a combined group shall be jointly and severally liable for the tax due from any taxable member pursuant to P.L.1945, c.162 (C.54:10A-1 et seq.), whether or not that tax has been self-assessed, and for any interest, penalties, or additions to tax due.

e. If a combined group is eligible to elect the managerial member of the combined group, notice of the election shall be submitted in writing to the director not later than the due date or, if an extension of time to file has been requested and granted, not later than the extended due date of the mandatory combined return for the initial privilege period for which a return is required. The managerial member shall be the designated agent and the responsible person for filing the combined return and paying the tax for the combined group. If another taxable member is subsequently designated as the managerial member, the subsequent designation shall be subject to the approval of the director.

f. The director is authorized to promulgate regulations with regard to installment payments, estimated payments, overpayments, refunds and any other filing or payment matters related to combined groups filing combined returns.

g. For privilege periods ending on and after July 31, 2019, a combined group must file a mandatory combined return. However, if privilege periods of the members of the combined group differ, the first mandatory combined return for the combined group shall be required for the privilege period of the managerial member.

h. The members of a combined group shall notify the director of a change in the combined group where a member dissolves, a merger of any kind occurs, a member withdraws from the group, a member ceases doing business, a member of the group is acquired by a third party not in the group, or additional members enter the group which are required to be included. Such notice shall be submitted in written form, as determined by the director, not later than the due date, or, if an extension of time to file has been requested and granted, not later than the extended due date of the combined unitary tax return for the privilege period in which a change in the combined group occurs.

i. Any notice shall be sent to the managerial member of the combined group at the last known address of the managerial member as indicated on either the last filing required or made under this Chapter or a subsequent electronic or written notice provided by the managerial member under rules prescribed by the director.

j. The director may, at the director's sole discretion:

(1) make any deficiency assessment against either the managerial member or a taxable member of the combined group;

(2) refund or credit any overpayment to either the managerial member or a taxable member of the combined group;

(3) require any payment to be made by electronic funds transfer; and

(4) require the mandatory combined return to be filed electronically.

9. Section 5 of P.L.1945, c.162 (C.54:10A-5) is amended to read as follows:

C.54:10A-5 Franchise tax.

5. The franchise tax to be annually assessed to and paid by each taxpayer shall be the greater of the amount computed pursuant to this section or the alternative minimum assessment computed pursuant to section 7 of P.L.2002, c.40 (C.54:10A-5a); provided however, that in the case of a taxpayer that is a New Jersey S corporation, an investment company, a professional corporation organized pursuant to P.L.1969, c.232 (C.14A:17-1 et seq.) or a similar corporation for profit organized for the purpose of rendering professional services under the laws of another state, or a person operating on a cooperative basis under Part I of Subchapter T of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1381 et seq., there shall be no alternative minimum assessment computed pursuant to section 7 of P.L.2002, c.40 (C.54:10A-5a).

The amount computed pursuant to this section shall be the sum of the amount computed under subsection (a) hereof, or in the alternative to the amount computed under subsection (a) hereof, the amount computed under subsection (f) hereof, and the amount computed under subsection (c) hereof:

(a) That portion of its entire net worth as may be allocable to this State as provided in section 6, multiplied by the following rates: 2 mills per dollar on the first $100,000,000.00 of allocated net worth; 4/10 of a mill per dollar on the second $100,000,000.00; 3/10 of a mill per dollar on the third $100,000,000.00; and 2/10 of a mill per dollar on all amounts of allocated net worth in excess of $300,000,000.00; provided, however, that with respect to reports covering accounting or privilege periods set forth below, the rate shall be that percentage of the rate set forth in this subsection for the appropriate year:

Accounting or Privilege Periods Beginning on or after:	The Percentage of the Rate to be Imposed Shall be:
April 1, 1983	75%
July 1, 1984	50%

July 1, 1985	25%
July 1, 1986	0

(b) (Deleted by amendment, P.L.1968, c.250, s.2.)

(c) (1) For a taxpayer that is not a New Jersey S corporation, 3 1/4% of its entire net income or such portion thereof as may be allocable to this State as provided in sections 6 through 10 of P.L.1945, c.162 (C.54:10A-6 through C.54:10A-10), plus such portion thereof as is specifically assigned to this State as provided in section 5 of P.L.1993, c.173 (C.54:10A-6.1); provided, however, that with respect to reports covering accounting or privilege periods or parts thereof ending after December 31, 1967, the rate shall be 4 1/4%; and that with respect to reports covering accounting or privilege periods or parts thereof ending after December 31, 1971, the rate shall be 5 1/2%; and that with respect to reports covering accounting or privilege periods or parts thereof ending after December 31, 1974, the rate shall be 7 1/2%; and that with respect to reports covering privilege periods or parts thereof ending after December 31, 1979, the rate shall be 9%; provided however, that for a taxpayer that has entire net income of $100,000 or less for a privilege period and is not a partnership the rate for that privilege period shall be 7 1/2% and provided further that for a taxpayer that has entire net income of $50,000 or less for a privilege period and is not a partnership the rate for that privilege period shall be 6 1/2%.

For privilege periods ending on or after July 31, 2019, for a combined group filing a mandatory or elective combined return, for the portion of a taxable member's activities that are independent from the unitary business of the combined group filing a mandatory unitary combined return where the taxable member independently has nexus with this State, and for a taxpayer that files a separate return, the tax rate shall be applied against taxable net income plus such portion thereof as is specifically assigned to this State as provided in section 5 of P.L.1993, c.173 (C.54:10A-6.1).

(2) For a taxpayer that is a New Jersey S corporation:

(i) for privilege periods ending on or before June 30, 1998 the rate determined by subtracting the maximum tax bracket rate provided under N.J.S.54A:2-1 for the privilege period from the tax rate that would otherwise be applicable to the taxpayer's entire net income for the privilege period if the taxpayer were not an S corporation provided under paragraph (1) of this subsection for the privilege period; and

(ii) For a taxpayer that has entire net income in excess of $100,000 for the privilege period,

for privilege periods ending on or after July 1, 1998, but on or before June 30, 2001, the rate shall be 2%,

for privilege periods ending on or after July 1, 2001, but on or before June 30, 2006, the rate shall be 1.33%,

for privilege periods ending on or after July 1, 2006, but on or before June 30, 2007, the rate shall be 0.67%, and

for privilege periods ending on or after July 1, 2007 there shall be no rate of tax imposed under this paragraph; and

(iii)For a taxpayer that has entire net income of $100,000 or less for privilege periods ending on or after July 1, 1998, but on or before June 30, 2001, the rate for that privilege period shall be 0.5%, and for privilege periods ending on or after July 1, 2001, there shall be no rate of tax imposed under this paragraph.

(iv) The taxpayer's rate determined under subparagraph (i), (ii) or (iii) of this paragraph shall be multiplied by its entire net income that is not subject to federal income taxation or such portion thereof as may be allocable to this State pursuant to sections 6 through 10 of P.L.1945, c.162 (C.54:10A-6 through C.54:10A-10) plus such portion thereof as is specifically assigned to this State as provided in section 5 of P.L.1993, c.173 (C.54:10A-6.1). For privilege periods ending on or after July 31, 2019, the tax rate shall be applied against taxable net income.

(3) For a taxpayer that is a New Jersey S corporation, in addition to the amount, if any, determined under paragraph (2) of this subsection, the tax rate that would otherwise be applicable to the taxpayer's entire net income for the privilege period if the taxpayer were not an S corporation provided under paragraph (1) of this subsection for the privilege period multiplied by its entire net income that is subject to federal income taxation or such portion thereof as may be allocable to this State pursuant to sections 6 through 10 of P.L.1945, c.162 (C.54:10A-6 through C.54:10A-10). For privilege periods ending on or after July 31, 2019, the tax rate shall be applied against taxable net income.

(d) Provided, however, that the franchise tax to be annually assessed to and paid by any investment company or real estate investment trust, which has elected to report as such and has filed its return in the form and within the time provided in this act and the rules and regulations promulgated in connection therewith, shall, in the case of an investment company, be measured by 40% of its entire net income and 40% of its entire net worth, and in the case of a real estate investment trust, by 4% of its entire net income and 15% of its entire net worth, at the rates hereinbefore set forth for the computation of tax on net income and net worth, respectively, but in no case less

than $250, and further provided, however, that the franchise tax to be annually assessed to and paid by a regulated investment company which for a period covered by its report satisfies the requirements of Chapter 1, Subchapter M, Part I, Section 852(a) of the federal Internal Revenue Code shall be $250. For privilege periods ending on or after July 31, 2019, the tax rate shall be applied against 40% of its taxable net income in the case of an investment company, and against 4% of its taxable net income in the case of a real estate investment trust.

(e) The tax assessed to any taxpayer pursuant to this section shall not be less than $25 in the case of a domestic corporation, $50 in the case of a foreign corporation, or $250 in the case of an investment company or regulated investment company. Provided however, that for privilege periods beginning in calendar year 1994 and thereafter the minimum taxes for taxpayers other than an investment company or a regulated investment company shall be as provided in the following schedule:

Period Beginning In Calendar Year	Domestic Corporation Minimum Tax	Foreign Corporation Minimum Tax
1994	$50	$100
1995	$100	$200
1996	$150	$200
1997	$200	$200
1998	$200	$200
1999	$200	$200
2000	$200	$200
2001	$210	$210

and for calendar years 2002 through 2005 the minimum tax for all taxpayers shall be $500, and for calendar year 2006 through calendar year 2011 the minimum tax for all corporations, and for privilege periods beginning in calendar year 2012 and thereafter the minimum tax for corporations that are not New Jersey S corporations shall be based on the New Jersey gross receipts of the taxpayer pursuant to the following schedule:

New Jersey Gross Receipts:	Minimum Tax:
Less than $100,000	$500
$100,000 or more but less than $250,000	$750

$250,000 or more but less than $500,000	$1,000
$500,000 or more but less than $1,000,000	$1,500
$1,000,000 or more	$2,000

and for privilege periods beginning in calendar year 2012 and thereafter the minimum tax for corporations that are New Jersey S corporations shall be based on the New Jersey gross receipts of the taxpayer pursuant to the following schedule:

New Jersey Gross Receipts:	Minimum Tax:
Less than $100,000	$375
$100,000 or more but less than $250,000	$562.50
$250,000 or more but less than $500,000	$750
$500,000 or more but less than $1,000,000	$1,125
$1,000,000 or more	$1,500

provided however, that for a taxpayer that is a member of an affiliated group or a controlled group pursuant to section 1504 or 1563 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1504 or 1563, and whose group has total payroll of $5,000,000 or more for the privilege period, the minimum tax shall be $2,000 for the privilege per; provided, however, for privilege periods ending on and after July 31, 2019, the minimum tax of each taxable member of a combined group filing a mandatory or elective New Jersey combined return shall be $2,000 for the group privilege period.

(f) In lieu of the portion of the tax based on net worth and to be computed under subsection (a) of this section, any taxpayer, the value of whose total assets everywhere, less reasonable reserves for depreciation, as of the close of the period covered by its report, amounts to less than $150,000, may elect to pay the tax shown in a table which shall be promulgated by the director.

(g) Provided however, that for privilege periods beginning on or after January 1, 2001 but before January 1, 2002 the franchise tax annually assessed to and paid by a taxpayer:

(1) that is a limited liability company or foreign limited liability company classified as a partnership for federal income tax purposes shall be the

amount determined pursuant to the provisions of section 3 of P.L.2001, c.136 (C.54:10A-15.6); or

(2) that is a limited partnership or foreign limited partnership classified as a partnership for federal income tax purposes shall be the amount determined pursuant to the provisions of section 4 of P.L.2001, c.136 (C.54:10A-15.7).

(h) Provided however, that for privilege periods beginning on or after January 1, 2002 the franchise tax annually assessed to and paid by a taxpayer that is a partnership shall be the amount determined pursuant to the provisions of section 12 of P.L.2002, c.40 (C.54:10A-15.11).

(i) (Deleted by amendment, P.L.2008, c.120)

10. Section 1 of P.L.1993, c.175 (C.54:10A-5.24) is amended to read as follows:

C.54:10A-5.24 Taxpayer credit for certain research activities.

1. a. A taxpayer shall be allowed a credit, subject to the provisions of subsection b. of this section, against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), in an amount equal to

(1) 10% of the excess of the qualified research expenses for the privilege period over the base amount; and

(2) 10% of the basic research payments for the privilege period determined in accordance with section 41 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.41. Provided

however, that the terms "qualified research expenses," "base amount," "qualified organization base amount period," "basic research" and any other terms determined by the Director of the Division of Taxation to affect the calculation of the credit shall include only expenditures for research conducted in this State. For privilege periods beginning on and after January 1, 2018, amounts paid or incurred by the taxpayer in carrying on any trade or business of the taxpayer during the privilege period, including as contributions, to an energy research consortium for energy research shall also qualify as a basic research payment for purposes of this subsection.

b. No credit shall be allowed under section 42 of P.L.1987, c.102 (C.54:10A-5.3), or under the "Manufacturing Equipment and Employment Investment Tax Credit Act," P.L.1993, c.171 (C.54:10A-5.16 et al.), or under P.L.1993, c.170 (C.54:10A-5.4 et seq.), for property or expenditures for which a credit is allowed, or which are includable in the calculation of a credit allowed, under this section.

The order of priority of the application of the credit allowed pursuant to this section and any other credits allowed by law shall be as prescribed by

the director. Credits allowable pursuant to this section shall be applied in the order of the privilege periods for which the credits were allowed.

For privilege periods beginning before January 1, 2012, the amount of the credits applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162, for the privilege period shall not exceed 50% of the tax liability otherwise due and shall not reduce the tax liability to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162.

For privilege periods beginning on or after January 1, 2012, the amount of the credits applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162, for the privilege period shall not reduce the tax liability to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162.

For privilege periods beginning on or after January 1, 2018, the credit taken under this section shall not be refundable.

The amount of credit otherwise allowable under this section which cannot be applied for the privilege period due to the limitations of this subsection may be carried over, if necessary, to the seven privilege periods following a credit's privilege period.

c. No provision terminating section 41 of the federal Internal Revenue Code, 26 U.S.C. s.41, shall apply.

d. For privilege periods beginning on and after January 1, 2020, the portion of qualified research expenses and qualified payments of a taxpayer that is a qualified small business within the meaning of section 41(h)(3) of the federal Internal Revenue Code (26 U.S.C. s.41) that were disallowed for the section 41(h) tax credit because the taxpayer made an election pursuant to sections 41(h) and 3111(f) of the federal Internal Revenue Code (26 U.S.C. s.41 and s.3111) to take the 3111(f) credit in lieu of the 41(h) credit, shall be allowed for the purposes of calculating the New Jersey credit provided for by this section.

11. Section 14 of P.L.1945, c.162 (C.54:10A-14) is amended to read as follows:

C.54:10A-14 Director may require taxpayer to submit information.

14. (a) The director shall require any taxpayer or managerial member to submit, as part of a full and complete New Jersey return, copies or pertinent extracts of its federal income tax returns, or of any other tax return filed with any agency of the federal government, or of this or any other state, or of any statement or registration made pursuant to any state or federal law

pertaining to securities or securities exchange regulation. The director shall issue regulations describing which federal extracts are required and which extracts are optional.

(b) The director may require all taxpayers to keep such records as the director may prescribe, and the director may require the production of books, papers, documents and other data, to provide or secure information pertinent to the determination of the tax hereunder and the enforcement and collection thereof. The director may, also, by general rule or by special notice require any taxpayer to make and file information returns, under oath, of facts pertinent to the determination of the tax or liability for tax hereunder, pursuant to such regulations, at such times and in such form and manner and to such extent as the director may prescribe pursuant to law.

(c) Each taxpayer filing a return that is a member of an affiliated group filing an elective New Jersey combined return or a combined group shall, upon the request of the director and 90 days' notice thereof, disclose the amount of all inter-member costs or expenses reflected in the return for the privilege period, including but not limited to management fees, rents, and other services, for the privilege period. If the taxpayer acquires products or services from another member of its affiliated group or a combined group, which it re-sells or otherwise uses to generate revenue, the taxpayer shall, upon the request of the director and 90 days' notice thereof, disclose the amount of revenue generated from those products or services. The director shall promulgate rules and procedures for the manner of disclosure. A failure to file such a disclosure shall be deemed the filing of an incomplete tax return, subject to the penalties of the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.

(d) For privilege periods ending on and after July 31, 2021, the director shall create a simplified standardized return for combined groups, banking corporations, financial business corporations, and separate return filers, but shall maintain the New Jersey S Corporations returns for New Jersey S Corporations that file separate returns. The standardized return shall include the accompanying forms and schedules to administer and implement the various requirements of the Corporation Business Tax Act (1945), or such accompanying schedules shall be made inconspicuously and readily available on the Division of Taxation's website, and the instructions for the standardized return shall clearly indicate which schedules are required to be completed by combined groups, banking corporations, financial business corporations, and separate return filers respectively.

12. Section 15 of P.L.1945, c.162 (C.54:10A-15) is amended to read as follows:

C.54:10A-15 Annual tax payable; manner of payment.

15. The tax imposed by this act shall be due and payable annually hereafter, commencing with the calendar year 1959, in the manner provided under subsection (a), (b) or (c) of this section, whichever shall be applicable.

(a) Every taxpayer shall annually pay a franchise tax, with respect to all or any part of each of its fiscal or calendar accounting years beginning after January 1, 1959, to be computed as herein provided, for such fiscal or calendar accounting year or part thereof, on a report which shall be filed on or before April 15 next succeeding the close of each such accounting year, or, if any such fiscal year ends after the last day of December and prior to July 1, on or before the fifteenth day of the fourth month after the close of such fiscal year, and the full amount of the tax hereunder shall be due and payable on or before the date prescribed herein for the filing of the return.

(b) Every taxpayer shall pay a like franchise tax with respect to all or any part of the period beginning January 1, 1959 and extending through any subsequent part of its first fiscal or calendar accounting year ending after said date. Such tax shall be computed as herein provided, for each and every fiscal or calendar accounting year or part thereof begun not earlier than July 2, 1957 and ending not later than December 31, 1959 on the basis of which a franchise tax has not accrued under this act prior to January 1, 1959. The tax imposed pursuant to this subsection shall be deemed a single tax for such period but shall be computed separately with respect to each such fiscal or calendar accounting year or part thereof on the basis of which a franchise tax has not previously accrued as aforesaid, on a report which shall be filed on or before April 15, next succeeding the close of each such accounting year, or, if any such fiscal year ends after the last day of December and prior to July 1, on or before the fifteenth day of the fourth month after the close of such fiscal year, and the full amount of the tax hereunder shall be due and payable on or before the date prescribed herein for the filing of the report.

(c) With respect to all or any part of each of its privilege periods ending after June 30, 1967, every taxpayer shall annually pay a franchise tax on a report which shall be filed on or before the fifteenth day of the fourth month after the close of such privilege period, or part thereof, and the full amount of the tax hereunder shall be due and payable on or before the date prescribed herein for the filing of the return; provided, however, that for privilege periods ending on and after July 31, 2020, the due date of the New Jersey return shall be 30 days after the original due date for filing the taxpayer's federal

corporate income tax return for such privilege period, or part thereof, and the full amount of the tax hereunder shall be due and payable on or before the date prescribed herein for the filing of the return.

(d) With respect to its fiscal or calendar accounting years ending after February 29, 1968 and prior to March 1, 1969, every taxpayer shall pay as a partial payment of franchise tax in addition to the tax payable under subsection (c) of this section, an amount equal to one-quarter of the tax payable under said subsection (c). With respect to each of its fiscal or calendar accounting years ending after February 28, 1969, every taxpayer shall annually pay as a partial payment of franchise tax in addition to the tax payable under subsection (c) of this section, an amount equal to one-half of the tax payable under said subsection (c). In the calculation of the tax pertaining to each succeeding accounting period, due in accordance with subsection (c) hereof, every taxpayer shall be entitled to a credit in the amount of the tax paid under this subsection (d) as a partial payment and shall be entitled to the return of any amount so paid which shall be found in excess of the total amount payable in accordance with said subsection (c) and this subsection (d).

(e) With respect to its fiscal or calendar accounting years ending on or after June 30, 1974, every taxpayer shall annually pay as a partial payment of franchise tax in addition to the tax payable under subsection (c) of this section, an amount equal to 60% of the tax payable under said subsection (c). In the calculation of the tax pertaining to each succeeding accounting period, due in accordance with subsection (c) hereof, every taxpayer shall be entitled to a credit in the amount of the tax paid under this subsection (e) as a partial payment and shall be entitled to the return of any amount so paid which shall be found to be in excess of the total amount payable in accordance with said subsection (c) and this subsection (e).

(f) With respect to its privilege periods ending on or after December 31, 1984, in addition to the tax payable under subsection (c) of this section, every taxpayer, except a taxpayer with gross receipts of $50,000,000 or more for the prior privilege period, which shall make installment payments pursuant to subsection (g) of this section, shall make installment payments of its franchise tax at the following times and in the following amounts of its estimated tax for its current fiscal or calendar accounting year:

(1) 25% thereof paid on or before the fifteenth day of the fourth month thereof;

(2) 25% thereof paid on or before the fifteenth day of the sixth month thereof;

(3) 25% thereof paid on or before the fifteenth day of the ninth month thereof; and

(4) the balance thereof paid on or before the fifteenth day of the twelfth month thereof.

(g) With respect to its privilege periods beginning on or after January 1, 2003, in addition to the tax payable under subsection (c) of this section, every taxpayer with gross receipts of $50,000,000 or more for the prior privilege period shall make installment payments of its franchise tax at the following times and in the following amounts of its estimated tax for its current privilege period:

(1) 25% thereof paid on or before the fifteenth day of the fourth month thereof;

(2) 50% thereof paid on or before the fifteenth day of the sixth month thereof; and

(3) the balance thereof paid on or before the fifteenth day of the twelfth month thereof.

(h) In the calculation of the tax due in accordance with subsection (c) hereof, a taxpayer shall be entitled to a credit in the amount of the tax paid under subsection (f) or subsection (g) of this section as a partial payment and shall be entitled to the return of any amount so paid which is in excess of the total amount payable in accordance with subsection (c) and this subsection.

(i) For the purpose of this act, every taxpayer shall use the same calendar or fiscal year upon which it reports to the United States Treasury Department for Federal Income Tax purposes.

13. Section 3 of P.L.2006, c.33 (C.54:15C-1) is amended to read as follows:

C.54:15C-1 Tax on transfer over $1,000,000 of controlling interest in certain commercial property.

3. a. (1) There is imposed and shall be paid a tax upon the sale or transfer for consideration in excess of $1,000,000 of a controlling interest in an entity which possesses, directly or indirectly, a controlling interest in classified real property, which shall be paid by the purchaser of the controlling interest and which shall be equal to 1% of the consideration paid on the sale or transfer; provided however that in the case of the sale or transfer of a controlling interest in an entity which possesses, directly or indirectly, an interest in classified real property and an interest in other property, real or personal, there shall be paid a tax upon the sale only if the equalized assessed value of the classified real property exceeds $1,000,000 which shall be paid by the pur-

chaser of the controlling interest and which shall be equal to 1% of that percentage of the equalized assessed value of the classified real property that is equal to the percentage of the ownership interest transferred.

(2) The sale or transfer of a controlling interest subject to taxation pursuant to paragraph (1) of this subsection may occur in one transaction or in a series of transactions. Transactions which occur within six months of each other are presumed, unless shown to the contrary, to be a series of transactions constituting a single sale or transfer.

Sale or transfer of a controlling interest subject to taxation pursuant to paragraph (1) of this subsection may be accomplished by one purchaser or may be made by a group of purchasers acting in concert. Purchasers who are related parties are presumed, unless shown to the contrary, to be acting in concert.

b. On or before the last day of the month following the month in which the sale or transfer of a controlling interest which is subject to the tax imposed by subsection a. of this section is completed, the purchaser shall file a return with the director, in such form as the director may prescribe. Payment of the tax shall accompany the return.

c. The tax imposed by subsection a. of this section shall not apply to any sale or transfer:

(1) by or to the United States of America, this State, or any instrumentality, agency, or subdivision thereof;

(2) to a purchaser that is an organization determined by the federal Internal Revenue Service to be exempt from federal income taxation pursuant to paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.501;

(3) having the underlying characteristics of the transactions enumerated in section 6 of P.L.1968, c.49 (C.46:15-10);

(4) that is subject to the fee imposed tax pursuant to section 8 of P.L.2004, c.66 (C.46:15-7.2);

(5) that is incidental to a corporate merger or acquisition if the equalized assessed value of the real property transferred is less than 20% of the total value of all assets exchanged in the merger or acquisition; or

(6) entered into on and after January 1, 2021 if it is an intercompany transfer between combined group members as part of the unitary business, as those terms are used in section 4 of P.L.1945, c.162 (C.54:10A-4).

d. Notwithstanding the provisions of subsection a. of this section, the transfer of a controlling interest on or before November 15, 2006 in an entity which possesses, directly or indirectly, an interest in classified real property shall not be subject to tax if the interest was transferred pursuant to a contract or other binding agreement that was fully executed before July 1, 2006.

e. (1) The director may require all purchasers subject to a tax imposed under this section to keep such records as the director may prescribe, and the director may require the production of books, papers, documents and other data, to provide or secure information pertinent to the determination of the taxes imposed by this section and the enforcement and collection thereof.

(2) An entity with respect to which there is a sale or transfer of a controlling interest in that entity, shall keep a record of every transfer of a controlling interest in its stock or in its capital, profits or beneficial interests, as the case may be, and such other information as the director may prescribe. An entity shall report that information to the director in such form and at such times as the director may prescribe.

(3) The director may examine the books, papers, records and equipment of an entity with respect to which there is a sale or transfer of a controlling interest in that entity or of a purchaser liable under the provisions of this section.

(4) The director shall collect and administer the tax imposed pursuant to this section. The director is authorized to adopt rules and regulations to effectuate the purposes of this section pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

(5) The director may extend, for cause shown by general regulation or individual authorization, the time of filing any return on such terms and conditions as the director may require, and may, for cause shown, remit or waive penalties and interest as provided for in the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.

(6) The director may delegate the director's functions hereunder to any officer or employee of the director's division such of the director's powers as the director may deem necessary to carry out efficiently the provisions of this section.

f. The tax imposed pursuant to this section shall be governed by the provisions of the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.

g. As used in this section:

"Classified real property" means property that is classified pursuant to the requirements of N.J.A.C.18:12-2.2 as Class 4A "commercial properties".

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

"Consideration" means the actual amount of money and the monetary value of any other thing of value constituting the entire compensation paid or to be paid for the transfer including the remaining amount of any prior mortgage to which the transfer is subject or which is to be assumed and agreed to be paid by the purchaser.

"Controlling interest" means, in the case of an entity that is a corporation, more than fifty per cent of the total combined voting power of all classes of stock of that corporation, and in the case of an entity that is a partnership, association, trust or other organization, more than fifty per cent of the beneficial ownership of classified real property of that partnership, association, trust or other organization.

"Related parties" means parties that have the relationship necessary for attribution of constructive ownership of stock pursuant to section 318 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.318, and members of an affiliated group or a controlled group pursuant to section 1504 or 1563 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1504 or 1563.

14. Section 5 of P.L.2007, c.100 (C.54:50-38) is amended to read as follows:

C.54:50-38 Notification to director of proposed sale, transfer, assignment of assets; claim for State taxes; exemptions.

5. a. (1) Whenever a person shall make a sale, transfer, or assignment in bulk of any part or the whole of the person's business assets, except as provided by paragraphs (2) and (3) of this subsection, otherwise than in the ordinary course of business, the purchaser, transferee or assignee shall, at least 10 days before taking possession of the subject of the sale, transfer or assignment, or paying therefor, notify the director by registered mail, or other such method as the director may prescribe, of the proposed sale and of the price, terms and conditions thereof whether or not the seller, transferrer or assignor has represented to, or informed the purchaser, transferee or assignee that the seller, transferrer or assignor owes any State tax and whether or not the purchaser, transferee, or assignee has knowledge that such taxes are owing, and whether any such taxes are in fact owing. Within 10 days of receiving such notice, the director shall notify the purchaser, transferee or assignee by such means as the director may prescribe that a possible claim for State taxes exists and include the amount of the State's claim.

(2) (a) Paragraph (1) of this subsection shall not apply to the sale, transfer or assignment of a simple dwelling house if the seller, transferrer or assignor is an "individual," "estate," or "trust" as those terms are used for the purposes of the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. or any combination thereof owning the simple dwelling house as joint tenants, tenants in common or tenancy by the entirety; paragraph (1) shall apply to the sale, transfer or assignment of a simple dwelling house if the seller, transferrer or assignor is a business entity, including but not limited to a corporation or a

partnership. "Simple dwelling house" means a dwelling unit, attached or detached, and land appurtenant thereto, including but not limited to a one-family or two-family building or structure, a unit of a horizontal property regime established pursuant to the "Horizontal Property Act," P.L.1963, c.168 (C.46:8A-1 et seq.), a unit in a housing cooperative as defined under "The Cooperative Recording Act of New Jersey," P.L.1987, c.381 (C.46:8D-1 et seq.), or a unit of a condominium property established pursuant to the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.), but does not include a structure or structures containing more than two units of dwelling space or containing, according to the records of the municipal property tax assessor, commercial property including, or in addition to, the units of dwelling space.

(b) Paragraph (1) of this subsection shall not apply to the sale, transfer or assignment of a seasonal rental unit or the sale, transfer or assignment of a lease for the seasonal use or rental of real property if the seller, transferrer or assignor is an "individual," "estate," or "trust" as those terms are used for the purposes of the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. or any combination thereof owning the seasonal rental unit or lease for the seasonal use or rental of real property as joint tenants, tenants in common or tenancy by the entirety; paragraph (1) shall apply to the sale, transfer or assignment of a seasonal rental unit or the sale, transfer or assignment of a lease for the seasonal use or rental of real property if the seller, transferrer or assignor is a business entity, including but not limited to a corporation or a partnership.

For the purposes of this paragraph:

"seasonal rental unit" means

(i) a "timeshare estate" as that term is defined by section 2 of P.L.2006, c.63 (C.45:15-16.51); and

(ii) a dwelling unit rented for a term of not more than 125 consecutive days for residential purposes by a person having a permanent residence elsewhere; and

"lease for the seasonal use or rental of real property" means

(i) a "timeshare use" as that term is defined by section 2 of P.L.2006, c.63 (C.45:15-16.51); and

(ii) the use or rental for a term of not more than 125 consecutive days for residential purposes by a person having a permanent place of residence elsewhere.

(c) Paragraph (1) of this subsection shall not apply to transactions entered into on and after January 1, 2021 that are intercompany transfers between combined group members as part of the unitary business, as those terms are used in section 4 of P.L.1945, c.162 (C.54:10A-4).

(3) Paragraph (1) of this subsection shall not apply to the sale, transfer, or assignment of a grant, tax credit, or tax credit transfer certificate that has been awarded, issued, or otherwise made available to a person in connection with a State or local business assistance or incentive program or activity authorized by law in effect on the effective date of P.L.2017, c.12.

For purposes of this paragraph, "State or local business assistance or incentive program or activity" includes but shall not be limited to: the corporation business tax credit and insurance premiums tax credit certificate transfer program established by section 17 of P.L.2004, c.65 (C.34:1B-120.2); the Business Retention and Relocation Assistance Program established by P.L.1996, c.25 (C.34:1B-112 et seq.); the Business Employment Incentive Program established by P.L.1996, c.26 (C.34:1B-124 et al.); the Urban Transit Hub Tax Credit Program established by P.L.2007, c.346 (C.34:1B-207 et seq.); the Grow New Jersey Assistance Program established by section 3 of P.L.2011, c.149 (C.34:1B-244); and the State or local Economic Redevelopment and Growth Grant program established by section 4 or section 5 of P.L.2009, c.90 (C.52:27D-489d or C.52:27D-489e).

b. If, upon receiving timely notice of a sale, transfer or assignment from a purchaser, transferee or assignee, the director fails to provide timely notice to the purchaser, transferee or assignee that a possible claim for such State tax or taxes exists, the purchaser, transferee or assignee may transfer over to the seller, transferrer or assignor any sums of money, property or choses in action, or other consideration to the extent of the amount of the State's claim. The purchaser, transferee or assignee shall not be subject to the liabilities and remedies imposed under the provisions of the uniform commercial code, Title 12A of the New Jersey Statutes, and shall not be personally liable for the payment to the State of any such taxes theretofore or thereafter determined to be due to the State from the seller, transferrer or assignor.

c. If the purchaser, transferee or assignee shall fail to give notice to the director as required by the preceding paragraph, or if the director shall inform the purchaser, transferee or assignee that a possible claim for such State tax or taxes exists, any sums of money, property or choses in action, or other consideration, which the purchaser, transferee or assignee is required to transfer over to the seller, transferrer or assignor shall be subject to a first priority right and lien for any such State taxes theretofore or thereafter determined to be due from the seller, transferrer or assignor to the State, and the purchaser, transferee or assignee is forbidden to transfer to the seller, transferrer or assignor any such sums of money, property or choses in action to the extent of the amount of the State's claim. For failure to comply with the provisions of this section the purchaser, transferee or assignee, in addition to being subject to the liabilities and remedies

imposed under the provisions of the uniform commercial code, Title 12A of the New Jersey Statutes, shall be personally liable for the payment to the State of any such taxes theretofore or thereafter determined to be due to the State from the seller, transferrer or assignor, and such liability may be assessed and enforced in the same manner as the liability for any State tax under the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.

C.54:10A-5.46 Credit against certain tax.

15. For privilege periods ending on and after July 31, 2020, a taxpayer shall be allowed a credit against the tax imposed by subsection c. of section 5 of P.L.1945, c.162 (C.54:10A-5) to the extent a subsidiary of the taxpayer received dividends and deemed dividends from other subsidiaries and included those dividends in its entire net income for the purposes of determining its tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and paid tax on those dividends and deemed dividends to the State on a timely filed New Jersey corporation business tax return; provided, however, the taxpayer received those same dividends and deemed dividends from the subsidiary that paid tax to the State.

For purposes of this section, the members of a combined group filing a New Jersey combined return shall be treated as one taxpayer.

For purposes of this section, "paid tax" means the amount that the subsidiary paid to the State or would have paid but for the use of other tax credits, or but for subsections (u) and (v) of section 4 of P.L.1945, c.162 (C.54:10A-4), or, for a combined group filing a combined return, but for subsections g. and h. of section 18 of P.L.2018, c.48 (C.54:10A-4.6).

The credit allowed by this section shall be claimed in a form and manner prescribed by the director on a timely filed corporation business tax return.

C.54:10A-34.1 Filing of returns by certain banking corporations.

16. a. For a banking corporation that is a member of a combined group that has a fiscal group privilege period, before the banking corporation is included as a member of the New Jersey combined return, the banking corporation shall first file the applicable BFC-1 return reporting their calendar year income in accordance with section 4 of P.L.1975, c.170 (C.54:10A-34) for the applicable privilege period which ended during the privilege period of the managerial member and then file a transitional short period return covering January 1st through the end of the month of the combined group's fiscal group privilege period during the current calendar year. Subsequently, the banking corporation shall file for the fiscal combined group's privilege period and report all of its income on a fiscal basis with the combined group. Thereafter, the banking corporation shall continue reporting on a fiscal basis for future

privilege periods. If a banking corporation, that would otherwise be a member of a fiscal combined group but for the transitionary provisions of this section, believes that application of the filing requirements set forth will result in an unfair or distorted reflection of income, the banking corporation may request relief from the director, which may be granted at the director's discretion.

b. For a banking corporation that is not a member of a combined group, which files a BFC-1 return reporting its calendar year income in accordance with section 4 of P.L.1975, c.170 (C.54:10A-34), but which files on a fiscal federal tax year basis, the banking corporation may elect to file separate returns in a manner similar to subsection a. of this section, file a transitionary short period return, and subsequently file its New Jersey corporation business tax returns on a fiscal year basis. Otherwise, such banking corporations shall file transitionary returns in order to subsequently file in the same manner as other corporation business taxpayers. If a banking corporation, that would otherwise continue to file the BFC-1 return reporting its calendar year income in accordance with section 4 of P.L.1975, c.170 (C.54:10A-34) but for the transitionary provisions provided for in this section, believes that application of the filing requirements set forth will result in an unfair or distorted reflection of income, the banking corporation may request relief from the director, which may be granted at the director's discretion.

c. For a banking corporation that is not a member of a combined group, which files a BFC-1 return reporting its calendar year income in accordance with section 4 of P.L.1975, c.170 (C.54:10A-34), and files on a calendar federal tax year basis, the banking corporation shall file transitionary returns in order to subsequently file in the same manner as other corporation business taxpayers. If a banking corporation, that would otherwise continue to file the BFC-1 return reporting its calendar year income in accordance with section 4 of P.L.1975, c.170 (C.54:10A-34) but for the transitionary provisions provided for in this section, believes that application of the filing requirements set forth will result in an unfair or distorted reflection of income, the banking corporation may request relief from the director, which may be granted at the director's discretion.

d. No penalties or interest shall be assessed on any underpayment due to this section if the applicable returns are filed within six months of enactment of this section.

17. Section 6 of P.L.1968, c.49 (C.46:15-10) is amended to read as follows:

C.46:15-10 Exemptions from realty transfer fee.

6. The fee imposed by this act shall not apply to a deed:

(a) For a consideration, as defined in section 1(c), of less than $100.00;

(b) By or to the United States of America, this State, or any instrumentality, agency, or subdivision thereof;

(c) Solely in order to provide or release security for a debt or obligation;

(d) Which confirms or corrects a deed previously recorded;

(e) On a sale for delinquent taxes or assessments;

(f) On partition;

(g) By a receiver, trustee in bankruptcy or liquidation, or assignee for the benefit of creditors;

(h) Eligible to be recorded as an "ancient deed" pursuant to R.S.46:16-7;

(i) Acknowledged or proved on or before July 3, 1968;

(j) Between husband and wife, or parent and child;

(k) Conveying a cemetery lot or plot;

(l) In specific performance of a final judgment;

(m) Releasing a right of reversion;

(n) Previously recorded in another county and full realty transfer fee paid or accounted for, as evidenced by written instrument, attested by the grantee and acknowledged by the county recording officer of the county of such prior recording, specifying the county, book, page, date of prior recording, and amount of realty transfer fee previously paid;

(o) By an executor or administrator of a decedent to a devisee or heir to effect distribution of the decedent's estate in accordance with the provisions of the decedent's will or the intestate laws of this State;

(p) Recorded within 90 days following the entry of a divorce decree which dissolves the marriage between the grantor and grantee;

(q) Issued by a cooperative corporation, as part of a conversion of all of the assets of the cooperative corporation into a condominium, to a shareholder upon the surrender by the shareholder of all of the shareholder's stock in the cooperative corporation and the proprietary lease entitling the shareholder to exclusive occupancy of a portion of the property owned by the corporation.

(r) For transfer of real property that is entered into on and after January 1, 2021 that is an intercompany transfer between combined group members as part of the unitary business, as those terms are used in section 4 of P.L.1945, c.162 (C.54:10A-4)

18. Following the enactment of P.L.2020, c.118 (C.54:10A-5.46 et al.), for the first privilege period of the taxpayer impacted by the enactment of P.L.2020, c.118 (C.54:10A-5.46 et al.) where such privilege period began before January 1, 2021, no penalties or interest shall accrue for underpayment of tax due to the provisions of P.L.2020, c.118 (C.54:10A-5.46 et al.)

applying retroactively to privilege periods ending on or after July 31, 2020, that create an additional tax liability due to the provisions of P.L.2020, c.118 (C.54:10A-5.46 et al.); provided however, the additional estimated payments shall be made by the later of the second next estimated payment subsequent to the enactment of P.L.2020, c.118 (C.54:10A-5.46 et al.) or the second estimated payment due after January 1, 2021.

19. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the director may adopt, immediately, upon filing with the Office of Administrative Law, regulations that the director deems necessary to implement the provisions of P.L.2020, c.118, which regulations shall be effective for a period not to exceed 360 days from the date of the filing. The director may thereafter amend, adopt, or readopt the regulations in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

20. This act shall take effect immediately and, unless the context provides otherwise, shall apply retroactively to privilege periods ending on and after December 31, 2019, except that:

sections 11 and 16 shall apply retroactively to privilege periods ending on and after July 31, 2020;

sections 6, 7, and 9, shall apply retroactively to privilege periods ending on and after July 31, 2019; and

section 3 shall apply retroactively to privilege periods ending on and after July 31, 2019, but the amendment to subsubparagraph (ii) of subparagraph (A) of paragraph (5) of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4) shall be retroactive to privilege periods beginning after December 31, 2016 and before January 1, 2019.

Approved November 4, 2020.

CHAPTER 119

AN ACT allowing State residents who are outside of New Jersey to place wagers on horse races using the account wagering system and amending P.L.2001, c.199.

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

1. Section 16 of P.L.2001, c.199 (C.5:5-142) is amended to read as follows:

C.5:5-142. Requirements for account wagering.

16. a. A person shall not place an account wager except in accordance with this act through the account wagering licensee, and no entity, other than the account wagering licensee, shall accept an account wager except as permitted by P.L.2001, c.199 (C.5:5-127 et seq.). A person may not place an account wager unless the person has established an account with the account wagering licensee. To establish a wagering account, a person shall be a New Jersey resident at least 18 years of age. A resident of this State who has established an account with an account wagering licensee may place an account wager through the licensee while physically present in New Jersey, or while physically present in another jurisdiction if placing such a wager is not inconsistent with the law of that jurisdiction or with federal law.

b. The account shall be in the name of a natural person and may not be in the name of any beneficiary, custodian, joint trust, corporation, partnership or other organization or entity.

c. An account may be established by a person completing an application form approved by the commission and submitting it together with a certification, or other proof, of age and residency. The form shall include the address of the principal residence of the prospective account holder and a statement that a false statement made in regard to an application may subject the applicant to prosecution.

d. The prospective account holder shall submit the completed application to the account wagering licensee, to any account wagering participating permit holder or to a licensed off-track wagering facility or such other person or entity as may be approved by the commission. The account wagering licensee may accept or reject an application after receipt and review of the application and certification, or other proof, of age and residency for compliance with this act.

e. Any prospective account holder who provides false or misleading information on the application is subject to rejection of the application or cancellation of the account by the account wagering licensee without notice.

f. The account wagering licensee shall have the right to suspend or close any wagering account at its discretion.

g. Any person not in good standing with the commission shall not be entitled to maintain a wagering account.

h. The address provided by the applicant in the application shall be deemed the proper address for the purposes of mailing checks, account withdrawals, notices and other materials.

i. A wagering account shall not be assignable or otherwise transferable.

j. Except as otherwise provided in this act or in regulations which the commission may adopt hereunder, all account wagers shall be final and no wager shall be canceled by the account holder at any time after the wager has been accepted by the account wagering licensee.

k. For the purposes of this act and notwithstanding any other law to the contrary, all messages or orders to place account wagers received by the licensee on behalf of a participating permit holder shall be deemed made to a place within this State.

l. All persons accepting account wagers on behalf of the account wagering licensee shall do so at a location within this State.

m. The account wagering licensee may at any time declare the system closed for receiving any wagers on any race or closed for all wagering.

2. Section 18 of P.L.2001, c.199 (C.5:5-144) is amended to read as follows:

C.5:5-144 Acceptance of account wagers.

18. The account wagering licensee may accept account wagers only from residents of New Jersey who are physically present in New Jersey or who are physically present in another jurisdiction if placing such a wager while located in that jurisdiction is not inconsistent with the law of that jurisdiction or with federal law, and only as follows:

a. The account wager shall be placed directly with the account wagering licensee by the holder of the wagering account.

b. The account holder placing the account wager shall provide the licensee with the correct personal identification number of the holder of the wagering account.

c. A licensee may not accept an account wager, or series of wagers, in an amount in excess of funds on deposit in the wagering account of the holder placing the wager. Funds on deposit include amounts credited under section 17 of this act and in the account at the time the wager is placed.

d. Only the holder of a wagering account shall place an account wager. Unless otherwise approved by the commission, no person, corporation or other entity shall directly or indirectly act as an intermediary, transmitter or agent in the placing of wagers for a holder of a wagering account; provided, however, that the use of credit or debit cards specifically approved by the licensee or the use of checks, money orders or negotiable orders of withdrawal or the use of telephonic, computer or electronic means by the account holder to place such wagers shall not be prohibited.

e. The account holder may place a wager in person, by direct telephone call or by communication through other electronic media.

3. This act shall take effect immediately.

Approved November 6, 2020.

CHAPTER 120

AN ACT concerning the collection and reporting of certain prosecutorial and criminal justice data and supplementing Title 52 of the Revised Statutes.

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

C.52:17B-111.1 Attorney General to establish a program to collect, record, analyze data regarding certain defendants.

1. a. The Attorney General, in consultation with the Division of State Police, county prosecutors offices, Administrative Office of the Courts, and Department of Corrections, shall establish a program to collect, record, and analyze data regarding defendants in this State who are age 18 or older at the time of the commission of an alleged indictable offense or disorderly persons offense. In furtherance of this program, the Attorney General shall compile data collected from the time a defendant enters the State's criminal justice system, by arrest, charge, or other action, through the final disposition of the defendant's case. The data shall include information concerning the race, ethnicity, gender, and age of the defendant and be compiled in accordance with the standards of the classification of federal data on race and ethnicity established by the federal Office of Management and Budget. The data shall include, but not be limited to, data concerning:

(1) warrants, arrests, charges, filing of criminal complaints, and indictments;

(2) dismissed or downgraded charges;

(3) cases which proceed to trial, and the disposition of cases, including convictions and guilty pleas;

(4) admission to diversionary programs, including data on program applications, and any prosecutorial or court consent or denial for a defendant's entry into diversionary programs;

(5) cases involving victims, including the race, ethnicity, gender, and age of the defendant and victims in those cases;

(6) plea agreement negotiations, including data concerning plea offers extended and accepted or rejected by the defendant, plea agreements entered or rejected by the court, and whether the plea agreements involved probation or incarceration;

(7) court fees and fines; and

(8) restitution amounts ordered, including any amount collected by the court and paid to a victim.

b. The Division of State Police, county prosecutor's offices, Administrative Office of the Courts, Department of Corrections, Office of the Public Defender, and county and municipal police departments shall cooperate with the Attorney General in the implementation of this program, and shall assist in the collection, recording, compilation and provision of data in furtherance of the program to the extent and in the manner required by the Attorney General.

c. Nothing in this section shall be construed to authorize the disclosure of any confidential or personal identifying information. For the purposes of this section, "personal identifying information" shall include, but not be limited to, name and any aliases, address, social security number, telephone number, fax number, driver's license number, email address, or social media address of any defendant or victim.

d. The Attorney General shall prepare and publish on its Internet website annual reports summarizing the data collected, recorded, and analyzed pursuant to this section.

e. The Attorney General shall, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), annually prepare and transmit to the Governor and the Legislature the reports required in this section.

f. The Attorney General may utilize the services of any public or private entity or entities for the performance of activities in furtherance of the program established under this section, and may enter into agreements for those purposes as the Attorney General deems advisable.

2. This act shall take effect on the first day of the thirteenth month next following the date of enactment, except the Office of the Attorney General, Division of State Police, county prosecutor's offices, Administrative Office of the Courts, Department of Corrections, Office of the Public Defender, and county and municipal police departments may take any anticipatory action in advance thereof as may be necessary to implement the provisions of this act.

Approved November 9, 2020.

CHAPTER 121

AN ACT providing for the modification of contract terms on public contracts between non-profit organizations and State agencies for the inability to perform due to the COVID-19 Public Health Emergency and State of Emergency.

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

1. Notwithstanding the provisions of any law, rule, or regulation to the contrary, when the Division of Purchase and Property in the Department of the Treasury has awarded a contract on behalf of a State agency to a non-profit organization, or a State agency has entered into an agreement or contract pursuant to its delegated purchasing authority or a waiver of advertising with a non-profit organization, or a State agency has entered into an agreement or contract with a third party entity on behalf of a non-profit organization, the division or State agency may, at the request of the non-profit organization, amend the scope of work or terms and conditions if the non-profit organization is unable to fulfill the terms and conditions in the contract due to the COVID-19 Public Health Emergency and State of Emergency declared by the Governor in Executive Order No. 103 and Executive Order 119 of 2020.

COVID-19 Public Health Emergency and State of Emergency amendments shall be permitted if the inability to perform occurred during the period of the COVID-19 Public Health Emergency and State of Emergency or during the six-month period immediately following the end of the COVID-19 Public Health Emergency and State of Emergency.

Non-profit organizations shall submit to the division or appropriate State agency supportive documentation as proof that the failure to fulfill the terms and conditions of a contract or agreement was due to, or that the compliance was impacted by, the COVID-19 Public Health Emergency and State of Emergency declared by the Governor in 2020, in order to receive a waiver of a penalty or to have a modification of the terms and conditions considered by a State agency.

As used in this section, "State agency" means any of the principal departments in the Executive Branch of the State Government, and any division, board, bureau, office, commission, or other instrumentality within or created by such department, the Legislature of the State, and any office, board, bureau, or commission within or created by the Legislative Branch, and any independent State authority, commission, instrumentality, or agency.

A county or municipality shall not be deemed an agency or instrumentality of the State.

This act shall not apply to an agreement or contract entered into by the division or a State agency specifically related to the State's efforts to combat the COVID-19 Public Health Emergency and State of Emergency.

2. This act shall take effect immediately and shall expire on the first day of the ninth month following the end of the Public Health Emergency and State of Emergency declared by the Governor in Executive Order No. 103 of 2020.

Approved November 9, 2020.

CHAPTER 122

AN ACT concerning eligibility of certain education employees for unemployment benefits and amending R.S.43:21-4.

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

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

Benefit eligibility conditions.

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

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

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

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

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

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

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

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

(i) The training is for a labor demand occupation and is likely to enhance the individual's marketable skills and earning power, except that the training may be for an occupation other than a labor demand occupation if the individual is receiving short-time benefits pursuant to the provisions of P.L.2011, c.154 (C.43:21-20.3 et al.) and the training is necessary to prevent a likely loss of jobs;

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

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

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

(v) The individual enrolls in vocational training, remedial education or a combination of both on a full-time basis, except that the training or education may be on a part-time basis if the individual is receiving short-time benefits pursuant to the provisions of P.L.2011, c.154 (C.43:21-20.3 et al.).

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

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

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

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

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

(D) For the purpose of this paragraph (4), "labor demand occupation" means an occupation for which there is or is likely to be an excess of demand over supply for adequately trained workers, including, but not limited to, an occupation designated as a labor demand occupation by the Center for Occupational Employment Information pursuant to the provisions of subsection d. of section 27 of P.L.2005, c.354 (C.34:1A-86).

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

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

For purposes of this paragraph, "immediate family member" includes any of the following individuals: father, mother, mother-in-law, father-in-law, grandmother, grandfather, grandchild, spouse, child, child placed by the Division of Youth and Family Services in the Department of Children and Families, sister or brother of the unemployed individual and any relatives of the unemployed individual residing in the unemployed individual's household.

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

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

the individual is referred by the division or in similar services, unless the division determines that:

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

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

(9) An unemployed individual, who is otherwise eligible, shall not be deemed unavailable for work or ineligible solely by reason of the individual's work as a board worker for a county board of elections on an election day.

(10) An individual who is employed by a shared work employer and is otherwise eligible for benefits shall not be deemed ineligible for short-time benefits because the individual is unavailable for work with employers other than the shared work employer, so long as:

(A) The individual is able to work and is available to work the individual's normal full-time hours for the shared work employer; or

(B) The individual is attending a training program which is in compliance with the provisions of paragraph (4) of subsection (c) of this section and the agreements and certifications required pursuant to the provisions of section 2 of P.L.2011, c.154 (C.43:21-20.4).

(d) With respect to any benefit year commencing before January 1, 2002, the individual has been totally or partially unemployed for a waiting period of one week in the benefit year which includes that week. When benefits become payable with respect to the third consecutive week next following the waiting period, the individual shall be eligible to receive benefits as appropriate with respect to the waiting period. No week shall be counted as a week of unemployment for the purposes of this subsection:

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

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

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

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

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

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

(2) (Deleted by amendment, P.L.2008, c.17).

(3) (Deleted by amendment, P.L.2008, c.17).

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

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

(B) If the individual has not met the requirements of subparagraph (A) of this paragraph (4), earned remuneration not less than an amount 1,000 times the minimum wage in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year preceding the calendar year in which the benefit year commences, which amount shall be adjusted to the next higher multiple of $100 if not already a multiple thereof.

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

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

(B) Has earned remuneration not less than an amount 1,000 times the minimum wage in effect pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the calendar year preceding the calendar year in which the benefit year commences, which amount shall be adjusted to the next higher multiple of $100 if not already a multiple thereof; or

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

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

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

(f) (1) The individual has suffered any accident or sickness not compensable under the workers' compensation law, R.S.34:15-1 et seq. and resulting in the individual's total disability to perform any work for remuneration, and would be eligible to receive benefits under this chapter (R.S.43:21-1 et seq.) (without regard to the maximum amount of benefits payable during any benefit year) except for the inability to work and has furnished notice and proof of claim to the division, in accordance with its rules and regulations, and payment is not precluded by the provisions of R.S.43:21-3(d); provided, however, that benefits paid under this subsection (f) shall be computed on the basis of only those base year wages earned by the claimant as a "covered individual," as defined in subsection (b) of section 3 of P.L.1948, c.110 (C.43:21-27); provided further that no benefits shall be payable under this subsection to any individual:

(A) For any period during which such individual is not under the care of a legally licensed physician, dentist, optometrist, podiatrist, practicing psychologist, advanced practice nurse, or chiropractor, who, when requested by the division, shall certify within the scope of the practitioner's practice, the disability of the individual, the probable duration thereof, and, where applicable, the medical facts within the practitioner's knowledge;

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

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

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

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

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

(2) The individual is taking family temporary disability leave to provide care for a family member with a serious health condition or to be with a child

during the first 12 months after the child's birth or placement of the child for adoption or as a foster child with the individual, and the individual would be eligible to receive benefits under R.S.43:21-1 et seq. (without regard to the maximum amount of benefits payable during any benefit year) except for the individual's unavailability for work while taking the family temporary disability leave, and the individual has furnished notice and proof of claim to the division, in accordance with its rules and regulations, and payment is not precluded by the provisions of R.S.43:21-3(d) provided, however, that benefits paid under this subsection (f) shall be computed on the basis of only those base year wages earned by the claimant as a "covered individual," as defined in subsection (b) of section 3 of P.L.1948, c.110 (C.43:21-27); provided further that no benefits shall be payable under this subsection to any individual:

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

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

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

(D) For any period of family temporary disability leave for a serious health condition of a family member of the claimant during which the family member is not receiving inpatient care in a hospital, hospice, or residential medical care facility and is not subject to continuing medical treatment or continuing supervision by a health care provider, who, when requested by the division, shall certify within the scope of the provider's practice, the serious health condition of the family member, the probable duration thereof, and, where applicable, the medical facts within the provider's knowledge.

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

(g) Benefits based on service in employment defined in subparagraphs (B) and (C) of R.S.43:21-19 (i)(1) shall be payable in the same amount and on the terms and subject to the same conditions as benefits payable on the basis of other

service subject to the "unemployment compensation law"; except that, notwithstanding any other provisions of the "unemployment compensation law":

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

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

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

(4) With respect to any services described in paragraphs (1) and (2) above, benefits shall not be paid as specified in paragraphs (1), (2), and (3) above to any individual who performed those services in an educational institution while in the employ of an educational service agency, and for this purpose the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing those services to one or more educational institutions;

(5) As used in this subsection (g) in order for there to be a "reasonable assurance" all of the following requirements shall be met:

(A) The educational institution has made an offer of employment in the following academic year or term that is either written, oral, or implied;

(B) The offer of employment in the following academic year or term was made by an individual with actual authority to offer employment;

(C) The employment offered in the following academic year or term shall be in the same capacity;

(D) The economic conditions of the employment offered may not be considerably less in the following academic year or term than in the then current academic year or term. For the purpose of this paragraph, "considerably less" means that the claimant will earn less than 90 percent of the amount the claimant earned in the then current academic year or term;

(E) The offer of employment in the following academic year or term is not contingent upon a factor or factors that are within the educational institution's control, including but not limited to, course programming, decisions on how to allocate available funding, final course offerings, program changes, and facility availability; and

(F) Based on a totality of the circumstances, it is highly probable that there is a job available for the claimant in the following academic year or term. If a job offer contains a contingency, primary weight should be given to the contingent nature of the offer of employment. Contingencies that are not necessarily within the educational institution's control, such as funding, enrollment and seniority, may be taken into consideration but the existence of any one contingency should not determine whether it is highly probable that there is a job available for the claimant in the following academic year or term.

(6) Determinations by the department whether claimants have a "reasonable assurance" shall be done on a case-by-case basis.

(7) Each educational institution shall provide the following to the department, in a form, including electronic form, prescribed by the commissioner, no less than 10 business days prior to the end of the academic year or term:

(A) A list of all employees who the educational institution has concluded do not have a reasonable assurance of employment in the following academic year or term, along with information prescribed by the commissioner regarding each such employee, which information shall include, but not be limited to, name and social security number; and

(B) For each employee that the educational institution maintains does have a reasonable assurance of employment in the following academic year or term, a statement explaining the manner in which the employee was given a reasonable assurance of employment, that is, whether it was in writing, oral,

or implied, and what information about the offer, including contingencies, was communicated to the individual.

(8) The statement required under subparagraph (B) of paragraph (7) of this subsection (g) may be used by the department in its analysis under paragraphs (5) and (6) of this subsection (g), but it does not conclusively demonstrate that the claimant has a reasonable assurance of employment in the following academic year or term.

(9) Failure of an educational institution to provide the statement required under subparagraph (B) of paragraph (7) of this subsection (g) not less than 10 business days prior to the end of the academic year or term shall result in a rebuttable presumption that the claimant does not have a reasonable assurance of employment in the following academic year or term. This rebuttable presumption shall give rise to an inference that the claimant does not have a reasonable assurance of employment in the following academic year or term, but shall not conclusively demonstrate that the claimant does not have a reasonable assurance of employment in the following academic year or term.

(10) If any part of P.L.2020, c.122 is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the State or the eligibility of employers in this State for federal unemployment tax credits, the conflicting part of that act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the State or the granting of federal unemployment tax credits to employers in this State.

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

(i) (1) Benefits shall not be paid on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time the services were performed and was lawfully present for the purpose of performing the services or otherwise was permanently residing in the United States under color of law at the time the services were performed (including an alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) (8 U.S.C. s.1182 (d)(5)) of the Immigration and Nationality Act (8 U.S.C. s.1101 et

seq.)); provided that any modifications of the provisions of section 3304(a)(14) of the Federal Unemployment Tax Act (26 U.S.C. s. 3304 (a) (14)) as provided by Pub.L.94-566, which specify other conditions or other effective dates than stated herein for the denial of benefits based on services performed by aliens and which modifications are required to be implemented under State law as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, shall be deemed applicable under the provisions of this section.

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

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

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

2. This act shall take effect immediately.

Approved November 10, 2020.

CHAPTER 123

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, 2021 and regulating the disbursement thereof," approved September 29, 2020 (P.L.2020, c.97).

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

1. In addition to the amounts appropriated under P.L.2020, c.97, there is appropriated out of the General Fund the following sum for the purpose specified:

22 DEPARTMENT OF COMMUNITY AFFAIRS
50 Economic Planning, Development, and Security
55 Social Services Programs
GRANTS-IN-AID

05-8050 Community Resources $5,000,000
Total Grants-in-Aid Appropriation, Social Services Programs..... $5,000,000

Grants-in-Aid:
05 NJSHARES - S.M.A.R.T. Program .....($5,000,000)

The amounts hereinabove appropriated for the NJSHARES - S.M.A.R.T. Program shall be awarded by the Commissioner of Community Affairs to homeowners and tenants of residential property throughout the State who suffered financial loss during the pendency of the Governor's declaration of a Public Health Emergency under the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), and of a State of Emergency under P.L.1942, c. 251 (C.App.A.9-33 et seq.), in relation to the coronavirus disease 2019. The $5 million appropriated herein shall be appropriated from the Universal Service Fund for utility payment assistance. The Commissioner of Community Affairs shall design and establish program criteria and guidelines consistent with this act which the Commissioner of Community Affairs deems necessary and appropriate to award grants to eligible homeowners and tenants in an expeditious manner so to enable eligible homeowners and tenants to comply with their utilities obligations. The Commissioner of Community Affairs may implement this program through the award of contracts, or through the delegation of its authority to award grants, to private nonprofit organizations, public agencies, or both. To be eligible for a grant under this program, a homeowner or tenant shall not be eligible for, or a recipient of funding from, private insurance or from any other available funding opportunity which may be considered a duplication of benefits.

2. This act shall take effect immediately.

Approved November 18, 2020.

CHAPTER 124

AN ACT permitting raffles to be conducted remotely at large sporting venues during a declared public health emergency and amending P.L.2018, c.79.

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

1. Section 1 of P.L.2018, c.79 (C.5:8-51.6) is amended to read as follows:

C.5:8-51.6 Conduct of raffles at large sporting venues, or remotely.

1. a. It shall be lawful for an organization eligible to conduct raffles in accordance with section 2 of P.L.1954, c.5 (C.5:8-51) and registered and licensed with the Legalized Games of Chance Control Commission to conduct, whether in person at any time or remotely while the Public Health Emergency declared by the Governor in Executive Order No. 103 of 2020 is in effect or whenever a Public Health Emergency, pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), has been declared by the Governor and is in effect, raffles in a large sporting venue located in a municipality where the provisions of the "Raffles Licensing Law," P.L.1954, c.5 (C.5:8-50 et seq.), are operative, provided that all other requirements to conduct raffles are met. To the extent any conflict exists between this act, P.L.2018, c.79 (C.5:8-51.6), and the "Raffles Licensing Law," P.L.1954, c.5 (C.5:8-50 et seq.), then the provisions set forth in this act shall govern.

For the purposes of this section, the conduct of the raffle remotely using the Internet or other electronic means shall be deemed to be the conduct of the raffle at the large sporting venue, and shall be deemed to take place only thereat, regardless of any participant's physical location within this State, provided the large sporting venue and the specific event with which the conduct of the raffle is associated are conspicuously and specifically identified in conjunction with the raffles and remote ticket sales, personnel of the organization conducting the raffle, whether or not through a third-party vendor, are located in the venue at the time of the sale and drawing of any ticket, and the drawing and the announcement of any winning raffle tickets occurs prior to the end of the event at the large sporting venue with which the raffle is associated.

An organization conducting a raffle at a large sporting venue is subject to the following requirements:

(1) The organization conducting the raffle, in conjunction with the large sporting venue, shall announce the winner or winners of a raffle on the date on which the event with which the raffle is associated occurs. The organization and the large sporting venue shall post each winning raffle ticket number on their respective websites, if such websites have been established, on the same date as the announcement, which number shall be posted for one year

or until each winner claims the prize and submits any required documentation. For raffles conducted in person, any prize from a raffle shall be delivered to a claimant verified to have the winning ticket within 30 days of the event in which the raffle took place; however, if no claimant verified to have the winning ticket claims the prize and signs all reasonably necessary documentation within 30 days of the event at which the raffle took place, the organization conducting the raffle shall hold the proceeds for a period of one year from the date of the raffle. If no claimant with the winning raffle ticket claims the prize and has signed all reasonably necessary documentation within one year from the date of the drawing, then the prize shall be forfeited and shall revert back to the organization for its own authorized use. For any raffles conducted remotely while the Public Health Emergency declared by the Governor in Executive Order No. 103 of 2020 is in effect or whenever a Public Health Emergency, pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), has been declared by the Governor and is in effect, any prize from a raffle shall be delivered at the large sporting venue at which the event with which the raffle was associated occurred to a claimant verified to have the winning ticket within one year of the event during which the raffle took place. If no claimant with the winning raffle ticket claims the prize and has signed all reasonably necessary documentation within one year from the date of the drawing, then the prize shall be forfeited and shall revert back to the organization for its own authorized use.

Notwithstanding the foregoing, any prize which due to its nature must be claimed by a date certain, such as a ticket to an event scheduled at the large stadium venue, which is not claimed within 72 hours of the event, then the prize shall be forfeited and shall revert back to the organization for its own authorized use.

(2) Any daily and annual limits on the value of prizes contained in existing law or regulation shall not apply to raffles conducted at large sporting venues in accordance with this act, P.L.2018, c.79 (C.5:8-51.6).

(3) On a quarterly basis in accordance with a schedule established by the commission, an organization conducting raffles in a large sporting venue in accordance with this act, P.L.2018, c.79 (C.5:8-51.6), shall furnish to the control commission a duly verified statement showing the amount of the gross receipts derived from each raffle held, operated, or conducted in the preceding quarter, which shall include receipts from the sale of shares, tickets, or rights in any manner connected with participation in the raffle or the right to participate therein, each item of expense incurred or paid, and each item of expenditure made or to be made, name and address of each person to whom each such item has been or is to be paid, with a detailed description of the

merchandise purchased or the services rendered therefor, the net proceeds derived from each such raffle, and the uses to which such net proceeds have been or are to be applied and a list of prizes offered or given, with the respective values thereof and it shall be the duty of each organization to maintain and keep such books and records as may be necessary to substantiate the particulars of each such report.

(4) An organization shall not conduct a raffle remotely unless the organization has received written approval from and is operating the raffle in conjunction with the large sporting venue and has received written approval from the Legalized Games of Chance Control Commission of measures it proposes and implements that ensure, to the greatest extent possible, the fairness, integrity and security of the remote conduct of the raffle and the security of the method of receipt of payment for any raffle ticket sale. The commission may consult with the Division of Gaming Enforcement in the Department of Law and Public Safety in its review of the measures the organization proposes and implements.

b. Notwithstanding section 9 of P.L.1954, c.5 (C.5:8-58), an organization conducting raffles at a large sporting venue may conduct raffles on Sunday. Alcohol may be served at the sporting venue during the conduct of raffles provided that the sporting venue is the holder of a sporting facility license in accordance with R.S.33:1-12, or other appropriate license, to serve alcohol at retail for consumption on the premises by the glass or other open receptacle or in original containers. An organization conducting raffles at a large sporting venue is not required to conduct the drawings openly and in plain view of all players present.

c. Tickets for raffles conducted in person at a large sporting venue may be sold only by in-person transactions within the geographic area of the large sporting venue electronically or by the issuance of paper tickets, and through devices operated or kiosks staffed by individuals who are employed by or represent the organization conducting the raffle. Tickets for raffles conducted remotely while the Public Health Emergency declared by the Governor in Executive Order No. 103 of 2020 is in effect or whenever a Public Health Emergency, pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), has been declared by the Governor and is in effect, may be sold remotely to purchasers physically located within this State, using the Internet or other electronic means, in accordance with this subsection. Tickets for raffles may not be purchased electronically by the public other than through transactions with the personnel of the organization conducting the raffle, whether or not such transaction is completed through a third-party vendor. Transactions between the purchaser and individuals who are employed by or otherwise represent the organization conducting the raffle may

be made by cash, credit card, or other electronic payment methods, including, but not limited to, the utilization of Internet or intranet access (Wi-Fi or cellular connectivity). The sale and purchase of tickets remotely using the Internet or other electronic means shall be deemed to take place only at the large sporting venue regardless of a purchaser's physical location within this State, provided the personnel of the organization conducting the raffle, whether or not through a third-party vendor, is located in the venue at the time of sale. An organization conducting a raffle remotely using the Internet or other electronic means shall establish and adhere to procedures and controls, including but not limited to the use of geolocation technology, approved by the commission that ensure, to the greatest extent possible, that raffle tickets will be sold only to persons physically located in this State. Tickets for raffles conducted in accordance with this act, P.L.2018, c.79 (C.5:8-51.6), shall not be subject to any ticket price limits set for the general conduct of raffles. Pre-set bundles of tickets may be sold at a discount to participants.

d. Pursuant to P.L.2018, c.79 (C.5:8-51.6) and notwithstanding the provisions of subsection b. of section 2 of P.L.1954, c.5 (C.5:8-51), a 50-50 raffle shall have the raffle's net proceeds divided between the raffle winner and the organization conducting the raffle as a prize, and the prize may be awarded to a single participant or may be divided between a pre-determined number of participants. If the prize is to be divided between more than one participant, potential participants shall be made aware of such a division. No more than one 50-50 raffle as described in this subsection shall be conducted during a ticketed event.

e. An organization conducting a raffle in person at a large sporting venue may sell only traditional paper tickets, may use only electronic raffle systems, or may use a combination of paper and electronic raffle systems. An organization conducting a raffle remotely at a large sporting venue while the Public Health Emergency declared by the Governor in Executive Order No. 103 of 2020 is in effect or whenever a Public Health Emergency, pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), has been declared by the Governor and is in effect, may also use the Internet or other electronic means, including software applications. Drawings for all raffles may be conducted either by a traditional drawing of duplicate paper tickets or electronically, with the winner or winners selected by electronic means. For raffles conducted in paper form where winners are chosen electronically or in combination of paper and electronic raffle systems, the paper tickets shall be entered into the electronic raffle system for record-keeping and for drawing purposes so that the purchases of paper tickets have an equal chance of winning as the purchases of electronic rights.

f. Notwithstanding the provisions of P.L.1954, c.5 (C.5:8-50 et seq.), or any other law, rule, or regulation to the contrary, an organization conducting a raffle at a large sporting venue shall be permitted to deduct from gross revenues its reasonable costs and expenses of conducting the raffle.

g. The commission, in consultation with the Division of Gaming Enforcement in the Department of Law and Public Safety, shall promulgate, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations governing the conduct of raffles remotely using the Internet or other electronic means in accordance with the provisions of this section.

h. As used in this section:

"Electronic raffle systems" means hardware, software, including software applications, internet, cellular, or Wi-Fi connected devices and associated devices that enable raffles to be conducted entirely by electronic means, with rights to participate sold electronically by individuals who are employed by or otherwise represent the organization conducting the raffle, that generate a unique electronic entry to the raffle that is the equivalent of a paper ticket, each an electronic ticket which may be delivered to the purchaser electronically, at the point of sale on the premises of the large sporting venue recorded in the electronic raffle system as eligible entries or rights to participate, and winners determined by random drawing from all electronic entries or rights to participate.

"Internet or other electronic means" shall not include electronic raffle systems.

"Large sporting venue" means a stadium, arena, or similar venue with minimum seating for 8,000 spectators wherein professional, semi-professional, or collegiate athletes compete in sports or other athletic games and including the parking lots adjacent to and serving the patrons of that venue.

"Net proceeds" means the gross income from the sale of tickets or rights to participate in a raffle, less only such actual expenses incurred as are authorized in the "Raffles Licensing Law," P.L.1954, c.5 (C.5:8-50 et seq.), and by the commission.

2. An organization eligible to conduct raffles in accordance with section 2 of P.L.1954, c.5 (C.5:8-51) and registered and licensed with the Legalized Games of Chance Control Commission may conduct raffles remotely using the Internet or other electronic means, including mobile, tablet, or other software applications, on or after the date of enactment of this act, P.L.2020, c.124, but prior to the adoption of the rules and regulations promulgated pursuant to subsection g. thereof, provided the organization is able to ensure, to the greatest extent possible, the fairness, integrity, and security of the conduct

of the raffle and the security of the method of receipt of payment for any raffle ticket sale, subject to the approval of the commission as required by section 1 of P.L.2018, c.79 (C.5:8-51.6).

3. This act shall take effect immediately.

Approved November 18, 2020.

CHAPTER 125

AN ACT prohibiting disclosure of certain information regarding active, formerly active, and retired judicial officers, prosecutors, and law enforcement officers, as well as disclosure of certain information about their family members under certain circumstances, designated as "Daniel's Law," and amending P.L.1995, c.23, P.L.2001, c.404, and amending the title and body of, and supplementing,P.L.2015, c.226.

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

1. Section 1 of P.L.1995, c.23 (C.47:1A-1.1) is amended to read as follows:

C.47:1A-1.1 Definitions.

1. As used in P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented:

"Biotechnology" means any technique that uses living organisms, or parts of living organisms, to make or modify products, to improve plants or animals, or to develop micro-organisms for specific uses; including the industrial use of recombinant DNA, cell fusion, and novel bioprocessing techniques.

"Custodian of a government record" or "custodian" means in the case of a municipality, the municipal clerk and in the case of any other public agency, the officer officially designated by formal action of that agency's director or governing body, as the case may be.

"Government record" or "record" means any paper, written or printed book, document, drawing, map, plan, photograph, microfilm, data processed or image processed document, information stored or maintained electronically or by sound-recording or in a similar device, or any copy thereof, that has been made, maintained or kept on file in the course of his or its official business by any officer, commission, agency or authority of the State or of any political

subdivision thereof, including subordinate boards thereof, or that has been received in the course of his or its official business by any such officer, commission, agency, or authority of the State or of any political subdivision thereof, including subordinate boards thereof. The terms shall not include inter-agency or intra-agency advisory, consultative, or deliberative material.

A government record shall not include the following information which is deemed to be confidential for the purposes of P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented:

information received by a member of the Legislature from a constituent or information held by a member of the Legislature concerning a constituent, including but not limited to information in written form or contained in any e-mail or computer data base, or in any telephone record whatsoever, unless it is information the constituent is required by law to transmit;

any memorandum, correspondence, notes, report or other communication prepared by, or for, the specific use of a member of the Legislature in the course of the member's official duties, except that this provision shall not apply to an otherwise publicly-accessible report which is required by law to be submitted to the Legislature or its members;

any copy, reproduction or facsimile of any photograph, negative or print, including instant photographs and videotapes of the body, or any portion of the body, of a deceased person, taken by or for the medical examiner at the scene of death or in the course of a post mortem examination or autopsy made by or caused to be made by the medical examiner except:

when used in a criminal action or proceeding in this State which relates to the death of that person,

for the use as a court of this State permits, by order after good cause has been shown and after written notification of the request for the court order has been served at least five days before the order is made upon the county prosecutor for the county in which the post mortem examination or autopsy occurred,

for use in the field of forensic pathology or for use in medical or scientific education or research, or

for use by any law enforcement agency in this State or any other state or federal law enforcement agency;

criminal investigatory records;

victims' records, except that a victim of a crime shall have access to the victim's own records;

any written request by a crime victim for a record to which the victim is entitled to access as provided in this section, including, but not limited to, any law enforcement agency report, domestic violence offense report, and temporary or permanent restraining order;

personal firearms records, except for use by any person authorized by law to have access to these records or for use by any government agency, including any court or law enforcement agency, for purposes of the administration of justice;

personal identifying information received by the Division of Fish and Wildlife in the Department of Environmental Protection in connection with the issuance of any license authorizing hunting with a firearm. For the purposes of this paragraph, personal identifying information shall include, but not be limited to, identity, name, address, social security number, telephone number, fax number, driver's license number, email address, or social media address of any applicant or licensee;

trade secrets and proprietary commercial or financial information obtained from any source. For the purposes of this paragraph, trade secrets shall include data processing software obtained by a public body under a licensing agreement which prohibits its disclosure;

any record within the attorney-client privilege. This paragraph shall not be construed as exempting from access attorney or consultant bills or invoices except that such bills or invoices may be redacted to remove any information protected by the attorney-client privilege;

administrative or technical information regarding computer hardware, software and networks which, if disclosed, would jeopardize computer security;

emergency or security information or procedures for any buildings or facility which, if disclosed, would jeopardize security of the building or facility or persons therein;

security measures and surveillance techniques which, if disclosed, would create a risk to the safety of persons, property, electronic data or software;

information which, if disclosed, would give an advantage to competitors or bidders;

information generated by or on behalf of public employers or public employees in connection with any sexual harassment complaint filed with a public employer or with any grievance filed by or against an individual or in connection with collective negotiations, including documents and statements of strategy or negotiating position;

information which is a communication between a public agency and its insurance carrier, administrative service organization or risk management office;

information which is to be kept confidential pursuant to court order;

any copy of form DD-214, NGB-22, or that form, issued by the United States Government, or any other certificate of honorable discharge, or copy thereof, from active service or the reserves of a branch of the Armed Forces of the United States, or from service in the organized militia of the State, that

has been filed by an individual with a public agency, except that a veteran or the veteran's spouse or surviving spouse shall have access to the veteran's own records;

any copy of an oath of allegiance, oath of office or any affirmation taken upon assuming the duties of any public office, or that oath or affirmation, taken by a current or former officer or employee in any public office or position in this State or in any county or municipality of this State, including members of the Legislative Branch, Executive Branch, Judicial Branch, and all law enforcement entities, except that the full name, title, and oath date of that person contained therein shall not be deemed confidential;

that portion of any document which discloses the social security number, credit card number, unlisted telephone number or driver license number of any person, or that portion of any document which discloses the home address, whether a primary or secondary residence, of any active, formerly active, or retired judicial officer or prosecutor, and beginning 18 months after the effective date of P.L.2020, c.125 (C.56:8-166.2 et al.), any active, formerly active, or retired law enforcement officer; except for use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf thereof, or any private person or entity seeking to enforce payment of court-ordered child support; except with respect to the disclosure of driver information by the New Jersey Motor Vehicle Commission as permitted by section 2 of P.L.1997, c.188 (C.39:2-3.4); and except that a social security number contained in a record required by law to be made, maintained or kept on file by a public agency shall be disclosed when access to the document or disclosure of that information is not otherwise prohibited by State or federal law, regulation or order or by State statute, resolution of either or both houses of the Legislature, Executive Order of the Governor, rule of court or regulation promulgated under the authority of any statute or executive order of the Governor;

a list of persons identifying themselves as being in need of special assistance in the event of an emergency maintained by a municipality for public safety purposes pursuant to section 1 of P.L.2017, c.266 (C.40:48-2.67); and

a list of persons identifying themselves as being in need of special assistance in the event of an emergency maintained by a county for public safety purposes pursuant to section 6 of P.L.2011, c.178 (C.App.A:9-43.13).

A government record shall not include, with regard to any public institution of higher education, the following information which is deemed to be privileged and confidential:

pedagogical, scholarly and/or academic research records and/or the specific details of any research project conducted under the auspices of a public

higher education institution in New Jersey, including, but not limited to research, development information, testing procedures, or information regarding test participants, related to the development or testing of any pharmaceutical or pharmaceutical delivery system, except that a custodian may not deny inspection of a government record or part thereof that gives the name, title, expenditures, source and amounts of funding and date when the final project summary of any research will be available;

test questions, scoring keys and other examination data pertaining to the administration of an examination for employment or academic examination;

records of pursuit of charitable contributions or records containing the identity of a donor of a gift if the donor requires non-disclosure of the donor's identity as a condition of making the gift provided that the donor has not received any benefits of or from the institution of higher education in connection with such gift other than a request for memorialization or dedication;

valuable or rare collections of books or documents obtained by gift, grant, bequest or devise conditioned upon limited public access;

information contained on individual admission applications; and

information concerning student records or grievance or disciplinary proceedings against a student to the extent disclosure would reveal the identity of the student.

"Personal firearms record" means any information contained in a background investigation conducted by the chief of police, the county prosecutor, or the Superintendent of State Police, of any applicant for a permit to purchase a handgun, firearms identification card license, or firearms registration; any application for a permit to purchase a handgun, firearms identification card license, or firearms registration; any document reflecting the issuance or denial of a permit to purchase a handgun, firearms identification card license, or firearms registration; and any permit to purchase a handgun, firearms identification card license, or any firearms license, certification, certificate, form of register, or registration statement. For the purposes of this paragraph, information contained in a background investigation shall include, but not be limited to, identity, name, address, social security number, phone number, fax number, driver's license number, email address, social media address of any applicant, licensee, registrant or permit holder.

"Public agency" or "agency" means any of the principal departments in the Executive Branch of State Government, and any division, board, bureau, office, commission or other instrumentality within or created by such department; the Legislature of the State and any office, board, bureau or commission within or created by the Legislative Branch; and any independent State authority, commission, instrumentality or agency. The terms also mean any

political subdivision of the State or combination of political subdivisions, and any division, board, bureau, office, commission or other instrumentality within or created by a political subdivision of the State or combination of political subdivisions, and any independent authority, commission, instrumentality or agency created by a political subdivision or combination of political subdivisions.

"Law enforcement agency" means a public agency, or part thereof, determined by the Attorney General to have law enforcement responsibilities.

"Constituent" means any State resident or other person communicating with a member of the Legislature.

"Judicial officer" means any active, formerly active, or retired federal, state, county, or municipal judge, including a judge of the Tax Court and any other court of limited jurisdiction established, altered, or abolished by law, a judge of the Office of Administrative Law, a judge of the Division of Workers' Compensation, and any other judge established by law who serves in the executive branch.

"Member of the Legislature" means any person elected or selected to serve in the New Jersey Senate or General Assembly.

"Criminal investigatory record" means a record which is not required by law to be made, maintained or kept on file that is held by a law enforcement agency which pertains to any criminal investigation or related civil enforcement proceeding.

"Victim's record" means an individually-identifiable file or document held by a victims' rights agency which pertains directly to a victim of a crime except that a victim of a crime shall have access to the victim's own records.

"Victim of a crime" means a person who has suffered personal or psychological injury or death or incurs loss of or injury to personal or real property as a result of a crime, or if such a person is deceased or incapacitated, a member of that person's immediate family.

"Victims' rights agency" means a public agency, or part thereof, the primary responsibility of which is providing services, including but not limited to food, shelter, or clothing, medical, psychiatric, psychological or legal services or referrals, information and referral services, counseling and support services, or financial services to victims of crimes, including victims of sexual assault, domestic violence, violent crime, child endangerment, child abuse or child neglect, and the Victims of Crime Compensation Board, established pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and continued as the Victims of Crime Compensation Office pursuant to P.L.2007, c.95 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.

2. Section 6 of P.L.2001, c.404 (C.47:1A-5) is amended to read as follows:

C.47:1A-5 Times during which records may be inspected, examined, copied; access; copy fees.

6. a. The custodian of a government record shall permit the record to be inspected, examined, and copied by any person during regular business hours; or in the case of a municipality having a population of 5,000 or fewer according to the most recent federal decennial census, a board of education having a total district enrollment of 500 or fewer, or a public authority having less than $10 million in assets, during not less than six regular business hours over not less than three business days per week or the entity's regularly-scheduled business hours, whichever is less; unless a government record is exempt from public access by: P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented; any other statute; resolution of either or both houses of the Legislature; regulation promulgated under the authority of any statute or Executive Order of the Governor; Executive Order of the Governor; Rules of Court; any federal law; federal regulation; or federal order. Prior to allowing access to any government record, the custodian thereof shall redact from that record any information which discloses the social security number, credit card number, unlisted telephone number, or driver license number of any person, or the home address, whether a primary or secondary residence, of any active, formerly active, or retired judicial officer or prosecutor, and beginning 18 months after the effective date of P.L.2020, c.125 (C.56:8-166.2 et al.), any active, formerly active, or retired law enforcement officer; except for use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf thereof, or any private person or entity seeking to enforce payment of court-ordered child support; except with respect to the disclosure of driver information by the New Jersey Motor Vehicle Commission as permitted by section 2 of P.L.1997, c.188 (C.39:2-3.4); and except that a social security number contained in a record required by law to be made, maintained or kept on file by a public agency shall be disclosed when access to the document or disclosure of that information is not otherwise prohibited by State or federal law, regulation or order or by State statute, resolution of either or both houses of the Legislature, Executive Order of the Governor, rule of court or regulation promulgated under the authority of any statute or executive order of the Governor. Except where an agency can demonstrate an emergent need, a regulation that limits access to government

records shall not be retroactive in effect or applied to deny a request for access to a government record that is pending before the agency, the council or a court at the time of the adoption of the regulation.

b. (1) A copy or copies of a government record may be purchased by any person upon payment of the fee prescribed by law or regulation. Except as otherwise provided by law or regulation and except as provided in paragraph (2) of this subsection, the fee assessed for the duplication of a government record embodied in the form of printed matter shall be $0.05 per letter size page or smaller, and $0.07 per legal size page or larger. If a public agency can demonstrate that its actual costs for duplication of a government record exceed the foregoing rates, the public agency shall be permitted to charge the actual cost of duplicating the record. The actual cost of duplicating the record, upon which all copy fees are based, shall be the cost of materials and supplies used to make a copy of the record, but shall not include the cost of labor or other overhead expenses associated with making the copy except as provided for in subsection c. of this section. Access to electronic records and non-printed materials shall be provided free of charge, but the public agency may charge for the actual costs of any needed supplies such as computer discs.

(2) No fee shall be charged to a victim of a crime for a copy or copies of a record to which the crime victim is entitled to access, as provided in section 1 of P.L.1995, c.23 (C.47:1A-1.1).

c. Whenever the nature, format, manner of collation, or volume of a government record embodied in the form of printed matter to be inspected, examined, or copied pursuant to this section is such that the record cannot be reproduced by ordinary document copying equipment in ordinary business size or involves an extraordinary expenditure of time and effort to accommodate the request, the public agency may charge, in addition to the actual cost of duplicating the record, a special service charge that shall be reasonable and shall be based upon the actual direct cost of providing the copy or copies; provided, however, that in the case of a municipality, rates for the duplication of particular records when the actual cost of copying exceeds the foregoing rates shall be established in advance by ordinance. The requestor shall have the opportunity to review and object to the charge prior to it being incurred.

d. A custodian shall permit access to a government record and provide a copy thereof in the medium requested if the public agency maintains the record in that medium. If the public agency does not maintain the record in the medium requested, the custodian shall either convert the record to the medium requested or provide a copy in some other meaningful medium. If a request is for a record: (1) in a medium not routinely used by the agency; (2) not routinely developed or maintained by an agency; or (3) requiring a

substantial amount of manipulation or programming of information technology, the agency may charge, in addition to the actual cost of duplication, a special charge that shall be reasonable and shall be based on the cost for any extensive use of information technology, or for the labor cost of personnel providing the service, that is actually incurred by the agency or attributable to the agency for the programming, clerical, and supervisory assistance required, or both.

e. Immediate access ordinarily shall be granted to budgets, bills, vouchers, contracts, including collective negotiations agreements and individual employment contracts, and public employee salary and overtime information.

f. The custodian of a public agency shall adopt a form for the use of any person who requests access to a government record held or controlled by the public agency. The form shall provide space for the name, address, and phone number of the requestor and a brief description of the government record sought. The form shall include space for the custodian to indicate which record will be made available, when the record will be available, and the fees to be charged. The form shall also include the following: (1) specific directions and procedures for requesting a record; (2) a statement as to whether prepayment of fees or a deposit is required; (3) the time period within which the public agency is required by P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented, to make the record available; (4) a statement of the requestor's right to challenge a decision by the public agency to deny access and the procedure for filing an appeal; (5) space for the custodian to list reasons if a request is denied in whole or in part; (6) space for the requestor to sign and date the form; (7) space for the custodian to sign and date the form if the request is fulfilled or denied. The custodian may require a deposit against costs for reproducing documents sought through an anonymous request whenever the custodian anticipates that the information thus requested will cost in excess of $5 to reproduce.

g. A request for access to a government record shall be in writing and hand-delivered, mailed, transmitted electronically, or otherwise conveyed to the appropriate custodian. A custodian shall promptly comply with a request to inspect, examine, copy, or provide a copy of a government record. If the custodian is unable to comply with a request for access, the custodian shall indicate the specific basis therefor on the request form and promptly return it to the requestor. The custodian shall sign and date the form and provide the requestor with a copy thereof. If the custodian of a government record asserts that part of a particular record is exempt from public access pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.) as amended and supplemented, the custodian shall delete or excise from a copy of the record that portion which the

custodian asserts is exempt from access and shall promptly permit access to the remainder of the record. If the government record requested is temporarily unavailable because it is in use or in storage, the custodian shall so advise the requestor and shall make arrangements to promptly make available a copy of the record. If a request for access to a government record would substantially disrupt agency operations, the custodian may deny access to the record after attempting to reach a reasonable solution with the requestor that accommodates the interests of the requestor and the agency.

h. Any officer or employee of a public agency who receives a request for access to a government record shall forward the request to the custodian of the record or direct the requestor to the custodian of the record.

i. (1) Unless a shorter time period is otherwise provided by statute, regulation, or executive order, a custodian of a government record shall grant access to a government record or deny a request for access to a government record as soon as possible, but not later than seven business days after receiving the request, provided that the record is currently available and not in storage or archived. In the event a custodian fails to respond within seven business days after receiving a request, the failure to respond shall be deemed a denial of the request, unless the requestor has elected not to provide a name, address or telephone number, or other means of contacting the requestor. If the requestor has elected not to provide a name, address, or telephone number, or other means of contacting the requestor, the custodian shall not be required to respond until the requestor reappears before the custodian seeking a response to the original request. If the government record is in storage or archived, the requestor shall be so advised within seven business days after the custodian receives the request. The requestor shall be advised by the custodian when the record can be made available. If the record is not made available by that time, access shall be deemed denied.

(2) During a period declared pursuant to the laws of this State as a state of emergency, public health emergency, or state of local disaster emergency, the deadlines by which to respond to a request for, or grant or deny access to, a government record under paragraph (1) of this subsection or subsection e. of this section shall not apply, provided, however, that the custodian of a government record shall make a reasonable effort, as the circumstances permit, to respond to a request for access to a government record within seven business days or as soon as possible thereafter.

j. A custodian shall post prominently in public view in the part or parts of the office or offices of the custodian that are open to or frequented by the public a statement that sets forth in clear, concise and specific terms the right to appeal a denial of, or failure to provide, access to a government record by

any person for inspection, examination, or copying or for purchase of copies thereof and the procedure by which an appeal may be filed.

k. The files maintained by the Office of the Public Defender that relate to the handling of any case shall be considered confidential and shall not be open to inspection by any person unless authorized by law, court order, or the State Public Defender.

3. The title of P.L.2015, c.226 is amended to read as follows:

AN ACT concerning certain information regarding certain public officers and supplementing Title 2C of the New Jersey Statutes and Titles 47 and 56 of the Revised Statutes.

4. Section 2 of P.L.2015, c.226 (C.47:1-17) is amended to read as follows:

C.47:1-17 Publishing of certain information by governmental agency prohibited.

2. A State or local governmental agency shall not knowingly post or publish on the Internet, or repost, republish, or otherwise make available, the home address or unpublished home telephone number of any active, formerly active, or retired judicial officer, as defined by section 1 of P.L.1995, c.23 (C.47:1A-1.1), prosecutor, or law enforcement officer without first obtaining the written permission of that person.

The amendatory provisions of this section, enacted by P.L.2020, c.125 (C.56:8-166.2 et al.), shall not be operative and enforceable with respect to any active, formerly active, or retired law enforcement officer until 18 months after the effective date of that act; but the provisions of this section, prior to being amended, shall remain operative and enforceable with respect to any active or retired law enforcement officer during that 18-month period.

5. Section 1 of P.L.2015, c.226 (C.2C:20-31.1) is amended to read as follows:

C.2C:20-31.1 Posting of certain information on the Internet; degree of crime.

1. A person shall not knowingly, with purpose to expose another to harassment or risk of harm to life or property, or in reckless disregard of the probability of such exposure, post or publish on the Internet, or repost, republish, or otherwise make available, the home address or unpublished home telephone number of any active, formerly active, or retired judicial officer, as defined by section 1 of P.L.1995, c.23 (C.47:1A-1.1), prosecutor, or law enforcement officer, or the spouse or child thereof. A reckless violation of

this section is a crime of the fourth degree. A purposeful violation of this section is a crime of the third degree.

The amendatory provisions of this section, enacted by P.L.2020, c.125 (C.56:8-166.2 et al.), shall not be operative and enforceable with respect to any active, formerly active, or retired law enforcement officer, or the spouse or child thereof, until 18 months after the effective date of that act; but the provisions of this section, prior to being amended, shall remain operative and enforceable with respect to any active or retired law enforcement officer, or the spouse or child of a law enforcement officer, during that 18-month period.

6. Section 3 of P.L.2015, c.226 (C.56:8-166.1) is amended to read as follows:

C.56:8-166.1 Person, business, association prohibited from publishing certain information on the Internet.

3. a. A person, business, or association shall not disclose on the Internet, or re-disclose or otherwise make available, the home address or unpublished home telephone number of any active, formerly active, or retired judicial officer, as defined by section 1 of P.L.1995, c.23 (C.47:1A-1.1), prosecutor, or law enforcement officer under circumstances in which a reasonable person would believe that providing that information would expose another to harassment or risk of harm to life or property.

The amendatory provisions of this section, enacted by P.L.2020, c.125 (C.56:8-166.2 et al.), shall not be operative and enforceable with respect to any active, formerly active, or retired law enforcement officer until 18 months after the effective date of that act; but the provisions of this section, prior to being amended, shall remain operative and enforceable with respect to any active or retired law enforcement officer during that 18-month period.

b. A person, business, or association that violates subsection a. of this section shall be liable to the aggrieved person or any other person residing at the home address of the aggrieved person, who may bring a civil action in the Superior Court.

c. The court may award:

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

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

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

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

d. For the purposes of this section, "disclose" shall mean to solicit, sell, manufacture, give, provide, lend, trade, mail, deliver, transfer, post, publish, distribute, circulate, disseminate, present, exhibit, advertise or offer.

C.56:8-166.2 Request to remove certain information.

7. a. (1) Any active, formerly active, or retired judicial officer, as defined by section 1 of P.L.1995, c.23 (C.47:1A-1.1), or prosecutor, whose home address or unpublished telephone number is disclosed on the Internet, or re-disclosed or otherwise made available, by any person, business, or association, or whose immediate family member's name, home address, or unpublished telephone number is disclosed on the Internet, or re-disclosed or otherwise made available, by any person, business, or association, which in the case of a family member's name or home address may be used, alone or in conjunction with any other information, to identify the person as the family member of a judicial officer or prosecutor, may request that the person, business, or association that disclosed, re-disclosed, or otherwise made available that information refrain from that action and remove the information from the Internet or where otherwise made available.

(2) Beginning 18 months after the effective date of P.L.2020, c.125 (C.56:8-166.2 et al.), any law enforcement officer whose home address or unpublished home telephone number is disclosed on the Internet, or re-disclosed or otherwise made available, by any person, business, or association, or whose immediate family member's name, home address, or unpublished telephone number is disclosed on the Internet, or re-disclosed or otherwise made available, by any person, business, or association, which in the case of a family member's name or home address may be used, alone or in conjunction with any other information, to identify the person as the family member of a law enforcement officer, may request that the person, business, or association that disclosed, re-disclosed, or otherwise made available that information refrain from that action and remove the information from the Internet or where otherwise made available.

For purposes of this section, "immediate family member" shall include a spouse, child, or parent of an active, formerly active, or retired judicial officer, as defined by section 1 of P.L.1995, c.23 (C.47:1A-1.1), prosecutor, or law enforcement officer, or any other family member related by blood or by law to the judicial officer, prosecutor, or law enforcement officer who lives in the same residence.

b. (1) A request to refrain and remove information pursuant to subsection a. of this section shall be made in writing, addressed to the person, business, or association that disclosed, re-disclosed, or otherwise made available the

information, and may be made by the judicial officer, as defined by section 1 of P.L.1995, c.23 (C.47:1A-1.1), prosecutor, or law enforcement officer, as appropriate, or by the person's employer with the consent of that person.

(2) Upon receipt of a written request to refrain and remove information, the person, business, or association that disclosed, re-disclosed, or otherwise made available the information shall have 72 hours to remove that information from the Internet or where otherwise made available, and shall not disclose, re-disclose, or otherwise make available that information to any other person, business, or association through any medium.

c. An active, formerly active, or retired judicial officer, prosecutor, or law enforcement officer whose own information, or immediate family member's information, was not timely removed from the Internet or where otherwise made available within 72 hours by a person, business, or association following receipt of a written request to refrain and remove that information, or the person, business, or association re-discloses on the Internet or otherwise makes available the same information at any time subsequent to receipt of the written request, may bring an action seeking injunctive or declaratory relief in the Superior Court. If the court grants injunctive or declaratory relief, the person, business, or association responsible for the violation shall be required to pay reasonable attorney's fees and other litigation costs reasonably incurred by the judicial officer, prosecutor, or law enforcement officer, as appropriate.

C.56:8-166.3 Construction of act.

8. This act shall be liberally construed in order to accomplish its purpose and the public policy of this State, which is to enhance the safety and security of certain public officials in the justice system, including judicial officers, prosecutors, and law enforcement officers, who served or have served the people of New Jersey, and the immediate family members of these individuals, to foster the ability of these public servants who perform critical roles in the justice system to carry out their official duties without fear of personal reprisal from affected individuals related to the performance of their public functions.

9. This act shall take effect immediately, but for those provisions of the act which do not become operative and enforceable with respect to law enforcement officers until 18 months after the effective date, any anticipatory administrative action may be taken in advance of the operative date that is necessary for the implementation of those provisions.

Approved November 20, 2020.

CHAPTER 126

AN ACT concerning the Junior Firefighters' Auxiliary, amending various parts of the statutory law, and supplementing Title 40A of the New Jersey Statutes.

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

1. N.J.S.40A:14-95 is amended to read as follows:

Establishment of Junior Firefighters' Auxiliary.

40A:14-95. In any municipality, fire district, regional authority, or county in this State maintaining a fire department, or where there shall exist one or more incorporated fire companies affording fire protection to the municipality, fire district, regional authority, or county with membership serving under the jurisdiction of and with the consent of the municipality, fire district, regional authority, or county, it shall be lawful for the governing body of the municipality, board of commissioners of the fire district, regional authority, or county board of chosen freeholders to provide, by ordinance or resolution, for the establishment of an auxiliary to any fire department or company to be known as the Junior Firefighters' Auxiliary.

2. N.J.S.40A:14-96 is amended to read as follows:

Membership requirements for Junior Firefighters' Auxiliary.

40A:14-96. a. A person who is not less than 14 or more than 18 years of age shall be eligible for membership in the Junior Firefighters' Auxiliary.

b. Prior to being accepted for membership in the Junior Firefighters' Auxiliary, a person eligible pursuant to subsection a. of this section shall:

(1) obtain permission to join the auxiliary from the person's parents or guardian. Permission shall be granted in writing on a form prescribed by the Commissioner of Community Affairs;

(2) complete an application and be interviewed by officers of the fire department or company with a parent or guardian present; and

(3) submit documentation from a qualified physician verifying that the person is medically able to perform the activities of the auxiliary as established by the governing body of the municipality, board of commissioners of the fire district, regional authority, or county board of chosen freeholders pursuant to N.J.S.40A:14-98.

3. N.J.S.40A:14-97 is amended to read as follows:

Insurance coverage for members.

40A:14-97. A municipality, fire district, regional authority, or county shall provide members of a Junior Firefighters' Auxiliary established as an auxiliary to a volunteer fire department or to an incorporated volunteer fire company with a minimum amount of workers' compensation insurance.

4. N.J.S.40A:14-98 is amended to read as follows:

Rules, regulations governing the Junior Firefighters' Auxiliary.

40A:14-98. a. (1) The Commissioner of Community Affairs shall adopt rules to govern the training of Junior Firefighters' Auxiliary members and to establish the duties that auxiliary members may perform at training events and emergency incidents. The rules shall allow auxiliary members, who are 16 years of age or older, to fully participate in recruit firefighter training established by regulations adopted by the commissioner.

(2) The governing body of the municipality, board of commissioners of the fire district, regional authority, or county board of chosen freeholders, before authorizing the establishment of any Junior Firefighters' Auxiliary, shall formulate rules and regulations to govern the activities of the auxiliary in accordance with regulations adopted by the commissioner pursuant to paragraph (1) of this subsection. The rules and regulations shall provide for the training of the auxiliary for eventual membership in the fire department of the municipality, fire district, regional authority, or county or in any fire company affording fire protection therein.

b. If the governing body, board of commissioners, regional authority, or county board of chosen freeholders, as the case may be, provides in the rules and regulations governing the auxiliary that a junior firefighter 16 years of age or older may perform the duties established by the commissioner pursuant to paragraph (1) of subsection a. of this section at training events and emergency incidents, the junior firefighter may perform these duties only if:

(1) the junior firefighter has been appropriately and adequately trained to perform the duties;

(2) the junior firefighter is appropriately and adequately supervised in performing those duties at the training event or emergency incident;

(3) the junior firefighter's parents or guardian has provided written permission allowing the junior firefighter to perform those duties; and

(4) the governing body, board of commissioners, regional authority, or county board of chosen freeholders, as the case may be, provides a minimum amount of workers' compensation insurance for the junior firefighter.

c. Activities of junior firefighter auxiliary members under 16 years of age shall be limited to:

(1) attending meetings of the Junior Firefighters' Auxiliary;

(2) receiving instruction;

(3) participating in training as established by regulations adopted by the commissioner that does not involve fire, smoke, toxic or noxious gas, or hazardous materials or substances; and

(4) observing firefighting activities, while under supervision.

5. 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 employment.

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 1/4 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, except in the construction of affordable housing as a volunteer for a nonprofit organization as provided in section 1 of P.L.1994, c.82 (C.34:2-21.17d);

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, lane attendants, or busboys in public bowling alleys as provided in section 3 of P.L.1940, c.153 (C.34:2-21.3) 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 minor, 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 of P.L.1940, c.153 (C.34:2-21.1) and as provided for in section 3 of P.L.1940, c.153 (C.34:2-21.3), in a public bowling alley as provided in this section, 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 prepara-

tion 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; and provided, further, that any minor so employed shall be closely supervised while engaged in the clearing of alcoholic beverages.

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 P.L.1940, c.153 (C.34:2-21.15).

Nothing in this section shall be construed to prevent minors 14 years of age or older who are members of a Junior Firefighters' Auxiliary, created pursuant to N.J.S.40A:14-95, from engaging in any activities authorized by N.J.S.40A:14-98.

Notwithstanding any provision of this section to the contrary, a minor who is 15 years of age or older may work as a cashier or bagger on or near a supermarket or retail establishment cash register conveyor belt.

6. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the Commissioner of Community Affairs shall adopt immediately upon filing with the Office of Administrative Law, regulations that the commissioner deems necessary to implement the provisions of P.L.2020, c.126, which regulations shall be effective for a period not to exceed 180 days from the date of the filing. The commissioner shall thereafter amend, adopt, or readopt the regulations in accordance with P.L.1968, c.410 (C.52:14B-1 et seq.).

7. This act shall take effect immediately.

Approved November 20, 2020.

CHAPTER 127

AN ACT appropriating $87,444,690 from the "New Jersey Library Construction Fund" to provide grants for the construction, reconstruction, development, extension, improvement, and furnishing of New Jersey's public libraries.

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

1. a. There is appropriated from the "New Jersey Library Construction Fund," established pursuant to section 14 of P.L.2017, c.149, to the State Librarian the sum of $86,484,040 to provide grants for the construction, reconstruction, development, extension, improvement, and furnishing of New Jersey public libraries. Project grants shall be approved in the amounts set forth in subsection b. of this section.

b. Project grants shall be awarded in the amounts as follows:

(1) $379,960 to the Atlantic City Free Public Library in Atlantic City, Atlantic County;

(2) $322,091 to the Atlantic County Hammonton Branch Library in Hammonton, Atlantic County;

(3) $175,000 to the Avon Public Library in Avon-By-The-Sea Borough, Monmouth County;

(4) $1,000,000 to the Free Public Library and Cultural Center of Bayonne in Bayonne, Hudson County;

(5) $37,500 to the Bernardsville Public Library in Bernardsville Borough, Somerset County;

(6) $3,447,081 to the Cape May County Library at Historic Franklin Street School in Cape May, Cape May County;

(7) $2,329,500 to the Cranbury Public Library in Cranbury Township, Middlesex County;

(8) $524,142 to the Cumberland County Library in Bridgeton, Cumberland County;

(9) $1,200,000 to the Dover Free Public Library in Dover, Morris County;

(10) $500,000 to the East Orange Public Library in East Orange, Essex County;

(11) $3,497,500 to the Fanwood Memorial Library in Fanwood Borough, Union County;

(12) $600,000 to the Franklin Township Public Library in Franklin Township, Gloucester County;

(13) $1,314,000 to the Franklin Township Public Library, Southern Branch, in Franklin Park, Somerset County;

(14) $889,000 to the Freehold Public Library in Freehold Borough, Monmouth County;

(15) $130,404 to the Garfield Public Library in Garfield, Bergen County;

(16) $980,837 to the Hunterdon County Library in Flemington, Hunterdon County;

(17) $5,000,000 to the Jersey City Public Library in Jersey City, Hudson County;

(18) $1,525,475 to the John F. Kennedy Memorial Library in Wallington, Bergen County;

(19) $90,000 to the Leonia Public Library in Leonia Borough, Bergen County;

(20) $1,100,000 to the Lincoln Park Public Library in Lincoln Park Borough, Morris County;

(21) $8,388,250 to the Maplewood Memorial Library in Maplewood Township, Essex County;

(22) $3,262,260 to the Millville Public Library in Millville, Cumberland County;

(23) $1,950,000 to the Monmouth County Library Headquarters in Manalapan, Monmouth County;

(24) $248,640 to the Monroe Township Library in Monroe Township, Middlesex County;

(25) $5,375,000 to the Montgomery Township Branch (Somerset County Library System) in Montgomery Township, Somerset County;

(26) $507,000 to the Paramus Public Library in Paramus Borough, Bergen County;

(27) $2,999,530 to the Parsippany-Troy Hills Public Library, Lake Hiawatha Branch in Lake Hiawatha, Morris County;

(28) $734,812 to the Paterson Danforth Memorial Library in Paterson, Passaic County;

(29) $9,364,500 to the Pennsauken Free Public Library in Pennsauken Township, Camden County;

(30) $150,000 to the Red Bank Public Library in Red Bank Borough, Monmouth County;

(31) $292,750 to the Ringwood Public Library in Ringwood Borough, Passaic County;

(32) $263,159 to the River Edge Public Library in River Edge Borough, Bergen County;

(33) $5,500,000 to the Roselle Public Library in Roselle Borough, Union County;

(34) $3,586,852 to the South Brunswick Public Library in South Brunswick Township, Middlesex County;

(35) $3,080,875 to the Sussex County Library System (Dennis Memorial Library Branch) in Newton, Sussex County;

(36) $139,705 to the Totowa Public Library in Totowa Borough, Passaic County;

(37) $12,500,000 to the West New York Public Library in West New York, Hudson County; and

(38) $3,098,217 to the West Orange Public Library in West Orange Township, Essex County.

2. There is appropriated from the "New Jersey Library Construction Fund" to the New Jersey Educational Facilities Authority the sum of $625,000 and to the State Librarian the sum of $335,650 for the administrative costs of the agencies in implementing the provisions of the "New Jersey Library Construction Bond Act," P.L.2017, c.149.

3. The expenditure of sums appropriated by this act shall be subject to the provisions and conditions of the "New Jersey Library Construction Bond Act," P.L.2017, 149.

4. This act shall take effect immediately.

Approved November 20, 2020.

CHAPTER 128

AN ACT concerning law enforcement officers 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:14-118.3 Use of body worn camera by law enforcement officers.

1. a. Notwithstanding the provisions of any other law to the contrary and subject to the limit of funds appropriated or otherwise made available for this purpose, every uniformed State, county, and municipal patrol law enforcement officer shall wear a body worn camera that electronically records audio and video while acting in the performance of the officer's official duties, except:

(1) while engaging in an undercover assignment;

(2) when assigned to non-uniformed duties;

(3) while serving in an administrative position within the department;

(4) while meeting with a confidential informant;

(5) while engaging in union representation of a member of the collective bargaining group;

(6) when directed by the Chief or a superior officer for a lawful purpose;

(7) a detective or investigator of a county prosecutor's office or Division of Criminal Justice when authorized by the County Prosecutor or Attorney General; or

(8) as may be otherwise provided in accordance with guidelines or directives promulgated by the Attorney General.

b. In addition to funding provided through the annual appropriations act, the body worn cameras required by subsection a. of this section may be funded by forfeiture funds collected pursuant to N.J.S.2C:64-6, in an amount to be determined by the Attorney General , or any other source of funding made available for this purpose, including but not limited to federal grants.

c. For the purposes of this section, "body worn camera" means a mobile video recording system worn by a law enforcement officer.

C.40A:14-118.4 Promulgation, revision of guidelines, directives.

2. The Attorney General is authorized to promulgate or revise guidelines or directives, as appropriate, to implement and enforce the provisions of P.L.2020, c.128 (C.40A:14-118.3 et seq.).

3. This act shall take effect immediately, but shall remain inoperative until the effective date of P.L.2020, c.129 (C.40A:14-118.5), but the Attorney General may take such administrative action in advance as shall be necessary for the implementation of the act.

Approved November 24, 2020.

CHAPTER 129

AN ACT concerning law enforcement mobile video recording systems and supplementing Title 40A of the New Jersey Statutes.

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

C.40A:14-118.5 Body worn cameras, recordings, regulations concerning usage; terms defined.

1. a. For the purposes of this section:

"Body worn camera" means a mobile audio and video recording system worn by a law enforcement officer, but shall not include a recording device worn by a law enforcement officer while engaging in an undercover assignment or a recording device used during a custodial interrogation conducted in a place of detention in compliance with Rule 3:17 of the Rules Governing the Courts of the State of New Jersey.

"Constructive authority" means the use of the law enforcement officer's authority to exert control over a person, directed against a person who is subject to an investigative detention or arrest or against any person if the officer has un-holstered a firearm or a conducted energy device.

"Force" shall include physical, mechanical, enhanced mechanical, and deadly force.

"Law enforcement officer" means a person whose public duties include the power to act as an officer for the detection, apprehension, arrest, and conviction of offenders against the laws of this State.

"Mobile video recording system" shall have the same meaning as set forth in section 1 of P.L.2014, c.54 (C.40A:14-118.1).

"School" means a public or nonpublic elementary or secondary school within this State offering education in grades kindergarten through 12, or any combination of grades, at which a child may legally fulfill compulsory school attendance requirements.

"Subject of the video footage" means any law enforcement officer, suspect, victim, detainee, conversant, injured party, or other similarly situated person who appears on the body worn camera recording, and shall not include a person who only incidentally appears on the recording.

"Youth facility" means a facility within this State used to house or provide services to children under P.L.1951, c.138 (C.30:4C-1 et seq.), including but not limited to group homes, residential facilities, day care centers, and day treatment centers.

b. A body worn camera used by a law enforcement officer shall be placed so that it maximizes the camera's ability to capture video footage of the officer's activities.

c. (1) Except as otherwise provided in this subsection or in subsection e. of this section, the video and audio recording functions of a body worn camera shall be activated whenever the officer is responding to a call for service or at the initiation of any other law enforcement or investigative encounter between an officer and a member of the public, in accordance with applicable guidelines or directives promulgated by the Attorney General; provided however, if an immediate threat to the officer's life or safety makes activating the body worn camera impossible or dangerous, the officer shall activate the

body worn camera at the first reasonable opportunity to do so. The body worn camera shall remain activated until the encounter has fully concluded and the officer leaves the scene.

(2) The video and audio recording functions of a body worn camera may be deactivated, consistent with directives or guidelines promulgated by the Attorney General, under the following circumstances:

(a) when a civilian conversing with the officer requests that the device be deactivated where it reasonably appears that the person will not provide information or otherwise cooperate with the officer unless that request is respected;

(b) when a person, other than an arrestee, is seeking emergency medical services for themselves or another person and requests that the device be deactivated;

(c) while the officer is participating in a discussion pertaining to criminal investigation strategy and planning, provided that the discussion is not conducted in the immediate presence of a civilian and further provided that the officer is not actively engaged in the collection of physical evidence; or

(d) when specifically authorized to do so by an assistant prosecutor or an assistant or deputy attorney general for good and sufficient cause as determined by the assistant prosecutor or assistant or deputy attorney general.

(3) Unless the officer is actively engaged in investigating the commission of a criminal offense, or is responding to an emergency or call for service, or reasonably believes that he or she will be required to use constructive authority or force, the officer shall not activate the video and audio recording functions of a body worn camera, or shall deactivate a device that has been activated, while the officer:

(a) is in a school or youth facility or on school or youth facility property under circumstances where minor children would be in view of the device;

(b) is in a patient care area of a healthcare facility, medical office, or substance abuse treatment facility under circumstances where patients would be in view of the device; or

(c) is in a place of worship under circumstances where worshippers would be in view of the device.

(4) The officer shall not activate the video and audio recording functions of a body worn camera, or shall deactivate a device that has been activated, if the officer knows or reasonably believes that the recording would risk revealing the identity of an individual as an undercover officer or confidential informant or otherwise would pose a risk to the safety of an undercover officer or confidential informant, unless such activation is expressly authorized by a supervisor, or unless the exigency of the situation and danger posed to an officer require that the encounter or incident be recorded, in which event the

officer shall inform his or her supervisor that the recording risks revealing the identity of an individual as an undercover officer or confidential informant.

(5) An officer shall not activate a body worn camera while in a courtroom during court proceedings, unless the officer is responding to a call for service or is authorized to use constructive force or authority.

(6) If the body worn camera model selected by a law enforcement agency produces radio-frequency interference while activated or while in standby mode, the device shall be deactivated while in the area where an electronic alcohol breath testing device is being used, or, as necessary, shall be removed from the area where such device is being used. Nothing herein shall be construed to preclude the use of a body worn camera to record the behavior of a person arrested for driving while intoxicated other than while the person is in the breath-testing area while the electronic breath testing device is being operated. If this provision requires deactivation of a body worn camera, the officer shall narrate the reasons for deactivation, and the device shall be re-activated when safe and practicable to do so following the completion of the breath testing operation.

d. A law enforcement officer who is wearing a body worn camera shall notify the subject of the recording that the subject is being recorded by the body worn camera unless it is unsafe or infeasible to provide such notification. Such notification shall be made as close to the inception of the encounter as is reasonably possible. If the officer does not provide the required notification because it is unsafe or infeasible to do so, the officer shall document the reasons for that decision in a report or by narrating the reasons on the body worn camera recording, or both. The failure to verbally notify a person pursuant to this section shall not affect the admissibility of any statement or evidence.

e. Notwithstanding the requirements of subsection c. of this section:

(1) prior to entering a private residence, a law enforcement officer shall notify the occupant that the occupant is being recorded by the body worn camera and, if the occupant requests the officer to discontinue use of the officer's body worn camera, the officer shall immediately discontinue use of the body worn camera unless the officer is actively engaged in investigating the commission of a criminal offense, or is responding to an emergency, or reasonably believes that the officer will be required to use constructive authority or force;

(2) when interacting with an apparent crime victim, a law enforcement officer shall, as soon as practicable, notify the apparent crime victim that he or she is being recorded by the body worn camera and, if the apparent crime victim requests the officer to discontinue use of the body worn camera, the officer shall immediately discontinue use of the body worn camera; and

(3) when interacting with a person seeking to anonymously report a crime or assist in an ongoing law enforcement investigation, a law enforcement officer, if the person requests that the officer discontinue use of the body worn camera, shall, evaluate the circumstances and, if appropriate, discontinue use of the body worn camera.

f. A request to discontinue the use of a body worn camera made to a law enforcement officer pursuant to subsection e. of this section and the response to the request shall be recorded by the recording system prior to discontinuing use of the recording system.

g. A body worn camera shall not be used surreptitiously.

h. A body worn camera shall not be used to gather intelligence information based on First Amendment protected speech, associations, or religion, or to record activity that is unrelated to a response to a call for service or a law enforcement or investigative encounter between a law enforcement officer and a member of the public, provided that nothing in this subsection shall be construed to prohibit activation of video and audio recording functions of a body worn camera as authorized under this law and in accordance with any applicable guidelines or directives promulgated by the Attorney General.

i. Every law enforcement agency shall promulgate and adhere to a policy, standing operating procedure, directive, or order which meets the requirements of subsection j. of this act and any applicable guideline or directive promulgated by the Attorney General that specifies the period of time during which a body worn camera recording shall be retained.

j. A body worn camera recording shall be retained by the law enforcement agency that employs the officer for a retention period consistent with the provisions of this section, after which time the recording shall be permanently deleted. A body worn camera recording shall be retained for not less than 180 days from the date it was recorded, which minimum time frame for retention shall be applicable to all contracts for retention of body worn camera recordings executed by or on behalf of a law enforcement agency on or after the effective date of this act, and shall be subject to the following additional retention periods:

(1) a body worn camera recording shall automatically be retained for not less than three years if it captures images involving an encounter about which a complaint has been registered by a subject of the body worn camera recording;

(2) subject to any applicable retention periods established in paragraph (3) of this subsection to the extent such retention period is longer, a body worn camera recording shall be retained for not less than three years if voluntarily requested by:

(a) the law enforcement officer whose body worn camera made the video recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value;

(b) a law enforcement officer who is a subject of the body worn camera recording, if that officer reasonably asserts the recording has evidentiary or exculpatory value;

(c) any immediate supervisor of a law enforcement officer whose body worn camera made the recording or who is a subject of the body worn camera recording, if that immediate supervisor reasonably asserts the recording has evidentiary or exculpatory value;

(d) any law enforcement officer, if the body worn camera recording is being retained solely and exclusively for police training purposes;

(e) any member of the public who is a subject of the body worn camera recording;

(f) any parent or legal guardian of a minor who is a subject of the body worn camera recording; or

(g) a deceased subject's next of kin or legally authorized designee.

(3) Notwithstanding the provisions of paragraph (1) or (2) of this subsection, a body worn camera recording shall be subject to the following additional retention requirements:

(a) when a body worn camera recording pertains to a criminal investigation or otherwise records information that may be subject to discovery in a prosecution, the recording shall be treated as evidence and shall be kept in accordance with the retention period for evidence in a criminal prosecution;

(b) when a body worn camera records an arrest that did not result in an ongoing prosecution, or records the use of police force, the recording shall be kept until the expiration of the statute of limitations for filing a civil complaint against the officer or the employing law enforcement agency;

(c) when a body worn camera records an incident that is the subject of an internal affairs complaint, the recording shall be kept pending final resolution of the internal affairs investigation and any resulting administrative action.

k. To effectuate subparagraphs (e), (f), and (g) of paragraph (2) of subsection j. of this section, the member of the public, parent or legal guardian, or next of kin or designee shall be permitted to review the body worn camera recording in accordance with the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.) to determine whether to request a three-year retention period.

l. Notwithstanding that a criminal investigatory record does not constitute a government record under section 1 of P.L.1995, c.23 (C.47:1A-1.1), only the following body worn camera recordings shall be exempt from public inspection:

(1) body worn camera recordings not subject to a minimum three-year retention period or additional retention requirements pursuant to subsection j. of this section;

(2) body worn camera recordings subject to a minimum three-year retention period solely and exclusively pursuant to paragraph (1) of subsection j. of this section if the subject of the body worn camera recording making the complaint requests the body worn camera recording not be made available to the public;

(3) body worn camera recordings subject to a minimum three-year retention period solely and exclusively pursuant to subparagraph (a), (b), (c), or (d) of paragraph (2) of subsection j. of this section; and

(4) body worn camera recordings subject to a minimum three-year retention period solely and exclusively pursuant to subparagraph (e), (f), or (g) of paragraph (2) of subsection j. of this section if a member, parent or legal guardian, or next of kin or designee requests the body worn camera recording not be made available to the public.

m. Any body worn camera recording retained beyond 180 days solely and exclusively pursuant to subparagraph (d) of paragraph (2) of subsection j. of this section shall not be admissible as evidence in any criminal or civil legal or administrative proceeding.

n. A law enforcement officer shall not review or receive an accounting of a body worn camera recording that is subject to a minimum three-year retention period pursuant to paragraph (1) or paragraph (3) of subsubsection j. of this section prior to creating any required initial reports, statements, and interviews regarding the recorded event; provided that nothing in this paragraph is intended to prevent the officer from considering, reviewing or receiving an accounting of such a body worn camera recording subsequent to the creation of any required initial reports, statements, and interviews regarding the recorded event.

o. Body worn camera recordings shall not be divulged or used by any law enforcement agency for any commercial or other non-law enforcement purpose.

p. If a law enforcement agency authorizes a third-party to act as its agent in maintaining recordings from a body worn camera, the agent shall be prohibited from independently accessing, viewing, or altering any recordings, except to delete recordings as required by law or agency retention policies.

q. If a law enforcement officer, employee, or agent fails to adhere to the recording or retention requirements contained in this act, or intentionally interferes with a body worn camera's ability to accurately capture audio or video recordings:

(1) the officer, employee, or agent shall be subject to appropriate disciplinary action;

(2) there shall be a rebuttable presumption that exculpatory evidence was destroyed or not captured in favor of a criminal defendant who reasonably asserts that exculpatory evidence was destroyed or not captured; and

(3) there shall be a rebuttable presumption that evidence supporting the plaintiff's claim was destroyed or not captured in favor of a civil plaintiff suing the government, a law enforcement agency, or a law enforcement officer for damages based on police misconduct if the plaintiff reasonably asserts that evidence supporting the plaintiff's claim was destroyed or not captured.

r. Any recordings from a body worn camera recorded in contravention of this or any other applicable law shall be immediately destroyed and shall not be admissible as evidence in any criminal, civil, or administrative proceeding.

s. Nothing in this act shall be deemed to contravene any laws governing the maintenance and destruction of evidence in a criminal investigation or prosecution.

2. This act shall take effect on the first day of the seventh month after enactment.

Approved November 24, 2020.

CHAPTER 130

AN ACT concerning the annual audit of the 2019-2020 school district fiscal year.

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

1. Notwithstanding the provisions of N.J.S.18A:23-1, N.J.S.18A:23-3, or any other section of law to the contrary, a school district's annual audit report of the 2019-2020 school fiscal year conducted pursuant to N.J.S.18A:23-1 shall be completed not later than January 31, 2021 and submitted to the Commissioner of Education not later than February 5, 2021. Notwithstanding the provisions of this section or of any law, rule, or regulation to the contrary, a school district shall submit the Audit Summary for the 2019-2020 school year to the Department of Education not later than January 4, 2021.

2. This act shall take effect immediately.

Approved December 4, 2020.

CHAPTER 131

AN ACT concerning extended unemployment benefits and amending P.L.1970, c.324.

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

1. Section 7 of P.L.1970, c.324 (C.43:21-24.13) is amended to read as follows:

C.43:21-24.13 Eligibility requirements for extended benefits.

7. An individual shall be eligible to receive extended benefits with respect to any week of unemployment in the individual's eligibility period only if the division finds, that with respect to that week, the individual:

a. is an "exhaustee" as defined in paragraph j. of section 5 of P.L.1970, c.324 (C.43:21-24.11); and

b. has satisfied the requirements of this act for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits; and

c. for any initial claim for extended benefits effective after September 25, 1982 and before June 28, 2020, has established entitlement for the individual's applicable benefit year based on the alternative earnings requirement specified in subsection (e) of R.S. 43:21-4, and was paid wages during the base year of the individual's applicable benefit year which equaled or exceeded 40 times the individual's weekly benefit rate; and

d. for any initial claim for extended benefits effective after June 27, 2020, has established entitlement for the individual's applicable benefit year based on the alternative earnings requirement specified in subsection (e) of R.S. 43:21-4 or was paid wages during the base year of the individual's applicable benefit year which equaled or exceeded 40 times the individual's weekly benefit rate.

2. This act shall take effect immediately.

Approved December 4, 2020.

CHAPTER 132

AN ACT concerning health care service firms and amending P.L.2002, c.126 and P.L.2014, c.29.

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

1. Section 1 of P.L.2002, c.126 (C.34:8-45.1) is amended to read as follows:

C.34:8-45.1 Consideration of Health Care Service Firm; conditions for registration; terms defined.

1. a. Notwithstanding any other law or regulation to the contrary, an employment agency required to be licensed pursuant to P.L.1989, c.331 (C.34:8-43 et al.), or any other firm, company, business, agency, or other entity that is not a home health care agency licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) or a hospice licensed pursuant to P.L.1997, c.78 (C.26:2H-79 et seq.), which employs, places, arranges for the placement of, or in any way refers, an individual to provide companion services, health care services, or personal care services in the personal residence of a person with a disability or who is age 60 or older, regardless of the title by which the provider of the services is known, shall be registered as a Health Care Service Firm and shall be subject to the rules and regulations governing Health Care Service Firms adopted by the Division of Consumer Affairs in the Department of Law and Public Safety. The Division of Consumer Affairs is authorized to enforce the health care service firm registration requirement, and the provisions of P.L.1989, c.331 (C.34:8-43 et al.), upon any person whose operations are subject to this section, whether the operations include the direct employment of individuals, the use of an Internet website or application, or any other process or business model.

As used in this section:

"Companion services" means non-medical, basic supervision and socialization services which do not include assistance with activities of daily living, and which are provided in the individual's home. Companion services may include the performance of household chores.

"Health care services" means any services rendered for the purpose of maintaining or restoring an individual's physical or mental health or any health-related services, and for which a license or certification is required as a pre-condition to the rendering of such services.

"Personal care services" means services performed by licensed or certified personnel for the purpose of assisting an individual with activities of daily living that may involve physical contact. Services include, but are not limited to, bathing, toileting, transferring, dressing, grooming, and assistance with ambulation, exercise, or other aspects of personal hygiene.

b. (Deleted by amendment, P.L.2014, c.29)

c. As a condition of being registered under P.L.1989, c.331 (C.34:8-43 et al.), a health care service firm shall obtain within 12 months of registration accreditation from an accrediting body that is recognized by the Commissioner of Human Services as an accrediting body for homemaker agencies participating in the Medicaid program, as set forth at N.J.A.C.10:60-1.2. For purposes of accreditation pursuant to this subsection, the accrediting body shall apply the standards set forth in N.J.A.C.13:37-14.1 et seq. and N.J.A.C.13:45B-13.1 et seq., as applicable.

d. As a condition of registration under P.L.1989, c.331 (C.34:8-43 et al.):

(1) All health care service firms shall annually submit to the director financial statements prepared by the firm, which shall be consistent with the firm's tax filing with the State for the year covered by the financial statements.

(2) In addition to the financial statements required pursuant to paragraph (1) of this subsection, a health care service firm that receives more than $250,000 for the provision of New Jersey Medicaid Personal Care Assistance services shall submit to the director an audit the third calendar year after the date of registration or on December 30, 2022, whichever date is later, and every third year thereafter.

(3) In addition to the financial statements required pursuant to paragraph (1) of this subsection, a health care service firm that generates $10 million or more in gross income in a year shall submit to the director an audit for that year, except that an audit required by this paragraph shall not be required to be submitted prior to December 30, 2022.

(4) (a) In addition to the financial statements required pursuant to paragraph (1) of this subsection, a health care service firm that receives less than $250,000 for the provision of New Jersey Medicaid Personal Care Assistance services and that generates $1 million or more, but less than $10 million, in gross income in a year shall submit to the director a report for that year, except that a report required by this paragraph shall not be required to be submitted prior to December 30, 2022. The report shall be prepared by an independent third-party practitioner based on a review of the firm's financial statements and records, general management, and internal controls, which review shall be conducted in compliance with the standards and procedures developed by the director pursuant to subsection b. of section 2 of P.L.2014, c.29 (C.34:8-45.1a).

(b) If the division makes adverse findings against a firm upon review of a report submitted pursuant to subparagraph (a) of this paragraph, the director shall order such corrective action as the director deems appropriate, and, upon compliance with or completion of the corrective action, shall require the firm to obtain a separate review of the firm's data for that year, which shall be conducted by a different independent third-party practitioner than the one that furnished the original report, and shall be based on the standards and procedures developed by the director pursuant to subsection b. of section 2 of P.L.2014, c.29 (C.34:8-45.1a). The firm shall additionally be required to submit to the director an audit for the calendar year next following the year for which the adverse finding was made, regardless of the firm's gross income for the year.

An audit required pursuant to this paragraph shall be conducted by a certified public accountant licensed by the State of New Jersey and shall encompass an examination of the subject firm's financial records, financial statements, the general management of its operations, and its internal control systems. The audit shall include an audit report with an unqualified opinion and shall be accompanied by any management letters prepared by the auditor in connection with the audit commenting on the internal controls or management practices of the health care service firm. The audit shall be divided into two components: compliance and financial. The compliance component of the audit shall evaluate the firm's compliance with relevant laws and regulations governing health care service firms. The financial component shall include an audit of the financial statements and accompanying notes, as specified in the Statements on Auditing Standards issued by the American Institute of Certified Public Accountants.

e. In addition to any other penalty provided by law, a person shall be liable for a penalty of $500 per day for each day that the person continues to operate a firm without registering as required under this section. The penalty shall be collected by the Director of the Division of Consumer Affairs in a summary proceeding in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

2. Section 2 of P.L.2014, c.29 (C.34:8-45.1a) is amended to read as follows:

C.34:8-45.1a Memorandum of understanding; standards, procedures for accreditation.

2. a. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall enter into a memorandum of understanding with an accrediting body chosen by the director through appropriate procurement processes authorized to accredit a health care service firm pursuant to

subsection c. of section 1 of P.L.2002, c.126 (C.34:8-45.1). The memorandum of understanding shall establish the standards for accreditation and for reporting the results of audits performed pursuant to subsection d. of section 1 of P.L.2002, c.126 to the Division.

b. The director shall, in consultation with representatives of health care service firms registered with the division, develop an agreed-upon set of standards and procedures for independent third party practitioners to review health care service firm financial statements and records, general management, and internal controls pursuant to paragraph (4) of subsection d. of section 1 of P.L.2002, c.126 (C.34:8-45.1). At a minimum, the standards and procedures developed pursuant to this subsection shall address:

(1) the minimum educational, training, and professional certification qualifications for independent third party practitioners performing reviews of health care service firm financial statements and records;

(2) the data points and metrics to be included in a review of a health care service firm's financial statements and records, general management, and internal controls which shall include, at a minimum, verification of the accreditation and licensing status of the firm; review of the firm's ownership structure; review of contracts and funding sources as well as payments, cash transactions, and reconciliation of account balances; review of the adequacy of the firm's insurance coverage; review of billing practices and invoices to ensure the adequacy of supporting documentation and the inclusion of appropriate authorizations; review of any history of litigation involving the firm, regulatory actions taken against the firm, or past audits of the firm; review of the use of independent contractors; and review of large transactions and liabilities that exceed a specified percentage of the firm's total billings or liabilities, as appropriate; and

(3) the thresholds and requirements for the division to make an adverse finding and take corrective action against a firm based upon a review of an independent third party report concerning the firm's financial statements and records.

3. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations as shall be necessary to implement the provisions of this act.

4. This act shall take effect immediately.

Approved December 14, 2020.

CHAPTER 133

AN ACT concerning health care professionals and supplementing Title 45 of the Revised Statutes.

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

C.45:1-67 Short title.

1. This act shall be known and may be cited as the "New Jersey Health Care Transparency Act."

C.45:1-68 Findings, declarations relative to identification of health care professionals.

2. The Legislature finds and declares that:

a. There are a multitude of professional degrees using the term "doctor," including "medical doctor" (M.D.); "doctor of osteopathy" (D.O.); "doctor of dental surgery" (D.D.S.); "doctor of medicine in dentistry" (D.M.D.); "doctor of podiatric medicine" (D.P.M.); "doctor of optometry" (O.D.); "doctor of chiropractic" (D.C.); "doctor of nursing" (D.N.); "doctor of psychology" (PhD);" and other designations which may be used by health care professionals.

b. A July 2018 study by the American Medical Association found that 27 percent of patients erroneously believe that a chiropractor is a medical doctor; 39 percent of patients erroneously believe that a doctor of nursing practice is a medical doctor; 43 percent of patients erroneously believe that a psychologist is a medical doctor; 47 percent of patients erroneously believe that an optometrist is a medical doctor; and 67 percent of patients erroneously believe a podiatrist is a medical doctor.

c. There are widespread differences regarding the training and qualifications required to earn the degrees of the health care professionals subject to P.L.2020, c.133 (C.45:1-67 et seq.). These differences often concern the training and skills necessary to correctly detect, diagnose, prevent, and treat serious health care conditions.

d. There is a compelling State interest in patients being promptly and clearly informed of the training and qualifications of the health care professionals who provide health care services.

e. There is a compelling State interest in the public being protected from potentially misleading and deceptive health care advertising that might cause patients to have undue expectations regarding their treatment and outcome.

C.45:1-69 Definitions relative to identification of health care professionals.

3. As used in this act:

"Advertisement" means any communication or statement that is directly controlled or administered by a health care professional or a health care professional's office personnel, whether printed, electronic or oral, that names the health care professional in relation to his or her practice, profession, or institution in which the individual is employed, volunteers or otherwise provides health care services. This includes business cards, letterhead, patient brochures, e-mail, Internet, audio and video, and any other communication or statement used in the course of business or where the health care professional is utilizing a professional degree or license to influence opinion or infer expertise in a health care topic. "Advertisement" does not include office building placards or exterior building signage.

"Health care professional" means a person licensed, certified, registered or otherwise authorized pursuant to Title 45 or Title 52 of the Revised Statutes, or by any principal department of the Executive Branch of State government or any entity within any department or any other entity hereafter created to license or otherwise regulate a health care profession. "Health care professional" shall include, but shall not be limited to, health care professionals regulated by the following entities: the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Dentistry, the New Jersey State Board of Optometrists, the Board of Pharmacy, the State Board of Chiropractic Examiners, the Acupuncture Examining Board, the State Board of Physical Therapy Examiners, the Orthotics and Prosthetics Board of Examiners, the State Board of Psychological Examiners, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Audiology and Speech-Language Pathology Advisory Committee, the Occupational Therapy Advisory Council and the Certified Psychoanalysts Advisory Committee. "Health care professional" for purposes of this act does not include individuals licensed in veterinarian medicine or health care professionals working in non-patient care settings, and who do not have any direct patient care interactions.

"Hospital" means an acute care general hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

"Licensee" means a health care professional with an active New Jersey license, certification, registration, or other valid authorization.

"Long-term care facility" means a nursing home, assisted living residence, comprehensive personal care home, residential health care facility, or dementia care home licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

"Professional degree" means the academic degree conferred to a health care professional, including, but not limited to, "medical doctor" (M.D.); "doctor of osteopathy" (D.O.); "doctor of dental surgery" (D.D.S.); "doctor of medicine in dentistry" (D.M.D.); "doctor of podiatric medicine" (D.P.M.); "doctor of optometry" (O.D.); "doctor of chiropractic" (D.C.); and "doctor of nursing" (D.N.).

"Professional license" means the credential issued by the State to identify the profession practiced by a health care professional, including, but not limited to, "physician," "chiropractor," "advanced practice nurse," "dentist," "optometrist," "psychologist," "physician assistant," "acupuncturist," and "podiatrist."

C.45:1-70 Identification as to type of licensure required for advertisement for health care services.

4. a. An advertisement for health care services that includes the name of a health care professional shall identify the type of professional license and professional degree issued to the health care professional and shall not contain deceptive or misleading information, including, but not limited to, any affirmative communication or representation that misstates, falsely describes, holds out, or falsely details the health care professional's skills, training, expertise, education, public or private board certification, or licensure.

b. When providing in-person care, a health care professional shall communicate the professional licensure and professional degree held by the professional in the following formats:

(1) a name tag or embroidered identification to be worn during all patient encounters that is to include at a minimum:

(a) the full name of the health care professional; however, in a hospital, licensed ambulatory care facility or behavioral health care facility, or long-term care facility and at the discretion of facility administrators, either the health care professional's full first name and last name or the full first name and first letter of the last name;

(b) the professional license and professional degree issued to the health care professional; and

(c) a recent photograph of the health care professional if providing direct patient care at a hospital, unless otherwise directed by hospital administrators; and

(2) a poster or other signage, in font of a sufficient size, placed in a clear and conspicuous manner at the office or offices where the health care professional provides health care services to scheduled patients in an ambulatory setting, that states the type of professional license and professional degree held by the health care professional. For purposes of this subsection, "office"

does not include in-patient hospital or emergency department patient care. This subsection shall not apply to telehealth or telemedicine services authorized under P.L.2017, c.117 (C.45:1-61 et al.).

c. A medical doctor or doctor of osteopathic medicine who supervises or participates in collaborative practice agreements with non-physician health care professionals, including, but not limited to, physician assistants and advance practice nurses, who provide in-person patient care at the same practice location shall be required to clearly and conspicuously post in each office when a medical doctor or doctor of osteopathic medicine is present. For purposes of this subsection, "office" does not include in-patient hospital or emergency department patient care.

d. A medical doctor or doctor of osteopathic medicine shall not advertise or hold oneself out to the public in any manner as being certified by a public or private board, including, but not limited to, a multidisciplinary board, or as "board certified" unless the board either:

(1) is a member of the American Board of Medical Specialties (ABMS) or the American Osteopathic Association (AOA); or

(2) is a non-ABMS or non-AOA board that requires as prerequisites for issuing certification:

(a) successful completion of a post-graduate training program approved by the Accreditation Council for Graduate Medical Education (ACGME) or the AOA that provides complete training in the specialty or subspecialty certified by the non-ABMS or non-AOA board;

(b) certification by an ABMS or AOA board covering that training field that provides complete ACGME- or AOA-accredited training in the specialty or subspecialty certified by the non-ABMS or non-AOA board; and

(c) successful passage of examination in the specialty or subspecialty certified by the non-ABMS or non-AOA board.

Any advertisement for a medical doctor or doctor of osteopathic medicine shall state the full name of the certification board.

e. The Division of Consumer Affairs in the Department of Law and Public Safety shall adopt rules and regulations, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to effectuate the provisions of subsections a. and b. of this section.

C.45:1-71 Additional unlawful practices for health care professionals; violations, penalties.

5. a. In addition to any practice declared unlawful pursuant to P.L.1978, c.73 (C.45:1-14 et seq.), it shall be unlawful for a health care professional to fail to comply with any provision of section 4 of P.L.2020, c.133 (C.45:1-70).

b. Nothing in P.L.2020, c.133 (C.45:1-67 et seq.) shall be construed to impose liability on news media that accept or publish advertising that may fall within the scope of P.L.2020, c.133 (C.45:1-67 et seq.).

C.45:1-72 Severability.

6. If any of the provisions of P.L.2020, c.133 (C.45:1-67 et seq.) or its application to any person or circumstance is held to be invalid, the invalidity shall not affect any other provision or application of P.L.2020, c.133 (C.45:1-67 et seq.) which can be given effect without the invalid provision or application and, to this end, the provisions of P.L.2020, c.133 (C.45:1-67 et seq.) are severable.

C.45:1-73 Construction of act.

7. Nothing in this act shall be construed to limit a licensing board authorized under Title 45 or Title 52 of the Revised Statutes, or limit any principal department of the Executive Branch of State government or any entity within any department or any other entity hereafter created to license or otherwise regulate a health care profession to adopt more stringent standards for its licensees.

8. This act shall take effect on the first day of the seventh month next following enactment.

Approved December 14, 2020.

CHAPTER 134

AN ACT revising psychologist training requirements and amending P.L.1966, c.282.

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

1. Section 17 of P.L.1966, c.282 (C.45:14B-17) is amended to read as follows:

C.45:14B-17 Requirements to practice as licensed psychologist; regulations.

17. Any person applying to the board, after January 1, 1968, may be admitted to an assembled examination if the applicant meets the qualifications set forth in subsections (a), (b), and (c) of section 14 of P.L.1966, c.282 (C.45:14B-14) and provides evidence satisfactory to the board that the applicant:

(a) Has received the degree of Doctor of Philosophy in psychology from a recognized educational institution, or in lieu of that degree, a doctoral degree in a closely allied field if it is the opinion of the board that the training required therefor is substantially similar, or has otherwise had training in psychology deemed equivalent by the board;

(b) Has engaged for the equivalent of at least two years full time, at least one year of which was subsequent to the applicant receiving the doctoral degree, in professional experience in the practice of psychology under the supervision of a licensed psychologist or of one clearly eligible for licensure in the opinion of the board, which experience the board deems sufficient to warrant its opinion that the applicant is competent to engage in the practice of psychology as a licensed psychologist, subject to the applicant satisfying the other requirements for that license specified in P.L.1966, c.282 (C.45:14B-1 et seq.). In the case of a person applying to the board after October1, 2020, or six months after the effective date of P.L.2020, c.134, whichever is sooner, the two years of full time professional experience required by this subsection, or any portion thereof, may be completed prior to the applicant receiving a doctoral degree. An applicant who has applied to the board, but who is not yet licensed by the effective date of P.L.2020, c.134, may update the application to apply professional experience earned prior to the applicant receiving a doctoral degree to the professional experience requirement.

(c) The New Jersey Board of Psychological Examiners shall promulgate regulations to implement the changes in the experience requirements of subsection (b) of this section affected by P.L.2020, c.134.

2. This act shall take effect immediately.

Approved December 14, 2020.

CHAPTER 135

AN ACT concerning personal protective equipment in long-term care facilities and hospitals and supplementing Title 26 of the Revised Statutes.

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

C.26:2H-12.100 Stockpiling of personal protective equipment in long-term care facilities, hospitals.

1. a. Each long-term care facility shall make a good faith effort to maintain an adequate emergency stockpile of personal protective equipment necessary to meet the facility's need for personal protective equipment for:

(1) In the case of a facility that is part of a system that owns or operates eight or more facilities, 30 days;

(2) In the case of a facility that is part of a system that owns or operates fewer than eight facilities, 60 days; and

For the purposes of meeting the requirements of this subsection, a facility that is not part of a system or that is part of a system that owns or operates fewer than eight facilities may enter into a collaborative agreement with other facilities or with one or more systems, which collaborative agreement shall be deemed to render the facility part of a system comprised of the health care facility and any other health care facilities that are party to the collaborative agreement or that are part of a system that is party to the collaborative agreement. The collaborative agreement shall, at a minimum, include protocols for sharing personal protective equipment among facilities that are part of the system established pursuant to the collaborative agreement.

b. Each general acute care hospital shall make a good faith effort to maintain at least a 90-day emergency stockpile of personal protective equipment at all times. A system comprising multiple hospitals may count the total emergency stockpile of personal protective equipment available at all hospitals that are part of that system when determining whether a hospital is in compliance with the personal protective equipment emergency stockpile requirements set forth in this subsection, provided that the total quantity of personal protective equipment available throughout the system is equivalent to at least a 90-day emergency supply of personal protective equipment for each hospital that is a part of the system.

c. For the purposes of this act, any determination as to whether a long-term care facility has made a good faith effort to maintain a minimum stockpile of personal protective equipment consistent with the requirements of subsection a. of this section or whether a hospital has made a good faith effort to maintain a minimum stockpile of personal protective equipment consistent with the requirements of subsection b. of this section shall take into consideration the current state of the supply chain of personal protective equipment in the State, including, but not limited to, unit cost, recent price increases, overall availability, and delays in shipping times.

d. In determining the quantity of personal protective equipment a long-term care facility or hospital will need to maintain in order to meet the requirements of this section, the facility or hospital shall:

(1) take into account prevailing conditions in the State that may affect the need for and availability of personal protective equipment;

(2) take into account anticipated surges, over the next 90 days, in the need for personal protective equipment at that facility or hospital and at other facilities or hospitals that are part of the same system as the facility or hospital; and

(3) utilize any burn rate calculator or other tool as the Department of Health may designate for use in determining the anticipated need for personal protective equipment.

Each facility and hospital shall immediately reevaluate the adequacy of its stockpile of personal protective equipment upon any declaration of a state of emergency by the Governor or a public health emergency pursuant to P.L.2005, c.222 (C.26:13-1 et seq.) in response to an outbreak, epidemic, or pandemic involving an infectious disease, and shall acquire such additional supplies of personal protective equipment as it determines are necessary to meet increases in the need for and use of personal protective equipment during the state of emergency or public health emergency.

e. The Department of Health may impose fines or other administrative remedies against any facility or hospital that violates the requirements of this section.

f. As used in this section:

"General acute care hospital" means a general acute care hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

"Infectious disease" means a disease caused by a living organism or other pathogen, including a fungus, bacteria, parasite, protozoan, virus, or prion. An infectious disease may, or may not, be transmissible from person to person, animal to person, or insect to person.

"Long-term care facility" means a nursing home, assisted living residence, comprehensive personal care home, residential health care facility, or dementia care home licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

"Personal protective equipment" means any items commonly used to protect an individual from bacterial or viral infections, including, but not limited to, disinfecting wipes, disposable gloves, disposable gowns, face shields, N95 face masks, surgical masks, or parts thereof.

2. The Commissioner of Health may adopt rules and regulations, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as are necessary to effectuate the provisions of this act.

3. This act shall take effect immediately.

Approved December 14, 2020.

CHAPTER 136

AN ACT concerning driving privileges for certain persons during the COVID-19 public health emergency.

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

1. a. During the public health emergency declared on March 9, 2020 by the Governor, pursuant to Executive Order No. 103 and extended, where applicable, by subsequent executive orders, an applicant for a driver's license who has passed the road test may use the person's examination permit or special learner's permit, for a period of 60 days from the date on which the applicant passed the road test or from the effective date of P.L.2020, c.136, whichever date is later, to operate a motor vehicle in the same manner and to the same extent as the holder of a probationary driver's license of the same age as the person. Any such person may acquire automobile insurance or be added to an automobile insurance policy in the same manner as the holder of a probationary driver's license.

b. On or before the 60th day following passage of the road test by a person or the 60th day following the effective date of P.L.2020, c.136, whichever date is later, the person shall be required to visit a commission agency and complete any additional requirements to receive a driver's license. If a person does not visit a commission agency and complete the additional requirements necessary for the receipt of a driver's license by the 60th day following passage of the road test or the effective date of P.L.2020, c.136, as applicable, that person's driving privileges granted under this act shall expire, provided that the person may visit a commission agency at a later date to receive a driver's license, subject to any requirements imposed by the chief administrator. The chief administrator shall provide adequate notice to any

person whose driving privileges are set to expire pursuant to this subsection, which may be provided to the person at the time and location of the road test.

c. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the Chief Administrator of the New Jersey Motor Vehicle Commission may adopt immediately upon filing with the Office of Administrative Law such rules and regulations as the chief administrator determines to be necessary to effectuate the purposes of P.L.2020, c.136, which rules and regulations shall be effective for a period not to exceed 360 days following the effective date of P.L.2020, c.136 and may thereafter be amended, adopted, or readopted by the chief administrator in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

2. This act shall take effect immediately and shall expire at the end of the public health emergency caused by the Coronavirus disease 2019 (COVID-19), either: upon the expiration of Executive Order No. 103 of 2020 and any subsequent executive orders extending the public health emergency; or, in the absence of a rescission by the Governor, upon the termination in any other manner of the declared public health emergency.

Approved December 14, 2020.

CHAPTER 137

AN ACT concerning the health care benefit plans provided by health insurers to local boards of education and eligible employers who do not participate in the School Employees' Health Benefits Program and amending P.L.2020, c.44.

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

1. Section 2 of P.L.2020, c.44 (C.52:14-17.46.14) is amended to read as follows:

C.52:14-17.46.14 Annual contribution from employee, retiree.

2. a. Each employee, and retiree who is not Medicare-eligible and who is required by another provision of law to contribute in retirement toward the cost of health care benefits coverage under the program, shall contribute annually toward the cost of health care benefits coverage for the employee and retiree,

and dependents if any, under the New Jersey Educators Health Plan offered by the School Employees' Health Benefits Program an amount equal to a percentage of the employee's annual base salary or retiree's annual retirement allowance, including any cost of living adjustments to that allowance. The contribution shall be withheld by the employer from the salary of the employee or by the retirement system from the retirement allowance, including any cost of living adjustments to that allowance, of the retiree who is not Medicare-eligible. The percent to be contributed shall be as follows with the retirement allowance including any cost of living adjustments to that allowance:

For Base Salary or Retirement Allowance of $40,000 or Less: 1.7% for Single Coverage; 2.2% for Parent and Child(ren) Coverage; 2.8% for Employee and Spouse Coverage; and 3.3% for Family Coverage

For Base Salary or Retirement Allowance of more than $40,000 to $50,000: 1.9% for Single Coverage; 2.5% for Parent and Child(ren) Coverage; 3.3% for Employee and Spouse Coverage; and 3.9% for Family Coverage

For Base Salary or Retirement Allowance of more than $50,000 to $60,000: 2.2% for Single Coverage; 2.8% for Parent and Child(ren) Coverage; 3.9% for Employee and Spouse Coverage; and 4.4% for Family Coverage

For Base Salary or Retirement Allowance of more than $60,000 to $70,000: 2.5% for Single Coverage; 3% for Parent and Child(ren) Coverage; 4.4% for Employee and Spouse Coverage; and 5% for Family Coverage

For Base Salary or Retirement Allowance of more than $70,000 to $80,000: 2.8% for Single Coverage; 3.3% for Parent and Child(ren) Coverage; 5% for Employee and Spouse Coverage; and 5.5% for Family Coverage

For Base Salary or Retirement Allowance of more than $80,000 to $90,000: 3% for Single Coverage; 3.6% for Parent and Child(ren) Coverage; 5.5% for Employee and Spouse Coverage; and 6% for Family Coverage

For Base Salary or Retirement Allowance of more than $90,000 to $100,000: 3.3% for Single Coverage; 3.9% for Parent and Child(ren) Coverage; 6% for Employee and Spouse Coverage; and 6.6% for Family Coverage

For Base Salary or Retirement Allowance of more than $100,000 to $125,000: 3.6% for Single Coverage; 4.4% for Parent and Child(ren) Coverage; 6.6% for Employee and Spouse Coverage; and 7.2% for Family Coverage

When the base salary or retirement allowance is more than $125,000, the amount to be contributed shall be the same as for a base salary or retirement allowance of $125,000.

b. Each employee, and retiree who is not Medicare-eligible and who is required by another provision of law to contribute in retirement toward the cost of health care benefits coverage under the program, shall contribute annually toward the cost of health care benefits coverage for the employee and

retiree, and dependents if any, under the Garden State Health Plan offered by the School Employees' Health Benefits Program an amount equal to a percentage of the employee's annual salary or retiree's annual retirement allowance, including any cost of living adjustments to that allowance. The contribution shall be withheld by the employer from the salary of the employee or by the retirement system from the retirement allowance, including any cost of living adjustments to that allowance, of the retiree who is not Medicare-eligible. The percent to be contributed shall be one-half of the percentage set forth in subsection a. of this section for the salary or retirement allowance range and type of coverage, except that the contribution specified in this subsection shall not be less than the minimum annual contribution for health care benefits coverage of 1.5% of salary or retirement allowance, including any cost of living adjustments to that allowance, as required by law.

c. (1) An employee enrolled in the New Jersey Educators Health Plan or the Garden State Health Plan shall be required to pay only the contribution specified in subsection a. or b. of this section, notwithstanding any other provision of law, rule, or regulation to the contrary requiring contributions by employees toward the cost of health care benefits coverage under the program, except as provided in subsection b. of this section. No other contribution may be required by collective negotiations agreement, except as set forth in subsection h. of this section.

(2) Only those retirees who are not Medicare-eligible and who are required by another provision of law to contribute in retirement toward the cost of health care coverage under the program shall be required to pay the contribution specified in subsection a. or b. of this section for coverage under the New Jersey Educators Health Plan or the Garden State Health Plan.

A retiree who is not Medicare-eligible, who is enrolled in the New Jersey Educators Health Plan or the Garden State Health Plan, and who is required by another provision of law to contribute in retirement toward the cost of health care coverage under the program shall be required to pay only the contribution specified in subsection a. or b. of this section, notwithstanding the provisions of section 77 of P.L.2011, c.78 (C.52:14-17.28e), section 3 of P.L.1987, c.384 (C.52:14-17.32f), section 2 of P.L.1992, c.126 (C.52:14-17.32f1), or section 1 of P.L.1995, c.357 (C.52:14-17.32f2) to the contrary requiring contributions by retirees toward the cost of health care benefits coverage under the program, except as provided in subsection b. of this section.

d. Employees who are not enrolled in the New Jersey Educators Health Plan or the Garden State Health Plan shall continue, after the effective date of this act, P.L.2020, c.44, to contribute to health care benefits coverage and

those contributions shall be determined in accordance with what is permitted or required by provisions of law.

An employee who is enrolled in a plan other than the New Jersey Educators Health Plan or the Garden State Health Plan shall be required to contribute toward the cost of health care benefits coverage under the program (a) in accordance with a collective negotiations agreement applicable to that employee as negotiated prior to or after the effective date of this act, P.L.2020, c.44, pursuant to the requirements that were set forth in law on the day next preceding that effective date; (b) as may be required at the discretion of the employer; or (c) as required by a provision of law, whichever is applicable to that employee.

With regard to contributions by an employee who is enrolled in a plan other than the New Jersey Educators Health Plan or the Garden State Health Plan, no provision in this section shall be deemed to modify, alter, impair, or terminate the requirement in sections 77 and 78 of P.L.2011, c.78 (C.18A:16-17.2 and C.52:14-17.28e), as applicable, that a public employer and employees who were in negotiations for the collective negotiations agreement to be executed after the employees in that unit had reached full implementation of the premium share set forth in section 39 of P.L.2011, c.78 (C.52:14-17.28c) shall conduct negotiations concerning contributions for health care benefits as if the full premium share was included in the prior contract. Nothing in this act shall be deemed to modify, alter, impair, or terminate the continued compliance after the effective date of this act with that requirement for negotiations for any collective negotiations agreement for employee contributions for plans other than the New Jersey Educators Health Plan or the Garden State Health Plan.

e. For an employee, the annual base salary paid by the employer for the position held by the employee shall be used to identify the percentage to be used to calculate the annual contribution required under subsections a. and b. of section 2 of this act. For a retiree who is not Medicare-eligible, the annual retirement allowance, including any cost of living adjustments to that allowance, received by the retiree shall be used to identify the percentage to be used to calculate the annual contribution required under subsections a. and b. of section 2 of this act.

f. The annual contribution by an employee or a retiree who is not Medicare-eligible as calculated in accordance with subsection a. or b. of this section shall not exceed the amount as calculated in accordance with section 4 of this act, P.L.2020, c.44 (C.52:14-17.46.16).

g. The contributions required by this section shall apply to employees for whom the employer has assumed a health care benefits payment obligation, to require that such employees pay the amount of contribution specified in this section for health care benefits coverage. The contributions required by this section shall apply to retirees for whom the State has assumed a health care benefits payment obligation but who are required by law to contribute toward the cost of health care benefits coverage under the program, to require that such retirees pay the amount of contribution specified in this section for health care benefits coverage.

h. For the plan year that commences on January 1, 2028 and for each plan year thereafter, the contributions required pursuant to subsections a. and b. of this section for employees enrolled in the New Jersey Educators Health Plan or the Garden State Health Plan may be modified through collective negotiations agreements entered into between the employers who participate in the School Employees' Health Benefits Program and their employees. The contributions required pursuant to subsections a. and b. of this section shall become part of the parties' collective negotiations and shall then be subject to collective negotiations in a manner similar to other negotiable items between the parties. Negotiations concerning contributions for health care benefits shall be conducted as if the contributions required pursuant to subsections a. and b. of this section were included in the prior contract. The contribution scheme of percentage of base salary set forth in those subsections may be modified or a new contribution scheme or method other than a percentage of salary may be provided for in accordance with a collective negotiations agreement.

i. Modifications to the contribution rates set forth in this section made by the School Employees' Health Benefits Plan Design Committee or the State Treasurer pursuant to section 7 of this act shall be implemented by the program for the purposes of this section commencing January 1, 2024.

2. Section 5 of P.L.2020, c.44 (C.18A:16-13.2) is amended to read as follows:

C.18A:16-13.2 Applicability to local boards of education, certain employers; enrollment period.

5. This section shall apply to local boards of education and employers, as specified in subsection j. of this section, who do not participate in the School Employees' Health Benefits Program.

Any health insurance company may provide to local boards of education and to those employers defined pursuant to section 32 of P.L.2007, c.103 (C.52:14-17.46.2) who do not participate in the School Employees' Health

Benefits Program the equivalent of the New Jersey Educators Health Plan in the School Employees' Health Benefits Program as that plan design is described in subsection f. of section 1 of P.L.2020, c.44 (C.52:14-17.46.13) and the Garden State Health Plan as that plan design is described in subsection d. of section 1 of P.L.2020, c.44 (C.52:14-17.46.13), notwithstanding the provisions of any other law, rule, or regulation, including any regulation of the New Jersey Department of Banking and Insurance, to the contrary. As used in this subsection, "health insurance company" means and includes a health, hospital, and medical service corporation; commercial individual, small employer, and larger group health insurer; and a health maintenance organization.

a. (1) Notwithstanding the provisions of any other law, rule, or regulation to the contrary, beginning January 1, 2021 and for each plan year thereafter, a board of education as an employer providing health care benefits coverage for its employees, and their dependents if any, in accordance with P.L.1979, c.391 (C.18A:16-12 et seq.) shall offer to its employees, and their dependents if any, the equivalent of the New Jersey Educators Health Plan in the School Employees' Health Benefits Program as that plan design is described in subsection f. of section 1 of P.L.2020, c.44 (C.52:14-17.46.13).

Beginning July 1, 2021 and for each plan year thereafter, a board of education as an employer providing health care benefits coverage for its employees, and their dependents if any, in accordance with P.L.1979, c.391 (C.18A:16-12 et seq.) shall also offer a plan for its employees, and their dependents if any, that is the equivalent of the Garden State Health Plan in the School Employees' Health Benefits Program.

(2) The plans under this section shall be offered by the employer regardless of any collective negotiations agreement between the employer and its employees in effect on the effective date of this act, P.L.2020, c.44, that provides for enrollment in other plans offered by the employer.

No new health care benefits plans, other than those specified in paragraph (1) of this subsection, shall be added by the employer from January 1, 2021 through December 31, 2027 unless the provisions of any collective negotiations agreement entered into before or after the effective date of this act, P.L.2020, c.44, result in additional premium cost reductions. Nothing in this section shall prohibit an employer from offering health care benefits plans that existed prior to the effective date of this act.

(3) Commencing January 1, 2028, the employer may offer such other plans as may be required in accordance with any collective negotiations agreement between the employer and its employees.

b. Prior to January 1, 2021, each employer shall provide an enrollment period during which all employees who commenced employment prior to the

effective date of this act shall be required to select affirmatively a plan provided by the employer. If an employee fails to select affirmatively a plan during this enrollment period, the employer shall enroll the employee, and the employee's dependents if any, in the equivalent New Jersey Educators Health Plan offered pursuant to subsection a. of this section for the year January 1, 2021 until December 31, 2021.

During the enrollment period, each person who is enrolled in a plan offered by the employer and who is paying the full cost of coverage shall also be required to select affirmatively a plan provided by the employer. If a person fails to select affirmatively a plan during this enrollment period, the employer shall enroll the person, and the person's dependents if any, in the equivalent New Jersey Educators Health Plan offered pursuant to subsection a. of this section for the year January 1, 2021 until December 31, 2021. Any such person shall continue to pay the full cost of coverage and shall not be subject to the contribution schedule or any mandatory enrollment period as set forth in this section.

c. (1) Beginning on January 1, 2021, an employee commencing employment on or after the effective date of this act but before January 1, 2028 who does not waive coverage, shall be enrolled by the employer in the equivalent New Jersey Educators Health Plan, or the equivalent Garden State Health Plan if selected by the employee, as those plans are offered pursuant to subsection a. of this section. The employee shall remain enrolled in either the equivalent New Jersey Educators Health Plan or the equivalent Garden State Health Plan selected by the employee at the annual open enrollment for each plan year until December 31, 2027, provided that the employee during this period may waive coverage as an employee and select and change the type of coverage received under the plan following a qualifying life event, in accordance with the plan regulations. Beginning January 1, 2028, the employee may select, during any open enrollment period or at such other times or under such conditions as the employer may provide, any plan offered by the employer.

(2) Except as otherwise provided in this subsection or subsection b. of this section, selection of a plan shall be at the sole discretion of the employee.

d. An employee shall contribute annually toward the cost of health care benefits coverage for the employee, and employee's dependents if any, the amount specified, in the manner specified, in subsection a. or b. of section 2 of this act, P.L.2020, c.44 (C.52:14-17.46.14) if the employee, and the employee's dependents if any, are enrolled in the equivalent New Jersey Educators Health Plan or the equivalent Garden State Health Plan offered pursuant to subsection a. of this section. An employee's contribution toward the cost of coverage under the equivalent Garden State Health Plan offered pursuant

to subsection a. of this section shall be the amount required in subsection b. of section 2 of this act, except that the contribution specified in that subsection shall not be less than the minimum annual contribution for health care benefits coverage of 1.5% of salary as required by law.

e. (1) An employee enrolled in the equivalent New Jersey Educators Health Plan or the equivalent Garden State Health Plan offered pursuant to subsection a. of this section shall be required to pay only the contribution specified in subsections a. and b. of section 2 of this act, notwithstanding any other provision of law, rule, or regulation to the contrary requiring contributions by employees toward the cost of health care benefits coverage provided by an employer, except as provided in subsection d. of this section. No other contribution may be required by collective negotiations agreement, except as set forth in subsection i. of this section.

(2) Employees who are not enrolled in the equivalent New Jersey Educators Health Plan or the equivalent Garden State Health Plan offered pursuant to subsection a. of this section shall continue, after the effective date of this act, P.L.2020, c.44, to contribute to health care benefits coverage and those contributions shall be determined in accordance with what is permitted or required by provisions of law.

An employee who is enrolled in a plan other than the equivalent New Jersey Educators Health Plan or the equivalent Garden State Health Plan offered pursuant to subsection a. of this section shall be required to contribute toward the cost of health care benefits coverage offered by the employer (a) in accordance with a collective negotiations agreement applicable to that employee as negotiated prior to or after the effective date of this act pursuant to the requirements that were set forth in law on the day next preceding that effective date; (b) as may be required at the discretion of the employer; or (c) as required by a provision of law, whichever is applicable to that employee.

With regard to contributions by an employee who is enrolled in a plan other than the equivalent New Jersey Educators Health Plan or the equivalent Garden State Health Plan offered pursuant to subsection a. of this section, no provision in this section shall be deemed to modify, alter, impair, or terminate the requirement in sections 77 and 78 of P.L.2011, c.78 (C.18A:16-17.2 and C.52:14-17.28e), as applicable, that a public employer and employees who are in negotiations for the collective negotiations agreement to be executed after the employees in that unit had reached full implementation of the premium share set forth in section 39 of P.L.2011, c.78 (C.52:14-17.28c) shall conduct negotiations concerning contributions for health care benefits as if the full premium share was included in the prior contract. Nothing in this act shall be deemed to modify, alter, impair, or terminate the continued compliance after

the effective date of this act with that requirement for negotiations for any collective negotiations agreement for employee contributions for plans other than the equivalent New Jersey Educators Health Plan or the equivalent Garden State Health Plan offered pursuant to subsection a. of this section.

(3) For an employee, the annual base salary paid by the employer for the position held by the employee shall be used to identify the percentage to be used to calculate the annual contribution required under subsections a. and b. of section 2 of this act.

f. The annual contribution by an employee as calculated in accordance with subsection a. or b. of section 2 of this act shall not exceed the amount as calculated in accordance with section 4 of this act.

g. The contributions required by this section shall apply to employees for whom the employer has assumed a health care benefits payment obligation, to require that such employees pay the amount of contribution specified in this section for health care benefits coverage.

h. The level of benefits in the equivalent New Jersey Educators Health Plan and the equivalent Garden State Health Plan offered by the employer shall remain unchanged until December 31, 2027. No change in the level of benefits in those plans shall be made before that date unless such a change is required by federal or State law to governmental health care benefits plans or to both governmental and non-governmental health care benefits plans.

Commencing January 1, 2028 and for each plan year thereafter, the level of benefits in the equivalent New Jersey Educators Health Plan and the equivalent Garden State Health Plan offered by the employer may be modified by the employer in accordance with collective negotiations agreements entered into between the employers who do not participate in the School Employees' Health Benefits Program and their employees, or as otherwise permitted by law.

i. Commencing January 1, 2028 and for each plan year thereafter, the contributions required pursuant to subsections a. and b. of section 2 of this act for employees enrolled in the equivalent New Jersey Educators Health Plan or the equivalent Garden State Health Plan offered pursuant to subsection a. of this section may be modified in accordance with collective negotiations agreements entered into between the employers who do not participate in the School Employees' Health Benefits Program and their employees. The contributions required pursuant to subsections a. and b. of section 2 of this act shall become part of the parties' collective negotiations and shall then be subject to collective negotiations in a manner similar to other negotiable items between the parties. Negotiations concerning contributions for health care benefits shall be conducted as if the contributions required pursuant to

subsections a. and b. of section 2 of this act were included in the prior contract. The contribution scheme of the percentage of base salary set forth in those subsections may be modified or a new contribution scheme or method other than a percentage of salary may be provided for in accordance with a collective negotiations agreement.

j. Modifications to plan design of the plans set forth in section 1 of this act, P.L.2020, c.44 (C.52:14-17.46.13), or adjustments to the employee contribution rates set forth in subsections a. and b. of section 2 of this act, made by the School Employees' Health Benefits Plan Design Committee or the State Treasurer pursuant to section 7 of this act shall be implemented for the purposes of this section by the employer commencing January 1, 2024.

k. This section shall also apply when health care benefits coverage is provided though an insurance fund or joint insurance fund or any other manner. This section shall apply to any employer, as that term is defined in section 32 of P.L.2007, c.103 (C.52:14-17.46.2), that is not a participating employer in the School Employees' Health Benefits Program.

3. This act shall take effect immediately.

Approved December 18, 2020.

CHAPTER 138

AN ACT extending certain document submission deadlines for business tax credit programs, and amending P.L.2007, c.346 and P.L.2009, c.90.

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

1. Section 3 of P.L.2007, c.346 (C.34:1B-209) is amended to read as follows:

C.34:1B-209 Credit for qualified business facilities conditions for eligibility; allowances.

3. a. (1) A business, upon application to and approval from the authority, shall be allowed a credit of 100 percent of its capital investment, made after the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.) but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified business facility within an eligible municipality, pursuant to the restrictions and requirements of this section. To be eligible for any tax credits authorized under this section, a business shall demonstrate to the authority,

at the time of application, that the State's financial support of the proposed capital investment in a qualified business facility will yield a net positive benefit to both the State and the eligible municipality. The value of all credits approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) shall not exceed $1,750,000,000, except as may be increased by the authority as set forth in paragraph (5) of subsection a. of section 35 of P.L.2009, c.90 (C.34:1B-209.3) and section 6 of P.L.2010, c.57 (C.34:1B-209.4).

(2) A business, other than a tenant eligible pursuant to paragraph (3) of this subsection, shall make or acquire capital investments totaling not less than $50,000,000 in a qualified business facility, at which the business shall employ not fewer than 250 full-time employees to be eligible for a credit under this section. A business that acquires a qualified business facility shall also be deemed to have acquired the capital investment made or acquired by the seller.

(3) A business that is a tenant in a qualified business facility, the owner of which has made or acquired capital investments in the facility totaling not less than $50,000,000, shall occupy a leased area of the qualified business facility that represents at least $17,500,000 of the capital investment in the facility at which the tenant business and up to two other tenants in the qualified business facility shall employ not fewer than 250 full-time employees in the aggregate to be eligible for a credit under this section. The amount of capital investment in a facility that a leased area represents shall be equal to that percentage of the owner's total capital investment in the facility that the percentage of net leasable area leased by the tenant is of the total net leasable area of the qualified business facility. Capital investments made by a tenant shall be deemed to be included in the calculation of the capital investment made or acquired by the owner, but only to the extent necessary to meet the owner's minimum capital investment of $50,000,000. Capital investments made by a tenant and not allocated to meet the owner's minimum capital investment threshold of $50,000,000 shall be added to the amount of capital investment represented by the tenant's leased area in the qualified business facility.

(4) A business shall not be allowed tax credits under this section if the business participates in a business employment incentive agreement, pursuant to P.L.1996, c.26 (C.34:1B-124 et seq.), relating to the same capital and employees that qualify the business for this credit, or if the business receives assistance pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.). A business that is allowed a tax credit under this section shall not be eligible for incentives authorized pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.). A business shall not qualify for a tax credit under this section, based upon its capital investment and the employment of full-time employees, if that capital investment or employment was the basis for which a grant was provided to the

business pursuant to the "InvestNJ Business Grant Program Act," P.L.2008, c.112 (C.34:1B-237 et seq.).

(5) Full-time employment for an accounting or a privilege period shall be determined as the average of the monthly full-time employment for the period.

(6) The capital investment of the owner of a qualified business facility is that percentage of the capital investment made or acquired by the owner of the building that the percentage of net leasable area of the qualified business facility not leased to tenants is of the total net leasable area of the qualified business facility.

(7) A business shall be allowed a tax credit of 100 percent of its capital investment, made after the effective date of P.L.2011, c.89 but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified business facility that is part of a mixed use project, provided that (a) the qualified business facility represents at least $17,500,000 of the total capital investment in the mixed use project, (b) the business employs not fewer than 250 full-time employees in the qualified business facility, and (c) the total capital investment in the mixed use project of which the qualified business facility is a part is not less than $50,000,000. The allowance of credits under this paragraph shall be subject to the restrictions and requirements, to the extent that those are not inconsistent with the provisions of this paragraph, set forth in paragraphs (1) through (6) of this subsection, including, but not limited to, the requirement that the business shall demonstrate to the authority, at the time of application, that the State's financial support of the proposed capital investment in a qualified business facility will yield a net positive benefit to both the State and the eligible municipality.

(8) In determining whether a proposed capital investment will yield a net positive benefit, the authority shall not consider the transfer of an existing job from one location in the State to another location in the State as the creation of a new job, unless (a) the business proposes to transfer existing jobs to a municipality in the State as part of a consolidation of business operations from two or more other locations that are not in the same municipality whether in-State or out-of-State, or (b) the business's chief executive officer, or equivalent officer, submits a certification to the authority indicating that the existing jobs are at risk of leaving the State and that the business's chief executive officer, or equivalent officer, has reviewed the information submitted to the authority and that the representations contained therein are accurate, and the business intends to employ not fewer than 500 full-time employees in the qualified business facility. In the event that this certification by the business's chief executive officer, or equivalent officer, is found to be willfully false, the authority may revoke any award of tax credits in their

entirety, which revocation shall be in addition to any other criminal or civil penalties that the business and the officer may be subject to. When considering an application involving intra-State job transfers, the authority shall require the company to submit the following information as part of its application: a full economic analysis of all locations under consideration by the company; all lease agreements, ownership documents, or substantially similar documentation for the business's current in-State locations; and all lease agreements, ownership documents, or substantially similar documentation for the potential out-of-State location alternatives, to the extent they exist. Based on this information, and any other information deemed relevant by the authority, the authority shall independently verify and confirm, by way of making a factual finding by separate vote of the authority's board, the business's assertion that the jobs are actually at risk of leaving the State, before a business may be awarded any tax credits under this section.

b. (1) If applications under this section have been received by the authority prior to the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), then, to the extent that there remains sufficient financial authorization for the award of a tax credit, the authority is authorized to consider those applications and to make awards of tax credits to eligible applicants, provided that the authority shall take final action on those applications no later than December 31, 2013.

(2) A business shall apply for the credit under this section prior to the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), and shall submit its documentation for approval of its credit amount no later than December 31, 2023.

(3) If a business has submitted an application under this section and that application has not been approved for any reason, the lack of approval shall not serve to prejudice in any way the consideration of a new application as may be submitted for the qualified business facility for the provision of incentives offered pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.).

(4) Tax credits awarded pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) for applications submitted to and approved by the authority prior to the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), shall be administered by the authority in the manner established prior to that date.

(5) With respect to an application received by the authority prior to the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.) for a qualified business facility that is located on or adjacent to the campus of an acute care medical facility, (a) the

minimum number of full-time employees required for eligibility under the program may be employed by any number of tenants or other occupants of the facility, in the aggregate, and the initial satisfaction of the requirement following completion of the project shall be deemed to satisfy the employment requirements of the program in all respects, and (b) if the capital investment in the facility exceeds $100,000,000, the determination of the net positive benefit yield shall be based on the benefits generated during a period of up to 30 years following the completion of the project, as determined by the authority.

c. (1) The amount of credit allowed shall, except as otherwise provided, be equal to the capital investment made by the business, or the capital investment represented by the business's leased area, or area owned by the business as a condominium, and shall be taken over a 10-year period, at the rate of one-tenth of the total amount of the business's credit for each tax accounting or privilege period of the business, beginning with the tax period in which the business is first certified by the authority as having met the investment capital and employment qualifications, subject to any reduction or disqualification as provided by subsection d. of this section as determined by annual review by the authority. In conducting its annual review, the authority may require a business to submit any information determined by the authority to be necessary and relevant to its review.

The credit amount for any tax period ending after December 31, 2023 during which the documentation of a business's credit amount remains uncertified shall be forfeited, although credit amounts for the remainder of the years of the 10-year credit period shall remain available to it.

The credit amount that may be taken for a tax period of the business that exceeds the final liabilities of the business for the tax period may be carried forward for use by the business in the next 20 successive tax periods, and shall expire thereafter, provided that the value of all credits approved by the authority against tax liabilities pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) in any fiscal year shall not exceed $260,000,000.

The amount of credit allowed for a tax period to a business that is a tenant in a qualified business facility shall not exceed the business's total lease payments for occupancy of the qualified business facility for the tax period.

(2) A business that is a partnership shall not be allowed a credit under this section directly, but the amount of credit of an owner of a business shall be determined by allocating to each owner of the partnership that proportion of the credit of the business that is equal to the owner of the partnership's share, whether or not distributed, of the total distributive income or gain of the partnership for its tax period ending within or at the end of the owner's tax period, or that proportion that is allocated by an agreement, if any, among

the owners of the partnership that has been provided to the Director of the Division of Taxation in the Department of the Treasury by the time and accompanied by the additional information as the director may require.

(3) The amount of credit allowed may be applied against the tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.

d. (1) If, in any tax period, fewer than 200 full-time employees of the business at the qualified business facility are employed in new full-time positions, the amount of the credit otherwise determined pursuant to final calculation of the award of tax credits pursuant to subsection c. of this section shall be reduced by 20 percent for that tax period and each subsequent tax period until the first period for which documentation demonstrating the restoration of the 200 full-time employees employed in new full-time positions at the qualified business facility has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed; provided, however, that for businesses applying before January 1, 2010, there shall be no reduction if a business relocates to an urban transit hub from another location or other locations in the same municipality. For the purposes of this paragraph, a "new full-time position" means a position created by the business at the qualified business facility that did not previously exist in this State.

(2) If, in any tax period, the business reduces the total number of full-time employees in its Statewide workforce by more than 20 percent from the number of full-time employees in its Statewide workforce in the last tax accounting or privilege period prior to the credit amount approval under subsection a. of this section, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the business's Statewide workforce to the threshold levels required by this paragraph has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(3) If, in any tax period, (a) the number of full-time employees employed by the business at the qualified business facility located in an urban transit hub within an eligible municipality drops below 250, or (b) the number of full-time employees, who are not the subject of intra-State job transfers, pursuant to paragraph (8) of subsection a. of this section, employed by the business at any other business facility in the State, whether or not located in an urban transit hub within an eligible municipality, drops by more than 20 percent from the number of full-time employees in its workforce in the

last tax accounting or privilege period prior to the credit amount approval under this section, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the business at the qualified business facility to 250 or an increase above the 20 percent reduction has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(4) (i) If the qualified business facility is sold in whole or in part during the 10-year eligibility period, the new owner shall not acquire the capital investment of the seller and the seller shall forfeit all credits for the tax period in which the sale occurs and all subsequent tax periods; provided, however, that any credits of tenants shall remain unaffected.

(ii) If a tenant subleases its tenancy in whole or in part during the 10-year eligibility period, the new tenant shall not acquire the credit of the sublessor, and the sublessor tenant shall forfeit all credits for the tax period of its sublease and all subsequent tax periods.

e. (1) The Executive Director of the New Jersey Economic Development Authority, in consultation with the Director of the Division of Taxation in the Department of the Treasury, shall adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement P.L.2007, c.346 (C.34:1B-207 et seq.), including, but not limited to: examples of and the determination of capital investment; the enumeration of eligible municipalities; specific delineation of urban transit hubs; the determination of the limits, if any, on the expense or type of furnishings that may constitute capital improvements; the promulgation of procedures and forms necessary to apply for a credit, including the enumeration of the certification procedures and allocation of tax credits for different phases of a qualified business facility or mixed use project; and provisions for credit applicants to be charged an initial application fee, and ongoing service fees, to cover the administrative costs related to the credit.

(2) Through regulation, the authority shall establish standards based on the green building manual prepared by the Commissioner of Community Affairs, pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction.

2. Section 35 of P.L.2009, c.90 (C.34:1B-209.3) is amended to read as follows:

C.34:1B-209.3 Developers allowed certain tax credits.

35. a. (1) A developer, upon application to and approval from the authority, shall be allowed a credit of up to 35 percent of its capital investment, or up to 40 percent for a project located in a Garden State Growth Zone, made after the effective date of P.L.2009, c.90 (C.52:27D-489a et al.) but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified residential project, pursuant to the restrictions and requirements of this section. To be eligible for any tax credits authorized under this section, a developer shall demonstrate to the authority, through a project pro forma analysis at the time of application, that the qualified residential project is likely to be realized with the provision of tax credits at the level requested, but is not likely to be accomplished by private enterprise without the tax credits. The value of all credits approved by the authority pursuant to this section for qualified residential projects may be up to $150,000,000, except as may be increased by the authority as set forth below and as set forth in paragraph (5) of this subsection; provided; however, that the combined value of all credits approved by the authority pursuant to section 3 of P.L.2007, c.346 (C.34:1B-209) and this section shall not exceed $1,750,000,000, except as may be increased by the authority as set forth in paragraph (5) of this subsection. The authority shall monitor application and allocation activity under P.L.2007, c.346 (C.34:1B-207 et seq.), and if sufficient credits are available after taking into account allocation under P.L.2007, c.346 (C.34:1B-207 et seq.) to those qualified business facilities for which applications have been filed or for which applications are reasonably anticipated, and if the executive director judges certain qualified residential projects to be meritorious, the aforementioned $150,000,000 cap may, in the discretion of the executive director, from time to time, be exceeded for allocation to qualified residential projects in amounts as the executive director deems reasonable, justified, and appropriate. In allocating all credits to qualified residential projects under this section, the executive director shall take into account, together with other factors deemed relevant by the executive director: input from the municipality in which the project is to be located; whether the project contributes to the recovery of areas affected by Hurricane Sandy; whether the project furthers specific State or municipal planning and development objectives, or both; and whether the project furthers a public purpose, such as catalyzing urban development or maximizing the value of vacant, dilapidated, outmoded, government-owned, or underutilized property, or both.

(2) A developer shall make or acquire capital investments totaling not less than $50,000,000 in a qualified residential project to be eligible for a credit under this section. A developer that acquires a qualified residential

project shall also be deemed to have acquired the capital investment made or acquired by the seller.

(3) The capital investment requirement may be met by the developer or by one or more of its affiliates.

(4) A developer of a mixed use project shall be allowed a credit pursuant to subparagraph (a) or (b) of this paragraph, but not both.

(a) A developer shall be allowed a credit in accordance with this section for a qualified residential project that includes a mixed use project.

(b) A developer shall be allowed a credit of up to 35 percent of its capital investment, or up to 40 percent for a project located in a Garden State Growth Zone, made after the effective date of P.L.2011, c.89, but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified residential project that is part of a mixed use project, provided that:

(i) the capital investment in the qualified residential project represents at least $17,500,000 of the total capital investment in the mixed use project; and

(ii) the total capital investment in the mixed use project of which the qualified residential project is a part is not less than $50,000,000.

The allowance of credits under this paragraph shall be subject to the restrictions and requirements, to the extent that those are not inconsistent with the provisions of this paragraph, set forth in paragraphs (1) through (3) of this subsection, including, but not limited to, the requirement prescribed in paragraph (1) of this subsection that the developer shall demonstrate to the authority, through a project pro forma analysis at the time of application, that the qualified residential project is likely to be realized with the provision of tax credits at the level requested but is not likely to be accomplished by private enterprise without the tax credits.

As used in this subparagraph:

"Mixed use project" means a project comprising both a qualified residential project and a qualified business facility.

(5) The authority may approve and allocate credits for qualified residential projects in a value sufficient to meet the requirements of all applications that were received by the authority between October 24, 2012 and December 21, 2012, without regard to the terms of any competitive solicitation, except for the $33,000,000 per project cap, and without need for reapplication by any applicant. The authority shall take final action on those applications prior to the 120th day after the date of enactment of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.).

b. (1) A developer shall apply for the credit under this section on or prior to December 21, 2012 but may thereafter supplement an application as may

be requested by the authority. A developer shall submit its documentation for approval of its credit amount no later than December 31, 2023.

(2) If a developer has submitted an application under this section and the application has not been approved for any reason, the lack of approval shall not serve to prejudice in any way the consideration of a new application as may be submitted for the project for the provision of incentives offered pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.).

c. The credit shall be administered in accordance with the provisions of subsections c. and e. of section 3 of P.L.2007, c.346 (C.34:1B-209), as amended by section 32 of P.L.2009, c.90, and section 33 of P.L.2009, c.90 (C.34:1B-209.1), except that:

(1) all references therein to "business" and "qualified business facility" shall be deemed to refer respectively to "developer" and "qualified residential project," as those terms are defined in section 34 of P.L.2009, c.90 (C.34:1B-209.2); and

(2) all references therein to credits claimed by tenants and to reductions or disqualifications in credits as determined by annual review of the authority shall be disregarded.

For purposes of a "mixed use project" as that term is used and defined pursuant to subparagraph (b) of paragraph (4) of subsection a. of this section, "qualified business facility" means that term as defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208).

3. Section 5 of P.L.2009, c.90 (C.52:27D-489e) is amended to read as follows:

C.52:27D-489e Economic Development and Growth Grant Program.

5. a. The New Jersey Economic Development Authority, in consultation with the State Treasurer, shall establish an Economic Redevelopment and Growth Grant program for the purpose of encouraging redevelopment projects in qualifying economic redevelopment and growth grant incentive areas that do not qualify as such areas solely by virtue of being a transit village, through the provision of incentive grants to reimburse developers for certain project financing gap costs.

b. (1) A developer shall submit an application for a State incentive grant prior to July 1, 2019; provided, however, a developer of a qualified residential project or a mixed use parking project seeking an award of credits toward the funding of its incentive grant for a project restricted under part (viii) of subparagraph (b) of paragraph (3) of subsection b. of section 6 of P.L.2009,

c.90 (C.52:27D-489f) shall submit an incentive grant application prior to December 31, 2021. A developer that submits an application for a State incentive grant shall indicate on the application whether it is also applying for a local incentive grant.

(2) When an applicant indicates it is also applying for a local incentive grant, the authority shall forward a copy of the application to the municipality wherein the redevelopment project is to be located for approval by municipal ordinance.

c. An application for a State incentive grant shall be reviewed and approved by the authority. The authority shall not approve an application for a State incentive grant unless the application was submitted prior to July 1, 2019; provided, however, the authority shall not approve an application for a State incentive grant by a developer of a qualified residential project or a mixed use parking project seeking an award of credits toward the funding of its incentive grant for a project restricted under part (viii) of subparagraph (b) of paragraph (3) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f) unless the application was submitted prior to December 31, 2021.

d. A developer shall not be required to purchase pinelands development credits under the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), the pinelands comprehensive management plan, or any other rule or regulation adopted pursuant to that act in connection with any approval or relief obtained related to a redevelopment project located in an aviation district on or after the effective date of P.L.2018, c.120, except if seeking to develop in permanently protected open space pursuant to the Pinelands Protection Act. The provisions of this subsection shall not apply to a developer of a qualified residential project.

4. Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to read as follows:

C.52:27D-489f Payment to developer from State.

6. a. Up to the limits established in subsection b. of this section and in accordance with a redevelopment incentive grant agreement, beginning upon the receipt of occupancy permits for any portion of the redevelopment project, or upon any other event evidencing project completion as set forth in the incentive grant agreement, the State Treasurer shall pay to the developer incremental State revenues directly realized from businesses operating at the site of the redevelopment project from the following taxes: the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the tax imposed

on marine insurance companies pursuant to R.S.54:16-1 et seq., the tax imposed on insurers generally, pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities gross receipts tax and public utility excise tax imposed on sewerage and water corporations pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.), those tariffs and charges imposed by electric, natural gas, telecommunications, water and sewage utilities, and cable television companies under the jurisdiction of the New Jersey Board of Public Utilities, or comparable entity, except for those tariffs, fees, or taxes related to societal benefits charges assessed pursuant to section 12 of P.L.1999, c.23 (C.48:3-60), any charges paid for compliance with the "Global Warming Response Act," P.L.2007, c.112 (C.26:2C-37 et seq.), transitional energy facility assessment unit taxes paid pursuant to section 67 of P.L.1997, c.162 (C.48:2-21.34), and the sales and use taxes on public utility and cable television services and commodities, the tax derived from net profits from business, a distributive share of partnership income, or a pro rata share of S corporation income under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a business at the site of a redevelopment project that is required to collect the tax pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from the purchase of furniture, fixtures and equipment, or materials for the remediation, the construction of new structures at the site of a redevelopment project, the hotel and motel occupancy fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1), or the portion of the fee imposed pursuant to section 3 of P.L.1968, c.49 (C.46:15-7) derived from the sale of real property at the site of the redevelopment project and paid to the State Treasurer for use by the State, that is not credited to the "Shore Protection Fund" or the "Neighborhood Preservation Nonlapsing Revolving Fund" ("New Jersey Affordable Housing Trust Fund") pursuant to section 4 of P.L.1968, c.49 (C.46:15-8). Any developer shall be allowed to assign their ability to apply for the tax credit under this subsection to a non-profit organization with a mission dedicated to attracting investment and completing development and redevelopment projects in a Garden State Growth Zone. The non-profit organization may make an application on behalf of a developer which meets the requirements for the tax credit, or a group of non-qualifying developers, such that these will be considered a unified project for the purposes of the incentives provided under this section.

b. (1) Up to an average of 75 percent of the projected annual incremental revenues or 85 percent of the projected annual incremental revenues in a Garden State Growth Zone may be pledged towards the State portion of an incentive grant.

(2) In the case of a qualified residential project or a project involving university infrastructure, if the authority determines that the estimated amount of incremental revenues pledged towards the State portion of an incentive grant is inadequate to fully fund the amount of the State portion of the incentive grant, then in lieu of an incentive grant based on the incremental revenues, the developer shall be awarded tax credits equal to the full amount of the incentive grant.

(3) In the case of a mixed use parking project, if the authority determines that the estimated amount of incremental revenues pledged towards the State portion of an incentive grant is inadequate to fully fund the amount of the State portion of the incentive grant, then, in lieu of an incentive grant based on the incremental revenues, the developer shall be awarded tax credits equal to the full amount of the incentive grant.

The value of all credits approved by the authority pursuant to paragraphs (2) and (3) of this subsection shall not exceed $843,000,000, of which:

(a) $250,000,000 shall be restricted to qualified residential projects within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem counties, of which $175,000,000 of the credits shall be restricted to the following categories of projects: (i) qualified residential projects located in a Garden State Growth Zone located within the aforementioned counties; and (ii) mixed use parking projects located in a Garden State Growth Zone or urban transit hub located within the aforementioned counties; (iii) and $75,000,000 of the credits shall be restricted to qualified residential projects in municipalities with a 2007 Municipal Revitalization Index of 400 or higher as of the date of enactment of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within the aforementioned counties;

(b) $395,000,000 shall be restricted to the following categories of projects: (i) qualified residential projects located in urban transit hubs that are commuter rail in nature that otherwise do not qualify under subparagraph (a) of this paragraph; (ii) qualified residential projects located in Garden State Growth Zones that do not qualify under subparagraph (a) of this paragraph; (iii) mixed use parking projects located in urban transit hubs or Garden State Growth Zones that do not qualify under subparagraph (a) of this paragraph, provided however, an urban transit hub shall be allocated no more than $25,000,000 for mixed use parking projects; (iv) qualified residential projects which are disaster recovery projects that otherwise do not qualify under subparagraph (a) of this paragraph; (v) qualified residential projects in SDA municipalities located in Hudson County that were awarded State Aid in State Fiscal Year 2013 through the Transitional Aid to Localities program

and otherwise do not qualify under subparagraph (a) of this paragraph; (vi) $25,000,000 of credits shall be restricted to mixed use parking projects in Garden State Growth Zones which have a population in excess of 125,000 and do not qualify under subparagraph (a) of this paragraph; (vii) $40,000,000 of credits shall be restricted to qualified residential projects that include a theater venue for the performing arts and do not qualify under subparagraph (a) of this paragraph, which projects are located in a municipality with a population of less than 100,000 according to the latest federal decennial census, and within which municipality is located an urban transit hub and a campus of a public research university, as defined in section 1 of P.L.2009, c.308 (C.18A:3B-46); and (viii) $125,000,000 of credits shall be restricted to qualified residential projects and mixed use parking projects in Garden State Growth Zones having a population in excess of 125,000 and do not qualify under subparagraph (a) of this paragraph;

(c) $87,000,000 shall be restricted to the following categories of projects: (i) qualified residential projects located in distressed municipalities, deep poverty pockets, highlands development credit receiving areas or redevelopment areas, otherwise not qualifying pursuant to subparagraph (a) or (b) of this paragraph; and (ii) mixed use parking projects that do not qualify under subparagraph (a) or (b) of this paragraph, and which are used by an independent institution of higher education, a school of medicine, a nonprofit hospital system, or any combination thereof; provided, however, that $20,000,000 of the $87,000,000 shall be allocated to mixed use parking projects that do not qualify under subparagraph (a) or (b) of this paragraph;

(d) (i) $16,000,000 shall be restricted to qualified residential projects that are located within a qualifying economic redevelopment and growth grant incentive area otherwise not qualifying under subparagraph (a), (b), or (c) of this paragraph; and

(ii) an additional $50,000,000 shall be restricted to qualified residential projects which, as of the effective date of P.L.2016, c.51, are located in a city of the first class with a population in excess of 270,000, are subject to a Renewal Contract for a Section 8 Mark-Up-To-Market Project from the United States Department of Housing and Urban Development, and for which an application for the award of tax credits under this subsection was submitted prior to January 1, 2016; and

(e) $25,000,000 shall be restricted to projects involving university infrastructure.

(f) For subparagraphs (a) through (d) of this paragraph, not more than $40,000,000 of credits shall be awarded to any qualified residential project in a deep poverty pocket or distressed municipality and not more than

$20,000,000 of credits shall be awarded to any other qualified residential project. The developer of a qualified residential project seeking an award of credits towards the funding of its incentive grant shall submit an incentive grant application prior to July 1, 2016 and if approved after September 18, 2013, the effective date of P.L.2013, c.161 (C.52:27D-489p et al.) shall submit a temporary certificate of occupancy for the project no later than December 31, 2023. The developer of a mixed use parking project seeking an award of credits towards the funding of its incentive grant pursuant to subparagraph (c) of this paragraph and if approved after the effective date of P.L.2015, c.217, shall submit a temporary certificate of occupancy for the project no later than December 31, 2023. The developer of a qualified residential project or a mixed use parking project seeking an award of credits toward the funding of its incentive grant for a project restricted under categories (vi) and (viii) of subparagraph (b) of this paragraph shall submit an incentive grant application prior to July 1, 2019 or, in the case of a project restricted under part (viii) of subparagraph (b) of this paragraph, December 31, 2021, and if approved after the effective date of P.L.2017, c.59, shall submit a temporary certificate of occupancy for the project no later than December 31, 2023 provided that the municipality in which the project is located shall have submitted to the chief executive officer of the authority a letter of support identifying up to six projects prior to July 1, 2018. The letter of support is to contain a project scope for each of the projects and may be supplemented or amended from time to time until July 1, 2019 or, in the case of a project restricted under part (viii) of subparagraph (b) of this paragraph, December 31, 2021. Applications for tax credits pursuant to this subsection relating to an ancillary infrastructure project or infrastructure improvement in the public right-of-way, or both, shall be accompanied with a letter of support relating to the project or improvement by the governing body or agency in which the project is located. Credits awarded to a developer pursuant to this subsection shall be subject to the same financial and related analysis by the authority, the same term of the grant, and the same mechanism for administering the credits, and shall be utilized or transferred by the developer as if the credits had been awarded to the developer pursuant to section 35 of P.L.2009, c.90 (C.34:1B-209.3) for qualified residential projects thereunder. No portion of the revenues pledged pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.) shall be subject to withholding or retainage for adjustment, in the event the developer or taxpayer waives its rights to claim a refund thereof.

(4) A developer may apply to the Director of the Division of Taxation in the Department of the Treasury and the chief executive officer of the authority for a tax credit transfer certificate, if the developer is awarded a tax credit pursuant to paragraph (2) or paragraph (3) of this subsection, covering one or more years, in lieu of the developer being allowed any amount of the credit against the tax liability of the developer. The tax credit transfer certificate, upon receipt thereof by the developer from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part, to any other person who may have a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate provided to the developer shall include a statement waiving the developer's right to claim that amount of the credit against the taxes that the developer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this paragraph shall not be exchanged for consideration received by the developer of less than 75 percent of the transferred credit amount before considering any further discounting to present value that may be permitted. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability shall be subject to the same limitations and conditions that apply to the use of the credit by the developer who originally applied for and was allowed the credit.

c. All administrative costs associated with the incentive grant shall be assessed to the applicant and be retained by the State Treasurer from the annual incentive grant payments.

d. The incremental revenue for the revenues listed in subsection a. of this section shall be calculated as the difference between the amount collected in any fiscal year from any eligible revenue source included in the State redevelopment incentive grant agreement, less the revenue increment base for that eligible revenue.

e. The municipality is authorized to collect any information necessary to facilitate grants under this program and remit that information in order to assist in the calculation of incremental revenue.

5. This act shall take effect immediately.

Approved December 23, 2020.

CHAPTER 139

AN ACT appropriating $11,500,000 from constitutionally dedicated corporation business tax revenues to the State Agriculture Development Committee for municipal planning incentive grants for farmland preservation purposes.

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

1. a. There is appropriated to the State Agriculture Development Committee the sum of $11,500,000 from dedicated corporation business tax revenues pursuant to Article VIII, Section II, paragraph 6 of the State Constitution in the "Preserve New Jersey Farmland Preservation Fund," established pursuant to section 8 of the "Preserve New Jersey Act," P.L.2016, c.12 (C.13:8C-50), for the purpose of providing municipal planning incentive grants pursuant to section 1 of P.L.1999, c.180 (C.4:1C-43.1) and approved as eligible for such funding pursuant to this section.

b. The following municipalities are eligible for funding, in accordance with the rules and regulations of the State Agriculture Development Committee providing for a municipal planning incentive grant program, with the monies appropriated pursuant to subsection a. of this section:

Municipality	**County**	**Amount of Grant**
Upper Deerfield Twp	Cumberland	$500,000
Franklin Twp	Gloucester	$500,000
Woolwich Twp	Gloucester	$1,000,000
Alexandria Twp	Hunterdon	$500,000
Pilesgrove Twp	Salem	$1,000,000
Pittsgrove Twp	Salem	$500,000
Upper Pittsgrove Twp	Salem	$1,000,000
Blairstown Twp	Warren	$500,000
Frelinghuysen Twp	Warren	$500,000
Knowlton Twp	Warren	$500,000
TOTAL		**6,500,000**

c. (1) The following municipalities are eligible for funding, in accordance with the rules and regulations of the State Agriculture Development Committee providing for a municipal planning incentive grant program competitive grant fund, with the monies appropriated pursuant to subsection a. of this section:

Municipality	County
Hopewell Twp	Cumberland
Upper Deerfield Twp	
Franklin Twp	Gloucester
Woolwich Twp	
Alexandria Twp	Hunterdon
Delaware Twp	
East Amwell Twp	
Franklin Twp	
Holland Twp	
Kingwood Twp	
Readington Twp	
Tewksbury Twp	
Union Twp	
West Amwell Twp	
Hopewell Twp	Mercer
Colts Neck Twp	Monmouth
Holmdel Twp	
Howell Twp	
Manalapan Twp	
Marlboro Twp	
Millstone Twp	
Upper Freehold Twp	
Alloway Twp	Salem
Mannington Twp	
Pilesgrove Twp	
Pittsgrove Twp	
Upper Pittsgrove Twp	
Bedminster Twp \	Somerset
Franklin Twp	
Hillsborough Twp	
Montgomery Twp	
Peapack - Gladstone Boro	
Frankford Twp	Sussex
Green Twp	
Blairstown Twp	Warren
Franklin Twp	
Frelinghuysen Twp	
Greenwich Twp	
Harmony Twp	
Hope Twp	
Knowlton Twp	
White Twp	

(2) The maximum grant award a municipality identified in this subsection may receive pursuant to this section is $500,000.

2. There is appropriated from the General Fund to the "Preserve New Jersey Farmland Preservation Fund," established pursuant to section 8 of the

"Preserve New Jersey Act," P.L.2016, c.12 (C.13:8C-50), the sum of $11,500,000 to implement the provisions of this act.

3. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.2016, c.12 (C.13:8C-43 et seq.), P.L.1999, c.180 (C.4:1C-43.1), P.L.1999, c.152 (C.13:8C-1 et seq.), and P.L.1983, c.32 (C.4:1C-11 et seq.), as appropriate.

4. This act shall take effect immediately.

Approved December 23, 2020.

CHAPTER 140

AN ACT appropriating $29,886,172 from various farmland preservation funds to the State Agriculture Development Committee for farmland preservation purposes.

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

1. a. There is appropriated to the State Agriculture Development Committee the sum of $23,298,172 in the following subtotal amounts, listed in paragraphs (1) through (5) of this subsection, to pay the cost of acquisition by the committee of development easements on, or fee simple titles to, farmland, to provide grants to counties and municipalities for up to 80 percent of the cost of acquisition of fee simple titles to farmland, to provide grants to qualifying tax-exempt non-profit organizations for up to 50 percent of the cost of acquisition of fee simple titles to farmland, for farmland preservation purposes for projects approved as eligible for such funding pursuant to the "Agricultural Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.), the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, the "Garden State Preservation Trust Act," P.L.1999, c.152 (C.13:8C-1 et seq.), the "Green Acres, Farmland, Blue Acres, and Historic Preservation Bond Act of 2007," P.L.2007, c.119, the "Green Acres, Water Supply and Floodplain Protection, and Farmland and Historic Preservation Bond Act of 2009," P.L.2009, c.117, and the "Preserve New Jersey Act," P.L.2016, c.12 (C.13:8C-43 et seq.):

(1) $22,416,375 from dedicated corporation business tax revenues pursuant to Article VIII, Section II, paragraph 6 of the State Constitution from

the "Preserve New Jersey Farmland Preservation Fund," established pursuant to section 8 of the "Preserve New Jersey Act," P.L.2016, c.12 (C.13:8C-50);

(2) $599,712 from the "2009 Farmland Preservation Fund," established pursuant to section 18 of the "Green Acres, Water Supply and Floodplain Protection, and Farmland and Historic Preservation Bond Act of 2009," P.L.2009, c.117;

(3) $141,233 from the "2007 Farmland Preservation Fund," established pursuant to section 18 of the "Green Acres, Farmland, Blue Acres, and Historic Preservation Bond Act of 2007," P.L.2007, c.119;

(4) $103,308 from the "Garden State Farmland Preservation Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20); and

(5) $37,544 .from the "1995 Farmland Preservation Fund," established pursuant to section 25 of the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204.

b. Any farmland acquired in fee simple with monies appropriated pursuant to this section shall be offered for resale or lease with agricultural deed restrictions approved by the committee.

2. There is appropriated from the "Preserve New Jersey Farmland Preservation Fund," established pursuant to section 8 of the "Preserve New Jersey Act," P.L.2016, c.12 (C.13:8C-50), from the "2009 Farmland Preservation Fund," established pursuant to section 18 of the "Green Acres, Water Supply and Floodplain Protection, and Farmland and Historic Preservation Bond Act of 2009," P.L.2009, c.117, from the "2007 Farmland Preservation Fund," established pursuant to section 18 of the "Green Acres, Farmland, Blue Acres, and Historic Preservation Bond Act of 2007," P.L.2007, c.119, from the "Garden State Farmland Preservation Trust Fund," established pursuant to section 20 of P.L.1999, c.152 (C.13:8C-20), from the "1999 Open Space Fund," established pursuant to the "Open Space – Local Match Program of the Fiscal Year 1999 annual appropriations act," P.L.1998, c.45, from the "1995 Farmland Preservation Fund," established pursuant to section 25 of the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, from the "1992 Farmland Preservation Fund," established pursuant to section 24 of the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88, from the "1989 Farmland Preservation Fund," established pursuant to section 22 of the "Open Space Preservation Bond Act of 1989," P.L.1989, c.183, and from the "Farmland Preservation Fund," established pursuant to section 5 of the "Farmland Preservation Bond Act of 1981," P.L.1981, c.276, to the State Agriculture Development Committee such sums from any additional proceeds which may

become available by the effective date of this act due to the lease or conveyance of land or development easements acquired or funded by the committee, for the purpose of providing for the cost of acquisition by the committee of development easements and fee simple titles to farmland for farmland preservation purposes pursuant to subsection a. of section 1 of this act.

Any farmland acquired in fee simple with monies appropriated pursuant to this section shall be offered for resale or lease with agricultural deed restrictions approved by the committee.

3. There is appropriated to the State Agriculture Development Committee the sum of $2,253,000 from the "Preserve New Jersey Farmland Preservation Fund," established pursuant to section 8 of the "Preserve New Jersey Act," P.L.2016, c.12 (C.13:8C-50), for the purpose of providing grants for stewardship activities as defined pursuant to section 3 of P.L.2016, c.12 (C.13:8C-45), including soil and water conservation project activities approved pursuant to section 17 of P.L.1983, c.32 (C.4:1C-24) and deer-fencing activities approved pursuant to section 5 of P.L.1983, c.32 (C.4:1C-5).

4. There is appropriated to the State Agriculture Development Committee the sum of $4,335,000 from the "Preserve New Jersey Farmland Preservation Fund," established pursuant to section 8 of the "Preserve New Jersey Act," P.L.2016, c.12 (C.13:8C-50), as follows:

a. $3,985,000 for the purpose of providing funding for organizational, administrative and other work and services, including salaries, equipment, materials, and services necessary to administer the applicable provisions of P.L.2016, c.12 (C.13:8C-43 et seq.);

b. $250,000 for the purpose of providing funding for costs associated with the acquisition of development easements on farmland by the committee, including, but not limited to, appraisal, survey, and title costs; and

c. $100,000 for the purpose of providing for the review of appraisals for farmland preservation programs administered by the committee pursuant to P.L.2016, c.12 (C.13:8C-43 et seq.).

5. There is appropriated from the General Fund to the "Preserve New Jersey Farmland Preservation Fund," established pursuant to section 8 of the "Preserve New Jersey Act," P.L.2016, c.12 (C.13:8C-50), the sum of $29,004,375 to implement the provisions of this act.

6. The expenditure of the sums approved by this act is subject to the provisions and conditions of P.L.2016, c.12 (C.13:8C-43 et seq.), P.L.2009,

c.117, P.L.2007, c.119, P.L.1999, c.152 (C.13:8C-1 et seq.), P.L.1998, c.45, P.L.1995, c.204, P.L.1992, c.88, P.L.1989, c.183, P.L.1983, c.32 (C.4:1C-11 et seq.), and P.L.1981, c.276, as appropriate.

7. This act shall take effect immediately.

Approved December 23, 2020.

CHAPTER 141

AN ACT appropriating $12,000,000 from constitutionally dedicated corporation business tax revenues to the State Agriculture Development Committee for planning incentive grants to counties for farmland preservation purposes.

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

1. a. There is appropriated to the State Agriculture Development Committee the sum of $12,000,000 from dedicated corporation business tax revenues pursuant to Article VIII, Section II, paragraph 6 of the State Constitution in the "Preserve New Jersey Farmland Preservation Fund," established pursuant to section 8 of the "Preserve New Jersey Act," P.L.2016, c.12 (C.13:8C-50), for the purpose of providing planning incentive grants to counties pursuant to section 1 of P.L.1999, c.180 (C.4:1C-43.1) for up to 80% of the cost of acquisition of development easements on farmland for projects approved as eligible for such funding pursuant to this section.

b. The following applicants are eligible for funding with the monies appropriated pursuant to subsection a. of this section for eligible projects located in an agricultural development area approved pursuant to section 11 of P.L.1983, c.32 (C.4:1C-18):

Applicant(County)	**Municipality**	**Amount of Grant**
Burlington County	Bass River Twp Bordentown Twp Chesterfield Twp Cinnaminson Twp Eastampton Twp Evesham Twp Florence Twp Hainesport Twp	$2,000,000

	Lumberton Twp	
	Mansfield Twp	
	Medford Twp	
	Moorestown Twp	
	Mount Laurel Twp	
	New Hanover Twp	
	North Hanover Twp	
	Pemberton Boro	
	Pemberton Twp	
	Shamong Twp	
	Southampton Twp	
	Springfield Twp	
	Tabernacle Twp	
	Washington Twp	
	Westampton Twp	
	Woodland Twp	
	Wrightstown Boro	
Cumberland County	Commercial Twp	2,000,000
	Deerfield Twp	
	Downe Twp	
	Fairfield Twp	
	Greenwich Twp	
	Hopewell Twp	
	Lawrence Twp	
	Maurice River Twp	
	Millville City	
	Shiloh Boro	
	Stow Creek Twp	
	Upper Deerfield Twp	
	Vineland City	
Gloucester County	Clayton Boro	2,000,000
	East Greenwich Twp	
	Elk Twp	
	Franklin Twp	
	Glassboro Boro	
	Greenwich Twp	
	Harrison Twp	
	Logan Twp	
	Mantua Twp	
	Monroe Twp	
	Newfield Boro	
	South Harrison Twp	
	Swedesboro Boro	
	Washington Twp	
	West Deptford Twp	
	Woolwich Twp	

Hunterdon County	Alexandria Twp	1,000,000
	Bethlehem Twp	
	Califon Boro	
	Clinton Twp	
	Delaware Twp	
	East Amwell Twp	
	Franklin Twp	
	Glen Gardner Boro	
	Hampton Boro	
	Holland Twp	
	Kingwood Twp	
	Lebanon Boro	
	Lebanon Twp	
	Raritan Twp	
	Readington Twp	
	Stockton Boro	
	Tewksbury Twp	
	Union Twp	
	West Amwell Twp	
Monmouth County	Colts Neck Twp	2,000,000
	Farmingdale Boro	
	Freehold Twp	
	Holmdel Twp	
	Howell Twp	
	Manalapan Twp	
	Marlboro Twp	
	Middletown Twp	
	Millstone Twp	
	Roosevelt Boro	
	Tinton Falls Boro	
	Upper Freehold Twp	
	Wall Twp	
Morris County	Boonton Twp	1,000,000
	Chester Boro	
	Chester Twp	
	Denville Twp	
	Harding Twp	
	Kinnelon Boro	
	Lincoln Park Boro	
	Long Hill Twp	
	Mendham Boro	
	Mendham Twp	
	Mine Hill Twp	
	Montville Twp	
	Morris Twp	
	Mount Olive Twp	
	Pequannock Twp	

	Randolph Twp	
	Rockaway Twp	
	Roxbury Twp	
	Washington Twp	
Salem County	Alloway Twp	2,000,000
	Carneys Point Twp	
	Elmer Boro	
	Elsinboro Twp	
	Lower Alloways Creek Twp	
	Mannington Twp	
	Oldmans Twp	
	Pilesgrove Twp	
	Pittsgrove Twp	
	Quinton Twp	
	Upper Pittsgrove Twp	
	Woodstown Boro	
TOTAL		**$12,000,000**

2. There is appropriated from the General Fund to the "Preserve New Jersey Farmland Preservation Fund," established pursuant to section 8 of the "Preserve New Jersey Act," P.L.2016, c.12 (C.13:8C-50), the sum of $12,000,000 to implement the provisions of this act.

3. The expenditure of the sum appropriated by this act is subject to the provisions and conditions of P.L.2016, c.12 (C.13:8C-43 et seq.), P.L.1999, c.180 (C.4:1C-43.1), P.L.1983, c.32 (C.4:1C-11 et seq.), and P.L.1999, c.152 (C.13:8C-1 et seq.), as appropriate.

4. This act shall take effect immediately.

Approved December 23, 2020.

CHAPTER 142

A SUPPLEMENT to the Fiscal Year 2021 appropriations act, P.L.2020, c.97.

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

1. In addition to the amounts appropriated under P.L.2020, c.97, there is appropriated out of the General Fund the following sum for the purpose specified:

66 DEPARTMENT OF LAW AND PUBLIC SAFETY
10 Public Safety and Criminal Justice
12 Law Enforcement
GRANTS-IN-AID

09-1020 Criminal Justice	$58,000,000
Total Grants-in-Aid Appropriation, Criminal Justice	$58,000,000

Grants-in-Aid:
09 NJ Statewide Body Worn Camera Program .....($58,000,000)

2. This act shall take effect immediately.

Approved December 23, 2020.

CHAPTER 143

AN ACT concerning the New Jersey Quality Single Accountability Continuum and supplementing P.L.1975, c.212 (C.18A:7A-3 et seq.).

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

C.18A: 7A-11.1 Postponement of comprehensive review.

1. a. (1) Notwithstanding the provisions of section 11 of P.L.1975, c.212 (C.18A:7A-11) or any other section of law to the contrary, the Department of Education shall postpone the comprehensive review under the New Jersey Quality Single Accountability Continuum of any school district that:

(a) is required to undergo a comprehensive review in the 2020-2021 school year; and

(b) was designated as a high performing district pursuant to section 14 of P.L.1975, c.212 (C.18A:7A-14) in the school district's most recent comprehensive review.

(2) Notwithstanding the provisions of this subsection to the contrary, the Commissioner of Education shall permit a school district that is subject to the postponement of a comprehensive review under paragraph (1) of this subsection to undergo a comprehensive review in the 2020-2021 school year, upon request by the school district. A school district that undergoes a comprehensive review in the 2020-2021 school year pursuant to this paragraph shall undergo its next comprehensive review three years after the 2020-2021 school year.

b. If the comprehensive review of a school district is postponed under paragraph (1) of subsection a. of this section, then the school district shall undergo its next comprehensive review three years after the school year in which its comprehensive review was originally scheduled to take place.

c. A school district that is required to undergo a comprehensive review in the 2020-2021 school year and was not designated as a high performing district pursuant to section 14 of P.L.1975, c.212 (C.18A:7A-14) in the school district's most recent comprehensive review shall undergo a comprehensive review under the New Jersey Quality Single Accountability Continuum in the 2020-2021 school year, except that such a district may postpone its comprehensive review until the 2021-2022 school year if the district provides written notification to the Commissioner of Education that it is not able to complete the review due to the impacts of the COVID-19 pandemic.

d. If a school district postpones its comprehensive review until the 2021-2022 school year pursuant to subsection c. of this section, then the school district shall undergo its next following comprehensive review three years after the school year in which its comprehensive review was originally scheduled to take place.

2. This act shall take effect immediately.

Approved December 23, 2020.

CHAPTER 144

AN ACT appropriating $3,763,625 from constitutionally dedicated corporation business tax revenues to the State Agriculture Development Committee for grants to qualifying tax exempt nonprofit organizations for farmland preservation purposes.

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

1. a. There is appropriated to the State Agriculture Development Committee the sum of $3,763,625 from dedicated corporation business tax revenues pursuant to Article VIII, Section II, paragraph 6 of the State Constitution in the "Preserve New Jersey Farmland Preservation Fund," established pursuant to section 8 of the "Preserve New Jersey Act," P.L.2016, c.12 (C.13:8C-50), for the purpose of providing grants to qualifying tax exempt nonprofit

organizations listed in subsection b. of this section for up to 50 percent of the cost of acquisition of development easements on farmland or for up to 50 percent of the cost of acquisition of fee simple titles to farmland for resale or lease with agricultural deed restrictions approved by the committee.

b. The following projects are eligible for funding with the monies appropriated pursuant to subsection a. of this section:

Applicant (Project)	**Farm**	**County**	**Municipality**	**Amount of Grant Not to Exceed**
D&R Greenway	Trap Rock Industries	Mercer	Hopewell Twp	$910,950
The Land Conservancy of New Jersey	Milanese, Barbara	Somerset	Bedminster Twp	$2,148,775
	Newton Land, LLC	Sussex	Hampton Twp	
	Santini, Santino & Christine	Warren	Franklin Twp	
	Santini, Santino & Dominick (estate)	Warren	Franklin Twp	
	Giordano, Melissa & Thomas	Warren	Frelinghuysen Twp	
	Reuter, Lisa & Erich (Silver Pine)	Warren	Frelinghuysen Twp	
	Schwartz, David (Watercress)	Warren	Frelinghuysen Twp	
	Stecker, Robert & Lynn	Warren	Harmony Twp	
	Campgaw Club, LLC	Warren	Hope Twp Blairstown Twp	
Monmouth Conservation Foundation	Stivala, Michael, Jr. & Sionas, Eileen	Monmouth	Colts Neck Twp	$286,500
New Jersey Conservation Foundation	Curtis, Richard & Michael F.	Hunterdon	Delaware Twp	$417,400

2. There is appropriated from the General Fund to the "Preserve New Jersey Farmland Preservation Fund," established pursuant to section 8 of the "Preserve New Jersey Act," P.L.2016, c.12 (C.13:8C-50), the sum of $3,763,625 to implement the provisions of this act.

3. The expenditure of the sums appropriated by this act is subject to the provisions and conditions of P.L.2016, c.12 (C.13:8C-43 et seq.), P.L.1999, c.152 (C.13:8C-1 et seq.), and P.L.1983, c.32 (C.4:1C-11 et seq.), as appropriate.

4. This act shall take effect immediately.

Approved December 23, 2020.

CHAPTER 145

AN ACT permitting reorganization of a health service corporation, supplementing P.L.1985, c.286 (C.17:48E-1 et seq.), and amending P.L.2001, c.131 and P.L.1970, c.22.

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

C.17:48E-46.1 Findings, declarations relative to the reorganization of a health service corporation.

1. The Legislature finds and declares that:

a. It is in the interest of the subscribers of the health service corporation and the State of New Jersey that the health service corporation be afforded the ability to modernize its corporate structure, subject to appropriate standards, oversight, and approval, in order to meet the evolving health care needs of its subscribers, while continuing its statutory mission, and maintaining its status as a charitable and benevolent institution as declared in section 41 of P.L.1985, c.236 (C.17:48E-41).

b. Ensuring that the health service corporation statutes provide the opportunity for the health service corporation to reorganize itself efficiently and effectively in the form and manner authorized by P.L.2020, c.145 (C.17:48E-46.1 et al.) will facilitate increased utilization of 21st century technologies and tools to better address current challenges, improving both the State's healthcare infrastructure and its readiness to address future crises such as those resulting from the ongoing COVID-19 pandemic. Such a reorganization, if undertaken, approved, and completed consistent with the provisions of P.L.2020, c.145 (C.17:48E-46.1 et al.), also will promote vital investments and growth in health services and diversified businesses for the benefit of its members and the State.

c. Current law governing the health service corporation expressly permits the health service corporation to engage in certain actions that effectuate a corporate reorganization, subject to certain conditions, including potential conversion to a for-profit domestic stock insurer or other actions constituting a material change in its form, subject to the approval of the Commissioner of

Banking and Insurance in the Commissioner's capacity as regulator of the business of insurance and the Attorney General in furtherance of the Attorney General's statutory and common law responsibilities as protector, supervisor, and enforcer of charitable trusts and charitable corporations. The current statutes do not, however, prescribe a clear path for the health service corporation to update and improve its corporate structure for the benefit of its members and the State while, at the same time, maintaining its non-profit status, continuing to adhere to the statutory mission to provide affordable and accessible health insurance and promote the integration of the health care system to meet the needs of its members, and fulfilling the health care obligations of a health service corporation as they exist prior to the reorganization.

d. Other states have authorized similarly situated nonprofit health insurance carriers to reorganize their corporate forms while maintaining their nonprofit legal status and purposes of the entities for the benefit of their subscribers and respective regional health care marketplaces.

e. Because a reorganization authorized pursuant to P.L.2020, c.145 (C.17:48E-46.1 et al.) does not constitute a conversion or material change in form as defined pursuant to P.L.2001, c.131 (C.17:48E-49 et seq.), the currently existing statutory mission of the health service corporation to provide affordable and accessible health insurance and promote the integration of the health care system to meet the needs of its members shall continue unabated regardless of whether the health service corporation reorganizes in the manner authorized by P.L.2020, c.145 (C.17:48E-46.1 et al.) or not.

f. It is also in the interest of the subscribers of the health service corporation and the State of New Jersey that the important statutory mission of the health service corporation continues to be upheld following any reorganization pursuant to P.L.2020, c.145 (C.17:48E-46.1 et al.); provided, however, that it is appropriate to expand and modernize that mission to encourage further innovation as well as improvement and diversification of services.

C.17:48E-46.2 Definitions relative to the reorganization of a health service corporation.

2. As used in P.L.2020, c.145 (C.17:48E-46.1 et al.):

"Assessment" means an initial and a limited duration assessment made upon the mutual holding company system pursuant to section 13 of P.L.2020, c.145 (C.17:48E-46.13).

"Commissioner" means the Commissioner of Banking and Insurance.

"Control" has the meaning set forth in section 1 of P.L.1970, c.22 (C.17:27A-1).

"Effective time" means the date and time at which the reorganization into a mutual holding company is effective, as provided in subsection d. of section 5 of P.L.2020, c.145 (C.17:48E-46.5).

"Health service corporation" means an entity organized pursuant to P.L.1985, c.236 (C.17:48E-1 et seq.).

"Insurance company" means any entity, other than the reorganized insurer, that engages in the business of insurance.

"Intermediate holding company" means an entity of which at least a majority of the voting shares of the capital stock are at all times owned directly or indirectly through other intermediate holding companies by a mutual holding company.

"Majority of the voting shares of the capital stock" means, with respect to any entity, shares of the capital stock of that entity which carry the right to cast a majority of the votes entitled to be cast by all of the outstanding shares of the capital stock of that entity for the election of directors.

"Member" means the holder of a membership interest in a mutual holding company, pursuant to the articles of incorporation or bylaws of that mutual holding company.

"Mutual holding company" means a non-insurance, nonprofit entity without permanent capital stock organized pursuant to the laws of this State in accordance with the provisions of P.L.2020, c.145 (C.17:48E-46.1 et al.) for the purpose of holding, directly or indirectly, one hundred percent interest in a reorganized insurer pursuant to a plan of reorganization as provided in P.L.2020, c.145 (C.17:48E-46.1 et al.). A mutual holding company is an insurance holding company system pursuant to P.L.1970, c.22 (C.17:27A-1 et seq.), and shall not be qualified as an insurer licensed to issue insurance policies, insurance contracts or health benefit plans.

"Mutual holding company system" means the structure resulting from the simultaneous formation of a mutual holding company with a reorganized insurer in connection with the mutualization and reorganization of a health service corporation.

"Mutual insurer" means a domestic mutual insurer into which a health service corporation transitions in accordance with the provisions of P.L.1995, c.196 (C.17:48E-45 et seq.).

"Non-insurance subsidiary" means any subsidiary of a mutual holding company system that is not an insurance company or the reorganized insurer.

"Reorganization" means the simultaneous mutualization of a health service corporation to a domestic mutual insurer and transformation from a do-

mestic mutual insurer to a mutual holding company with a reorganized insurer in accordance with the provisions of P.L.2020, c.145 (C.17:48E-46.1 et al.). A reorganization pursuant to P.L.2020, c.145 (C.17:48E-46.1 et al.) in which the mutual holding company remains a charitable and benevolent institution shall not constitute a material change in form as defined in section 1 of P.L.2001, c.131 (C.17:48E-49).

"Reorganized insurer" means a stock insurer authorized pursuant to Title 17B of the New Jersey Statutes to transact health insurance as defined in N.J.S.17B:17-4 and that, pursuant to a plan of reorganization as provided in P.L.2020, c.145 (C.17:48E-46.1 et al.), is a subsidiary of the mutual holding company system that holds the business of the health service corporation mutualizing and reorganizing pursuant to P.L.2020, c.145 (C.17:48E-46.1 et al.) that is related to policies directly written and issued by the health service corporation. All health insurance or risk-bearing obligations of the health service corporation shall be undertaken by the reorganized insurer pursuant to subsection c. and e. of section 3 of P.L.2020, c.145 (C.17:48E-46.3).

C.17:48E-46.3 Mutual holding company, not for pecuniary profit, mission.

3. a. A mutual holding company organized pursuant to P.L.2020, c.145 (C.17:48E-46.1 et al.) shall not be established as a company organized for pecuniary profit and shall retain the designation as a charitable and benevolent institution pursuant to section 41 of P.L.1985, c.236 (C.17:48E-41). A mutual holding company established pursuant to the provisions of P.L.2020, c.145 (C.17:48E-46.1 et al.) shall retain the health service corporation's mission while supplementing that mission to promote innovation and delivery of diversified services.

The mission of a mutual holding company shall be to:

(1) provide affordable and accessible health insurance to its members;

(2) promote the integration of the health care system to meet the needs of its members; and

(3) promote innovation and delivery of solutions and diversified services for its members.

b. Other than as provided pursuant to P.L.2020, c.145 (C.17:48E-46.1 et al.), all property, assets, rights, liabilities, interest and relations of whatever kind of the health service corporation, and its subsidiaries, shall be that of the mutual holding company system. The mutual holding company shall not be considered a health service corporation. Notwithstanding anything to the contrary, the provisions of section 41 of P.L.1985, c.236 (C.17:48E-41) shall continue to apply to a mutual holding company if the mutual holding company continues to participate in the New Jersey

Individual Health Coverage Program pursuant to P.L.1992, c.161 (C.17B-27A-2 et seq.) and the New Jersey Small Employer Health Benefits Program pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.). If the mutual holding company does not participate in the New Jersey Individual Health Coverage Program pursuant to P.L.1992, c.161 (C.17B-27A-2 et seq.) and the New Jersey Small Employer Health Benefits Program pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.) the provisions of section 41 of P.L.1985, c.236 (C.17:48E-41) shall no longer apply.

c. The health insurance duties and obligations pursuant to P.L.1985, c.236 (C.17:48E-1 et seq.) shall continue and remain in the succeeding reorganized insurer reorganizing pursuant to P.L.2020, c.145 (C.17:48E-46.1 et al.), in each case, except as provided pursuant to P.L.2020, c.145 (C.17:48E-46.1 et al.). Except as listed below in subsection e. of this section, all references to a "health service corporation" in P.L.1985, c.236 (C.17:48E-1 et seq.), shall refer to a "reorganized insurer" established pursuant to P.L.2020, c.145 (C.17:48E-46.1 et al.) and shall not refer to the mutual holding company.

d. In addition to the mutual holding company's qualification pursuant to section 2 of P.L.2020, c.145 (C.17:48E-46.2), and for avoidance of doubt, the mutual holding company shall be expressly excluded from insurance operations and reporting, investment limits, and risk-bearing provisions of P.L.1985, c.236 (C.17:48E-1 et seq.), including the following provisions because a mutual holding company is not a risk-bearer:

(1) Subsection e. of section 1, subsection b. of section 2, subsection a. of section 3, sections 6 through 9, and section 11 of P.L.1985, c.236 (C.17:48E-1, C.17:48E-2, C.17:48E-3, C.17:48E-6 through C.17:48E-9, and C.17:48E-11);

(2) Section 16 and subsections a. through c. of section 17 of P.L.1985, c.236 (C.17:48E-16 and C.17:48E-17), section 5 of P.L.1988, c.71 (C.17:48E-17.1), and section 8 of P.L.1993, c.235 (C.17:48E-17.2);

(3) Section 4 of P.L.2017, c.100 (C.17:48E-17.3);

(4) Sections 36 and 37 of P.L.1985, c.236 (C.17:48E-36 and C.17:48E-37); and

(5) Sections 31 through 35 of P.L.2014, c.81 (C.17:48E-37.1 through C.17:48E-37.5).

e. The reorganized insurer shall engage in risk-bearing activities, reporting, investments, financial transactions, including the issuance of dividends or distributions, and insurance trade practices consistent with laws governing stock insurance companies organized under Title 17B of the New Jersey Statutes to transact health insurance as defined in

N.J.S.17B:17-4. Notwithstanding the provisions of subsection c. of this section, the following sections of P.L.1985, c.236 (C.17:48E-1 et seq.) shall not apply to the reorganized insurer or any insurance company or risk-bearing entity within the mutual holding company system:

(1) Section 4 of P.L.2017, c.100 (C.17:48E-17.3);

(2) Sections 31 through 35 of P.L.2014, c.81 (C.17:48E-37.1 through C.17:48E-37.5), but subject to the solvency rules set forth pursuant to N.J.S.17B:18-70 et seq.; and

(3) Subsection e. of section 1, subsection b. of section 2, subsection a. of section 3, sections 6 through 9, and section 11 of P.L.1985, c.236 (C.17:48E-1, C.17:48E-2, C.17:48E-3, C.17:48E-6 through C.17:48E-9, and C.17:48E-11).

f. The insurance premium rate tax cap law provided by subsection a. of section 6 of P.L.1945, c.132 (C.54:18A-6) shall apply to the companies within the mutual holding company system that have an insurance premium tax liability, and the exclusion from the tax cap applicable to a health service corporation pursuant to subsection b. of section 6 of P.L.1945, c.132 (C.54:18A-6) shall not apply to the mutual holding company or any entity within the mutual holding company system, including the reorganized insurer, that has an insurance premium tax liability.

g. A mutual holding company system may pursue businesses, assets, or operations through one or more of its insurance subsidiaries and non-insurance subsidiaries without a limit on aggregate revenues from non-conforming affiliates or such pursuits being considered a material change in form as such term is defined pursuant to section 1 of P.L.2001, c.131 (C:17:48E-49). The subsidiaries of the mutual holding company, including the reorganized insurer, shall be permitted to make dividends or distributions to the mutual holding company, any subsidiaries thereof, or both, and shall not be considered a material change in form as such term is defined pursuant to section 1 of P.L.2001, c.131 (C.17:48E-49). Dividends and distributions from domestic insurers, including the reorganized insurer, within the mutual holding company system shall be subject only to the applicable provisions of subsection c. of section 4 of P.L.1970, c.22 (C.17:27A-4).

h. The continuation of the rights, duties and obligations of a health service corporation pursuant to this section following completion of an approved reorganization pursuant to P.L.2020, c.145 (C.17:48E-46.1 et al.) shall be limited to such rights, duties and obligations pursuant to P.L.1985, c.236 (C.17:48E-1 et seq.) as of the effective date of P.L.2020, c.145 (C.17:48E-46.1 et al.); amendments to P.L.1985, c.236 (C.17:48E-

1 et seq.) enacted after the effective date of P.L.2020, c.145 (C.17:48E-46.1 et al.) shall not apply. Notwithstanding the above, the reorganized insurer shall be subject to the laws applicable to domestic health insurance companies contained in Title 17B of the New Jersey Statutes and P.L.1970, c.22 (C.17:27A-1 et seq.).

C.17:48E-46.4 Health service corporation to reorganize into mutual holding company system.

4. a. A health service corporation organized pursuant to P.L.1985, c.236 (C.17:48E-1 et seq.) may reorganize to create a mutual holding company system pursuant to a plan of reorganization at the same time it applies to transition to a mutual insurer pursuant to P.L.1995, c.196 (C.17:48E-45 et seq.). Thereafter, the succeeding mutual holding company system shall be operated in a manner consistent with sections 1 and 3 of P.L.2020, c.145 (C.17:48E-46.1 and C.17:48E-46.3).

b. The mutual holding company system shall consist of a mutual holding company and one or more controlled nonprofit or for-profit subsidiaries, including the reorganized insurer, and shall be operated for the benefit of its members. The mission of a mutual holding company shall be as specified in subsection a. of section 3 of P.L.2020, c.145 (C.17:48E-46.3).

c. The mutual holding company and each of its non-insurance subsidiaries, other than the reorganized insurer and any insurance company subsidiaries, shall not be:

(1) an insurer and therefore shall not be subject to any of the provisions of N.J.S.17B:18-1 et seq. applicable to stock or mutual insurers, or to any laws concerning the writing of insurance, including rules and regulations adopted thereunder, including with respect to governance, stock or other voting or equity interest, the writing of insurance, any investment limitations directly applicable to risk-bearing entities engaged in the writing of insurance such as those pursuant to N.J.S.17B:20-1 et seq., or any capital or surplus requirements;

(2) authorized to transact the business of insurance; or

(3) qualified as an insurer.

The writing of insurance shall be permitted only through the reorganized insurer and other insurance company subsidiaries or investments of the mutual holding company. Nothing herein shall alter the oversight of the commissioner with respect to the mutual holding company and its non-insurance subsidiaries provided for pursuant to applicable laws and rules of this State relating to insurance holding company systems.

d. A mutual holding company shall be a nonprofit entity incorporated under, and shall conduct its business pursuant to, the provisions of Title 15A of the New Jersey Statutes, except that in situations in which the provisions of that title are inconsistent with the provisions of P.L.2020, c.145 (C.17:48E-46.1 et al.), the provisions of P.L.2020, c.145 (C.17:48E-46.1 et al.) shall govern.

e. At the effective time, members shall receive membership interests of the mutual holding company, and thereafter 100 percent of the membership interests of the mutual holding company shall continue to be held by members, in each case, in the manner set forth in the articles of incorporation and bylaws of the mutual holding company.

f. The shares of the capital stock of the reorganized insurer shall be:

(1) issued to the mutual holding company or one or more intermediate holding companies that are wholly-owned by the mutual holding company; and

(2) at all times owned by the mutual holding company or one or more intermediate holding companies that are wholly-owned by the mutual holding company.

g. The subsidiaries of a mutual holding company system may be formed by any of the following means:

(1) the formation of one or more subsidiaries;

(2) amendment or restatement of the articles of incorporation and bylaws of one or more companies;

(3) transfer of assets and liabilities among two or more companies;

(4) issuance, acquisition or transfer of capital stock of one or more companies; or

(5) merger or consolidation of two or more companies.

h. The mutual holding company shall ensure that any ownership interest in a subsidiary shall be held by the mutual holding company, and that any profits generated by that interest are returned to the mutual holding company.

C.17:48E-46.5 Health service corporation application to form mutual holding company system.

5. a. A health service corporation may submit an application to the commissioner to form a mutual holding company system. Upon submission of an application to the commissioner, a health service corporation shall immediately thereafter provide a copy of the application to the Attorney General. Prior to submission of the application, the board of directors of the health service corporation shall adopt a resolution proposing to transition to a mutual insurer and form a mutual holding company system, at a meeting of the board by a two-thirds affirmative vote of the total number of directors of the health service

corporation. A copy of the minutes of the meeting at which that resolution is adopted shall be filed with the commissioner. The resolution shall include a plan to transition to a mutual insurer and form a mutual holding company system, including proposed articles of incorporation and bylaws for the mutual holding company and proposed articles of incorporation, certificates of formation, restatements of, or amendments to, existing articles of incorporation or bylaws, and plans of merger or consolidation, with respect to each entity to be formed, converted or otherwise subject or party to the transition transactions pursuant to the plan of mutualization and reorganization.

In addition to including information required pursuant to section 2 of P.L.1995, c.196 (C.17:48E-46) for the plan of mutualization, with respect to the formation of a mutual holding company system for purposes of this provision, the plan shall include:

(1) A description of the structure of the mutual holding company system consistent with the requirements set forth in P.L.2020, c.145 (C.17:48E-46.1 et al.);

(2) A description of the qualifications for members' membership in, and the rights of members of, the mutual holding company consistent with the requirements set forth in P.L.2020, c.145 (C.17:48E-46.1 et al.);

(3) A description of the transactions, and parties to those transactions, that will affect the mutualization and reorganization, including, but not limited to, transfer and assumption of policies, contracts, assets and liabilities, formation of entities, and the amendment or restatement of certificates of incorporation or bylaws. The plan of reorganization may provide for the transfer of assets of a health service corporation and its subsidiaries to the mutual holding company or one or more subsidiaries of the mutual holding company in connection with the formation of the mutual holding company system;

(4) The identity of those persons who shall serve as directors and officers of the mutual holding company, its intermediate holding companies, if any, and its subsidiaries, including the reorganized insurer, as of the effective time of the mutualization and reorganization. The plan shall specify the members of the board of directors of the health service corporation who shall serve as initial directors of the mutual holding company, as provided in section 15 of P.L.2020, c.145 (C.17:48E-46.15);

(5) Information sufficient to demonstrate that the financial condition of the reorganized insurer and the insurance company subsidiaries of the reorganized insurer shall meet solvency requirements pursuant to applicable laws and rules of this State relating to insurance companies after giving effect to the mutualization and reorganization;

(6) A certification that, following the mutualization and reorganization, the material terms and conditions of insurance coverage of:

(a) policyholders of policies directly written and issued by the health service corporation shall remain in full force and effect under policies transferred to and assumed by the reorganized insurer; and

(b) all other policyholders shall remain in full force and effect under policies transferred to and assumed by insurance company subsidiaries of the mutual holding company;

(7) A certification that, following the mutualization and reorganization, the material terms and conditions of subordinated surplus notes and other contractual obligations, other than those arising pursuant to policies described in paragraph (6) of this subsection, of the health service corporation and its subsidiaries shall, subject to the rights of the health service corporation and its subsidiaries pursuant to applicable law, and to the extent those obligations are not otherwise satisfied or terminated in accordance with their terms, remain in effect upon the transfer of those obligations to, and assumption of those obligations by, the reorganized insurer or one or more other subsidiaries of the mutual holding company; and

(8) A certification that, following the mutualization and reorganization, the mutual holding company shall comply with the employment requirements as provided in section 16 of P.L.2020, c.145 (C.17:48E-46.16).

b. Upon the affirmative vote of the board of directors complying with subsection a. of this section, the plan to form a mutual holding company system pursuant to P.L.2020, c.145 (C.17:48E-46.1 et al.) shall be filed with the commissioner for approval. Upon filing the plan to form a mutual holding company system, the obligations pursuant to section 4 of P.L.2017, c.100 (C.17:48E-17.3) shall be suspended during the pendency of the commissioner's review process pursuant to this subsection; if the commissioner approves the plan to form a mutual holding company, any obligations arising pursuant to section 4 of P.L.2017, c.100 (C.17:48E-17.3) shall be deemed satisfied by the initial assessment pursuant to subsection a. of section 13 of P.L.2020, c.145 (C.17:48E-46.13). The commissioner shall review the plan to mutualize and reorganize in accordance with the requirements of subsection a. of section 3 of P.L.1995, c.196 (C.17:48E-47). The commissioner shall hold three public hearings on the plan to form a mutual holding company within 90 days after the commissioner determines that the filing is complete, with notice provided by publication in a manner satisfactory to the commissioner. The public hearings shall also address the plan of reorganization to the mutual holding company system required by P.L.2020, c.145 (C.17:48E-46.1 et al.). Consistent with subsection a. of section 3 of

P.L.1995, c.196 (C.17:48E-47), the commissioner shall approve a plan of mutualization and reorganization unless the commissioner finds the plan:

(1) is contrary to law;

(2) would be detrimental to the safety or soundness of the proposed reorganized insurer and insurance company subsidiaries of the proposed mutual holding company; or

(3) does not benefit the interests of the policyholders of the health service corporation or treats them inequitably.

The commissioner may engage the services of experts and consultants to advise on any matters related to the application, and if a written study or other expert report is prepared, it shall be made available to the applicant within a reasonable period of time prior to the initial public hearing. The commissioner may also engage the services of a consultant to conduct a health impact study of the effects of the reorganization on the health of the policy holders of the health service corporation, and the general public. The engagement shall not be subject to Chapter 32 of Title 52 of the Revised Statutes and all costs related to such engagement for the examination and deliberations of the application shall be paid by the health service corporation that makes the filing, both for services prior to the effective time and for services after the effective time. At the expiration of 30 days after the final public hearing, the commissioner shall approve or disapprove the plan of mutualization and reorganization and shall set forth the decision in writing and shall state the reasons therefor. The commissioner shall inform the health service corporation of the specific reasons for the disapproval of any plan of mutualization and reorganization and provide a cure period of no shorter than 90 days to cure any deficiencies. Any disapproval shall be subject to judicial review as a final decision of a State administrative agency.

c. A plan of mutualization and reorganization may be amended, terminated, or approved consistent with P.L.2020, c.145 (C.17:48E-46.1 et al.). A plan of mutualization and reorganization adopted by the board of directors of the applicant may be:

(1) Amended by the board of directors of the applicant in response to the comments or recommendations of the commissioner at any time; or

(2) Terminated by the board of directors of the applicant at any time. An applicant that has terminated a plan to form a mutual holding company system shall be deemed to have also terminated the application to transition to a mutual insurer.

d. An approved plan of mutualization and reorganization shall be effective at the effective time specified in the plan of reorganization, or such other time subsequently requested by the applicant and agreed to by the commissioner.

C.17:48E-46.6 Monitoring mutual holding company's operations.

6. A mutual holding company system shall be considered an insurance holding company system and subject to P.L.1970, c.22 (C.17:27A-1 et seq.). The commissioner shall possess supervisory powers with respect to the insurance holding company system which shall include the authority to monitor the mutual holding company system's financial health, enterprise risk, and examine its operations pursuant to P.L.1970, c.22 (C.17:27A-1 et seq.). Notwithstanding the foregoing, solely with regard to the transactions set forth in the application to form a mutual holding company system filed pursuant to section 5 of P.L.2020, c.145 (C.17:48E-46.5), a mutual holding company system shall not be required to seek separate approval for an acquisition of controlling stock, ownership interest, assets or control, or for a merger or consolidation, share exchange, organization, or reorganization of insurance companies within the mutual holding company system, or other transactions set forth in the application to form a mutual holding company system. Thereafter, any future transactions not approved as part of the application to form a mutual holding company system, shall be subject to the applicable requirements of P.L.1970, c.22 (C.17:27A-1 et seq.). As an insurance holding company system subject to P.L.1970, c.22 (C.17:27A-1 et seq.), the commissioner shall have the power to order production of any records, books, or other information and papers in the possession of a mutual holding company system as are reasonably necessary to ascertain the financial condition of the mutual holding company system or to determine compliance with P.L.2020, c.145 (C.17:48E-46.1 et al.).

C.17:48E-46.7 Investments; supplier program; mutualization; reorganization plans.

7. a. A mutual holding company or a non-insurance subsidiary may, alone or together, make any lawful investments including directly or indirectly acquiring or otherwise holding the stock or other ownership interests of any nonprofit or for-profit entities.

b. Insurance company subsidiaries and the reorganized insurer may make investments, including investments in non-insurance entities subject to investment and asset limitations pursuant to applicable laws and rules relating to insurance companies.

c. The mutual holding company and its non-insurance and insurance company subsidiaries shall continue to operate a diverse supplier program that promotes and invests in the utilization of minority-owned and women-owned businesses in the procurement of goods and services, including professional services. The mutual holding company shall include in its annual filing pursuant to subsection b. of section 11 of P.L.2020, c.145 (C.17:48E-46.11) information on this subsection.

C.17:48E-46.8 Non-obligation of distribution payment to members, policyholders.

8. Neither the adoption nor the implementation of a plan of mutualization and reorganization shall be deemed to give rise to any obligation by or on behalf of any entity in the mutual holding company system or any predecessor entity to make any distribution or payment to any member or policyholder, or to any other person, fund, or entity of any nature whatsoever, in connection with the ownership, control, benefits, policies, purpose, or nature of any entity in the mutual holding company system, any predecessor entity or otherwise.

C.17:48E-46.9 Membership in mutual holding company.

9. a. Membership in a mutual holding company shall be determined in accordance with the mutual holding company's articles of incorporation and bylaws and may be based upon:

(1) the amount of health insurance policies in force with the reorganized insurer;

(2) the amount of the health insurance premiums paid to the reorganized insurer; or

(3) other reasonable factors.

A mutual holding company may also consider the amount of premiums paid to, or policies in force under, affiliated insurance companies operating under the same brand licensee program as the reorganized insurer and permit entities holding administrative services agreements with the mutual holding company to be members of the mutual holding company. The mutual holding company may provide in its bylaws the basis for the number of votes those entities will have as members of the mutual holding company.

b. Members of a mutual holding company shall be entitled to vote for the election of directors of the mutual holding company in accordance with the mutual holding company's bylaws. Directors of the mutual holding company shall be elected from nominees selected by the nominating and governance committee of the board of directors of the mutual holding company, or a comparably authorized committee, except for public directors serving in accordance with section 15 of P.L.2020, c.145 (C.17:48E-46.15).

c. No member of a mutual holding company shall transfer membership or any right arising therefrom.

d. Except as specified in subsection b. of this section, a membership interest in a mutual holding company shall not be deemed to give rise to any other rights, including any ownership interests in, or ownership rights with respect to, the assets of any entity in the mutual holding company system or any predecessor entity, and shall not be deemed to give rise to any entitlement to receive payment of any dividend or other distribution in connection with

the ownership, control, benefits, policies, purpose or nature of any entity in the mutual holding company system or any predecessor entity.

e. A member of a mutual holding company is not personally liable for the acts, debts, liabilities or obligations of the mutual holding company solely because of the member's membership status.

f. No assessments shall be imposed upon the members of a mutual holding company by the directors or members, or because of any liability, act, debt or obligation of the mutual holding company or of any company owned or controlled by the mutual holding company.

g. A membership interest in a mutual holding company shall not constitute a security pursuant to the laws of this state.

C.17:48E-46.10 Plan of dissolution.

10. Upon any voluntary dissolution of a mutual holding company in accordance with N.J.S.15A:12-2, 15A:12-3, 15A:12-4, 15A:12-5, 15A:12-6, 15A:12-7, or section 19 of P.L.1992, c.65 (C.17B:32-49), the mutual holding company shall adopt a plan of dissolution in accordance with N.J.S.15A:12-8. The plan shall provide that any assets of the mutual holding company remaining after the discharge of all liabilities and obligations, if any, shall be distributed in accordance with N.J.S.15A:12-8.

C.17:48E-46.11 Annual statements; report to the Governor.

11. a. A mutual holding company shall file with the commissioner an annual statement pursuant to applicable laws of this State.

b. The mutual holding company shall, on an annual basis, and in a form and manner prescribed by the Department of Banking and Insurance, file with the department information relating to the mutual holding company's operations, including but not limited to the following: the mutual holding company's mission, activities, revenues, expenses, assets, liabilities, and total compensation provided to officers, directors, trustees and the five other highest compensated employees who are not an officer, director or trustee, which information shall be posted on the department's website.

c. The commissioner shall report to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), on the compliance of the mutual holding company with the provisions of P.L.2020, c.145 (C.17:48E-46.1 et al.).

C.17:48E-46.12 Public records.

12. a. The application submitted pursuant to section 5 of P.L.2020, c.145 (C.17:48E-46.5) shall be a public record, except for the following documents, which shall be confidential and not public records:

(1) documents deemed confidential by statute or regulation;

(2) the business plan, capitalization plan, financial projections, and market competitive data; and

(3) any other information the commissioner determines could result in harm to the health service corporation, mutual holding company, reorganized insurer or other insurance entity within the mutual holding company system, or the public interest, if disclosed.

b. The commissioner shall provide the public with prompt and reasonable access to public records relating to the proposed reorganization of the health service corporation. The commissioner shall make the public records received pursuant to P.L.2020, c.145 (C.17:48E-46.1 et al.) available for inspection at no cost to the public. These public records shall be made available to the public in connection with the public hearing to be held pursuant to P.L.2020, c.145 (C.17:48E-46.1 et al.).

C.17:48E-46.13 Initial and annual assessments.

13. a. Following regulatory approval pursuant to section 5 of P.L.2020, c.145 (C.17:48E-46.5) and the establishment of a mutual holding company, the mutual holding company, or any affiliates benefiting from the establishment of a mutual holding company, shall pay an initial assessment to the State Treasury in the amount of $600,000,000 by June 1, 2022 if the effective time precedes June 1, 2022. If the effective time is later than June 1, 2022, the initial assessment shall be due by June 1 of the calendar year following the effective time. The initial assessment shall be a one-time, nonrecurring State business tax on the mutual holding company and its affiliates.

b. Following the initial assessment, and subject to subsections c. and d. of this section, the mutual holding company, or any affiliates benefiting from the establishment of a mutual holding company, shall pay a limited duration business tax by June 1 of each calendar year beginning with the calendar year following the initial assessment, and for a period of seventeen years. The total assessment, including both the initial and annual assessments, shall not exceed $1,250,000,000. The annual assessments represent a limited duration state business tax on the mutual holding company and its affiliates' business payable by the mutual holding company or any affiliates benefiting from the establishment of a mutual holding company, and shall be based on the following schedule with earned premiums defined consistent with 45 C.F.R. 158.130:

(1) For annual assessment 1, 20 percent of the reorganized insurer's earned premiums for the calendar year preceding that assessment, with the assessment not to exceed $100,000,000.

(2) For annual assessments 2 through 11, 5 percent of the reorganized insurer's earned premiums for the calendar year preceding a given year's assessment, with each year's assessment not to exceed $25,000,000.

(3) For annual assessments 12 through 17, 10 percent of the reorganized insurer's earned premiums for the calendar year preceding a given year's assessment, with each year's assessment not to exceed $50,000,000.

c. The mutual holding company shall not pay any portion of the annual assessment for a given calendar year if the mutual holding company's system-wide health risk-based capital authorized control level would fall below 550 percent based on the standards for risk based capital for health organizations as adopted by the National Association of Insurance Commissioners following the payment as applied against the prior calendar year's risk based capital, or if in the opinion of any nationally recognized statistical rating organization, the group credit rating of the mutual holding company would not be considered investment grade. The commissioner shall determine that the mutual holding company's system-wide health risk-based capital authorized control level would fall below 550 percent before payments shall be deferred pursuant to this subsection and paragraph (1) of subsection d. of this section. Neither the insurance company subsidiaries nor the reorganized insurer shall make dividends or distributions to the mutual holding company or any subsidiaries thereof until such time as the annual assessment deferred pursuant to paragraph (1) of subsection d. of this section is satisfied.

d. (1) If the mutual holding company does not pay the annual assessment for a given calendar year pursuant to subsection c. of this section, the annual assessment that was not paid shall be deferred to the subsequent calendar year, which shall be the deferral date for the deferred annual assessment, with all subsequent annual assessments pursuant to subsection b. of this section also deferred by another calendar year so that no two annual assessments are due in the same calendar year. If an annual assessment is deferred, that annual assessment shall not be required by law to be paid until the deferral date.

(2) Notwithstanding the provisions of paragraph (1) of this subsection to the contrary, the assessment years pursuant to subsection b. of this section shall not be extended beyond, and the payment obligation pursuant to this section shall cease to exist after, the date that is 25 years from the effective time.

e. The initial assessment is a one-time business tax imposed on the mutual holding company system and the annual assessment is a limited duration business tax imposed on the mutual holding company system based on the reorganized insurer's business. The assessment of additional taxes, penalties and interest shall be as provided by the "State Uniform Tax Procedure Law,"

R.S.54:48-1 et seq.; provided that no interest shall accrue or penalty shall be levied on a deferred annual assessment.

C.17:48E-46.14 Mutual holding company.

14. A mutual holding company formed pursuant to P.L.2020, c.145 (C.17:48E-46.1 et al.) shall not convert to a for-profit stock holding company. The provisions of P.L.2001, c.131 (C.17:48E-49 et seq.) providing for conversion of a health service corporation to a domestic stock insurer shall not apply to a mutual holding company formed pursuant to P.L.2020, c.145 (C.17:48E-46.1 et al.).

C.17:48E-46.15 Board of the mutual holding company; membership, transitional period, diversity.

15. a. The board of the mutual holding company shall be constituted of 22 directors as follows:

(1) 13 directors shall be elected, as provided in the bylaws, one of whom shall be the chair;

(2) 5 directors shall be public directors appointed by the Governor with the advice and consent of the Senate;

(3) 2 directors shall be public directors appointed by the Senate President; and

(4) 2 directors shall be public directors appointed by the Speaker of the General Assembly.

b. Upon the effective time, the term of office of the public directors of the reorganized insurer shall not immediately expire but rather shall be temporarily continued and each such director shall continue in holdover status until such time as the appointing authority reappoints or renames such director or appoints or names another director. The initial board of directors of the mutual holding company shall be:

(1) the elected directors of the reorganized insurer supplemented by additional elected directors nominated and elected by the mutual holding company's board after the effective time for a total number of elected directors specified in paragraph (1) of subsection a. of this section;

(2) 5 public directors appointed by the Governor with the advice and consent of the Senate;

(3) 2 public directors named by the Senate President; and

(4) 2 public directors named by the Speaker of the General Assembly.

c. Each elected director shall have a term of three years with up to two successive three-year terms following the initial term for up to a total of three successive terms, and as provided for in the bylaws, with such other term and

term limits specifically applying to the individual directors. The chief executive officer or president of the mutual holding company shall be an elected director at all times and shall not be subject to any term limit or election pursuant to section 9 of P.L.2020, c.145 (C.17:48E-46.9). The board of directors, as provided by the bylaws, shall elect a chair, who shall be a member of the board elected pursuant to paragraph (1) of subsection a. of this section. Each director elected pursuant to paragraph (1) of subsection a. of this section shall meet the statutory and regulatory qualifications for the mutual holding company system's businesses and be free from conflicts of interest that would prohibit the person from materially executing the person's duties as a director. Each public director shall have a term of three years with up to two successive three-year terms following the initial term, for a total of up to three successive terms. Upon the effective time, the terms of office of the public directors of the reorganized insurer shall continue until their respective successors are appointed and qualified. No period during which a public director holds over shall be deemed to be an extension of the public director's term of office for the purpose of determining the date on which a successor's term expires.

d. There shall be a transitional period of 18 months following the effective time before elected directors of the mutual holding company are subject to election by its members pursuant to section 9 of P.L.2020, c.145 (C.17:48E-46.9). The first election shall occur at the first annual meeting following the transitional period, and in accordance with the mutual holding company's bylaws.

e. To the extent practicable, the mutual holding company shall make best efforts to reflect the racial, ethnic, and gender diversity of the communities that it serves throughout the organization, including the board of directors and executive leadership, to achieve its mission.

C.17:48E-46.16 Full-time employees maintained for 36 months following transition.

16. a. Upon the formation of a mutual holding company, the total number of full-time employees that were employed within a mutual holding company system shall be maintained for a transition period of 36 months following that formation based on the full-time employee count of the health service corporation as of September 30, 2019, except as provided in subsection b. of this section.

b. This section shall not:

(1) supersede the terms of any collective bargaining agreement; or

(2) require a mutual holding company system to replace headcount lost due to voluntary attrition or terminations for cause, including for performance, or replace any loss of headcount attributable to a decline in enrollment, market share, or loss of a major account.

c. This section shall expire following the transition period of 36 months following the formation of a mutual holding company.

17. Section 1 of P.L.2001, c.131 (C.17:48E-49) is amended to read as follows:

C.17:48E-49 Definitions relative to conversion of health service corporation to domestic stock insurer.

1. As used in this act:

"Affiliate" or "affiliated" has the meaning set forth in subsection a. of section 1 of P.L.1970, c. 22 (C.17:27A-1).

"Alternative foundation plan" means the plan submitted to the Attorney General and the commissioner pursuant to section 18 of this act.

"Application" means the application for approval of a plan of conversion filed with the commissioner pursuant to section 3 of this act.

"Attorney General" means the Attorney General of the State of New Jersey.

"Commissioner" means the Commissioner of Banking and Insurance.

"Control" has the meaning set forth in subsection c. of section 1 of P.L.1970, c. 22 (C.17:27A-1).

"Conversion" means the process by which a health service corporation converts to a domestic stock insurer in accordance with the provisions of sections 2 through 14 and section 19 of this act. "Converted insurer" means the domestic stock insurer into which a health service corporation converts in accordance with the provisions of sections 2 through 14 and section 19 of this act.

"Domestic stock insurer" means a for-profit stock insurer authorized pursuant to Title 17B of the New Jersey Statutes to transact health insurance as defined in N.J.S.17B: 17-4.

"Effective time" means the date and time at which the conversion of a health service corporation is effective, as provided in section 11 of this act.

"Foundation" means the foundation or foundations established under section 18 or 19 of this act.

"Foundation plan" means the plan submitted to the Attorney General pursuant to section 19 of this act.

"Health service corporation" means a health service corporation established pursuant to P.L.1985, c. 236 (C.17:48E-1 et seq.).

"Material change in form" means any action or series of actions that effect a fundamental corporate change which involves a transfer of ownership or control of assets of the health service corporation or a change of the mission or purpose of the health service corporation, including, without limitation, the purchase, lease, exchange, conversion, restructuring, merger, division, consolidation or transfer of control, bulk reinsurance or other disposition or transfer of a substantial amount of business, line of business, assets or operations of the health service corporation, including the transfer, directly or indirectly, of a substantial amount of the health service corporation's business, line of business, assets or operations to one or more nonconforming affiliates. A material change in form by the transfer, directly or indirectly, of a substantial amount of the health service corporation's business, line of business, assets or operations to one or more nonconforming affiliates shall not be deemed to occur so long as, during the most recent four prior consecutive calendar quarters: (1) the aggregate revenues of all nonconforming affiliates do not exceed 50 percent of the aggregate revenues for the health service corporation and all affiliates; (2) the aggregate revenues of all nonconforming affiliates derived from providing individual or group health coverage to residents of New Jersey equal or exceed 50 percent of the aggregate revenues from all nonconforming affiliates; and (3) the aggregate assets of all nonconforming affiliates do not exceed 50 percent of the aggregate assets of the health service corporation and all affiliates. Notwithstanding the above, a reorganization approved by the commissioner pursuant to section 5 of P.L.2020, c.145 (C.17:48E-46.5), whereby the mutual holding company is a charitable and benevolent institution as provided in section 41 of P.L.1985, c.236 (C.17:48E-41), shall not constitute a material change in form for purposes of P.L.2001, c.131 (C.17:48E-49 et seq.).

"Nonconforming affiliate" means any affiliate of a health service corporation that: (1) operates on a for-profit basis, or (2) operates on a nonprofit basis and does not have a purpose the same as or substantially similar to that of the health service corporation.

"Parent corporation" means a stock corporation incorporated under the laws of this State that is or has been organized for the purpose of acquiring, directly or indirectly, control of the converted insurer pursuant to the plan of conversion.

"Petition" means the petition for approval of a foundation plan submitted to the Attorney General pursuant to subsection a. of section 19 of this act.

"Plan of conversion" means the written plan of conversion adopted by the health service corporation in compliance with section 2 of this act.

"Policy" means an individual or group policy or contract of insurance, including, without limitation, any certificate, rider, endorsement, plan or product offering issued by or binding upon the health service corporation.

"Subscriber" means a person covered by or entitled to benefits under any policy, including, but not limited to, the persons described in subsection k. of section 1 of P.L.1985, c.236 (C.17:48E-1).

18. Section 1 of P.L.1970, c. 22 (C.17:27A-1) is amended to read as follows:

C.17:27A-1. Definitions.

1. Definitions.

As used in P.L.1970, c. 22 (C.17:27A-1 et seq.), the following terms shall have the respective meanings hereinafter set forth, unless the context shall otherwise require:

a. An "affiliate" of, or person "affiliated" with, a specific person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

b. The term "commissioner" shall mean the Commissioner of Banking and Insurance or the commissioner's deputies.

c. The term "control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, 10% or more of the voting securities of any other person, provided that no such presumption of control shall of itself relieve any person so presumed to have control from any requirement of P.L.1970, c. 22 (C.17:27A-1 et seq.). This presumption may be rebutted by a showing made in the manner provided by subsection j. of section 3 of P.L.1970, c. 22 (C.17:27A-3) that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and an opportunity to be heard, and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

d. An "insurance holding company system" consists of two or more affiliated persons, one or more of which is an insurer. A mutual holding company system resulting from a mutualization and reorganization of a health service corporation pursuant to section 5 of P.L.2020, c.145 (C.17:48E-46.5),

shall be an insurance holding company system pursuant to P.L.1970, c. 22 (C.17:27A-1 et seq.).

e. The term "insurer" means any person or persons, corporation, partnership or company authorized by the laws of this State to transact the business of insurance or to operate a health maintenance organization in this State, except that it shall not include agencies, authorities or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

f. A "person" is an individual, a corporation, a limited liability company, partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert.

g. (Deleted by amendment, P.L.1993, c. 241).

h. A "subsidiary" of a specified person is an affiliate controlled by such person directly, or indirectly through one or more intermediaries.

i. The term "voting security" shall include any security convertible into or evidencing a right to acquire a voting security.

j. "Acquisition" means any agreement, arrangement or activity, the consummation of which results in a person acquiring directly or indirectly the control of another person, and includes but is not limited to the acquisition of voting securities, and assets, and bulk reinsurance and mergers.

k. "Health maintenance organization" means any person operating under a certificate of authority issued pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.).

l. "Enterprise risk" means any activity, circumstance, event or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including, but not limited to, anything that would cause the insurer's Risk-Based Capital to fall into company action level as set forth in administrative rules adopted by the commissioner which reflect the standards set forth in the Risk-Based Capital For Insurers Model Act adopted by the National Association of Insurance Commissioners or would cause the insurer to be in hazardous financial condition as defined in administrative rules adopted by the commissioner which reflect the standards set forth in the Model Regulation adopted by the National Association of Insurance Commissioners to define standards and the commissioner's authority over companies deemed to be in a hazardous financial condition.

C.17:48E-46.17 Severability.

19. a. The provisions of P.L.2020, c.145 (C.17:48E-46.1 et al.) shall be severable; and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of P.L.2020, c.145 (C.17:48E-46.1 et al.) shall be enforceable.

b. The provisions of P.L.2020, c.145 (C.17:48E-46.1 et al.) shall be liberally construed to effectuate its purposes.

20. This act shall take effect immediately.

Approved December 23, 2020.

CHAPTER 146

AN ACT concerning the sale of alcoholic beverages by seasonal retail consumption license holders.

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

1. Notwithstanding the summer season time period established pursuant to subsection 2 of R.S.33:1-12, the holder of a summer seasonal retail consumption license may sell alcoholic beverages in accordance with the provisions of R.S.33:1-12 from May 1, 2020 until January 14, 2022.

2. This act shall take effect immediately and shall expire on January 14, 2022.

Approved December 30, 2020.

CHAPTER 147

AN ACT creating a New Jersey Global War on Terrorism Medal and supplementing Title 38A of the New Jersey Statues.

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

C.38A:15-10 New Jersey Global War on Terrorism Medal.

1. a. The Governor may present in the name of the State of New Jersey a Global War on Terrorism Medal of appropriate design, and ribbon to be

worn in lieu thereof, to any person who is a member of the organized militia, the Armed Forces of the United States, or a Reserve component thereof, or who was honorably discharged therefrom, if the person was a resident of the State upon entry into service or has been a resident of this State for at least 20 years in the aggregate.

b. To qualify for a New Jersey Global War on Terrorism Medal, the person, while serving in the organized militia or while in federal service, shall have served in at least one of the following operations as attested by the awarding of honorable discharge and the federal DD Form 214 by the respective Armed Forces:

(1) Operation Enduring Freedom;
(2) Operation Noble Eagle;
(3) Operation Iraqi Freedom;
(4) Operation Nomad Shadow;
(5) Operation New Dawn;
(6) Operation Inherent Resolve;
(7) Operation Freedom's Sentinel; and
(8) Operation Odyssey Lighting.

The New Jersey Global War on Terrorism Medal shall only be awarded to a person who was assigned, attached, or detailed for 30 consecutive days or 60 non-consecutive days to a unit during at least one of the eligible military operations.

c. No more than one medal shall be awarded to any person, except that a medal that is lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was issued may be replaced.

d. The medal may be awarded to a deceased person or a person missing in action who would have qualified for the medal pursuant to this section and, when so directed, may be presented to such representative as the Adjutant General considers appropriate who submits all of the required forms and documentation on behalf of that person.

e. Any other eligibility requirements for the medal deemed appropriate by the Adjutant General shall be promulgated by the Department of Military and Veterans Affairs. At a minimum, the Department of Military and Veterans Affairs shall:

(1) establish a suitable design for the medal, including a ribbon to be worn with or in place of the medal;

(2) procure the manufacture of the medal and ribbon;

(3) if the recipient is a member of the New Jersey National Guard, ensure that award of the medal is properly reflected in the service records;

(4) establish procedures to identify members of the reserve components of the United States Armed Forces entitled to award of the medal; and

(5) adopt regulations to carry out the provisions of this section. The regulations shall include rules for wearing the medal and ribbon with the uniform of the New Jersey National Guard and provisions for the posthumous award of a medal.

f. There is created in the Department of Treasury a special, non-lapsing fund to be known as the "Global War on Terrorism Medal Fund." There shall be deposited into the fund the amounts made available for the purposes of the fund and monetary donations that may be received from any source for the purposes of the fund and any interest earned thereon. Monies deposited in the fund shall be dedicated for the design, manufacture, and distribution of the medal and ribbon.

2. This act shall take effect six months from the date of enactment, but the Department of Military and Veterans Affairs may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved January 4, 2021.

CHAPTER 148

AN ACT concerning motor vehicle driver education and amending R.S.39:3-10.

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

1. R.S.39:3-10 is amended to read as follows:

Licensing of drivers.

39:3-10. A person shall not drive a motor vehicle on a public highway in this State unless the person is under supervision while participating in a behind-the-wheel driving course pursuant to section 6 of P.L.1977, c.25 (C.39:3-13.2a) or is in possession of a validated permit, or a probationary or basic driver's license issued to that person in accordance with this article.

A person under 18 years of age shall not be issued a basic license to drive motor vehicles, and a person shall not be issued a validated permit, including a validated examination permit, until the applicant has passed a satisfactory

examination and other requirements as to the applicant's ability as an operator. The examination shall include: a test of the applicant's vision; the applicant's ability to understand traffic control devices; the applicant's knowledge of safe driving practices, including the dangers of driving a vehicle in an aggressive manner, which shall include, but not be limited to, unexpectedly altering the speed of a vehicle, making improper or erratic traffic lane changes, disregarding traffic control devices, failing to yield the right of way, and following another vehicle too closely; the applicant's knowledge of operating a motor vehicle in a manner that safely shares the roadway with pedestrians, cyclists, skaters, riders of motorized-scooters, and other non-motorized vehicles, which shall include, but not be limited to, passing a cyclist on the roadway, recognizing bicycle lanes, navigating intersections with pedestrians and cyclists, and exiting a vehicle without endangering pedestrians and cyclists; the applicant's knowledge of the effects that ingestion of alcohol or drugs has on a person's ability to operate a motor vehicle; the applicant's knowledge of the dangers of carbon monoxide poisoning from motor vehicles and techniques for the safe operation and proper maintenance of a motor vehicle; the applicant's knowledge of 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 the applicant's knowledge of the laws and ordinary usages of the road. The examination shall be made available in English and each of the three languages, other than English, most commonly spoken in the State, as determined by the chief administrator. The chief administrator shall periodically, and at least every five years, verify the three languages, other than English, most commonly spoken in the State.

A person shall not sit for an examination for any permit without exhibiting photo identification deemed acceptable by the commission, unless that person is a high school student participating in a course of automobile driving education approved by the State Department of Education and conducted in a public, parochial, or private school of this State, pursuant to section 1 of P.L.1950, c.127 (C.39:3-13.1).

Prior to taking an examination for any permit, a person shall watch a video created by the commission, in conjunction with the Attorney General, explaining the rights and responsibilities of a driver stopped by a law enforcement officer. The video shall be used for informational purposes only and shall not be used in any criminal proceeding involving a driver stopped by a law enforcement officer.

The commission may waive the written law knowledge examination for any person 18 years of age or older possessing a valid driver's license issued by any other state, the District of Columbia, or the United States Territories

of American Samoa, Guam, Northern Mariana Islands, Puerto Rico, or the Virgin Islands. The commission shall be required to provide that person with a booklet that highlights those motor vehicle laws unique to New Jersey. A road test shall be required for a probationary license and serve as a demonstration of the applicant's ability to operate a vehicle of the class designated. During the road test, an applicant may use a rear visibility system, parking sensors, or other technology installed on the motor vehicle that enables the applicant to view areas directly behind the vehicle or alerts the applicant of obstacles while parking.

A person shall not sit for a road test unless that person exhibits photo identification deemed acceptable by the commission. A high school student who has completed a course of behind-the-wheel automobile driving education approved by the State Department of Education and conducted in a public, parochial, or private school of this State, who has been issued a special learner's permit pursuant to section 1 of P.L.1950, c.127 (C.39:3-13.1) prior to January 1, 2003, shall not be required to exhibit photo identification in order to sit for a road test. The commission may waive the road test for any person 18 years of age or older possessing a valid driver's license issued by any other state, the District of Columbia, or the United States Territories of American Samoa, Guam, Northern Mariana Islands, Puerto Rico, or the Virgin Islands. The road test shall be given on public streets, where practicable and feasible, but may be preceded by an off-street screening process to assess basic skills. The commission shall approve locations for the road test which pose no more than a minimal risk of injury to the applicant, the examiner, and other motorists. New locations for the road test shall not be approved unless the test can be given on public streets.

A person who successfully completes a road test for a motorcycle license or a motorcycle endorsement when operating a motorcycle or motorized scooter with an engine displacement of less than 231 cubic centimeters shall be issued a motorcycle license or endorsement restricting the person's operation of the vehicles to any motorcycle with an engine displacement of 500 cubic centimeters or less. A person who successfully completes a road test for a motorcycle license or motorcycle endorsement when operating a motorcycle with an engine displacement of 231 or more cubic centimeters shall be issued a motorcycle license or endorsement without any restriction as to engine displacement. Any person who successfully completes an approved motorcycle safety education course established pursuant to the provisions of section 1 of P.L.1991, c.452 (C.27:5F-36) shall be issued a motorcycle license or endorsement without restriction as to engine displacement.

A person issued a motorcycle license pursuant to this section may be issued a standard motorcycle license or a REAL ID motorcycle license. The chief administrator shall require an applicant for a standard motorcycle license to provide as proof of the applicant's identity, age, and residence primary and secondary documents, with which the chief administrator shall attribute point values in accordance with the point based identification verification program established pursuant to section 28 of P.L.2003, c.13 (C.39:2A-28). The point total required to prove the identity of an applicant for the standard motorcycle license shall be the same for every applicant, regardless of immigration status. In the event that the commission changes the point total threshold, the requirement that every applicant reach the same point total threshold shall remain in effect.

In addition to requiring the person to submit satisfactory proof of identity and age, the commission shall require the person to provide:

(1) as a condition for obtaining a standard motorcycle license, proof of the person's social security number and one document providing satisfactory proof that the person is a New Jersey resident.

If the person does not have a social security number, the person shall either:

(a) provide satisfactory proof of an Individual Taxpayer Identification Number; or

(b) indicate, in a manner prescribed by the commission and consistent with all other provisions of P.L.2019, c.271 (C.39:3-10o et al.), that the person is not eligible to receive a social security number; or

(2) as a condition for obtaining a REAL ID motorcycle license: two documents providing satisfactory proof that the person is a New Jersey resident; proof of the person's social security number or verification of ineligibility for a social security number in accordance with the "REAL ID Act of 2005," Pub.L.109-13, any acts amendatory or supplementary thereto, and any federal regulations adopted thereunder; and proof that the person's presence in the United States is authorized under federal law.

A standard motorcycle license shall indicate that the license shall not be accepted as identification for an official purpose, as that term is defined under the "REAL ID Act of 2005," Pub.L.109-13, any acts amendatory or supplementary thereto, and any federal regulations adopted thereunder.

The commission shall issue a standard basic driver's license or a REAL ID basic driver's license to operate a motor vehicle other than a motorcycle to a person over 18 years of age who previously has not been licensed to drive a motor vehicle in this State or another jurisdiction only if that person has: (1) operated a passenger automobile in compliance with the requirements of this Title for not less than one year, not including any period of

suspension or postponement, from the date of issuance of a probationary license pursuant to section 4 of P.L.1950, c.127 (C.39:3-13.4); (2) not been assessed more than two motor vehicle points; (3) not been convicted in the previous year for a violation of R.S.39:4-50, section 2 of P.L.1981, c.512 (C.39:4-50.4a), section 1 of P.L.1992, c.189 (C.39:4-50.14), R.S.39:4-129, N.J.S.2C:11-5, section 1 of P.L.2017, c.165 (C.2C:11-5.3), subsection c. of N.J.S.2C:12-1, or any other motor vehicle-related violation the commission determines to be significant and applicable pursuant to regulation; and (4) passed an examination of the applicant's ability to operate a motor vehicle pursuant to this section.

The commission shall expand the driver's license examination by 20 percent. The additional questions to be added shall consist solely of questions developed in conjunction with the Department of Health concerning the use of alcohol or drugs as related to highway safety. The commission shall develop, in conjunction with the Department of Health, supplements to the driver's manual which shall include information necessary to answer any question on the driver's license examination concerning alcohol or drugs as related to highway safety.

Up to 20 questions may be added to the examination on subjects to be determined by the commission that are of particular relevance to youthful drivers, including the importance of operating a motor vehicle in a manner that safely shares the roadway with pedestrians, cyclists, skaters, riders of motorized-scooters, and other non-motorized vehicles, which shall include, but not be limited to, passing a cyclist on the roadway, recognizing bicycle lanes, navigating intersections with pedestrians and cyclists, and exiting a vehicle without endangering pedestrians and cyclists, and the dangers of driving a vehicle in an aggressive manner, which shall include, but not be limited to, unexpectedly altering the speed of a vehicle, making improper or erratic traffic lane changes, disregarding traffic control devices, failing to yield the right of way, and following another vehicle too closely, after consultation with the Director of the Division of Highway Traffic Safety in the Department of Law and Public Safety.

The commission shall expand the driver's license examination to include a question asking whether the applicant is aware of the provisions of the "Revised Uniform Anatomical Gift Act," P.L.2008, c.50 (C.26:6-77 et al.) and the procedure for indicating on the driver's license the intention to make a donation of body organs or tissues pursuant to section 1 of P.L.1978, c.181 (C.39:3-12.2).

The commission shall expand the driver's license examination to include a question asking whether the applicant is aware of the dangers of failing to

comply with this State's motor vehicle traffic laws and the "STOP for Nikhil Safety Pledge" set forth in subsection e. of R.S.39:3-41.

The commission shall expand the driver's license examination to include questions concerning the dangers of carbon monoxide poisoning from motor vehicles and techniques for the safe operation and proper maintenance of a motor vehicle.

Any person applying for a driver's license to operate a motor vehicle or motorized bicycle in this State shall surrender to the commission any current driver's license issued to the applicant by another state or jurisdiction upon the applicant's receipt of a driver's license for this State. The commission shall refuse to issue a driver's license if the applicant fails to comply with this provision. An applicant for a permit or license who is under 18 years of age, and who holds a permit or license for a passenger automobile issued by another state or country that is valid or has expired within a time period designated by the commission, shall be subject to the permit and license requirements and penalties applicable to State permit and license applicants who are of the same age; except that if the other state or country has permit or license standards substantially similar to those of this State, the credentials of the other state or country shall be acceptable.

The commission shall create classified licensing of drivers covering the following classifications:

a. Motorcycles, except that for the purposes of this section, motorcycle shall not include any three-wheeled motor vehicle equipped with a single cab with glazing enclosing the occupant, seats similar to those of a passenger vehicle or truck, seat belts and automotive steering or any vehicle defined as a motorcycle pursuant to R.S.39:1-1 having a motor with a maximum piston displacement that is less than 50 cubic centimeters or a motor that is rated at no more than 1.5 brake horsepower with a maximum speed of no more than 35 miles per hour on a flat surface.

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. (Deleted by amendment, P.L.1999, c.28)

d. All motor vehicles not included in classifications a. and b. A license issued pursuant to this classification d. shall be referred to as the "basic driver's license" and may be issued as a standard basic driver's license or a REAL ID basic driver's license.

Every applicant for a license under classification b. shall be a holder of a basic driver's license. Any issuance of a license under classification b. shall be by endorsement on the person's 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 person's basic driver's license. The holder of a basic driver's license or a separately issued motorcycle license shall be authorized to operate a motorcycle having a motor with a maximum piston displacement that is less than 50 cubic centimeters or a motor that is rated at no more than 1.5 brake horsepower with a maximum speed no more than 35 miles per hour on a flat surface.

The commission, upon payment of the lawful fee and after it or a person authorized by it has examined the applicant and is satisfied of the applicant's ability as an operator, may, in its discretion, issue a license to the applicant to drive a motor vehicle. The license shall authorize the person to drive any registered vehicle, of the kind or kinds indicated.

The license shall expire, except as otherwise provided, during the fourth calendar year following the date in which the license was issued and on the same calendar day as the person's date of birth. If the person's date of birth does not correspond to a calendar day of the fourth calendar year, the license shall expire on the last day of the person's birth month.

The commission may, at its discretion and for good cause shown, issue licenses that expire on a date fixed by it. If the commission issues a REAL ID basic driver's license or REAL ID motorcycle license to a person who has demonstrated authorization to be present in the United States for a period of time shorter than the standard period of the license, the commission shall fix the expiration date of the license at a date based on the period in which the person is authorized to be present in the United States under federal immigration laws. The commission may renew the person's REAL ID basic driver's license or REAL ID motorcycle license only if it is demonstrated that the person's continued presence in the United States is authorized under federal law. The fee for licenses with expiration dates fixed by the commission shall be fixed by the commission in amounts proportionately less or greater than the fee herein established.

The required fee for a license for the license period shall be as follows, subject to adjustment pursuant to section 16 of P.L.2007, c.335 (C.39:2A-36.1):

Standard motorcycle license or endorsement: $18.

REAL ID motorcycle license: $29.

Omnibus or school bus endorsement: $18.

Standard basic driver's license: $18.

REAL ID basic driver's license: $29.

The commission shall waive the payment of fees for issuance of omnibus endorsements whenever an applicant establishes to the commission's satisfac-

tion that the 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 or Title 15A of the New Jersey Statutes.

The commission shall issue licenses for the following license period on and after the first day of the calendar month immediately preceding the commencement of the period, the licenses to be effective immediately.

All applications for renewals of licenses shall be made in a manner prescribed by the commission and in accordance with procedures established by it.

The commission in its discretion may refuse to grant a permit or license to drive motor vehicles to a person who is, in its estimation, not a proper person to be granted a permit or license, but a defect of the applicant shall not debar the applicant from receiving a permit or license unless it can be shown by tests approved by the commission that the defect incapacitates the applicant from safely operating a motor vehicle.

A person issued a basic driver's license pursuant to this section may be issued a standard basic driver's license or a REAL ID basic driver's license. The chief administrator shall require an applicant for a standard basic driver's license to provide as proof of the applicant's identity, age, and residence primary and secondary documents, with which the chief administrator shall attribute point values in accordance with the point based identification verification program established pursuant to section 28 of P.L.2003, c.13 (C.39:2A-28). The point total required to prove the identity of an applicant for the standard basic driver's license shall be the same for every applicant, regardless of immigration status. In the event that the commission changes the point total threshold, the requirement that every applicant reach the same point total threshold shall remain in effect.

In addition to requiring an applicant for a driver's license to submit satisfactory proof of identity and age, the commission also shall require the applicant to provide:

(1) as a condition for obtaining a permit and standard basic driver's license, proof of the person's social security number and one document providing satisfactory proof that the applicant is a New Jersey resident. If the person does not have a social security number, the person shall either:

(a) provide satisfactory proof of an Individual Taxpayer Identification Number; or

(b) indicate, in a manner prescribed by the commission and consistent with all other provisions of P.L.2019, c.271 (C.39:3-10o et al.), that the person is not eligible to receive a social security number; or

(2) as a condition for obtaining a REAL ID basic driver's license: two documents providing satisfactory proof that the applicant is a New Jersey

resident; proof of the applicant's social security number or verification of ineligibility for a social security number in accordance with the "REAL ID Act of 2005," Pub.L.109-13, any acts amendatory or supplementary thereto, and any federal regulations adopted thereunder; and proof that the applicant's presence in the United States is authorized under federal law.

A standard basic driver's license shall indicate that the license shall not be accepted as identification for an official purpose, as that term is defined under the "REAL ID Act of 2005," Pub.L.109-13, any acts amendatory or supplementary thereto, and any federal regulations adopted thereunder.

If the commission has reasonable cause to suspect that any document presented by an applicant pursuant to this section is altered, false, or otherwise invalid, the commission shall refuse to grant the permit or license until the time when the document may be verified by the issuing agency to the commission's satisfaction.

A person violating this section shall be subject to a fine not exceeding $500 or imprisonment in the county jail for not more than 60 days, but if that person has never been licensed to drive in this State or any other jurisdiction, the applicant shall be subject to a fine of not less than $200 and, in addition, the court shall issue an order to the commission requiring the commission to refuse to issue a license to operate a motor vehicle to the person for a period of not less than 180 days. The penalties provided for by this paragraph shall not be applicable in cases where failure to have actual possession of the operator's license is due to an administrative or technical error by the commission.

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.

Any documents and personal information, including an applicant's photograph, obtained by the commission from an applicant for a standard basic driver's license or standard motorcycle license shall be confidential, shall not be considered a government record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), P.L.2001, c.404 (C.47:1A-5 et al.), or the common law concerning access to government records, and shall not be disclosed by the commission for any purpose related to Title 8 of the United States Code without the informed consent of the applicant, a warrant signed by a State or federal judge, or a lawful court order or subpoena; except that nothing in this section shall be construed to prohibit, or in any way restrict, any action where such prohibition or restriction would be contrary to federal law. When responding to a warrant, court order, or subpoena, the commission may disclose only those records or information specifically requested in the warrant, court order, or subpoena.

Possession of a standard basic driver's license or standard motorcycle license issued pursuant to this section shall not be considered evidence of an individual's citizenship or immigration status and shall not be used as a basis for an investigation, arrest, citation, prosecution, or detention.

Information regarding an applicant's Individual Tax Identification Number, social security number, or ineligibility to receive a social security number obtained by the commission for the issuance of a standard motorcycle license or standard basic driver's license pursuant to this section, shall not be considered a government record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), P.L.2001, c.404 (C.47:1A-5 et al.), or the common law concerning access to government records, and shall not be disclosed by the commission except where: (1) required by section 11 of P.L.1998, c.1 (C.2A:17-56.60); (2) the applicant provides written informed consent to the disclosure; (3) the requesting entity presents a warrant signed by a State or federal judge, a lawful court order, or a subpoena; (4) required by State or federal law, and to the extent that the disclosure may be necessary to permit the State to participate in the National Driver Register program, as set forth in 49 U.S.C. s.30301 et seq.; or (5) the disclosure is in connection with an audit or investigation of identity fraud, driver's license fraud, or non-driver identification card fraud.

As used in this section:

"Parking sensors" means proximity sensors which use either electromagnetic or ultrasonic technology and are designed to alert the driver to obstacles while parking.

"Rear visibility system" means devices or components installed on a motor vehicle at the time of manufacture that allow a forward facing driver to view a visual image of the area directly behind the vehicle.

2. This act shall take effect on the first day of the seventh month after enactment, but the Chief Administrator of the New Jersey Motor Vehicle Commission may take any anticipatory administrative action necessary for the timely implementation of this act.

Approved January 4, 2021.

CHAPTER 149

AN ACT concerning rent payments by tenants during coronavirus disease 2019 pandemic.

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

1. The Legislature finds and declares that:

a. The COVID-19 pandemic is forcing many New Jersey residents and businesses to endure prolonged depletions of income;

b. The State's tenants are entitled to be provided with sufficient options for rent payment during this emergency and its aftermath; and

c. It is, therefore, necessary and in the public interest for the Legislature to temporarily require the State's commercial and residential landlords, with limited exception, to accept rent payments by credit card.

2. a. A landlord shall permit a tenant to make a rent payment using a credit card, as long as the rent payment is due prior to the expiration of this act, following the state of emergency and public health emergency declared by the Governor pursuant to Executive Order No. 103 of 2020 in response to the COVID-19 pandemic.

b. A landlord shall make any necessary accommodations to allow a tenant to make a rent payment using a credit card.

c. A landlord may shift to the tenant the responsibility for the payment of all transaction fees associated with the use of a credit card when making a rent payment to a landlord pursuant to the provisions of this section. No provision of this section shall be construed to affect the requirement to pay rent due and owing by the tenant to the landlord pursuant to a lease or rental agreement.

d. With respect to a landlord who has a previously agreed upon rent payment taken back by a tenant through the use of a credit card chargeback, no provision of this section shall be construed to prevent the landlord from considering the charged-back rent as unpaid rent.

e. As used in this section:

"Chargeback" means a consumer protection tool that allows a consumer to get their money back for fraudulent charges or purchases that do not live up to standards by submitting a dispute with their card issuer.

"COVID-19" means the coronavirus disease 2019, as announced by the World Health Organization on February 11, 2020, and first identified in Wuhan, China.

"Landlord" means any person who rents or leases, for a term of at least one month, commercial space or residential dwelling units other than dwelling units in a premises containing not more than two such units, or in an owner-occupied premises of not more than three dwelling units, or in hotels, motels, or other guest houses serving transient or seasonal guests.

3. This act shall take effect immediately and shall expire one year after the end of both the state of emergency and the public health emergency declared by the Governor in response to the coronavirus disease 2019 pandemic.

Approved January 4, 2021.

CHAPTER 150

AN ACT concerning employer contributions to the unemployment compensation fund and payments in lieu of contributions, amending R.S.43:21-7, and supplementing Title 43 of the Revised Statutes.

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

C.43:21-7.9 Unemployment compensation benefits for 2020 not considered in employer's reserve ratio.

1. a. The costs of any unemployment compensation benefits paid to employees of an employer during the public health emergency and state of emergency declared by the Governor on March 9, 2020, and any subsequent extensions of that public health emergency and state of emergency, shall not be considered when calculating that employer's reserve ratio for the purposes of determining the rate of the employer's contributions to the State unemployment compensation fund pursuant to R.S.43:21-7.

b. Any nonprofit organization which elects to make payments in lieu of contributions pursuant to section 3 of P.L.1971, c.346 (C.43:21-7.2) and any governmental entity or instrumentality which elects to make payments in lieu of contributions pursuant to section 4 of P.L.1971, c.346 (C.43:21-7.3), shall be liable for payments in lieu of contributions with respect to only 50% of the payments of unemployment compensation benefits made pursuant to either of those two sections during the public health emergency and state of emergency declared by the Governor on March 9, 2020, and any subsequent extensions of that public health emergency and state of emergency.

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

Contributions.

43:21-7. Employers other than governmental entities, whose benefit financing provisions are set forth in section 4 of P.L.1971, c.346 (C.43:21-7.3), and those nonprofit organizations liable for payment in lieu of contributions

on the basis set forth in section 3 of P.L.1971, c.346 (C.43:21-7.2), shall pay to the controller for the unemployment compensation fund, contributions as set forth in subsections (a), (b) and (c) hereof, and the provisions of subsections (d) and (e) shall be applicable to all employers, consistent with the provisions of the "unemployment compensation law" and the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.).

(a) Payment.

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

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

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

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

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

(3) For calendar years beginning on and after January 1, 1976, the "wages" of any individual, as defined in the preceding paragraph (2) of this subsection (b), shall be established and promulgated by the Commissioner of Labor and Workforce Development on or before September 1 of the preceding year and, except as provided in paragraph (4) of this subsection (b), shall be, 28 times the Statewide average weekly remuneration paid to workers by employers, as determined under R.S.43:21-3(c), raised to the next higher multiple of $100.00 if not already a multiple thereof, provided that if the amount of wages so determined for a calendar year is less than the amount similarly determined for the preceding year, the greater amount will be used; provided, further, that if the amount of such wages so determined does not equal or exceed the amount of wages as defined in subsection (b) of section 3306 of the Internal Revenue Code of 1986 (26 U.S.C. s.3306(b)), the wages as determined in this paragraph in any calendar year shall be raised to equal the amount established under the "Federal Unemployment Tax Act," chapter 23 of the Internal Revenue Code of 1986 (26 U.S.C. s.3301 et seq.), for that calendar year.

(4) For calendar years beginning on and after January 1, 2020, the "wages" of any individual, as defined in the preceding paragraph (2) of this subsection (b) for purposes of contributions of workers to the State disability benefits fund, including the "Family Temporary Disability Leave Account" pursuant to subsection (d) of this section, shall be established and promulgated by the Commissioner of Labor and Workforce Development on or before September 1 of the preceding year and shall be 107 times the Statewide average weekly remuneration paid to workers by employers, as determined under R.S.43:21-3(c), raised to the next higher multiple of $100.00 if not already a multiple thereof, provided that if the amount of wages so determined for a calendar year is less than the amount similarly determined for the preceding year, the greater amount will be used.

(c) Future rates based on benefit experience.

(1) A separate account for each employer shall be maintained and this shall be credited with all the contributions which he has paid on his own behalf on or before January 31 of any calendar year with respect to employment occurring in the preceding calendar year; provided, however, that if January 31 of any calendar year falls on a Saturday or Sunday, an employer's account shall be credited as of January 31 of such calendar year with all the contributions which he has paid on or before the next succeeding day which is not a Saturday or Sunday. But nothing in this chapter (R.S.43:21-1 et seq.) shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him into the fund either on his own

behalf or on behalf of such individuals. Benefits paid with respect to benefit years commencing on and after January 1, 1953, to any individual on or before December 31 of any calendar year with respect to unemployment in such calendar year and in preceding calendar years shall be charged against the account or accounts of the employer or employers in whose employment such individual established base weeks constituting the basis of such benefits, except that, with respect to benefit years commencing after January 4, 1998, an employer's account shall not be charged for benefits paid to a claimant if the claimant's employment by that employer was ended in any way which, pursuant to subsection (a), (b), (c), (f), (g) or (h) of R.S.43:21-5, would have disqualified the claimant for benefits if the claimant had applied for benefits at the time when that employment ended. Benefits paid under a given benefit determination shall be charged against the account of the employer to whom such determination relates. When each benefit payment is made, notification shall be promptly provided to each employer included in the unemployment insurance monetary calculation of benefits. Such notification shall identify the employer against whose account the amount of such payment is being charged, shall show at least the name and social security account number of the claimant and shall specify the period of unemployment to which said benefit payment applies.

An annual summary statement of unemployment benefits charged to the employer's account shall be provided.

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

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

(4) Employer Reserve Ratio. (A) Each employer's rate shall be 2 8/10%, except as otherwise provided in the following provisions. No employer's rate for the 12 months commencing July 1 of any calendar year shall be other than 2 8/10%, unless as of the preceding January 31 such employer shall have paid contributions with respect to wages paid in each of the three calendar years immediately preceding such year, in which case such employer's rate for the 12 months commencing July 1 of any calendar year shall be

determined on the basis of his record up to the beginning of such calendar year. If, at the beginning of such calendar year, the total of all his contributions, paid on his own behalf, for all past years exceeds the total benefits charged to his account for all such years, his contribution rate shall be:

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

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

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

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

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

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

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

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

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

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

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

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

(C) Specially assigned rates.

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

if the reserve balance in its account is positive, its assigned rate shall be the highest rate in effect for positive balance accounts for that period, or 5.4%, whichever is higher, and

if the reserve balance in its account is negative, its assigned rate shall be the highest rate in effect for deficit accounts for that period.

(ii) If, following the purchase of a corporation with little or no activity, known as a corporate shell, the resulting employing unit operates a new or different business activity, the employing unit shall be assigned a new employer rate.

(iii) Entities operating under common ownership, management or control, when the operation of the entities is not identifiable, distinguishable and severable, shall be considered a single employer for the purposes of this chapter (R.S.43:21-1 et seq.).

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

(5) (A) Unemployment Trust Fund Reserve Ratio. If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 4% but is less than 7% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be increased by 3/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (3) or (4) of this subsection. If on March 31 of any calendar year the balance of the unemployment trust fund exceeds 2 1/2% but is less than 4% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be increased by 6/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (3) or (4) of this subsection.

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

subsection. For the period commencing July 1, 1984 and ending June 30, 1986, the contribution rate for each employer liable to pay contributions under R.S.43:21-7 shall be increased by a factor of 10% computed to the nearest multiple of 1/10% if not already a multiple thereof.

(B) If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 10% but is less than 12 1/2% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be reduced by 3/10 of 1% under the contribution rate otherwise established under the provisions of paragraphs (3) and (4) of this subsection; provided that in no event shall the contribution rate of any employer be reduced to less than 4/10 of 1%. If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 12 1/2% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be reduced by 6/10 of 1% if his account for all past periods reflects an excess of contributions paid over total benefits charged of 3% or more of his average annual payroll, otherwise by 3/10 of 1% under the contribution rate otherwise established under the provisions of paragraphs (3) and (4) of this subsection; provided that in no event shall the contribution rate of any employer be reduced to less than 4/10 of 1%.

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

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

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

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

(iii) (Deleted by amendment, P.L.2003, c.107).

(iv) (Deleted by amendment, P.L.2004, c.45).

(v) (Deleted by amendment, P.L.2008, c.17).

(vi)(Deleted by amendment, P.L.2013, c.75).

(vii) With respect to experience rating years beginning on or after July 1, 2011, the new employer rate or the unemployment experience rate of an employer under this section shall be the rate which appears in the column headed by the Unemployment Trust Fund Reserve Ratio as of the applicable calculation date and on the line with the Employer Reserve Ratio, as defined in paragraph (4) of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following table:

EXPERIENCE RATING TAX TABLE

	Fund Reserve Ratio[1]				
Employer Reserve Ratio[2]	3.50% and Over A	3.00% to 3.49% B	2.5% to 2.99% C	2.0% to 2.49% D	1.99% and Under E
Positive Reserve Ratio:					
17% and over	0.3	0.4	0.5	0.6	1.2
16.00% to 16.99%	0.4	0.5	0.6	0.6	1.2
15.00% to 15.99%	0.4	0.6	0.7	0.7	1.2
14.00% to 14.99%	0.5	0.6	0.7	0.8	1.2
13.00% to 13.99%	0.6	0.7	0.8	0.9	1.2
12.00% to 12.99%	0.6	0.8	0.9	1.0	1.2
11.00% to 11.99%	0.7	0.8	1.0	1.1	1.2
10.00% to 10.99%	0.9	1.1	1.3	1.5	1.6
9.00% to 9.99%	1.0	1.3	1.6	1.7	1.9
8.00% to 8.99%	1.3	1.6	1.9	2.1	2.3
7.00% to 7.99%	1.4	1.8	2.2	2.4	2.6
6.00% to 6.99%	1.7	2.1	2.5	2.8	3.0
5.00% to 5.99%	1.9	2.4	2.8	3.1	3.4
4.00% to 4.99%	2.0	2.6	3.1	3.4	3.7
3.00% to 3.99%	2.1	2.7	3.2	3.6	3.9
2.00% to 2.99%	2.2	2.8	3.3	3.7	4.0
1.00% to 1.99%	2.3	2.9	3.4	3.8	4.1
0.00% to 0.99	2.4	3.0	3.6	4.0	4.3
Deficit Reserve Ratio:					
-0.00% to -2.99%	3.4	4.3	5.1	5.6	6.1
-3.00% to -5.99%	3.4	4.3	5.1	5.7	6.2
-6.00% to -8.99%	3.5	4.4	5.2	5.8	6.3
-9.00% to-11.99%	3.5	4.5	5.3	5.9	6.4

-12.00% to-14.99%	3.6	4.6	5.4	6.0	6.5
-15.00% to-19.99%	3.6	4.6	5.5	6.1	6.6
-20.00% to-24.99%	3.7	4.7	5.6	6.2	6.7
-25.00% to-29.99%	3.7	4.8	5.6	6.3	6.8
-30.00% to-34.99%	3.8	4.8	5.7	6.3	6.9
-35.00% and under	5.4	5.4	5.8	6.4	7.0
New Employer Rate	2.8	2.8	2.8	3.1	3.4

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

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

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

(ii) (Deleted by amendment, P.L.2008, c.17).

(iii) (Deleted by amendment, P.L.2013, c.75).

(iv) With respect to experience rating years beginning on or after July 1, 2011 and before July 1, 2013, if the fund reserve ratio, based on the fund balance as of the prior March 31, is less than 1.0%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be increased by a factor of 10% computed to the nearest multiple of 1/10% if not already a multiple thereof.

(v) With respect to experience rating years beginning on or after July 1, 2014, if the fund reserve ratio, based on the fund balance as of the prior March 31, is less than 1.0%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be increased by a factor of 10% computed to the nearest multiple of 1/10% if not already a multiple thereof.

(G) On or after January 1, 1993, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by 0.1%, except that, during any experience rating year starting before January 1, 1998 in which the fund reserve ratio is equal to or greater than 7.00% or during any experience rating year starting on or after January 1, 1998, in which the fund reserve ratio is equal to or greater than 3.5%, there shall be no decrease pursuant to this subparagraph (G) in the contribution of any employer who has a deficit reserve ratio of negative 35.00% or under.

(H) On and after January 1, 1998 until December 31, 2000 and on or after January 1, 2002 until June 30, 2006, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of

this paragraph (5), shall be decreased by a factor, as set out below, computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%:

From January 1, 1998 until December 31, 1998, a factor of 12%;
From January 1, 1999 until December 31, 1999, a factor of 10%;
From January 1, 2000 until December 31, 2000, a factor of 7%;
From January 1, 2002 until March 31, 2002, a factor of 36%;
From April 1, 2002 until June 30, 2002, a factor of 85%;
From July 1, 2002 until June 30, 2003, a factor of 15%;
From July 1, 2003 until June 30, 2004, a factor of 15%;
From July 1, 2004 until June 30, 2005, a factor of 7%;
From July 1, 2005 until December 31, 2005, a factor of 16%; and
From January 1, 2006 until June 30, 2006, a factor of 34%.

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

(I) (Deleted by amendment, P.L.2008, c.17).

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

(K) With respect to experience rating years beginning on or after July 1, 2009, if the fund reserve ratio, based on the fund balance as of the prior March 31, is:

(i) Equal to or greater than 5.00% but less than 7.5%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be reduced by a factor of 25% computed to the nearest multiple of 1/10% if not already a multiple thereof except that there shall be no decrease pursuant to this subparagraph (K) in the contribution of any employer who has a deficit reserve ratio of 35.00% or under;

(ii) Equal to or greater than 7.5%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be reduced by a factor of 50% computed to the nearest multiple of 1/10% if not already a multiple thereof except that there shall be no decrease pursuant to this subparagraph (K) in the contribution of any employer who has a deficit reserve ratio of 35.00% or under.

(L) Notwithstanding any other provision of this paragraph (5) and notwithstanding the actual fund reserve ratio, the contribution rate for employers liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be, for fiscal year 2011, the rates set by column "C" of the table in that subparagraph.

(M) Notwithstanding any other provision of this paragraph (5) and notwithstanding the actual fund reserve ratio, the contribution rate for employers liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be, for fiscal year 2012, the rates set by column "D" of the table in that subparagraph.

(N) Notwithstanding any other provision of this paragraph (5) and notwithstanding the actual fund reserve ratio, the contribution rate for employers liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be, for fiscal year 2013, the rates set by column "E" of the table in that subparagraph.

(O) Notwithstanding any other provision of this paragraph (5) and notwithstanding the actual fund reserve ratio, the contribution rate for employers liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be, for fiscal year 2022, the rates set by column "C" of the table in that subparagraph.

(P) Notwithstanding any other provision of this paragraph (5) and notwithstanding the actual fund reserve ratio, the contribution rate for employers liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be, for fiscal year 2023, the rates set by column "D" of the table in that subparagraph, unless the application of the provisions of this paragraph (5) using the actual fund reserve ratio would result in the contribution rate for employers being set by a column which has lower tax rates

than the rates in column "D", in which case the employers shall be liable to pay contributions at the rates set by the column with the lower tax rates.

(Q) Notwithstanding any other provision of this paragraph (5) and notwithstanding the actual fund reserve ratio, the contribution rate for employers liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be, for fiscal year 2024, the rates set by column "E" of the table in that subparagraph, unless the application of the provisions of this paragraph (5) using the actual fund reserve ratio would result in the contribution rate for employers being set by a column which has lower tax rates than the rates in column "E", in which case the employers shall be liable to pay contributions at the rates set by the column with the lower tax rates.

(6) Additional contributions.

Notwithstanding any other provision of law, any employer who has been assigned a contribution rate pursuant to subsection (c) of this section for the year commencing July 1, 1948, and for any year commencing July 1 thereafter, may voluntarily make payment of additional contributions, and upon such payment shall receive a recomputation of the experience rate applicable to such employer, including in the calculation the additional contribution so made, except that, following a transfer as described under R.S.43:21-7(c)(7)(D), neither the predecessor nor successor in interest shall be eligible to make a voluntary payment of additional contributions during the year the transfer occurs and the next full calendar year. Any such additional contribution shall be made during the 30-day period following the notification to the employer of his contribution rate as prescribed in this section, unless, for good cause, the time for payment has been extended by the controller for not to exceed an additional 60 days; provided that in no event may such payments which are made later than 120 days after the beginning of the year for which such rates are effective be considered in determining the experience rate for the year in which the payment is made. Any employer receiving any extended period of time within which to make such additional payment and failing to make such payment timely shall be, in addition to the required amount of additional payment, liable for a penalty of 5% thereof or $5.00, whichever is greater, not to exceed $50.00. Any adjustment under this subsection shall be made only in the form of credits against accrued or future contributions.

(7) Transfers.

(A) Upon the transfer of the organization, trade or business, or substantially all the assets of an employer to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, the controller shall transfer the employment experience of the predecessor employer to the successor in interest, including credit for past years, contributions paid, annual

payrolls, benefit charges, et cetera, applicable to such predecessor employer, pursuant to regulation, if it is determined that the employment experience of the predecessor employer with respect to the organization, trade, assets or business which has been transferred may be considered indicative of the future employment experience of the successor in interest. The successor in interest may, within four months of the date of such transfer of the organization, trade, assets or business, or thereafter upon good cause shown, request a reconsideration of the transfer of employment experience of the predecessor employer. The request for reconsideration shall demonstrate, to the satisfaction of the controller, that the employment experience of the predecessor is not indicative of the future employment experience of the successor.

(B) An employer who transfers part of his or its organization, trade, assets or business to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, may jointly make application with such successor in interest for transfer of that portion of the employment experience of the predecessor employer relating to the portion of the organization, trade, assets or business transferred to the successor in interest, including credit for past years, contributions paid, annual payrolls, benefit charges, et cetera, applicable to such predecessor employer. The transfer of employment experience may be allowed pursuant to regulation only if it is found that the employment experience of the predecessor employer with respect to the portion of the organization, trade, assets or business which has been transferred may be considered indicative of the future employment experience of the successor in interest. Credit shall be given to the successor in interest only for the years during which contributions were paid by the predecessor employer with respect to that part of the organization, trade, assets or business transferred.

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

(D) If an employer transfers in whole or in part his or its organization, trade, assets or business to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise and both the employer and successor in interest are at the time of the transfer under common ownership, management or control, then the employment experience attributable to the

transferred business shall also be transferred to and combined with the employment experience of the successor in interest. The transfer of the employment experience is mandatory and not subject to appeal or protest.

(E) The transfer of part of an employer's employment experience to a successor in interest shall become effective as of the first day of the calendar quarter following the acquisition by the successor in interest. As of the effective date, the successor in interest shall have its employer rate recalculated by merging its existing employment experience, if any, with the employment experience acquired. If the successor in interest is not an employer as of the date of acquisition, it shall be assigned the new employer rate until the effective date of the transfer of employment experience.

(F) Upon the transfer in whole or in part of the organization, trade, assets or business to a successor in interest, the employment experience shall not be transferred if the successor in interest is not an employer at the time of the acquisition and the controller finds that the successor in interest acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions.

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

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

(B) Effective January 1, 1978 there shall be no contributions by workers in the employ of any governmental or nongovernmental employer electing or required to make payments in lieu of contributions unless the employer is covered by the State plan under the "Temporary Disability Benefits Law" (C.43:21-25 et al.), and in that case contributions shall be at the rate of 1/2 of 1%, except that commencing July 1, 1986, workers in the employ of any nongovernmental employer electing or required to make payments in lieu of contributions shall be required to make contributions to the fund at the same rate prescribed for workers of other nongovernmental employers.

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

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

(D) Notwithstanding any other provisions of this paragraph (1), during the period starting January 1, 1993 and ending June 30, 1994, each worker shall contribute to the unemployment compensation fund 0.5% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer. No contributions, however, shall be made by the worker while the worker is covered by an approved private plan under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.) or while the worker is exempt under section 7 of P.L.1948, c.110 (C.43:21-31) or any other provision of that law; provided that the contributions shall be at the rate of 0.50% of wages paid with respect to employment

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

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

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

Each worker shall, starting on January 1, 1999 until December 31, 1999, contribute to the unemployment compensation fund 0.15% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under par-

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

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

Each worker shall, starting on January 1, 2002 until June 30, 2004, contribute to the unemployment compensation fund 0.1825% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or a nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.0825% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

Each worker shall, starting on and after July 1, 2004, contribute to the unemployment compensation fund 0.3825% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects

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

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

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

(G) (i) Each worker, with respect to the worker's employment with a government employer electing or required to pay contributions to the State disability benefits fund or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, unless the employer is covered by an approved private disability plan or is exempt from the provisions of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et al.) under section 7 of that law (C.43:21-31) or any other provision of that law, shall, for calendar year 2012 and each subsequent calendar year, make contributions to the State disability benefits fund at the annual rate of contribution necessary to obtain a total amount of contributions, which, when added to employer contributions made to the State disability benefits fund pursuant to subsection (e) of this section, is, for calendar years prior to calendar year 2018, equal to 120% of the benefits paid for periods of disability, excluding periods of family temporary disability, during the immediately preceding calendar year plus an amount equal to 100% of the cost of administration of the payment of those benefits during the immediately preceding calendar year, less the amount of net assets remaining in the State disability benefits fund, excluding net assets

remaining in the "Family Temporary Disability Leave Account" of that fund, as of December 31 of the immediately preceding year, and is, for calendar year 2018 and year 2019, equal to 120% of the benefits paid for periods of disability, excluding periods of family temporary disability, during the last preceding full fiscal year plus an amount equal to 100% of the cost of administration of the payment of those benefits during the last preceding full fiscal year, less the amount of net assets anticipated to be remaining in the "Family Temporary Disability Leave Account" of that fund, as of December 31 of the immediately preceding calendar year, and is, for each of calendar years 2020 and 2021, equal to 120% of the benefits which the department anticipates will be paid for periods of disability, excluding periods of family temporary disability, during the respective calendar year plus an amount equal to 100% of the cost of administration of the payment of those benefits which the department anticipates during the respective calendar year, less the amount of net assets anticipated to be remaining in the State disability benefits fund, excluding net assets remaining in the "Family Temporary Disability Leave Account" of that fund, as of December 31 of the immediately preceding calendar year, and is, for calendar year 2022 and any subsequent calendar year, equal to 120% of the benefits paid for periods of disability, excluding periods of family temporary disability, during the last preceding full fiscal year plus an amount equal to 100% of the cost of administration of the payment of those benefits during the last preceding full fiscal year, less the amount of net assets anticipated to be remaining in the State disability benefits fund, excluding net assets remaining in the "Family Temporary Disability Leave Account" of that fund, as of December 31 of the immediately preceding calendar year. All increases in the cost of benefits for periods of disability caused by the increases in the weekly benefit rate commencing July 1, 2020, pursuant to section 16 of P.L.1948, c.110 (C.43:21-40), shall be funded by contributions made by workers pursuant to this paragraph (i) and none of those increases shall be funded by employer contributions. The estimated rates for the next calendar year shall be made available on the department's website no later than 60 days after the end of the last preceding full fiscal year. The rates of employer contributions determined pursuant to subsection (e) of this section for any year shall be determined prior to the determination of the rate of employee contributions pursuant to this subparagraph (i) and any consideration of employee contributions in determining employer rates for any year shall be based on amounts of employee contributions made prior to the year to which the rate of employee contributions applies and shall not be based on any projection or estimate of the amount of employee contributions for the year to which that rate applies.

(ii) Each worker shall contribute to the State disability benefits fund, in addition to any amount contributed pursuant to subparagraph (i) of this paragraph (1)(G), an amount equal to, during calendar year 2009, 0.09%, and during calendar year 2010 0.12%, of wages paid with respect to the worker's employment with any covered employer, including a governmental employer which is an employer as defined under R.S.43:21-19(h)(5), unless the employer is covered by an approved private disability plan for benefits during periods of family temporary disability leave. The contributions made pursuant to this subparagraph (ii) to the State disability benefits fund shall be deposited into an account of that fund reserved for the payment of benefits during periods of family temporary disability leave as defined in section 3 of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-27) and for the administration of those payments and shall not be used for any other purpose. This account shall be known as the "Family Temporary Disability Leave Account." For calendar year 2011 and each subsequent calendar year until 2018, the annual rate of contribution to be paid by workers pursuant to this subparagraph (ii) shall be, for calendar years prior to calendar year 2018, the rate necessary to obtain a total amount of contributions equal to 125% of the benefits paid for periods of family temporary disability leave during the immediately preceding calendar year plus an amount equal to 100% of the cost of administration of the payment of those benefits during the immediately preceding calendar year, less the amount of net assets remaining in the account as of December 31 of the immediately preceding year, and shall be, for calendar year 2018 and calendar year 2019, the rate necessary to obtain a total amount of contributions equal to 125% of the benefits paid for periods of family temporary disability leave during the last preceding full fiscal year plus an amount equal to 100% of the cost of administration of the payment of those benefits during the last preceding full fiscal year, less the amount of net assets anticipated to be remaining in the account as of December 31 of the immediately preceding calendar year. For each of calendar years 2020 and 2021, the annual rate of contribution to be paid by workers pursuant to this subparagraph (ii) shall be the rate necessary to obtain a total amount of contributions equal to 125% of the benefits which the department anticipates will be paid for periods of family temporary disability leave during the respective calendar year plus an amount equal to 100% of the cost of administration of the payment of those benefits which the department anticipates during the respective calendar year, less the amount of net assets remaining in the account as of December 31 of the immediately preceding calendar year. For 2022 and any subsequent calendar year, the annual rate of contribution

to be paid by workers pursuant to this subparagraph (ii) shall be the rate necessary to obtain a total amount of contributions equal to 125% of the benefits which were paid for periods of family temporary disability leave during the last preceding full fiscal year plus an amount equal to 100% of the cost of administration of the payment of those benefits during the last preceding full fiscal year, less the amount of net assets remaining in the account as of December 31 of the immediately preceding calendar year. All increases in the cost of benefits for periods of family temporary disability leave caused by the increases in the weekly benefit rate commencing July 1, 2020 pursuant to section 16 of P.L.1948, c.110 (C.43:21-40) and increases in the maximum duration of benefits commencing July 1, 2020 pursuant to sections 14 and 15 of P.L.1948, c.110 (C.43:21-38 and 43:21-39) shall be funded by contributions made by workers pursuant to this paragraph (ii) and none of those increases shall be funded by employer contributions. The estimated rates for the next calendar year shall be made available on the department's website no later than 60 days after the end of the last preceding full fiscal year. Necessary administrative costs shall include the cost of an outreach program to inform employees of the availability of the benefits and the cost of issuing the reports required or permitted pursuant to section 13 of P.L.2008, c.17 (C.43:21-39.4). No monies, other than the funds in the "Family Temporary Disability Leave Account," shall be used for the payment of benefits during periods of family temporary disability leave or for the administration of those payments, with the sole exception that, during calendar years 2008 and 2009, a total amount not exceeding $25 million may be transferred to that account from the revenues received in the State disability benefits fund pursuant to subparagraph (i) of this paragraph (1)(G) and be expended for those payments and their administration, including the administration of the collection of contributions made pursuant to this subparagraph (ii) and any other necessary administrative costs. Any amount transferred to the account pursuant to this subparagraph (ii) shall be repaid during a period beginning not later than January 1, 2011 and ending not later than December 31, 2015. No monies, other than the funds in the "Family Temporary Disability Leave Account," shall be used under any circumstances after December 31, 2009, for the payment of benefits during periods of family temporary disability leave or for the administration of those payments, including for the administration of the collection of contributions made pursuant to this subparagraph (ii).

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

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

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

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

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

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

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

(3) (A) If an employee receives wages from more than one employer during any calendar year, and either the sum of his contributions deposited in and credited to the State disability benefits fund plus the amount of his contributions, if any, required towards the costs of benefits under one or more approved private plans under the provisions of section 9 of the "Temporary Disability Benefits Law" (C.43:21-33) and deducted from his wages, or the sum of such latter contributions, if the employee is covered during such calendar year only by two or more private plans, exceeds an amount equal to 1/2 of 1% of the "wages" determined in accordance with the provisions of R.S.43:21-7(b)(3) during the calendar years beginning on or after January 1, 1976 or, during calendar year 2012 or any subsequent calendar year, the total amount of his contributions for the year exceeds the amount set by the annual rate of contribution determined by the Commissioner of Labor and Workforce Development pursuant to subparagraph (i) of paragraph (1)(G) of this subsection (d), the employee shall be entitled to a refund of the excess if he makes a claim to the controller within two years after the end of the calendar year in which the wages are received with respect to which the refund is claimed and establishes his right to such refund. Such refund shall be made by the controller from the State disability benefits fund. No interest shall be allowed or paid with respect to any such refund. The controller shall, in accordance with prescribed regulations, determine the portion of the aggregate amount of such refunds made during any calendar year which is applicable to private plans for which deductions were made under section 9 of the "Temporary Disability Benefits Law" (C.43:21-33) such determination to be based upon the ratio of the amount of such wages exempt from contributions to such fund, as provided in subparagraph (B) of paragraph (1) of this subsection with respect to coverage under private plans, to the total wages so exempt plus the amount of such wages subject to contributions to the disability benefits fund, as provided in subparagraph (G) of paragraph (1) of this subsection. The controller shall, in accordance with prescribed regulations, prorate the amount so determined among the applicable private plans in the proportion that the wages covered by each plan bear to the total private plan wages involved in such refunds, and shall assess against and recover from the employer, or the insurer if the insurer has indemnified the employer with respect thereto, the amount so prorated. The provisions of R.S.43:21-14 with

respect to collection of employer contributions shall apply to such assessments. The amount so recovered by the controller shall be paid into the State disability benefits fund.

(B) If an employee receives wages from more than one employer during any calendar year, and the sum of his contributions deposited in the "Family Temporary Disability Leave Account" of the State disability benefits fund plus the amount of his contributions, if any, required towards the costs of family temporary disability leave benefits under one or more approved private plans under the provisions of the "Temporary Disability Benefits Law" (C.43:21-25 et al.) and deducted from his wages, exceeds an amount equal to, during calendar year 2009, 0.09% of the "wages" determined in accordance with the provisions of R.S.43:21-7(b)(3), or during calendar year 2010, 0.12% of those wages, or, during calendar year 2011 or any subsequent calendar year, the percentage of those wages set by the annual rate of contribution determined by the Commissioner of Labor and Workforce Development pursuant to subparagraph (ii) of paragraph (1)(G) of this subsection (d), the employee shall be entitled to a refund of the excess if he makes a claim to the controller within two years after the end of the calendar year in which the wages are received with respect to which the refund is claimed and establishes his right to the refund. The refund shall be made by the controller from the "Family Temporary Disability Leave Account" of the State disability benefits fund. No interest shall be allowed or paid with respect to any such refund. The controller shall, in accordance with prescribed regulations, determine the portion of the aggregate amount of the refunds made during any calendar year which is applicable to private plans for which deductions were made under section 9 of the "Temporary Disability Benefits Law" (C.43:21-33), with that determination based upon the ratio of the amount of such wages exempt from contributions to the fund, as provided in paragraph (1)(B) of this subsection (d) with respect to coverage under private plans, to the total wages so exempt plus the amount of such wages subject to contributions to the "Family Temporary Disability Leave Account" of the State disability benefits fund, as provided in subparagraph (ii) of paragraph (1)(G) of this subsection (d). The controller shall, in accordance with prescribed regulations, prorate the amount so determined among the applicable private plans in the proportion that the wages covered by each plan bear to the total private plan wages involved in such refunds, and shall assess against and recover from the employer, or the insurer if the insurer has indemnified the employer with respect thereto, the prorated amount. The provisions of R.S.43:21-14 with respect to collection of em-

ployer contributions shall apply to such assessments. The amount so recovered by the controller shall be paid into the "Family Temporary Disability Leave Account" of the State disability benefits fund.

(4) If an individual does not receive any wages from the employing unit which for the purposes of this chapter (R.S.43:21-1 et seq.) is treated as his employer, or receives his wages from some other employing unit, such employer shall nevertheless be liable for such individual's contributions in the first instance; and after payment thereof such employer may deduct the amount of such contributions from any sums payable by him to such employing unit, or may recover the amount of such contributions from such employing unit, or, in the absence of such an employing unit, from such individual, in a civil action; provided proceedings therefor are instituted within three months after the date on which such contributions are payable. General rules shall be prescribed whereby such an employing unit may recover the amount of such contributions from such individuals in the same manner as if it were the employer.

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

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

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

(1) Except as hereinafter provided, each employer shall, in addition to the contributions required by subsections (a), (b), and (c) of this section, contribute 1/2 of 1% of the wages paid by such employer to workers with respect to employment unless he is not a covered employer as defined in subsection (a) of section 3 of the "Temporary Disability Benefits Law" (C.43:21-27 (a)), except that the rate for the State of New Jersey shall be 1/10 of 1% for the calendar year 1980 and for the first six months of 1981. Prior to July 1, 1981 and prior to July 1 each year thereafter, the controller shall review the experience accumulated in the account of the State of New Jersey and establish a rate for the next following fiscal year which, in combination with worker contributions, will produce sufficient revenue to keep the account in balance; except that the rate so established shall not be less than 1/10 of 1%. Such contributions shall become due and be paid by the employer to the controller for the State disability benefits fund as established by law, in accordance with

such regulations as may be prescribed, and shall not be deducted, in whole or in part, from the remuneration of individuals in his employ. In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to $0.005 or more, in which case it shall be increased to $0.01.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) Determination of the preliminary rate as specified in subparagraphs (D)(2), (3) and (4) above shall be subject, however, to the condition that it shall in no event be decreased by more than 1/10 of 1% of wages or increased by more than 2/10 of 1% of wages from the preliminary rate determined for

the preceding year in accordance with subparagraph (D) (1), (2), (3) or (4), whichever shall have been applicable.

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

(2) The controller shall then make a final determination of the rates of contribution for the 12 months commencing July 1 of such year for employers whose preliminary rates are determined as provided in subparagraph (D) hereof, as follows:

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

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

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

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

(F) Notwithstanding any other provisions of this subsection (e), the rate of contribution paid to the State disability benefits fund by each covered employer as defined in paragraph (1) of subsection (a) of section 3 of P.L.1948, c.110 (C.43:21-27), shall be determined as if:

(i) No disability benefits have been paid with respect to periods of family temporary disability leave;

(ii) No worker paid any contributions to the State disability benefits fund pursuant to paragraph (1)(G)(ii) of subsection (d) of this section;

(iii) No amounts were transferred from the State disability benefits fund to the "Family Temporary Disability Leave Account" pursuant to paragraph (1)(G)(ii) of subsection (d) of this section; and

(iv) The total amount of benefits paid for periods of disability were not subject to the increases in the weekly benefit rate for those benefits commencing July 1, 2020 pursuant to section 16 of P.L.1948, c.110 (C.43:21-40).

3. This act shall take effect immediately.

Approved January 4, 2021.

CHAPTER 151

AN ACT, designated as the "Dominick Marino PFRS Enhanced Benefits for Surviving Spouses Act," concerning the accidental death benefit of the Police and Firemen's Retirement System and amending P.L.1944, c.255.

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

1. This act shall be known as the "Dominick Marino PFRS Enhanced Benefits for Surviving Spouses Act."

2. Section 10 of P.L.1944, c.255 (C.43:16A-10) is amended to read as follows:

C.43:16A-10 Accidental death benefits.

10. (1) Upon the death of a member in active service as a result of:

(a) an accident met in the actual performance of duty at some definite time and place, or

(b) service in the reserve component of the Armed Forces of the United States or the National Guard in a federal active duty status, and such death was not the result of the member's willful negligence, an accidental death benefit shall be payable if a report of the accident is filed in the office of the retirement system within 60 days next following the accident, but the board of trustees may waive such time limit, for a reasonable period, if in the judgment of the board the circumstances warrant such action. No such application shall be valid or acted upon unless it is filed in the office of the retirement system within five years of the date of such death.

The provisions of this subsection shall also apply to a member who is a fireman and who dies as a result of an accident met in the actual performance of duty as a volunteer fireman in any municipality in the State, provided the member's death was not the result of the member's willful negligence.

(2) Upon the receipt of proper proofs of the death of a member on account of which an accidental death benefit is payable, there shall be paid to his widow or widower a pension of 70% of the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service, or a pension of $50,000 when death occurs on or after the effective date of P.L.2020, c.151, whichever is greater, for the use of herself or himself and the children of the deceased member; if there is no surviving widow or widower or in case the widow or widower dies, 70% of such compensation will be payable to the member's surviving child or surviving children in equal shares.

If there is no surviving widow, widower or child, 25% of the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service, will be payable to one surviving dependent parent or 40% of such compensation will be payable to two surviving parents in equal shares.

In the event of accidental death occurring in the first year of creditable service, the benefits, payable pursuant to this subsection, shall be computed at the annual rate of compensation.

(3) If there is no surviving widow, widower, child or dependent parent, there shall be paid to any other beneficiary of the deceased member, his aggregate contributions at the time of death.

(4) In no case shall the death benefit provided in subsection (2) be less than that provided under subsection (3).

(5) In addition to the foregoing benefits payable under subsection (2) or (3), there shall also be paid in one sum to such beneficiary, if living, as the member shall have nominated by written designation duly executed and filed with the retirement system, otherwise to the executor or administrator of the member's estate, an amount equal to 3 1/2 times the compensation upon which contributions by the member to the annuity savings fund were based in the last year of creditable service.

(6) In addition to the foregoing benefits, the State shall pay to the member's employer-sponsored health insurance program all health insurance premiums for the coverage of the member's surviving widow or widower and dependent children.

3. This act shall take effect immediately.

Approved January 7, 2021.

CHAPTER 152

AN ACT concerning communication between parents and licensed child care centers and supplementing P.L.1983, c.492 (C.30:5B-1 et seq.).

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

C.30:5B-15.2 Child care center communication with parent, guardian regarding child's absence.

1. a. Whenever a child who is enrolled in a child care center licensed pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.) will be absent from the child care center, the child's parent or guardian shall notify the sponsor of the child care center or the sponsor's designee.

b. If a child who is enrolled in a licensed child care center is determined to be absent without notification from the child's parent or guardian, and if

the reason for the child's absence is unknown to child care center staff, the sponsor of the child care center or the sponsor's designee shall immediately attempt to contact the child's parent or guardian to notify the parent or guardian of the absence and to determine the reason for the absence.

2. This act shall take effect immediately.

Approved January 7, 2021.

CHAPTER 153

AN ACT concerning the Amistad Commission, amending P.L.2002, c.75, and supplementing chapter 35 of Title 18A of the New Jersey Statutes.

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

1. Section 2 of P.L.2002, c.75 (C.52:16A-87) is amended to read as follows:

C.52:16A-87 Amistad Commission, established.

2. a. The Amistad Commission, so named in honor of the group of enslaved Africans led by Joseph Cinque who, while being transported in 1839 on a vessel named the Amistad, gained their freedom after overthrowing the crew and eventually having their case successfully argued before the United States Supreme Court, is created and established in the Executive Branch of the State Government. For the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the commission is allocated in but not of the Department of Education, but notwithstanding this allocation, the commission shall be independent of any supervision or control by the department or any board or officer thereof. The executive director of the Amistad Commission shall submit requests for the budget of the Amistad Commission directly to the Governor who shall review the requests and forward them to the Division of Budget and Accounting in the Department of the Treasury. State support for the operations of the Amistad Commission shall be appropriated by the Legislature to the commission through a separate line item in the annual appropriations act.

The commission shall consist of 22 members, including the Commissioner of Education or a designee, who shall serve as a voting member, and the chair of the executive board of the Presidents' Council or a designee,

serving ex officio, two members of the Senate or their designees, no more than one of whom shall be of the same political party, appointed by the President of the Senate to serve as voting members for the two-year legislative term during which they are appointed, two members of the General Assembly or their designees, no more than one of whom shall be of the same political party, appointed by the Speaker of the General Assembly to serve as voting members for the two-year legislative term during which they are appointed, and 16 public members.

Public members, all of whom shall serve as voting members, shall be appointed as follows: four public members, no more than two of whom shall be of the same political party, shall be appointed by the President of the Senate; four public members, no more than two of whom shall be of the same political party, shall be appointed by the Speaker of the General Assembly; and eight public members, no more than four of whom shall be of the same political party, shall be appointed by the Governor. The public members shall be residents of this State, chosen with due regard to broad geographic representation and racial and ethnic diversity, who have an interest in the history of the African slave trade and slavery in America and the accomplishments, experiences, and contributions of African-Americans to our society.

b. Each public member of the commission shall serve for a term of three years, except that of the initial members so appointed: one member appointed by the President of the Senate, one member appointed by the Speaker of the General Assembly, and two members appointed by the Governor shall serve for terms of one year; one member appointed by the President of the Senate, one member appointed by the Speaker of the General Assembly, and three members appointed by the Governor shall serve for terms of two years; and two members appointed by the President of the Senate, two members appointed by the Speaker of the General Assembly, and three members appointed by the Governor shall serve for terms of three years. Public members shall be eligible for reappointment. They shall serve until their successors are appointed and qualified, and the term of the successor of any incumbent shall be calculated from the expiration of the term of that incumbent. A vacancy occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only.

c. The members of the commission shall serve without compensation but shall be entitled to reimbursement for all necessary expenses incurred in the performance of their duties.

d. The commission shall annually elect a chairperson and a vice-chairperson from among its members. The commission shall meet upon the call of the chairperson or of a majority of the commission members. The presence of a majority of the authorized voting membership of the commission shall be required for the conduct of official business.

e. The commission shall interview and appoint an executive director, who shall serve at its pleasure and shall be a person qualified by training and experience to perform the duties of the office. The commission shall approve all Amistad personnel job descriptions and all persons recommended for employment by its executive director.

f. The Amistad Commission shall:

(1) market and distribute to educators, administrators and school districts in the State educational information and other materials on the African slave trade, slavery in America, the vestiges of slavery in this country and the contributions of African-Americans to our society;

(2) conduct teacher workshops annually on the African slave trade, slavery in America, the vestiges of slavery in this country and the accomplishments, experiences, and contributions of African-Americans to our society, covering information which often has been omitted from traditional curricula;

(3) monitor and assess the inclusion of such materials and curricula in the State's educational system; and

(4) survey, catalog, and recommend to the State Board of Education the expansion of, content about slave trade, American slavery education, and African-American history presently being incorporated into the New Jersey Student Learning Standards and taught in the State's educational system, the purpose of which is to ensure that all New Jersey students acquire a broad and deep knowledge of all people who contributed to the founding and development of New Jersey and the United States and to promote the self-esteem, confidence, and identity of students who previously may not have learned about past and living examples of people of their own cultural identity who have had positive impacts upon the American story.

C.52:16A-86.1 Definition of "African American".

2. As used in P.L.2002, c.75 (C.52:16A-86 et seq.) and P.L.2020, c.153 (C.52:16A-86.1 et al.), "African American" means all people of African descent in the United States.

C.18A:35-4.42 Findings, declarations relative to the Amistad Commission.

3. The Legislature finds and declares that:

a. Since the days of slavery, public school curricula have consistently omitted or misrepresented the history of African Americans.

b. To correct these omissions, all public schools in the State of New Jersey should include instruction that infuses into all courses on the United States, the centuries of contributions and accomplishments by African Americans in the building and development of America.

c. The Amistad Commission, created pursuant to P.L.2002, c.75 (C.52:16A-86 et seq.), is responsible for designing and promoting the implementation of education and awareness programs in New Jersey concerned with slavery in America and the contributions of African Americans, and for developing curriculum guidelines for the teaching of this information. The Amistad Commission is an ideal agency to recommend curricular materials to school districts.

C.18A:35-4.43 Infusion of African American accomplishments into school curricula.

4. a. Every board of education shall include, in the curriculum of all elementary and secondary school students, instruction that infuses into all courses on the United States, the centuries of accomplishments by African Americans in the building and development of America including, but not limited to, the areas of industry, military, government, and the professions; local communities; math, science, medicine, and space; architecture and the arts; social institutions and culture; and other aspects of life in America.

b. The instruction shall enable students to identify and analyze applicable theories concerning human nature and behavior; to know and understand the nation's heritage of slavery and freedom; to know and understand the impact of African diasporic cultures and institutions on the Americas; to know and understand the contributions of African Americans to all areas of American society throughout its history, beginning with the colonial period; to know and understand that inequality is a consequence of prejudice and discrimination in the pursuit of maintaining power and dominance over certain portions of society; to know and understand citizenship and disenfranchisement; and to understand that issues of moral dilemma and conscience have a profound impact on the nation and the self-image and self-realization of its entire population, especially the personal and civic development of students in grades kindergarten through 12. The instruction shall also emphasize the personal responsibility of each citizen to fight racism and hatred whenever and wherever it happens and to uphold the national ideals of freedom and justice for all.

c. The Department of Education shall work with the Amistad Commission to ensure that all department assessment tools for New Jersey

schools are inclusive of the curricular requirements established pursuant to this section.

5. This act shall take effect immediately.

Approved January 7, 2021.

CHAPTER 154

AN ACT concerning housing equine-related farm employees in certain farm buildings and related agricultural management practices, and amending and supplementing P.L.1983, c.31.

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

1. Section 3 of P.L.1983, c.31 (C.4:1C-3) is amended to read:

C.4:1C-3 Definitions.

3. As used in P.L.1983, c.31 (C.4:1C-1 et seq.):

"Board" or "county board" means a county agriculture development board established pursuant to section 7 of P.L.1983, c.32 (C.4:1C-14).

"Commercial farm" means (1) a farm management unit of no less than five acres producing agricultural or horticultural products worth $2,500 or more annually, and satisfying the eligibility criteria for differential property taxation pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), (2) a farm management unit less than five acres, producing agricultural or horticultural products worth $50,000 or more annually and otherwise satisfying the eligibility criteria for differential property taxation pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), or (3) a farm management unit that is a beekeeping operation producing honey or other agricultural or horticultural apiary-related products, or providing crop pollination services, worth $10,000 or more annually.

"Committee" means the State Agriculture Development Committee established pursuant to section 4 of P.L.1983, c.31 (C.4:1C-4).

"Farm management unit" means a parcel or parcels of land, whether contiguous or noncontiguous, together with agricultural or horticultural buildings, structures and facilities, producing agricultural or horticultural products, and operated as a single enterprise.

"Farm market" means a facility used for the wholesale or retail marketing of the agricultural output of a commercial farm, and products that contribute to farm income, except that if a farm market is used for retail marketing at least 51% of the annual gross sales of the retail farm market shall be generated from sales of agricultural output of the commercial farm, or at least 51% of the sales area shall be devoted to the sale of agricultural output of the commercial farm, and except that if a retail farm market is located on land less than five acres in area, the land on which the farm market is located shall produce annually agricultural or horticultural products worth at least $2,500.

"Full-time, year-round equine-related farm employee" means any person employed by the owner or operator of a commercial farm on a full-time, year-round basis to provide proper care and ensure the safety of horses on the commercial farm, including, but not limited to, a groom or other employee working in a stable. "Full-time, year-round equine-related farm employee" shall not include a migrant, seasonal, or temporary employee.

2. Section 6 of P.L.1983, c.31 (C.4:1C-9) is amended to read as follows:

C.4:1C-9 Commercial farm owners, operators; permissible activities.

6. Notwithstanding the provisions of any municipal or county ordinance, resolution, or regulation to the contrary, the owner or operator of a commercial farm, located in an area in which, as of December 31, 1997 or thereafter, agriculture is a permitted use under the municipal zoning ordinance and is consistent with the municipal master plan, or which commercial farm is in operation as of the effective date of P.L.1998, c.48 (C.4:1C-10.1 et al.), and the operation of which conforms to agricultural management practices recommended by the committee and adopted pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or whose specific operation or practice has been determined by the appropriate county board, or in a county where no county board exists, the committee, to constitute a generally accepted agricultural operation or practice, and all relevant federal or State statutes or rules and regulations adopted pursuant thereto, and which does not pose a direct threat to public health and safety may:

a. Produce agricultural and horticultural crops, trees and forest products, livestock, and poultry and other commodities as described in the Standard Industrial Classification for agriculture, forestry, fishing and trapping or, after the operative date of the regulations adopted pursuant to section 5 of P.L.2003, c.157 (C.4:1C-9.1), included under the corresponding classification under the North American Industry Classification System;

b. Process and package the agricultural output of the commercial farm;

c. Provide for the operation of a farm market, including the construction of building and parking areas in conformance with municipal standards;

d. Replenish soil nutrients and improve soil tilth;

e. Control pests, predators and diseases of plants and animals;

f. Clear woodlands using open burning and other techniques, install and maintain vegetative and terrain alterations and other physical facilities for water and soil conservation and surface water control in wetland areas;

g. Conduct on-site disposal of organic agricultural wastes;

h. Conduct agriculture-related educational and farm-based recreational activities provided that the activities are related to marketing the agricultural or horticultural output of the commercial farm;

i. Engage in the generation of power or heat from biomass, solar, or wind energy, provided that the energy generation is consistent with the provisions of P.L.2009, c.213 (C.4:1C-32.4 et al.), as applicable, and the rules and regulations adopted therefor and pursuant to section 3 of P.L.2009, c.213 (C.4:1C-9.2);

j. Engage in any other agricultural activity as determined by the State Agriculture Development Committee and adopted by rule or regulation pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.); and

k. House any full-time, year-round equine-related farm employee in the same building or facility as horses in accordance with the provisions of section 3 of P.L.2020, c.154 (C.4:1C-9.3).

C.4:1C-9.3 Rules, regulations relative to housing of equine-related farm employees.

3. a. The committee shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.):

(1) rules and regulations to implement subsection j. of section 6 of P.L.1983, c.31 (C.4:1C-9); and

(2) an agricultural management practice that permits the housing of a full-time, year-round equine-related farm employee in the same building in which horses are housed or boarded on a separate floor or in a separate addition of the building from where the horses are housed or boarded.

b. Except as provided in subsection d. of this section, the rules and regulations and agricultural practices adopted pursuant to subsection a. of this section shall, notwithstanding any local health code or zoning ordinance to the contrary, authorize:

(1) the construction, installation, and provision of housing for any full-time, year-round equine-related farm employee as part of any building or

facility constructed, or approved to be constructed, on a commercial farm for the housing or boarding of horses; and

(2) any full-time, year-round equine-related farm employee to be housed in the same building or facility where horses are housed or boarded provided that the full-time, year-round equine-related farm employee housing meets the specifications set forth in subsection c. of this section.

c. Full-time, year-round equine-related farm employee housing established in the same building or facility where horses are housed or boarded shall be located:

(1) on a separate floor of the building or facility above a floor where horses are housed or boarded and separated from the floor on which horses are housed or boarded by a ceiling and floor with at least the fire rating required for separation between residential and non-residential uses pursuant to the State Uniform Construction Code; or

(2) on the same level of the building or facility where horses are housed or boarded in an addition that is completely separated from the part of the building or facility where horses are housed or boarded by a wall that qualifies the addition as a separate building for the purposes of the State Uniform Construction Code.

The floor on which, or the addition in which, full-time, year-round farm employee housing is established shall have a ventilation system separate from the ventilation system operating on a floor or in an addition where horses are housed or boarded.

d. The construction, installation, and provision of housing pursuant to this section shall comply with any other provision of the State Uniform Construction Code and Department of Community Affairs standards and requirements which do not exclude the construction, installation, or provision of housing units in the same building as the boarding of horses under the State Uniform Construction Code.

e. No certificate of occupancy shall be denied for housing of a full-time, year-round equine-related farm employee in a building where horses are housed or boarded if the housing complies with the provisions of subsections a., b., c., d., and i. of this section.

f. Housing constructed, installed, or provided pursuant to this section shall be used only as housing for full-time, year-round equine-related farm employees, and shall not be used to house any migrant or seasonal employee or worker.

g. This section shall not apply to housing constructed, installed, or provided pursuant to the "Seasonal Farm Labor Act," P.L.1945, c.71 (C.34:9A-1 et seq.) and housing constructed, installed, or provided pursuant to this section shall not be subject to any provisions of that act.

h. Housing constructed, installed, or provided pursuant to this section shall be exempt from the provisions and requirements of P.L.1966, c.168 (C.2A:42-74 et seq.).

i. This section shall apply only to housing constructed, installed or provided in connection with barns, stables, or other farm structures housing horses. Housing for any farm employee shall not be provided in any structures housing any other type of farm animal or domestic livestock other than horses.

4. This act shall take effect immediately.

Approved January 7, 2021.

CHAPTER 155

AN ACT concerning the advertising of certain transportation programs and services and amending P.L.1973, c.126.

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

1. Section 2 of P.L.1973, c.126 (C.27:1A-65) is amended to read as follows:

C.27:1A-65 Definitions.

2. For the purposes of P.L.1973, c.126 (C.27:1A-64 et seq.), unless the context clearly indicates otherwise:

"Access Link service" means the paratransit service implemented by the New Jersey Transit Corporation for the purposes of complying with the "Americans with Disabilities Act of 1990," Pub.L.101-336 (42 U.S.C. s.12101 et seq.).

"Carrier" means any individual, copartnership, association, corporation, joint stock company, public agency, trustee, or receiver operating motor buses or rail passenger service on established routes within this State or between points in this State and points in adjacent states.

"Commissioner" means the Commissioner of Transportation; provided, however, that the commissioner may delegate any of the commissioner's powers or duties under P.L.1973, c.126 (C.27:1A-64 et seq.) to any subordinate division, agency, or employee of the Department of Transportation or to the New Jersey Transit Corporation.

"Disabled veteran" means "disabled veteran" as defined in N.J.S.11A:5-1.

"Motor bus" means "autobus" as defined in R.S.48:4-1, and includes those autobuses, commonly called jitneys, as defined in R.S.48:16-23.

"Offpeak times" means the hours from 9:30 a.m. to 4 p.m. and from 7 p.m. to 6 a.m. during the weekdays, and all day on Saturdays, Sundays, and holidays.

"Person with disabilities" means any individual who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, is unable without special facilities or special planning or design to utilize mass transportation facilities and services as effectively as persons who are not so affected. A "person with disabilities" shall include a person determined by the New Jersey Transit Corporation to be eligible for its Access Link service.

"Senior citizen" means any individual 62 years of age or over.

2. Section 8 of P.L.1973, c.126 (C.27:1A-71) is amended to read as follows:

C.27:1A-71 Employees, advertisement of program.

8. The commissioner is hereby authorized to hire, employ, or assign secretarial, clerical, and other personnel as shall be required for complying with the provisions of P.L.1973, c.126 (C.27:1A-64 et seq.). The commissioner shall also expend a reasonable sum, not to exceed $50,000 annually, for advertising to make senior citizens, persons with disabilities, and disabled veterans aware of the program, the availability and cost of the reduced fares thereunder, the hours when reduced fares may be used, the public transportation facilities made accessible to persons with disabilities, and the availability of other transportation services offered to the public for use by persons with disabilities including Access Link service.

3. This act shall take effect immediately.

Approved January 7, 2021.

CHAPTER 156

AN ACT concerning State economic development policy, and amending and supplementing various parts of the statutory law, and making an appropriation.

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

C.34:1B-269 Short title.

1. P.L.2020, c.156 (C.34:1B-269 et al.) shall be known and may be cited as the "New Jersey Economic Recovery Act of 2020."

C.34:1B-270 Short title.

2. Sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276) shall be known and may be cited as the "Historic Property Reinvestment Act."

C.34:1B-271 Definitions.

3. As used in sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276):

"Authority" means the New Jersey Economic Development Authority established pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4).

"Board" means the Board of the New Jersey Economic Development Authority, established pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4).

"Cost of rehabilitation" means the consideration given, valued in money, whether given in money or otherwise, for the materials and services which constitute the rehabilitation.

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

"Income producing property" means a structure or site that is used in a trade or business or to produce rental income.

"New Jersey S corporation" means the same as the term is defined in section 12 of P.L.1993, c.173 (C.54A:5-10).

"Officer" means the State Historic Preservation Officer or the official within the State designated by the Governor or by statute in accordance with the provisions of chapter 3023 of Title 54, United States Code (54 U.S.C. s.302301 et seq.), to act as liaison for the purpose of administering historic preservation programs in the State.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Project financing gap" means the part of the total cost of rehabilitation, including reasonable and appropriate return on investment, that remains to be financed after all other sources of capital have been accounted for, including, but not limited to, developer contributed capital, which shall not be less than 20 percent of the total cost of rehabilitation, and investor or financial

entity capital or loans for which the developer, after making all good faith efforts to raise additional capital, certifies that additional capital cannot be raised from other sources.

"Property" means a structure, including its site improvements and landscape features, assessed as real property, and used for: a commercial purpose; a residential rental purpose, provided the structure contains at least four dwelling units; or any combination thereof.

"Qualified property" means a property located in the State of New Jersey that is an income producing property, and that is:

(a) (i) individually listed, or located in a district listed on the National Register of Historic Places in accordance with the provisions of chapter 3021 of Title 54, United States Code (54 U.S.C. s.302101 et seq.), or on the New Jersey Register of Historic Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.), or individually designated, or located in a district designated, by the Pinelands Commission as a historic resource of significance to the Pinelands in accordance with the Pinelands comprehensive management plan adopted pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), and

(ii) if located within a district, certified by either the officer or the Pinelands Commission, as appropriate, as contributing to the historic significance of the district; or

(b) (i) individually identified or registered, or located in a district composed of properties identified or registered, for protection as significant historic resources in accordance with criteria established by a municipality in which the property or district is located if the criteria for identification or registration has been approved by the officer as suitable for substantially achieving the purpose of preserving and rehabilitating buildings of historic significance within the jurisdiction of the municipality, and

(ii) if located within a district, certified by the officer as contributing to the historic significance of the district.

"Rehabilitation" means the repair or reconstruction of the exterior or interior of a qualified property or transformative project to make an efficient contemporary use possible while preserving the portions or features of the property that have significant historical, architectural, and cultural values.

"Rehabilitation of the interior of the qualified property or transformative project" means the repair or reconstruction of the structural or substrate components and electrical, plumbing, and heating components within the interior of a qualified property or transformative project.

"Selected rehabilitation period" means a period of 24 months if the beginning of such period is chosen by the business entity during which, or parts

of which, a rehabilitation is occurring, or a period of 60 months if a rehabilitation is reasonably expected to be completed in distinct phases set forth in written architectural plans and specifications completed before or during the physical work on the rehabilitation.

"Transformative project" means a property that is:

(a) an income producing property, not including a residential property, whose rehabilitation the authority determines will generate substantial increases in State revenues through the creation of increased business activity within the surrounding area;

(b) individually listed on the New Jersey Register of Historic Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.) and which, before the enactment of P.L.2020, c.156 (C.34:1B-269 et al.), received a Determination of Eligibility from the Keeper of the National Register of Historic Places in accordance with the provisions of Part 60 of Title 36 of the Code of Federal Regulations;

(c) located within a one-half mile radius of the center point of a transit village, as designated by the New Jersey Department of Transportation; and

(d) located within a city of the first class, as classified under N.J.S.40A:6-4.

C.34:1B-272 Tax credit.

4. a.(1)A business entity, upon successful application to the New Jersey Economic Development Authority, and commitment to the authority to pay each worker employed to perform construction work at the qualified property or transformative project a wage not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.), shall be allowed a credit against the tax otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), the tax imposed on insurers generally pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.), or the tax imposed on marine insurance companies pursuant to R.S.54:16-1 et. seq., for 40 percent of the cost of rehabilitation paid by the business entity for the rehabilitation of a qualified property or transformative project, if the cost of rehabilitation during a business entity's selected rehabilitation period is not less than the greater of (1) the adjusted basis of the structure of the qualified property or transformative project used for federal income tax purposes as of the beginning of the business entity's selected rehabilitation period, or (2) $5,000. The amount of the credit claimed in any accounting or privilege period shall not reduce the amount of the tax liability to less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

(2) The prevailing wage requirements shall apply at a qualified property or transformative project during the selected rehabilitation period. In the event a qualified property or transformative project, or the aggregate of all qualified properties and transformative projects approved for awards under the program, constitute a lease of more than 35 percent of a facility, the prevailing wage requirements shall apply to the entire facility.

(3) Prior to approval of an application by the authority, the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury shall each report to the authority whether the business entity is in substantial good standing with the respective department in lieu of submitting certificates of good standing for the business entity, the business entity may demonstrate that it has entered into an agreement with the respective department that includes a practical corrective action plan for the business entity. The authority may also contract with an independent third party to perform a background check on the business entity. Following approval of an application by the authority, but prior to the start of any construction or rehabilitation at the qualified property or transformative project, the authority shall enter into a rehabilitation agreement with the business entity. The authority shall negotiate the terms and conditions of the rehabilitation agreement on behalf of the State.

(4) A rehabilitation project shall be eligible for a tax credit only if the business entity demonstrates to the authority at the time of application that:

(a) without the tax credit, the rehabilitation project is not economically feasible; and

(b) a project financing gap exists.

b. A business entity may claim a credit under this section during the accounting or privilege period: (1) in which it makes the final payment for the cost of the rehabilitation if the business entity has chosen a selected rehabilitation period of 24 months; or (2) in which a distinct project phase of the rehabilitation is completed if the business entity has chosen a selected rehabilitation period of 60 months. The credit may be claimed against any State tax, listed in paragraph (1) of subsection a. of this section, liability otherwise due after any other credits permitted pursuant to law have been applied. The amount of credit claimed in an accounting or privilege period that cannot be applied for that accounting or privilege period due to limitations in this section may be transferred pursuant to section 5 of P.L.2020, c.156 (C.34:1B-273) or carried over, if necessary, to the nine accounting or privilege periods following the accounting or privilege period for which the credit was allowed.

c. A business entity shall submit to the authority satisfactory evidence of the actual cost of rehabilitation, as certified by a certified public accountant, evidence of completion of the rehabilitation or phase, and a certification that all information provided by the business entity to the authority is true, including information contained in the application, the rehabilitation agreement, any amendment to the rehabilitation agreement, and any other information submitted by the business entity to the authority pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276). The business entity, or an authorized agent of the business entity, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

C.34:1B-273 Corporation business tax credit transfer certificate program, insurance premiums tax credit transfer certificate program.

5. a.The authority shall, in cooperation with the director, establish and administer a corporation business tax credit transfer certificate program and an insurance premiums tax credit transfer certificate program to enable business entities with unused, otherwise allowable amounts of tax credits issued pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276) to exchange these credits, in whole or in part, for private financial assistance prior to the expiration of the tax credit.

A certificate issued by the director and the authority shall include a statement waiving the rights of the business entity to which the tax credit has been granted to claim any amount of remaining credit against any tax liability.

b. A business entity holding an unused, otherwise allowable tax credit issued pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276) may apply to the director and the authority for a tax credit transfer certificate pursuant to subsection a. of this section. Upon receipt thereof, the business entity may sell or assign, in full or in part, the tax credit transfer certificate to another taxpayer in exchange for private financial assistance to be provided by the purchaser or assignee of the tax credit transfer certificate to the seller thereof. The developer shall not sell a tax credit transfer certificate allowed under this section for consideration received by the developer of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted, except a developer of a residential project consisting of newly-constructed residential units that has received federal low income housing tax credits under 26 U.S.C. s.42(b)(2)(B)(i) may assign a tax credit transfer certificate for consideration of no less than 75 percent subject to the submission of a plan to the authority and the New Jersey Housing and Mortgage Finance

Agency to use the proceeds derived from the assignment of tax credits to complete the residential project. The purchaser or assignee of the tax credit transfer certificate may apply the face value of the tax credit transfer certificate acquired against the purchaser's or assignee's applicable tax liability by claiming the tax credit on the purchaser's or assignee's corporation business tax or insurance premiums tax return with the corresponding tax credit transfer certificate accompanying the tax return. A purchaser or assignee of a tax credit transfer certificate pursuant to this section shall not make any subsequent transfers, assignments, or sales of the tax credit transfer certificate.

c. The authority shall publish on its Internet website the following information concerning each tax credit transfer certificate approved by the authority and the director pursuant to this section:

(1) the name of the transferor;

(2) the name of the transferee;

(3) the value of the tax credit transfer certificate;

(4) the State tax against which the transferee may apply the tax credit; and

(5) the consideration received by the transferor.

C.34:1B-274 Rules, regulations.

6. a. The authority shall, in consultation with the officer and the director, promulgate rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as the officer deems necessary to administer the provisions of sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276), including but not limited to rules establishing administrative fees to implement the provisions of sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276), setting of an annual application submission date, requiring annual reporting by each business entity that receive a tax credit pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276), and requiring those reports to include certifications by the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury that the business entity, and any contractors or subcontractors performing work at the qualified property or transformative project, are in substantial good standing with the respective department has entered into an agreement with the respective department that includes a practical corrective action plan for the business entity. The rules and regulations adopted pursuant to this section shall also include a provision to require that business entities forfeit all tax credits awarded in any year in which any such report is not received, and to allow the authority to extend, in individual

cases, the deadline for any annual reporting or certification requirement established pursuant to this section.

b. For every tax credit allowed pursuant to section 4 of P.L.2020, c.156 (C.34:1B-272), the authority, in consultation with the officer, shall certify to the director: the total cost of rehabilitation; that the property meets the definition of qualified property or transformative project, as applicable; and that the rehabilitation has been completed in substantial compliance with the requirements of the Secretary of the Interior's Standards for Rehabilitation pursuant to section 67.7 of Title 36, Code of Federal Regulations. The business entity shall attach the certification to the tax return on which the business entity claims the credit.

c. (1)The total amount of credits approved by the authority pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276) shall not exceed the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362). If the authority approves less than the total amount of tax credits authorized pursuant to this subsection in a fiscal year, the remaining amount, plus any amounts remaining from previous fiscal years, shall be added to the limit of subsequent fiscal years until that amount of tax credits are claimed or allowed. Any unapproved, uncertified, or recaptured portion of tax credits during any fiscal year may be carried over and reallocated in succeeding years.

(2) Notwithstanding the provisions of paragraph (1) of this subsection and section 98 of P.L.2020, c.156 (C.34:1B-362) to the contrary, the authority may approve tax credits, pursuant to sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276), for the rehabilitation of a transformative project in an amount that causes the total amount of credits approved during the fiscal year to exceed the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362), provided that the amount of the excess shall be subtracted from the total amount of credits that may be approved by the authority in the subsequent fiscal year, and the amount of the excess shall not exceed 50 percent of the total tax credits otherwise authorized for the fiscal year.

The authority, in consultation with the officer, shall devise criteria for allocating tax credit amounts if the approved amounts combined exceed the total amount in each fiscal year, including rules that allocate over multiple fiscal years a single credit amount granted in excess of $2,000,000. The criteria shall include a project's historic importance, positive impact on the surrounding neighborhood, economic sustainability, geographic diversity, and consistency with Statewide growth and development policies and plans.

C.34:1B-275 Rules for recapture of tax credit amount.

7. a. The authority, in collaboration with the director, shall adopt rules for the recapture of an entire or partial tax credit amount allowed under sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276). The rules shall require the authority to notify the director of the recapture of an entire or partial tax credit amount. Recaptured funds shall be deposited in the General Fund of the State.

b. If, before the end of five full years after the completion of the rehabilitation of the qualified property or transformative project, a developer that has received a tax credit pursuant to section 4 of P.L.2020, c.156 (C.34:1B-272) modifies the qualified property or transformative project so that it ceases to meet the requirements for the rehabilitation of a qualified property or transformative project as defined under the program or ceases to meet the requirement of the rehabilitation agreement then the tax credit allowed under the program shall be recaptured in accordance with the rules adopted pursuant to subsection a. of this section.

c. In the case of a business entity that has chosen a selected rehabilitation period of 60 months, if the architectural plans change in the course of the phased rehabilitation project so that the rehabilitation of the qualified property or transformative project would, upon the rehabilitation's completion, no longer qualify for a tax credit pursuant to the requirements of sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276), then the business entity's tax liability for that accounting or privilege period shall be increased by the full amount of the tax credit that the authority had previously granted upon the completion of a distinct prior project phase that the business entity has applied against its tax liability in a prior accounting or privilege period. Any portion of the tax credit that the business entity has not yet used at the time of the disallowance by the officer shall be deemed void.

C.34:1B-276 Written report.

8. On or before December 31 of the fourth year following the effective date of sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276), the authority, in consultation with the officer and the director, shall prepare and submit a written report regarding the number and total monetary amount of tax credits granted for the rehabilitation of qualified properties or transformative projects pursuant to section 4 of P.L.2020, c.156 (C.34:1B-272), the geographical distribution of the credits granted, a summary of the tax credit transfer program established pursuant to section 5 of P.L.2020, c.156 (C.34:1B-273), an evaluation of the effectiveness of the tax credits provided pursuant to sections 2 through 8 of P.L.2020, c.156

(C.34:1B-270 through C.34:1B-276) in promoting the rehabilitation of historic properties, recommendations for administrative or legislative changes to increase the effectiveness of the program, and any other information that the authority, the officer, or the director may deem useful or appropriate. This report shall be submitted to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

C.34:1B-277 Short title.

9. Sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287) shall be known and may be cited as the "Brownfields Redevelopment Incentive Program Act."

C.34:1B-278 Definitions.

10. As used in sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287):

"Authority" means the New Jersey Economic Development Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Board" means the Board of the New Jersey Economic Development Authority, established pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4).

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

"Contaminated building material" means components of a structure where abatement or removal of asbestos, or remediation of materials containing hazardous substances defined pursuant to section 3 of P.L.1976, c.141 (C.58:10-23.11b), is required by applicable federal, state, or local rules or regulations.

"Contamination" or "contaminant" means any discharged hazardous substance as defined pursuant to section 3 of P.L.1976, c.141 (C.58:10-23.11b), hazardous waste as defined pursuant to section 1 of P.L.1976, c.99 (C.13:1E-38), pollutant as defined pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3), or contaminated building material.

"Department" means the Department of Environmental Protection.

"Developer" means any person that enters or proposes to enter into a redevelopment agreement with the authority pursuant to the provisions of section 13 of P.L.2020, c.156 (C.34:1B-281).

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

"Licensed site remediation professional" means an individual who is licensed by the Site Remediation Professional Licensing Board pursuant to

section 7 of P.L.2009, c.60 (C.58:10C-7) or the department pursuant to section 12 of P.L.2009, c.60 (C.58:10C-12).

"Program" means the Brownfields Redevelopment Incentive Program established by section 11 of P.L.2020, c.156 (C.34:1B-279).

"Project financing gap" means the part of the total remediation cost, including reasonable and appropriate return on investment, that remains to be financed after all other sources of capital have been accounted for, including, but not limited to, developer contributed capital, which shall not be less than 20 percent of the total remediation cost, and investor or financial entity capital or loans for which the developer, after making all good faith efforts to raise additional capital, certifies that additional capital cannot be raised from other sources.

"Redevelopment agreement" means an agreement between the authority and a developer under which the developer agrees to perform any work or undertaking necessary for the remediation of a contaminated site located at the site of the redevelopment project, and for the clearance, development or redevelopment, construction, reconstruction, or rehabilitation of any structure or improvement of commercial, industrial, or public structures or improvements within an area of land whereon a brownfield site is located.

"Redevelopment project" means a specific construction project or improvement undertaken, pursuant to the terms of a redevelopment agreement, by a developer within an area of land whereon a brownfield site is located. A redevelopment project may involve construction or improvement upon lands, buildings, improvements, or real and personal property, or any interest therein, including lands under water, riparian rights, space rights, and air rights, acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated, or improved.

"Remediation" or "remediate" means all necessary actions to investigate and clean up or respond to any known, suspected, or threatened discharge of contaminants, including, as necessary, the preliminary assessment, site investigation, remedial investigation, and remedial action, or any portion thereof, as those terms are defined in section 23 of P.L.1993, c.139 (C.58:10B-1); and hazardous materials abatement; hazardous materials or waste disposal; building and structural remedial activities, including, but not limited to, demolition, asbestos abatement, polychlorinated biphenyl removal, contaminated wood or paint removal, or other infrastructure remedial activities; provided, however, "remediation" or "remediate" shall not include the payment of compensation for damage to, or loss of, natural resources.

"Remediation costs" means all reasonable costs associated with the remediation of a contaminated site, except any costs incurred in financing the remediation.

C.34:1B-279 Brownfields Redevelopment Incentive Program.

11. The Brownfields Redevelopment Incentive Program is established as a program under the jurisdiction of the New Jersey Economic Development Authority. The purpose of the program is to compensate developers of redevelopment projects located on brownfield sites for remediation costs. To implement this purpose, the authority shall issue tax credits. The total value of tax credits approved by the authority shall not exceed the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362). For the purpose of determining the aggregate value of tax credits approved in a fiscal year, a tax credit shall be deemed to have been approved at the time the authority approves an application for an award of a tax credit. If the authority approves less than the total amount of tax credits authorized pursuant to this section in a fiscal year, the remaining amount, plus any amounts remaining from previous fiscal years, shall be added to the limit of subsequent fiscal years until that amount of tax credits are claimed or allowed. Any unapproved, uncertified, or recaptured portion of tax credits during any fiscal year may be carried over and reallocated in succeeding years.

C.34:1B-280 Application for tax credit.

12. a.A developer seeking a tax credit for a redevelopment project shall submit an application to the authority and the department in a form and manner prescribed in regulations adopted by the authority, in consultation with the department, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. A redevelopment project shall be eligible for a tax credit only if the developer demonstrates to the authority and the department at the time of application that:

(1) except as provided in subsection j. of this section, the developer has not commenced any remediation or clean up at the site of the redevelopment project, except for preliminary assessments and investigations, prior to applying for a tax credit pursuant to this section, but intends to remediate and redevelop the site immediately upon approval of the tax credit;

(2) the redevelopment project is located on a brownfield site;

(3) without the tax credit, the redevelopment project is not economically feasible;

(4) a project financing gap exists;

(5) the developer has obtained and submitted to the authority a letter evidencing support for the redevelopment project from the governing body of the municipality in which the redevelopment project is located; and

(6) each worker employed to perform remediation, or construction at the redevelopment project shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.). The prevailing wage requirements shall apply for construction work through the completion of the redevelopment project. In the event a redevelopment project, or the aggregate of all redevelopment projects approved for an award under the program, constitute a lease of more than 35 percent of a facility, the prevailing wage requirements shall apply to the entire facility.

c. A redevelopment project that received a reimbursement pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31) shall not be eligible to apply for a tax credit under the program. If the authority receives an application and supporting documentation for approval of a reimbursement pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31) prior to the effective date of sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), then the authority may consider the application and award a tax credit to a developer, provided that the authority shall take final action on all applications for approval of a reimbursement pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31) no later than July 1, 2019. No applications shall be submitted pursuant to sections 34 through 39 of P.L.1997, c.278 (C.58:10B-26 through 58:10B-31) after the effective date of sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287).

d. (1) Prior to approval of an application, the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury shall each report to the chief executive officer of the authority whether the developer is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the developer. The authority may also contract with an independent third party to perform a background check on the developer. Provided that the developer is in substantial good standing, or has entered into such an agreement, and following approval of an application by the board, the authority shall enter into a redevelopment agreement with the developer, as provided for in section 13 of P.L.2020, c.156 (C.34:1B-281).

(2) The authority, in consultation with the department, may impose additional requirements upon an applicant through rule or regulation adopted

pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), if the authority or the department determines the additional requirements to be necessary and appropriate to effectuate the purposes of sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287).

e. The authority, in consultation with the department, shall conduct a review of the applications through a competitive application process whereby the authority and the department shall evaluate all applications submitted by a date certain, as if all received applications were submitted on that date. In addition to the eligibility criteria set forth in subsection b. of this section, the authority, in consultation with the department, may consider additional factors that may include, but shall not be limited to: the economic feasibility of the redevelopment project; the benefit of the redevelopment project to the community in which the remediation project is located; the degree to which the redevelopment project enhances and promotes job creation and economic development and reduces environmental or public health stressors in an overburdened community as those terms are defined by section 2 of P.L.2020, c.92 (C.13:1D-157) and attendant department regulations; and, if the developer has a board of directors, the extent to which that board of directors is diverse and representative of the community in which the redevelopment project is located. The authority, in consultation with the department, shall submit applications that comply with the eligibility criteria set forth in this section, fulfill the additional factors considered by the authority pursuant to this subsection, satisfy the submission requirements, and provide adequate information for the subject application, to the board for final approval.

f. The authority shall award tax credits to redevelopment projects until either the available tax credits are exhausted or all redevelopment projects that are eligible for a tax credit pursuant to the provisions of sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287) receive a tax credit, whichever occurs first. If insufficient funding exists to allow a tax credit to a developer in accordance with the provisions of subsection a. of section 16 of P.L.2020, c.156 (C.34:1B-284), the authority may offer the developer a value of the tax credit below the amount provided for in subsection a. of section 16 of P.L.2020, c.156 (C.34:1B-284).

g. A developer shall pay to the authority or to the department, as appropriate, the full amount of the direct costs of an analysis concerning the developer's application for a tax credit, which a third party retained by the authority or department performs, if the authority or department deems such retention to be necessary.

h. If the authority determines that a developer made a material misrepresentation on the developer's application, the developer shall forfeit all tax credits awarded under the program.

i. If circumstances require a developer to amend its application to the authority, then the developer, or an authorized agent of the developer, shall certify to the authority that the information provided in its amended application is true, under the penalty of perjury.

j. A developer that has commenced remediation or clean up at the site have known the extent of the site contamination when the developer of a redevelopment project prior to application may still apply for a tax credit under the program, if the developer certifies to the authority, under the penalty of perjury, that the developer could not reasonably have commenced the redevelopment project.

C.34:1B-281 Redevelopment agreement.

13. a. Following approval of an application by the board, but prior to the start of any remediation or clean up at the site of the redevelopment project, the authority shall enter into a redevelopment agreement with the developer. The chief executive officer of the authority shall negotiate the terms and conditions of the redevelopment agreement on behalf of the State.

b. The redevelopment agreement shall specify the amount of the tax credit to be awarded to the developer, the date on which the developer shall complete the remediation, and the projected project remediation cost. The redevelopment agreement shall require the developer to submit progress reports to the authority and to the department every six months pursuant to section 15 of P.L.2020, c.156 (C.34:1B-283).

c. The authority shall not enter into a redevelopment agreement with a developer unless:

(1) the redevelopment project complies with standards established by the authority in accordance with the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources to reduce environmental degradation and encourage long-term cost reduction;

(2) the redevelopment project complies with the authority's affirmative action requirements, adopted pursuant to section 4 of P.L.1979, c.303 (C.34:1B-5.4); and

(3) the developer pays each worker employed to perform remediation work or construction work at the redevelopment project not less than the prevailing wage rate in accordance with the requirements of paragraph (6) of

subsection b. of section 12 of P.L.2020, c.156 (C.34:1B-280) for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).

d. The authority shall not enter into a redevelopment agreement unless the developer demonstrates, to the satisfaction of the Department of Environmental Protection, that the developer did not discharge a hazardous substance at the brownfield site proposed to be in the redevelopment agreement, is not in any way responsible for the hazardous substance, and is not a corporate successor to the discharger or to any person in any way responsible for the hazardous substance or to anyone liable for cleanup and removal costs pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g).

e. (1) Except as provided in paragraph (2) of this subsection, the authority shall not enter into a redevelopment agreement for a redevelopment project that includes at least one retail establishment that will have more than 10 employees, or at least one distribution center that will have more than 20 employees, unless the redevelopment agreement includes a precondition that any business that serves as the owner or operator of the retail establishment or distribution center enters into a labor harmony agreement with a labor organization or cooperating labor organizations which represent retail or distribution center employees in the State.

(2) A labor harmony agreement shall be required only if the State has a proprietary interest in the redevelopment project and shall remain in effect for as long as the State acts as a market participant in the redevelopment project. The authority may enter into a redevelopment agreement with a developer without the labor harmony agreement required under paragraph (1) of this subsection only if the authority determines that the redevelopment project would not be feasible if a labor harmony agreement is required. The authority shall support the determination by a written finding, which provides the specific basis for the determination.

(3) As used in this subsection, "labor harmony agreement" means an agreement between a business that serves as the owner or operator of a retail establishment or distribution center and one or more labor organizations, which requires, for the duration of the agreement: that any participating labor organization and its members agree to refrain from picketing, work stoppages, boycotts, or other economic interference against the business; and that the business agrees to maintain a neutral posture with respect to efforts of any participating labor organization to represent employees at an establishment or other unit in the retail establishment or distribution center, agrees to permit the labor organization to have access to the employees, and agrees to

guarantee to the labor organization the right to obtain recognition as the exclusive collective bargaining representatives of the employees in an establishment or unit at the retail establishment or distribution center by demonstrating to the New Jersey State Board of Mediation, Division of Private Employment Dispute Settlement, or a mutually agreed-upon, neutral, third-party, that a majority of workers in the unit have shown their preference for the labor organization to be their representative by signing authorization cards indicating that preference. The labor organization or organizations shall be from a list of labor organizations that have requested to be on the list and that the Commissioner of Labor and Workforce Development has determined represent substantial numbers of retail or distribution center employees in the State.

f. The redevelopment agreement shall provide that issuance of a tax credit under the program shall be conditioned upon the subrogation to the department of all rights of the developer to recover remediation costs from any other person who discharges a hazardous substance or is in any way responsible, pursuant to section 8 of P.L.1976, c.141 (C.58:10-23.11g), for a hazardous substance that was discharged at the brownfield site.

g. A developer may seek a revision to the redevelopment agreement if the developer cannot complete the remediation on or before the date set forth in the redevelopment agreement. A developer's ability to change the date on which the developer shall complete the remediation shall be subject to the availability of tax credits in the year of the revised date of completion.

h. A developer shall submit to the authority satisfactory evidence of the actual remediation costs, as certified by a certified public accountant, evidence of completion of the remediation, and a certification that all information provided by the developer to the authority is true, including information contained in the application, the redevelopment agreement, any amendment to the redevelopment agreement, and any other information submitted by the developer to the authority pursuant to sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C34:1B-287). The developer, or an authorized agent of the developer, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

i. The redevelopment agreement shall include a requirement that the chief executive officer of the authority receive annual reports from the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury that demonstrate the developer, and each contractors and subcontractor performing work on the redevelopment project, is in substantial good standing with the respective department, or has entered into an agreement with the respective department

that includes a practical corrective action plan for the developer. The redevelopment agreement shall also include a provision allowing authority to recapture the tax credits for any year in which any such report is not received. The redevelopment agreement shall also require a developer to engage in on-site consultations with the Division of Workplace Safety and Health in the Department of Health.

C.34:1B-282 Qualification for tax credit.

14. To qualify for a tax credit under the program, a developer shall:

a. enter into a memorandum of agreement or other oversight document with the Commissioner of Environmental Protection in accordance with the provisions of section 37 of P.L.1997, c.278 (C.58:10B-29); or

b. comply with the requirements set forth in subsection b. of section 30 of P.L.2009, c.60 (C.58:10B-1.3) for the remediation of the site of the redevelopment project.

C.34:1B-283 Update of status of redevelopment project.

15. Commencing with the date six months following the date the authority and a developer execute a redevelopment agreement and every six months thereafter until completion of the project, the developer shall submit an update of the status of the redevelopment project to the authority and to the department, including the remediation costs incurred by the developer for the remediation of the contaminated property located at the site of the redevelopment project. Unless the authority determines that extenuating circumstances exist, the authority's approval of a tax credit shall expire if the authority, the department, or both, do not timely receive the status update required under this section. The authority may rescind an award of tax credits under the program if a redevelopment project fails to advance in accordance with the redevelopment agreement.

C.34:1B-284 Certification upon completion of redevelopment project.

16. a. Upon completion of the redevelopment project, the developer shall seek certification from the department that:

(1) the redevelopment project is complete;

(2) the developer complied with the requirements of section 15 of P.L.2020, c.156 (C.34:1B-283), including the requirements of any memorandum of agreement or other oversight document that the developer may have executed with the Commissioner of Environmental Protection pursuant to that section; and

(3) the remediation costs were actually and reasonably incurred.

Upon receipt of certification, and confirmation by the authority that the developer's obligations under the redevelopment agreement have been met, a developer shall be awarded a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount not to exceed 40 percent of the actual remediation costs, or 40 percent of the projected remediation costs as set forth in the redevelopment agreement, or $4,000,000, whichever is least. The developer, or an authorized agent of the developer, shall certify that the information provided to the department and the authority pursuant to this subsection is true under the penalty of perjury.

b. When filing an application for certification pursuant to subsection a. of this section, the developer shall submit to the department the total remediation costs incurred by the developer for the remediation of the subject property located at the site of the redevelopment project as provided in the redevelopment agreement and certified by a certified public accountant, information concerning the occupancy rate of the buildings or other work areas located on the property subject to the redevelopment agreement, and such other information as the department deems necessary in order to make the certifications and findings pursuant to this section.

c. A developer shall apply the credit awarded against the developer's liability for the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for the privilege period during which the department awards the developer a tax credit pursuant to subsection a. of this section. A developer shall not carry forward any unused credit.

d. The director shall prescribe the order of priority of the application of the credit awarded under this section and any other credits allowed by law against the tax imposed under section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with any other credits allowed by law, shall not reduce the tax liability to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

C.34:1B-285 Application for tax credit transfer certificate.

17. a. A developer may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, during the privilege period in which the director awards the developer a tax credit pursuant to section 16 of P.L.2020, c.156 (C.34:1B-284), in lieu of the developer being allowed to apply any amount of the tax credit against the developer's State tax liability. The tax credit transfer certificate, upon receipt thereof by the developer from the director and the chief executive officer of the authority, may be sold or assigned, in the

privilege period during which the developer receives the tax credit transfer certificate from the director, to another person, who may apply the credit against a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The tax credit transfer certificate provided to the developer shall include a statement waiving the developer's right to claim the credit that the developer has elected to sell or assign.

b. The developer shall not sell or assign a tax credit transfer certificate allowed under this section for consideration received by the developer of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted, except a developer of a residential project consisting of newly-constructed residential units that has received federal low income housing tax credits under 26 U.S.C. s.42(b)(2)(B)(i) may assign a tax credit transfer certificate for consideration of no less than 75 percent subject to the submission of a plan to the authority and the New Jersey Housing and Mortgage Finance Agency to use the proceeds derived from the assignment of tax credits to complete the residential project. The tax credit transfer certificate issued to a developer by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to section 16 of P.L.2020, c.156 (C.34:1B-284) and any other terms and conditions that the director may prescribe.

c. A purchaser or assignee of a tax credit transfer certificate pursuant to this section shall not make any subsequent transfers, assignments, or sales of the tax credit transfer certificate.

d. The authority shall publish on its Internet website the following information concerning each tax credit transfer certificate approved by the authority and the director pursuant to this section:

(1) the name of the transferor;

(2) the name of the transferee;

(3) the value of the tax credit transfer certificate;

(4) the State tax against which the transferee may apply the tax credit; and

(5) the consideration received by the transferor.

C.34:1B-286 Report by State colleges, universities.

18. Beginning the year next following the year in which sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287) take effect and every two years thereafter, a State college or university established pursuant to chapter 64 of Title 18A of the New Jersey Statutes shall, pursuant to an agreement executed between the State college or university and the authority, prepare a report on the implementation of the program, and submit the report

to the authority, the Governor, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. Each biennial report required under this section shall include a description of each redevelopment project receiving a tax credit under the program, a detailed analysis of the consideration given in each project to the factors set forth in sections 12 and 13 of P.L.2020, c.156 (C.34:1B-280 and C.34:1B-281), the return on investment for incentives awarded, the redevelopment project's impact on the State's economy, and any other metrics the State college or university determines are relevant based upon national best practices. The authority shall prepare a written response to the report, which the authority shall submit to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

C.34:1B-287 Regulations.

19. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the chief executive officer of the authority, in consultation with the Commissioner of Environmental Protection, may adopt, immediately upon filing with the Office of Administrative Law, regulations that the chief executive officer and commissioner deem necessary to implement the provisions of sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), which regulations shall be effective for a period not to exceed 180 days from the date of the filing. The chief executive officer, in consultation with the Commissioner of Environmental Protection, shall thereafter amend, adopt, or readopt the regulations in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.). The rules shall require annual reporting by developers that receive tax credits pursuant to the program, in addition to the regular progress updates. Developers shall obtain certifications by the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury stating that the developer is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan. The rules and regulations adopted pursuant to this section shall also include a provision to require that developers forfeit all tax credits awarded in any year in which any such report is not received, and to allow the authority to extend, in individual cases, the deadline for any annual reporting or certification requirement established pursuant to this section.

C.34:1B-288 Short title.

20. Sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302) shall be known and may be cited as the "New Jersey Innovation Evergreen Act."

C.34:1B-289 Definitions.

21. As used in sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302):

"Authority" means the New Jersey Economic Development Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

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

"Follow-on investment" means a subsequent investment made by an investor who has a previous investment in a New Jersey high-growth business.

"Fund" means the "New Jersey Innovation Evergreen Fund" established by section 23 of P.L.2020, c.156 (C.34:1B-291).

"High-growth business" means a business that is growing significantly faster than the average growth rate of the economy or is a start-up company that is investing in developing a product or new business model that will allow it to grow significantly faster than the average growth rate of the economy within the next three to five years.

"Incentive area" means an area in this State: (1) designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan); or (2) that has been designated as a qualified opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

"Innovation ecosystem" means funding, programs, and events that support the establishment and expansion of high-growth companies in targeted sectors. Examples of such funding, programs, and events include: mentoring programs for start-ups, meet-up or networking events, funding for locating a business in a collaborative workspace, programs that provide business services, and entrepreneurial education to companies.

"Opportunity zone" means a federal population census tract in this State that was eligible to be designated as a qualified opportunity zone pursuant to 26 U.S.C. s.1400Z-1 as may be amended.

"Principal business operations" means at least 50 percent of the business's employees, who are not primarily engaged in retail sales, reside in the State, or at least 50 percent of the business's payroll for employees not primarily engaged in retail sales is paid to individuals living in this State.

"Program" means the New Jersey Innovation Evergreen Program established by section 22 of P.L.2020, c.156 (C.34:1B-290).

"Purchaser" means an entity registered to do business in this State with the Director of the Division of Revenue and Enterprise Services in the Department of the Treasury that purchases an allocation of tax credits under the program.

"Qualified business" means a business that, at the time of the first qualified investment in the business and throughout the period of the qualified

investment under the program, is registered to do business in this State with the Director of the Division of Revenue and Enterprise Services in the Department of the Treasury; has its principal business operations located in the State and intends to maintain its principal business operations in the State after receiving a qualified investment under the program; is engaged in a targeted industry; and employs fewer than 250 persons at the time of the qualified investment.

"Qualified investment" means the direct investment of money by the fund in a qualified business for the purchase of shares of stock, with an option to make an additional investment in an option or warrant or a follow-on investment, in the discretion of the authority, all of which is matched by an investment by a qualified venture firm.

"Qualified venture firm" means a venture firm that is approved by the authority as a qualified venture firm pursuant to section 29 of P.L.2020, c.156 (C.34:1B-297).

"Special purpose vehicle" means an entity controlled by or under common control with a venture firm that is formed solely for the purpose of investing in a New Jersey high-growth business alongside the venture firm.

"Targeted industry" means any industry identified from time to time by the authority which shall initially include advanced transportation and logistics, advanced manufacturing, aviation, autonomous vehicle and zero-emission vehicle research or development, clean energy, life sciences, hemp processing, information and high technology, finance and insurance, professional services, film and digital media, non-retail food and beverage businesses including food innovation, and other innovative industries that disrupt current technologies or business models.

"Venture firm" means a partnership, corporation, trust, or limited liability company that invests cash in a business during the early or expansion stages of a business in exchange for an equity stake in the business in which the investment is made. Venture firm may include a venture capital fund, a family office fund, or a corporate investor fund, provided that a professional manager administers the venture firm.

C.34:1B-290 New Jersey Innovation Evergreen Program.

22. The New Jersey Innovation Evergreen Program is established as a program under the jurisdiction of the New Jersey Economic Development Authority. The purpose of the program is to invest in innovation as a catalyst for economic growth and to advance the competitiveness of the State's businesses in the global economy. Beginning on the effective date of sections 20

through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302), the authority shall auction up to $300,000,000 in tax credits in annual amounts not to exceed the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362). The authority shall not undertake an auction if, exclusive of reserves, including the reserve set aside for follow-on investments pursuant to subsection d. of section 23 of P.L.2020, c.156 (C.34:1B-291), more than $15,000,000 is available to the authority, from moneys received from any prior auction of tax credits pursuant to the program, to allocate to qualified venture firms.

C.34:1B-291 "New Jersey Innovation Evergreen Fund."

23. a. The authority shall establish and maintain a dedicated fund to be known as the "New Jersey Innovation Evergreen Fund." The authority shall use the money in the fund to carry out the purposes enumerated in subsections b. and c. of this section. The authority shall credit the fund with money paid by purchasers; distributions from payments or repayments made to the authority in accordance with subsection c. of section 31 of P.L.2020, c.156 (C.34:1B-299); earnings received, if any, from the investment or reinvestment of money credited to the fund; and any money which, from time to time, may otherwise become available for the purposes of the fund.

b. The authority shall allocate the money in the fund to qualified venture firms to make qualified investments of capital in qualified businesses through a special purpose vehicle in accordance with section 30 of P.L.2020, c.156 (C.34:1B-298) and to pay the administrative, legal, and auditing expenses of the authority incurred in the administration of the program. In addition, the authority shall use 75 basis points of the total amounts deposited in the fund, calculated on an annual basis, for programs administered by the authority that create an innovation ecosystem that supports and promotes high-growth businesses in the State.

c. The authority shall deposit into the fund dividends and returns on investments paid to the authority by or on behalf of a qualified business. Upon the fund holding total deposits of $500,000,000 and thereafter upon a qualified investment in a qualified business achieving a return on investment of twice the original and follow-on investment, 50 percent of any return on investment in excess of twice the original and follow-on investment shall be paid to the General Fund of the State.

d. The authority shall account for and calculate reserves for follow-on investments, programs that support the State's innovation ecosystem, and administrative, legal, and auditing expenses of the authority in administering the program. The authority shall not include these reserves when calculating the amount in the fund available for new qualified investments.

C.34:1B-292 Sale of tax credits.

24. a. The authority shall sell the tax credits authorized pursuant to section 22 of P.L.2020, c.156 (C.34:1B-290) to purchasers through a competitive auction process.

b. The authority shall determine the form and manner in which potential purchasers may bid for tax credits available under the program. To be awarded a tax credit under the program, a potential purchaser shall:

(1) specify the requested amount of tax credits, which shall not be less than $1,000,000;

(2) specify the amount the potential purchaser will pay in exchange for the requested amount of tax credits, which shall not be less than 85 percent of the requested dollar amount of tax credits;

(3) commit to serve on the New Jersey Innovation Evergreen Advisory Board, established pursuant to section 32 of P.L.2020, c.156 (C.34:1B-300), and to otherwise provide mentorship, networking, and collaboration opportunities to qualified businesses that receive funding under the program; and

(4) provide any other information that the chief executive officer of the authority determines is necessary.

c. Prior to an auction, the authority shall establish and disclose to bidders the weighted criteria the authority will utilize, which the authority shall base on the price offered to purchase the tax credits and the quality of the mentorship and networking opportunities and other support of the State's innovation ecosystem offered by a purchaser in its bid. The authority may pro rate the amount of tax credits allocated to each purchaser. A potential purchaser that submits a bid for tax credits under this section shall receive a written notice from the authority indicating whether the authority has approved it as a purchaser of tax credits and, if so, the amount of tax credits approved.

d. Except as provided in section 22 of P.L.2020, c.156 (C.34:1B-290), the authority shall hold one competitive auction per calendar year.

e. The authority may contract with an independent third party to conduct the competitive bidding process through which State tax credits issued by the authority may be sold.

C.34:1B-293 Contract between purchaser and authority.

25. a. A purchaser that submits a successful bid for the purchase of tax credits pursuant to section 24 of P.L.2020, c.156 (C.34:1B-292) shall enter into a contract with the authority that includes payment information and the commitments made by the purchaser in its auction bid. A purchaser that submits a successful bid for the purchase of tax credits pursuant to section 24 of

P.L.2020, c.156 (C.34:1B-292) shall pay by wire transfer the amount specified in its auction bid to the authority for deposit into the fund. Upon receipt thereof, the chief executive officer shall notify the director to issue tax credits in the amount approved. Failure by the purchaser to pay the amount agreed upon on time may disqualify the purchaser from purchasing the tax credits and the authority may reassign the right to purchase the credits to another bidder. Failure by the purchaser to adhere to the commitments made in its auction bid may disqualify the purchaser from participating in future auctions and may result in the recapture of a portion of the tax credits.

b. The authority shall credit to the fund any money paid to the authority by a purchaser for an allocation of tax credits under the program.

c. The authority shall ensure that no undue financial advantage shall inure to a purchaser that also is: managing a qualified venture firm; beneficially owning, through rights, options, convertible interests, or otherwise, more than 15 percent of the voting securities or other voting ownership interests of a qualified venture firm; or controlling the direction of investments for a qualified venture firm. The chief executive officer of the authority shall certify that the authority is monitoring the activities of such purchasers and has taken appropriate steps to ensure no undue financial advantage inures to the purchasers.

C.34:1B-294 Application of credit to State tax liability.

26. a. A purchaser shall apply a credit awarded pursuant to sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302) against the State tax liability due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) of the purchaser for the current privilege period as of the date of the credit's approval. A purchaser may carry forward an unused credit resulting from the limitations of subsection b. of this section, if necessary, for use in the seven privilege periods next following the privilege period for which the credit is awarded.

b. The director shall prescribe the order of priority of the application of the credits awarded under sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302) and any other credits allowed by law. The amount of a credit applied under sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302) against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with any other credits allowed by law, shall not reduce the tax liability of the purchaser to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

C.34:1B-295 Application for tax credit transfer certificate.

27. a. A purchaser may apply to the authority and the director for a tax credit transfer certificate, in the privilege period during which the director allows the purchaser a tax credit pursuant to sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302), in lieu of the purchaser being allowed to apply any amount of the tax credit against the purchaser's State tax liability. A tax credit may be sold or assigned, in full or in part, to another person that may have a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). The tax credit transfer certificate provided to the purchaser shall include a statement waiving the purchaser's right to claim the credit that the purchaser has elected to sell or assign.

b. The purchaser shall not sell or assign a tax credit transfer certificate allowed under this section for consideration received by the purchaser of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted. The tax credit transfer certificate issued to a purchaser by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to section 26 of P.L.2020, c.156 (C.34:1B-294) and any other terms and conditions that the director may prescribe.

c. A buyer or assignee of a tax credit transfer certificate pursuant to this section shall not make any subsequent transfers, assignments, or sales of the tax credit transfer certificate.

d. Ten percent of the consideration received by a purchaser from the sale or assignment of a tax credit transfer certificate pursuant to this section shall be remitted to the director and deposited in the General Fund of the State.

e. The authority shall publish on its Internet website the following information concerning each tax credit transfer certificate approved by the authority and the director pursuant to this section:

(1) the name of the transferor;

(2) the name of the transferee;

(3) the value of the tax credit transfer certificate;

(4) the State tax against which the transferee may apply the tax credit; and

(5) the consideration received by the transferor.

C.34:1B-296 Application process.

28. a. The authority shall establish an application process and determine the form and manner through which a venture firm may make and file an application for certification as a qualified venture firm. The authority may accept applications on a rolling basis or on a date set by the authority.

b. In evaluating applicants for certification as a qualified venture firm, the authority shall establish weighted criteria by which the authority will evaluate all venture firms applying in the same calendar year and shall establish a minimum acceptable score. The criteria shall include, but not be limited to:

(1) the management structure of the applicant, including:

(a) quality of the leadership, including willingness to work with the authority to support targeted industries and the innovation ecosystem in the State, and to locate in the State;

(b) the investment experience of the principals with qualified businesses;

(c) the knowledge, experience, and capabilities of the applicant in subject areas relevant to high-growth businesses in the State;

(d) the tenure and turnover history of principals and senior investment professionals of the applicant;

(e) whether the State's investment with the applicant under this program would exceed 15 percent of the total invested in the applicant by all investors, including investments in any special purpose vehicles;

(f) the applicant's stage of fundraising; and

(g) whether fees, expenses, and the remuneration of the general partner or manager are similar to those of peer investors;

(2) the applicant's investment strategy, including:

(a) the applicant's track record of investing in high-growth businesses;

(b) whether the investment strategy of the applicant is focused on high-growth businesses, including the percentage of the investment identified to be invested in New Jersey or surrounding geographic areas; and

(c) the performance history of the general partner or fund manager based on a review of investment returns on individual funds on an absolute basis and relative to peers; and

(3) The location of the applicant's venture firm and the proposed structure of the applicant venture firm's investments in qualified businesses, with preference given to applicant venture firms that are located in incentive areas and to applicant venture firms that agree to dedicate a greater portion of qualified investments into qualified businesses located within incentive areas.

C.34:1B-297 Criteria for qualified venture firm.

29. a. The authority shall certify or refuse to certify a venture firm as a qualified venture firm based on the criteria for certification set forth in section 28 of P.L.2020, c.156 (C.34:1B-296), and subsections b. and c. of this section.

b. The authority shall not certify a venture firm as a qualified venture firm if the venture firm has: (1) an equity capitalization, net assets, or written

commitments of less than $10,000,000 in the form of cash or cash equivalents on the date the determination for certification is made; or (2) fewer than two principals or persons employed to direct the qualified investment of capital with at least five years of money management experience in the venture capital or private equity sectors on the date the determination for certification is made. The authority may adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules setting forth additional disqualifying criteria and adjusting the minimum equity capitalization, net assets, or written commitments of a qualified venture firm.

c. Prior to certifying a venture firm as a qualified venture firm, the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury shall each report to the chief executive officer of the authority whether the venture firm is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the venture firm. The authority may also contract with an independent third party to perform a background check on the venture firm.

d. The authority shall provide written notification to each venture firm that is certified as a qualified venture firm by the authority and shall provide written notification to each venture firm that the authority refuses to certify as a qualified venture firm, communicating in detail the grounds for the authority's refusal. The authority shall review each qualified venture firm annually for the disqualifying criteria set forth in subsection b. of this section or other reasonable industry-accepted standards as determined by the authority. The authority may decertify a qualified venture firm at any time pursuant to the disqualifying criteria set forth in subsection b. of this section. Decertification shall not affect any previously made qualified investment or the fund's commitment to make a follow-on investment in a qualified business.

C.34:1B-298 Allocation of money to venture firms.

30. a. (1) The authority is authorized to allocate money credited to the fund to one or more qualified venture firms for qualified investments at the times, in the amounts, and subject to the terms and conditions that the authority shall determine to be necessary and appropriate to effectuate the purposes of sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302); provided that no more than two qualified investments shall be made with each qualified venture firm in a calendar year.

(2) Each qualified investment shall not exceed $5,000,000 in initial investment, exclusive of follow-on investments; provided, however, if a qualified investment is in a business: (a) which utilizes intellectual property that

is core to the its business model and was developed at a New Jersey-based college or university; (b) is considered a university spin-off business as determined by the authority; or (c) is certified by the State as a "minority business" or a "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.), then the qualified investment shall not exceed $6,250,000 in initial investment, exclusive of follow-on investments.

(3) The fund shall not invest in a qualified venture firm if the authority determines that an undue financial advantage would inure to a purchaser if the investment occurs or if the investment would be inconsistent with the investment policies and goals of the State.

(4) The authority shall have a goal for 25 percent of the fund money that is allocated to qualified venture firms to be reserved for investment in businesses located in opportunity zones.

(5) Within one year of the effective date of P.L.2020, c.156 (C.34:1B-269 et al.), the authority shall undertake a disparity study of investment by venture firms in women- and minority-owned business enterprises in this State. Based on the finding of the disparity study, the authority, following board approval, may institute a set-aside plan to ensure that fund money allocated to qualified venture firms is reserved for investment in women- and minority-owned business enterprises in this State.

b. The authority shall make and enter into an agreement with each qualified venture firm to which the authority allocates money under the program. The agreement shall include provisions that require the qualified venture firm to:

(1) make investments in qualified businesses that equal or exceed the amount of capital received by the qualified venture firm from the fund under the program;

(2) cause an audit of the qualified venture firm's books and accounts, which a certified public accountant, who is licensed in accordance with the "Accountancy Act of 1997," P.L.1997, c.259 (C.45:2B-42 et seq.), or licensed in accordance with the laws of another state, shall conduct at least once in each year in which the qualified venture firm is in receipt of fund money or in which the qualified venture firm is responsible for the management of fund money allocated to the qualified venture firm by the authority;

(3) enter into an agreement with each qualified business that receives a qualified investment, which agreement shall, at a minimum, require the qualified business to use the qualified investment of capital to support its business operations in this State and to provide the information required under section 31 of P.L.2020, c.156 (C.34:1B-299);

(4) upon the identification of a qualified investment, create a special purpose vehicle for the qualified investment of the fund;

(5) upon the identification of a qualified investment, indicate the amount of follow-on investment the authority should reserve, and periodically provide updates concerning this amount;

(6) agree that the qualified venture firm will publicize its participation in the "New Jersey Innovation Evergreen Fund;"

(7) consent to the authority publicly disclosing the qualified venture firm on the list of qualified investment firms participating in the program; and

(8) consent to the disclosure of tax expenditure information as described in paragraph (8) of subsection b. of section 1 of P.L.2009, c.189 (C.52:27B-20a).

c. A qualified venture firm that has made and entered into an agreement with the authority in accordance with subsection b. of this section is authorized to make qualified investments of capital in one or more qualified businesses from fund money allocated to the qualified venture firm by the authority at the times, in the amounts, and subject to the terms and conditions that the qualified venture firm determines to be necessary and appropriate. The authority may limit the amount of allocated fund money that a qualified venture firm invests in a qualified business based upon the size of investments the qualified business has received, the source of the investments, and the industry in which the qualified business is engaged.

C.34:1B-299 Report by venture firm.

31. a. A qualified venture firm shall annually report to the authority:

(1) the amount of the qualified investment, if any, uninvested at the end of the preceding calendar year;

(2) all qualified investments made during the preceding calendar year, including the number and wages of employees of each qualified business at the time the venture firm made the qualified investment and as of December 31 of that year;

(3) for any qualified investment in which the qualified venture firm no longer has a position as of the end of the calendar year, the number of employees of the business as of the date the investment was terminated;

(4) financials, audited by a certified public accountant, who is licensed in accordance with the "Accountancy Act of 1997," P.L.1997, c.259 (C.45:2B-42 et seq.), or licensed in accordance with the laws of another state, of the qualified venture firm and the special purpose vehicle that include a consolidated summary of the performance of the qualified venture firm. Any information about the performance of an individual business, including the qualified business, shall be considered confidential and not subject to the requirements of P.L.1963, c.73 (C.47:1A-1 et seq.); and

(5) any other information the authority requires to ascertain the impact of the program on the economy of the State.

b. With respect to the information required under paragraphs (1) through (4) of subsection a. of this section, the report shall include a statement prepared by a certified public accountant, who is licensed in accordance with the "Accountancy Act of 1997," P.L.1997, c.259 (C.45:2B-42 et seq.), or licensed in accordance with the laws of another state, certifying that the accountant has reviewed the report and that the information and representations contained in the report are accurate.

c. Not later than 60 days after the sale or other disposition of a qualified investment, the qualified venture firm shall provide to the authority a report on the amount of the stock sold or disposed of and the consideration received for the sale or disposition. The report shall detail the cumulative effect of sequentially introduced positive or negative values and include the gross income and details of any offsetting fees that reduce the net distribution. Any dividend or proceeds received by the authority for the sale or other disposition of a qualified investment shall be deposited into the fund and used in accordance with section 23 of P.L.2020, c.156 (C.34:1B-291).

d. A qualified venture firm shall, as required at the discretion of the authority, submit to the authority satisfactory evidence supporting the information detailed in the annual report and certifying that all information provided by the qualified venture firm to the authority is true, including information contained in the application for certification, the agreement between the qualified venture firm and authority, any amendment to that agreement, and any other information submitted by the qualified venture firm to the authority pursuant to sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302). The qualified venture firm, or an authorized agent of the qualified venture firm, shall certify under the penalty of perjury that the information provided pursuant to this section is true.

C.34:1B-300 New Jersey Innovation Evergreen Advisory Board.

32. The New Jersey Innovation Evergreen Advisory Board is established in but not of the authority for the purposes of providing guidance and networking opportunities to qualified businesses. The members of the board shall serve in a voluntary capacity, to be appointed through a process to be determined by the chief executive officer of the authority from among purchasers and other strategic partners identified by the chief executive officer, to support the State's innovation ecosystem. The terms of the voluntary members so appointed, after the initial appointments, shall be one year, and each member may be reappointed.

C.34:1B-301 Report on implementation of program.

33. Beginning the year next following the year in which sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302) take effect and every two years thereafter, the authority shall prepare a report on the implementation of the program, and submit the report to the Governor, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. Each biennial report required under this section shall include the names and locations of qualified businesses receiving capital; the amount of each qualified investment; a report by a certified public accountant, who is licensed in accordance with the "Accountancy Act of 1997," P.L.1997, c.259 (C.45:2B-42 et seq.), or licensed in accordance with the laws of another state, of the consolidated performance of the fund; the cumulative amount of capital committed by purchasers; the rate and amount of fees charged by each qualified venture firm, including performance-based earnings and carried interest; the classification of each qualified business, according to the industrial sector and the size of the qualified business; the State's return on investment; the total number of jobs created in the State by the qualified business after the qualified investment; the average wages paid for the jobs; and any other metrics the authority determines are relevant based upon national best practices.

C.34:1B-302 Regulations.

34. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the chief executive officer of the authority may adopt, immediately, upon filing with the Office of Administrative Law, regulations that the chief executive officer deems necessary to implement the provisions of sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302), which regulations shall be effective for a period not to exceed 180 days from the date of the filing. The chief executive officer shall thereafter amend, adopt, or readopt the regulations in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

C.34:1B-303 Short title.

35. Sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310) shall be known and may be cited as the "Food Desert Relief Act."

C.34:1B-304 Findings, declarations.

36. a. The Legislature finds and declares that: (1) there are certain areas of the State, known as "food desert" communities, in which residents are unable to obtain reasonable and adequate access to nutritious foods and, in particular, to fresh fruits and vegetables; (2) the inaccessibility of nutritious food in food desert communities has been attributed, in large part, to the absence

of supermarkets and grocery stores in those communities; (3) low-income families are more likely than others to live in food desert communities and to lack the transportation or financial resources necessary to reach distant wholesome markets; and (4) the establishment of financial incentives to supermarkets, grocery stores, mid-sized food retailers, and small food retailers is a reasonable means by which to ensure that residents of food desert communities in the State are provided with reasonable access to nutritious, fresh, and delicious produce, and are afforded the opportunity thereby to make healthier eating choices for themselves and for their families.

b. The Legislature therefore determines that it is both reasonable and necessary to authorize the New Jersey Economic Development Authority to establish a program that provides financial assistance to supermarkets, grocery stores, mid-sized food retailers, and small food retailers to establish and retain locations in food desert communities in order to provide a consistent, and easily accessible, source of fresh produce to residents in those communities.

C.34:1B-305 Definitions.

37. As used in sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310):

"Authority" means the New Jersey Economic Development Authority established pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4).

"Department" means the Department of Agriculture.

"Eligible equipment costs" means expenditures for the procurement of such equipment as is needed to allow a supermarket, grocery store, mid-sized food retailer, or small food retailer to store, refrigerate, transport, or otherwise maintain nutritious foods, including fresh fruits and vegetables, for retail purposes, but within a standard range based upon industry standards, as determined by the authority.

"Eligible technology costs" means expenditures for the procurement or upgrade of technology systems to support online ordering and e-commerce, including but not limited to computer hardware, software, internet connectivity, and database systems.

"Food desert community" means a physically contiguous area in the State in which residents have limited access to nutritious foods, such as fresh fruits and vegetables, through supermarkets and grocery stores, and which has been designated as a food desert community pursuant to subsection b. of section 38 of P.L.2020, c.156 (C.34:1B-306).

"Initial operating costs" means expenditures for the operation of a supermarket or grocery store within the first three years after opening to the public,

but within a standard range based upon industry standards, as determined by the authority.

"Mid-sized food retailer" means a medium-sized retail outlet with at least 2,500 but less than 16,000 square feet, of which at least 75 percent is occupied by food and related products.

"Program" means the Food Desert Relief Program established in section 38 of P.L.2020, c.156 (C.34:1B-306).

"Project cost" means the costs incurred in connection with the establishment of a supermarket or grocery store within a food desert community by the developer until the opening of the supermarket or grocery store to the public, including the costs relating to lands, buildings, improvements, real or personal property, or any interest therein, including leases discounted to present value, including lands under water, riparian rights, space rights and air rights acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated or improved, any environmental remediation costs, plus costs not directly related to construction, of an amount not to exceed 20 percent of the total costs, capitalized interest paid to third parties, and the cost of infrastructure improvements, including ancillary infrastructure projects.

"Project financing gap" means the part of the total project cost, including return on investment, that remains to be financed after all other sources of capital have been accounted for, including, but not limited to, developer-contributed capital, which shall not be less than 20 percent of the total project cost, which may include the value of any existing land and improvements in the project area owned or controlled by the developer, and the cost of infrastructure improvements in the public right-of-way, and investor or financial entity capital or loans for which the developer, after making all good faith efforts to raise additional capital, certifies that additional capital cannot be raised from other sources on a non-recourse basis.

"Small food retailer" means a small retail outlet, with less than 2,500 square feet, that sells a limited selection of foods and other products, such as a bodega, convenience store, corner store, neighborhood store, small grocery, or small-scale store.

"Supermarket or grocery store" means a retail outlet with at least 16,000 square feet, of which at least 90 percent is occupied by food and related products.

C.34:1B-306 Food Desert Relief Program.

38. a. (1) There is established the Food Desert Relief Program to be administered by the New Jersey Economic Development Authority. The program shall include tax credit components, as provided in sections 39 and 40

of P.L.2020, c.156 (C.34:1B-307 and C.34:1B-308), in order to incentivize businesses to establish and retain new supermarkets and grocery stores in food desert communities.

(2) The total value of tax credits approved by the authority pursuant to sections 39 and 40 of P.L.2020, c.156 (C.34:1B-307 and C.34:1B-308) shall not exceed the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362).

b. The authority, in consultation with the Department of Agriculture and the Department of Community Affairs, shall initially designate not more than 50 separate geographic areas that are most in need of a supermarket or grocery store as food desert communities in this State. The Department of Agriculture and the Department of Community Affairs shall develop criteria for the designation of food desert communities, but each separate food desert community shall consist of a distinct geographic area with a single defined border. The criteria shall, at a minimum, incorporate analysis of municipal or census tract poverty statistics, food desert information from the Economic Research Service of the United States Department of Agriculture, and healthier food retail tract information from the federal Centers for Disease Control and Prevention. The departments may also consider data related to municipal or census tract population size and population density in making food desert community designations pursuant to this subsection. The authority, in consultation with the departments, shall continuously evaluate areas previously designated as food desert communities and assess whether they still meet the criteria for designation as a food desert community and may designate additional food desert communities once every three years following the effective date of sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310).

c. To receive a tax credit under section 39 or 40 of P.L.2020, c.156 (C.34:1B-307 or C.34:1B-308), a taxpayer shall submit an application to the authority in the form and manner prescribed by the authority and in accordance with criteria established by the authority, which at minimum will include a commitment to accept benefits from federal nutrition assistance programs, such as the Supplemental Nutrition Assistance Program (SNAP) and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). Following the approval of an application, the authority may, pursuant to an award agreement, award tax credits to an eligible taxpayer that:

(1) develops and opens for business to the public the first or second supermarket or grocery store in a designated food desert community; or

(2) owns and operates the first or second supermarket or grocery store in a designated food desert community.

d. (1) The authority may sell all or a portion of the tax credits made available in a fiscal year pursuant to subsection a. of this section and dedicate

the proceeds from such sale to provide grants and loans to qualifying supermarkets, grocery stores, mid-sized food retailers, and small food retailers. The amount of any grant or loan provided pursuant to this subsection shall be in accordance with the need of the supermarket, grocery store, mid-sized food retailer, or small food retailer, as determined by the authority. The authority shall sell tax credits pursuant to this section in the manner determined by the authority; provided, however, the authority shall not sell tax credits for less than 85 percent of the tax credit amount. Grants and loans made available pursuant to this subsection shall be awarded to entities that:

(a) are eligible for tax credits under subsection c. of this section in lieu of tax credits; or

(b) own and operate a mid-sized food retailer or small food retailer that commits to selling nutritious foods, including fresh fruits and vegetables, in a designated food desert community.

(2) A supermarket, grocery store, mid-sized food retailer, or small food retailer shall submit an application to the authority to receive a grant or loan pursuant to this subsection The application shall be submitted in the form and manner prescribed by the authority and in accordance with criteria established by the authority. An entity eligible for a grant or loan under subparagraph (a) of paragraph (1) of this subsection shall not be required to submit a separate application to the authority for the grant or loan, provided that the entity has submitted an application to the authority pursuant to subsection c. of this section.

(3) Prior to awarding a grant or loan to an applicant supermarket, grocery store, mid-sized food retailer, or small food retailer pursuant to this subsection, the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury shall each report to the chief executive officer of the authority whether the applicant is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the applicant. The authority may also contract with an independent third party to perform a background check on the entity.

(4) An applicant supermarket, grocery store, mid-sized food retailer, or small food retailer shall, as required at the discretion of the authority, submit to the authority satisfactory information pertaining to the eligible equipment costs and eligible technology costs, as certified by a certified public accountant, certifications that all information provided by the applicant to the authority is true, including information contained in the application, any agreement pertaining to the award of grants or loans under the program, any

amendment to such an agreement, and any other information submitted by the applicant to the authority pursuant to sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310), and evidence of the eligible equipment costs and eligible technology costs of the applicant. The applicant, or an authorized agent of the applicant, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

e. The authority may establish a technical assistance fund to assist any entity that is eligible for a tax credit, grant, or loan under this section. The technical assistance may make grants to entities to assist qualifying supermarkets, grocery stores, mid-sized food retailers, or small food retailers in implementation of best practices for increasing the accessibility of nutritious foods in food desert communities. Technical assistance shall be provided either directly by the authority or through a not-for-profit or for-profit entity and made available in English as well as the two most commonly spoken languages in New Jersey other than English. At the discretion of the authority, funds to support technical assistance may be provided in addition to, or in lieu of, any tax credit, grant, or loan awarded under sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310).

f. (1) The authority shall require that any tax credits, grants, or loans awarded by the authority under the program be utilized by the recipient for one or more of the following purposes, which shall be set forth in the award agreement:

(a) to mitigate a project financing gap;

(b) to mitigate the initial operating costs of the supermarket or grocery store; or

(c) to mitigate the eligible equipment costs or eligible technology costs of the supermarket, grocery store, mid-sized food retailer, or small food retailer in order to make nutritious foods more accessible and affordable to residents within food deserts; or

(d) to support initiatives to ensure food security of residents in food desert communities.

(2) The value of tax credits or grants awarded to individual entities under the program shall not exceed:

(a) in the case of an entity eligible under paragraph (1) of subsection c. of this section, 40 percent of the total project cost for the first supermarket or grocery store in a designated food desert community, and 20 percent of the total project cost for the second supermarket or grocery store in the food desert community; and

(b) in the case of an entity eligible under paragraph (2) of subsection c. of this section, the initial operating costs of the first supermarket or grocery

store in a designated food desert community, and one-half of the initial operating costs of the second supermarket or grocery store in the food desert community; and

(c) in the case of an entity eligible for a grant or loan under subparagraph (b) of paragraph (1) of subsection d. of this section, the eligible equipment costs and eligible technology costs of the supermarket, grocery store, mid-sized food retailer, or small food retailer.

g. An entity that develops and opens a new supermarket or grocery store in a designated food desert community shall be eligible for a tax credit only if the entity demonstrates to the authority at the time of application that each worker employed to perform construction at the project shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

h. (1) Except as provided in paragraph (2) of this subsection, a labor harmony agreement shall be required if the State has a proprietary interest in a supermarket or grocery store and the agreement shall remain in effect for as long as the State acts as a market participant in the project. The provisions of this paragraph shall apply to a supermarket or grocery store that will have more than 10 employees.

(2) A labor harmony agreement under paragraph (1) of this subsection shall not be required if the authority determines that the supermarket or grocery store would not be feasible if a labor harmony agreement is required. The authority shall support the determination by a written finding, which provides the specific basis for the determination.

(3) As used in this subsection, "labor harmony agreement" means an agreement between a business that serves as the owner or operator of a supermarket or grocery store and one or more labor organizations, which requires, for the duration of the agreement: that any participating labor organization and its members agree to refrain from picketing, work stoppages, boycotts, or other economic interference against the business; and that the business agrees to maintain a neutral posture with respect to efforts of any participating labor organization to represent employees at a supermarket or grocery store, agrees to permit the labor organization to have access to the employees, and agrees to guarantee to the labor organization the right to obtain recognition as the exclusive collective bargaining representatives of the employees at a supermarket or grocery store by demonstrating to the New Jersey State Board of Mediation, Division of Private Employment Dispute Settlement, or a mutually agreed-upon, neutral, third-party, that a majority of

workers in the unit have shown their preference for the labor organization to be their representative by signing authorization cards indicating that preference. The labor organization or organizations shall be from a list of labor organizations that have requested to be on the list and that the Commissioner of Labor and Workforce Development has determined represent substantial numbers of supermarket or grocery store employees in the State.

i. A recipient shall certify that all factual representations made by the recipient in the application or award agreement are true under the penalty of perjury. A material misrepresentation of fact in either the application or award agreement may result in recession and recapture of any grants or tax credits awarded, or acceleration of any loans made, under sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310).

C.34:1B-307 Award of credit against tax due.

39. a. For privilege periods beginning on or after January 1 next following the effective date of sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310), a taxpayer eligible under subsection c. of section 38 of P.L.2020, c.156 (C.34:1B-306) shall be awarded a credit against the tax due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). A taxpayer that qualifies for the award of a tax credit under this section may claim 25 percent of the total amount awarded in the privilege period in which the taxpayer establishes and opens the supermarket or grocery store for business, and an additional 25 percent of the total amount awarded in each of the three privilege periods next following the initial opening, provided that the supermarket or grocery store remains in business and open to the public. For a taxpayer to be allowed a tax credit pursuant to this section, the taxpayer shall meet the requirements of this section, and the rules and regulations adopted pursuant to section 41 of P.L.2020, c.156 (C.34:1B-309).

b. The order of priority of the application of the credit allowed pursuant to this section and any other credits allowed against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period shall be as prescribed by the Director of the Division of Taxation in the Department of the Treasury. The amount of the credit applied pursuant to this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), shall not reduce a taxpayer's tax liability for a privilege period to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5). Any credit shall be valid in the privilege period in which the certification is approved and any unused portion thereof may be carried forward into the next 10 privilege periods or until exhausted, whichever is earlier.

c. The authority shall award tax credits to taxpayers until either the available tax credits are exhausted or all projects that are eligible for a tax credit pursuant to the provisions of sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310) receive a tax credit, whichever occurs first. If insufficient funding exists to allow a tax credit to a taxpayer in accordance with the provisions of subsection a. of section 38 of P.L.2020, c.156 (C.34:1B-306), the authority may offer the taxpayer a tax credit in an amount less than that provided in subsection a. of this section.

d. Prior to awarding a tax credit to a supermarket or grocery store, the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury shall each report to the chief executive officer of the authority whether a qualifying supermarket or grocery store is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the supermarket or grocery store. The authority may also contract with an independent third party to perform a background check on the developer.

e. A supermarket or grocery store shall, as required at the discretion of the authority, submit to the authority satisfactory information pertaining to the project cost, project financing gap, and the initial operating costs, as certified by a certified public accountant, certifications that all information provided by the supermarket or grocery store to the authority is true, including information contained in the application, any agreement pertaining to the award of tax credits under the program, any amendment to such an agreement, and any other information submitted by the supermarket or grocery store to the authority pursuant to sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310), and evidence of the initial opening and continued operation of the supermarket or grocery store. The supermarket or grocery store, or an authorized agent of the supermarket or grocery store, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

C.34:1B-308 Credit against tax due.

40. a. For taxable years beginning on or after January 1 next following the effective date of sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310), a taxpayer eligible under subsection c. of section 38 of P.L.2020, c.156 (C.34:1B-306) shall be awarded a credit against the tax due pursuant to N.J.S.54A:1-1 et seq. A taxpayer that qualifies for the award of a tax credit under this section may claim 25 percent of the total amount awarded in the taxable year in which the taxpayer establishes and opens the supermarket

or grocery store for business, and may claim 25 percent of the total amount awarded in each of the three taxable years next following the initial opening, provided that the supermarket or grocery store remains in business and open to the public. For a taxpayer to be awarded a tax credit pursuant to this section, the taxpayer shall meet the requirements of this section, and the rules and regulations adopted pursuant to section 41 of P.L.2020, c.156 (C.34:1B-309).

b. The order of priority of the application of the credit allowed pursuant to this section and any other credits allowed against the tax imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year shall be as prescribed by the Director of the Division of Taxation in the Department of the Treasury, in consultation with the chief executive officer of the authority. The amount of the credit applied pursuant to this section against the tax imposed pursuant to N.J.S.54A:1-1 et seq. shall not reduce a taxpayer's tax liability for a taxable year to an amount less than zero. Any credit shall be valid in the taxable year in which the certification is approved and any unused portion thereof may be carried forward into the next 10 taxable years or until depleted, whichever is earlier.

c. A business entity that is classified as a partnership for federal income tax purposes shall not be allowed the credit directly under N.J.S.54A:1-1 et seq., but the amount of credit of the taxpayer in respect of a distributive share of partnership income shall be determined by allocating to the taxpayer that proportion of the credit acquired by the partnership that is equal to the taxpayer's share, whether or not distributed, of the total distributive income or gain of the partnership for its taxable year ending within or with the taxpayer's taxable year.

A taxpayer that is a New Jersey S corporation shall not be allowed the credit directly under N.J.S.54A:1-1 et seq., but the amount of credit of a taxpayer in respect of a pro rata share of S corporation income shall be determined by allocating to the taxpayer that proportion of the credit acquired by the New Jersey S corporation that is equal to the taxpayer's share, whether or not distributed, of the total pro rata share of S corporation income of the New Jersey S corporation for its taxable year ending within or with the taxpayer's taxable year.

d. The authority shall award tax credits to taxpayers until either the available tax credits are exhausted or all projects that are eligible for a tax credit pursuant to the provisions of sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310) receive a tax credit, whichever occurs first. If insufficient funding exists to allow a tax credit to a taxpayer in accordance with the provisions of subsection a. of section 38 of P.L.2020, c.156 (C.34:1B-306), the authority may offer the taxpayer a tax credit in an amount less than that provided in subsection a. of this section 40.

e. Prior to awarding a tax credit to a supermarket or grocery store, the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury shall each report to the chief executive officer of the authority whether a qualifying supermarket or grocery store, and each contractor and subcontractor performing construction work at the qualifying supermarket or grocery store, is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan. The authority may also contract with an independent third party to perform a background check on the developer.

f. A supermarket or grocery store shall, as required at the discretion of the authority, submit to the authority satisfactory information pertaining to the project cost, project financing gap, and the initial operating costs, as certified by a certified public accountant, certifications that all information provided by the supermarket or grocery store to the authority is true, including information contained in the application, any agreement pertaining to the award of tax credits under the program, any amendment to such an agreement, and any other information submitted by the supermarket or grocery store to the authority pursuant to sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310), and evidence of the initial opening and continued operation of the supermarket or grocery store. The supermarket or grocery store, or an authorized agent of the supermarket or grocery store, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

C.34:1B-309 Rules, regulations.

41. The authority, in consultation with the department and the Director of the Division of Taxation in the Department of the Treasury, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to carry out the provisions of sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310).

C.34:1B-310 Annual report.

42. Within one year of the effective date of sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310), the authority shall annually submit a report to the Governor, the State Treasurer, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature, on the effectiveness of the program in establishing supermarkets and grocery stores in food desert communities.

C.34:1B-311 Short title.

43. Sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321) shall be known and may be cited as the "New Jersey Community-Anchored Development Act."

C.34:1B-312 Purpose of New Jersey Community-Anchored Development Act.

44. The purpose of the New Jersey Community-Anchored Development Act is for the New Jersey Economic Development Authority to facilitate, in partnership with the State's key not-for-profit and governmental anchor institutions, large-scale development projects with desirable employment and geographical characteristics that are to impact a broader community. The Legislature finds that where a broad commonality of goals exists between anchor institutions and the State, the authority can effectively utilize anchor institutions as investors in, and additional overseers of, projects that the authority seeks to incentivize. Under the legislation, anchor institutions in the areas of education, health care, culture, community development, and economic development are provided with the opportunity to act as investors in targeted development, utilizing proceeds from the sale of State tax credits. This approach harnesses the deep experience of the numerous anchor institutions in the State, institutions that enjoy decades-long relationships with communities around the State, making them ideal partners for companies wanting to come to or expand in New Jersey.

This legislation seeks to overcome cost-of-occupancy differences between New Jersey and less expensive options in other jurisdictions for specific properties by reducing the cost of occupancy being offered to a targeted company. This legislation represents a shift in State economic development policy from a grant model to an investment model, differing significantly from past award models in that the legislation does not provide a certain dollar amount to private employers based on the number and types of jobs being created or preserved in the State.

The legislation affords an opportunity for an anchor institution and the authority to become partners in a project, with the authority receiving a negotiated current or deferred economic return on the tax credit investment made by the anchor institution and ultimately the return of the amount initially invested. Through a competitive application process to the authority, a real estate partnership between an anchor institution and a partner business will make its case for an amount of tax credits necessary for that project to be able to establish occupancy costs at a competitive level.

By its inclusion of designated federal opportunity zones and areas eligible to be designated as federal opportunity zones as a separate basis for projects to receive tax credits, the legislation seeks to incentivize anchor institutions to look beyond the borders of their host communities, permitting them to invest in other locales that lack strong anchor institutions, thus expanding their influence and impact by doing so. Simultaneously, such investments will further the objectives of the State in attracting high-value employers and in providing economic stimulus to areas of the State that prior investment cycles have overlooked. The legislation is also expansive enough to permit the addition of other beneficial uses to a qualifying project; including housing, public amenities, parking, mixed uses, and facilities of an anchor institution itself.

The tax credits issued by the authority to an applicant anchor institution are to be issued pursuant to a tax credit agreement that sets forth negotiated terms on which the authority has agreed to issue the credits. The tax credit agreement is to include standards relating to the anticipated economic results of the community-anchored project and address accountability in the event that the community-anchored project fails to meet the requirements specified in the tax credit agreement.

The Legislature declares that two principal objectives underscore the policy approach of this legislation: first, an incentive program cannot succeed as a one-size-fits-all structure, and therefore an award of tax credits is to be thoroughly underwritten by the authority and specifically designed for scenarios in which the authority finds that the award will be effective; and second, the State is better served where the State's financial support is characterized and treated as an investment rather than an explicit grant.

C.34:1B-313 Definitions.

45. As used in sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321):

"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by an anchor institution partner anchor institution, or a partner business. Control exists in all cases in which the entity is a member of a controlled group of corporations as defined pursuant to section 1563 of the federal Internal Revenue Code (26 U.S.C. s.1563) or the entity is an organization in a group of organizations under common control that is subject to the regulations applicable to organizations pursuant to subsection (b) or (c) of section 414 of the federal Internal Revenue Code (26 U.S.C. s.414). A taxpayer may establish by clear and convincing evidence, as determined by the Director of the Division of Taxation in the Department

of the Treasury, that control exists in situations involving lesser percentages of ownership than required by the above referenced federal statutes.

"Anchor institution" means a governmental entity or nonprofit entity incorporated pursuant to Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes having a primary mission and specific policy goals that align with those of the authority under the program and that is a comprehensive health care system, a public research university, a private research university, a major cultural scientific, research, or philanthropic institution, or a public college which is separate from public research universities, or an experienced nonprofit or governmental economic or community development entity certified as an anchor institution by the board pursuant to subsection a. of section 46 of P.L.2020, c.156 (C.34:1B-314).

"Authority" means the New Jersey Economic Development Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Board" means the board of the New Jersey Economic Development Authority, established by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Commitment period" means the period of time, which shall be not less than 10 years and no greater than twice the eligibility period that is granted to an anchor institution or, if applicable, a partner anchor institution, to distribute to the authority the agreed upon returns on investment for the award of tax credits pursuant to the program; provided, however, at the election of the authority or upon the request of an anchor institution or, if applicable, a partner anchor institution in order to benefit the community-anchored project, and as determined in the sole discretion of the authority, the authority may grant up to two consecutive five-year extensions of the commitment period.

"Community-anchored project" means a capital project that is located in an area that is designated as a New Jersey State opportunity zone, an area of the State designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), or a municipality with a Municipal Revitalization Index distress score of at least 50 and for which an anchor institution and, if applicable, any partner anchor institution is to be awarded tax credits by the authority pursuant to a tax credit agreement which establishes the award of tax credits as an investment by the authority in the project, provided that the project will result in a capital investment of at least $10,000,000 in a New Jersey State opportunity zone or in any other area of the State, but a project that is not located in a New Jersey State opportunity zone is to be primarily designed to result in the economic expansion of a targeted industry in this State.

"Comprehensive health care system" means an entity in this State with the primary purpose of offering comprehensive health care services.

"Comprehensive health care services" means the basic health care services provided under a health benefits plan, including medical and surgical services provided by licensed health care providers who may include, but are not limited to, family physicians, internists, cardiologists, psychiatrists, rheumatologists, dermatologists, orthopedists, obstetricians, gynecologists, neurologists, endocrinologists, radiologists, nephrologists, emergency services physicians, ophthalmologists, pediatricians, pathologists, general surgeons, osteopathic physicians, physical therapists and chiropractors. Basic benefits may also include inpatient or outpatient services rendered at a licensed hospital, covered services performed at an ambulatory surgical facility, and ambulance services. "Comprehensive health care services" shall include only services provided by licensed health care providers.

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

"Eligibility period" means the period in which an anchor institution or, if applicable, a partner anchor institution may claim, sell, transfer, or otherwise use a tax credit under the New Jersey Community-Anchored Development Program, beginning with the tax period in which the authority accepts certification of the business that it has met the capital investment requirements of the program and extending thereafter for a term of not more than 10 years.

"Eligible position" means a full-time position in a business in this State which the business has filled with a full-time employee. An eligible position shall not include an independent contractor or a consultant.

"Experienced nonprofit or governmental economic or community development entity" means a nonprofit entity incorporated pursuant to Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes with a substantial number of years of experience that has a core mission and a community track record of advancing economic or community development in at least one area of the State, that has undertaken multiple successful partnerships with government entities, educational institutions and the private sector in carrying out development projects, that has successfully developed multiple types of mixed-use projects, that owns or controls significant real estate assets, and that has appropriate prior experience in successfully developing mixed-use projects of comparable or greater size, value and complexity to that being proposed, structuring, securing, and utilizing complex financing in the development of projects of comparable or greater size, value, and complexity to that being proposed, as determined by the board. An experienced nonprofit or governmental economic or community development entity shall not be eligible to participate in the program in connection with a project that is primarily residential or retail.

"Major cultural institution" means a public or nonsectarian nonprofit institution within this State that engages in the cultural, intellectual, scientific, environmental, educational, or artistic enrichment of the people of this State, and which is designated by the board as a major cultural institution.

"New full-time job" means an eligible position created by an anchor institution, partner anchor institution or a partner business at the community-anchored project that did not previously exist in this State. For the purposes of determining a number of new full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the business.

"New Jersey State opportunity zone" means a federal population census tract in this State that was eligible to be designated as a qualified opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

"Partner anchor institution" means an anchor institution that partners with one or more anchor institutions to make an equity investment in or to provide a loan or other financial support for a community-anchored project.

"Partner business" means a corporation, partnership, firm, enterprise, franchise, association, trust, sole proprietorship, or other legal entity, but shall not include a public entity that enters into an agreement with an anchor institution or, if applicable, a partner anchor institution to rent and occupy commercial space within a community-anchored project. Under the program a partner business, subject to agreement with the anchor institution or, if applicable, a partner anchor institution, may lease one or more portions of the partner business's space in the community-anchored project to one or more other persons or entities.

"Private research university" means Princeton University and any other institution of higher education in this State designated by the board as a private research university, based on criteria and metrics established by the board.

"Program" means the New Jersey Community-Anchored Development Program established pursuant to section 46 of P.L.2020, c.156 (C.34:1B-314).

"Public research university" means Rutgers, The State University of New Jersey, Rowan University, the New Jersey Institute of Technology, and Montclair State University.

"Qualified business accelerator or incubator facility" means a commercial space that contains office, laboratory, or industrial space and which is located near, and presents opportunities for collaboration with, a public research university, a private research university, teaching hospital, college, or university, and within which at least 50 percent of the gross leasable area is restricted for use by one or more targeted industry start-up companies during the commitment period.

"Targeted industry" means any industry identified from time to time by the authority which shall initially include advanced transportation and logistics, advanced manufacturing, aviation, autonomous vehicle and zero-emission vehicle research or development, clean energy, life sciences, hemp processing, information and high technology, finance and insurance, professional services, film and digital media, non-retail food and beverage businesses including food innovation, and other innovative industries that disrupt current technologies or business models.

"Tax credit agreement" means a tax credit agreement entered into pursuant to section 50 of P.L.2020, c.156 (C.34:1B-318) between the authority and an anchor institution or, if applicable, a partner anchor institution.

"Work First New Jersey program" means the Work First New Jersey program established pursuant to P.L.1997, c. 38 (C.44:10-55 et seq.).

C.34:1B-314 New Jersey Community-Anchored Development Program.

46. a. The New Jersey Community-Anchored Development Program is established as a program under the jurisdiction of the New Jersey Economic Development Authority. The authority shall administer the program to invest in and incentivize the expansion of targeted industries in the State and the continued development of certain areas of the State through the provision of tax credits to an anchor institution and, if applicable, partner anchor institutions. The board shall certify a qualified anchor institution and, if applicable, qualified partner anchor institutions based on the requirements of sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), and may approve the award of a tax credit to an anchor institution pursuant to section 49 of P.L.2020, c.156 (C.34:1B-317). The value of all tax credits approved by the authority to an anchor institution and, if applicable, partner anchor institutions under the program shall be subject to the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362).

b. (1) The authority shall administer the program to invest in, and incentivize the establishment of, community-anchored projects by an anchor institution and, if applicable, partner anchor institutions, independently or in collaboration with one or more partner businesses or governmental entities. The authority's investment in community-anchored projects shall be in the form of the award of tax credits to an anchor institution and, if applicable, partner anchor institutions.

(2) (a) The authority may award a tax credit to an anchor institution and, if applicable, one or more partner anchor institutions under the program, which the anchor institution and, if applicable, each partner anchor institution shall convert into an investment by the authority in a community-anchored

project, subject to the condition that the anchor institution and, if applicable, each partner anchor institution either sell and transfer the tax credits, or adopt a plan to use the tax credits in order to finance the completion of the community-anchored project, which condition shall be included in the tax credit agreement entered into pursuant to section 50 of P.L.2020, c.156 (C.34:1B-318). An anchor institution and, if applicable, each partner anchor institution receiving tax credits under the program shall use the proceeds derived from the sale or financing of the tax credits to make an equity investment in or to provide a loan or other financial support for the community-anchored project that will permit the anchor institution, and, if applicable, a partner business, a partner anchor institution, or both to develop the community-anchored project and to attract tenants, owners, investors, lenders, partners, collaborators, and other beneficial parties to the community-anchored project. A tax credit agreement, entered into pursuant to section 50 of P.L.2020, c.156 (C.34:1B-318) shall detail the terms by which an anchor institution and, if applicable, each partner anchor institution will convert the award of tax credits into an investment by the authority into the community-anchored project, subject to potential returns on investment to the authority based on an agreed-upon formula for the distribution of returns, including upon the sale of a community-anchored project or at the end of the commitment period. For community-anchored projects financed solely by governmental and nonprofit entity investments, the authority shall negotiate an agreed upon formula which shall include, but not be limited to, the potential recapture of the value of the tax credits awarded. For community-anchored projects that are not financed solely by governmental and nonprofit entity investments, the authority shall negotiate an agreed upon formula which shall include, but not be limited to, the potential recapture of the value of the tax credits awarded and additional returns on investment. The tax credit agreement shall, however, specify that the authority's interest in the community-anchored project shall be subordinate to the investments made by an anchor institution and, if applicable, each partner anchor institution and partner businesses. References to investments and returns in sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321) shall also include loans and other financial support and their corresponding returns.

(b) Consistent with an applicable tax credit agreement, a tax credit awarded to an anchor institution and, if applicable, each partner anchor institution for conversion into an authority investment, as provided pursuant to subparagraph (a) of this paragraph, may be applied against tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to

sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.

(3) The authority shall develop protocols for assumptions testing relating to projected and actual returns on investment under the program and regularly analyze the returns on investment received by the authority under the program, and shall evaluate future applications and projections considering the results of the assumptions testing and analysis.

c. The authority shall engage in program evaluation and assumptions testing to ensure that the authority at least recaptures the value of the tax credits awarded to all anchor institutions and, if applicable, partner anchor institutions and realizes additional returns on investment under the program; provided, however, that for community-anchored projects financed solely by governmental and nonprofit entity investments, the authority may negotiate a potential return on investment, the calculation of which would include, but not be limited to, recapture of the value of the tax credits awarded for those community-anchored projects financed solely by governmental and nonprofit entities.

d. Any funds distributed to the authority as a return on investment pursuant to the program shall be deposited into the General Fund of the State.

C.34:1B-315 Eligibility to receive tax credit.

47. a. An anchor institution and, if applicable, each partner anchor institution shall be eligible to receive a tax credit under the program only if the anchor institution and, if applicable, each partner anchor institution submits a program application to the authority that results in completion of a community-anchored project through a capital investment in a New Jersey State opportunity zone or, if the community-anchored project is primarily designed to result in the economic expansion of a targeted industry in this State, in an area of the State designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan) or in a municipality with a Municipal Revitalization Index distress score of at least 50.

b. At the time of application, an anchor institution and, if applicable, each partner anchor institution seeking tax credits pursuant to the program shall demonstrate to the authority:

(1) that the proposed community-anchored project will result in a capital investment in a New Jersey State opportunity zone or, if the project is primarily designed to result in the economic expansion of a targeted industry in this State, in an area of the State designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan) or in a municipality with a Municipal Revitalization Index distress score of at least 50;

(2) the structure and terms of the financial, corporate, and real estate instruments to be utilized to successfully complete and then operate the community-anchored project, including, but not limited to, the proposed economic and business relationship between the anchor institution and, if applicable, each partner anchor institution and any partner business;

(3) that the anchor institution and, if applicable, each partner anchor institution, along with any partner business and each partner institution participating in a community-anchored project, has not commenced any construction at the site of the community-anchored project prior to submitting an application, unless the authority determines that the community-anchored project would not be completed otherwise or, in the event the community-anchored project is to be undertaken in phases, the requested tax credit covers only phases for which construction has not yet commenced;

(4) the value of the tax credit that is necessary in each year of the eligibility period, in order for the anchor institution and, if applicable, each partner anchor institution to finance the establishment of the community-anchored project;

(5) the total aggregate value of the tax credit for the entire eligibility period that is necessary in order for the anchor institution and, if applicable, each partner anchor institution to finance the establishment of the community-anchored project;

(6) that the award of tax credits under the program will be converted into an investment by the authority into the community-anchored project, and demonstrate to the authority the anticipated current and deferred returns, as applicable, on that investment;

(7) that the community-anchored project shall comply with the standards established by the authority through regulation based on the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction;

(8) that the community-anchored project shall comply with the authority's affirmative action requirements, adopted pursuant to section 4 of P.L.1979, c.303 (C.34:1B-5.4);

(9) a description of the significant economic, social, planning, employment, environmental, fiscal, and other benefits that would accrue to the State, county, or municipality from the community-anchored project;

(10) that during the eligibility period, each worker employed to perform construction work and building services work at the community-anchored project shall be paid not less than the prevailing wage rate for the worker's

craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.). In the event the community-anchored project constitutes a lease of more than 55 percent of a single facility, these requirements shall apply to construction work and building services work at the entire facility. In the event the community-anchored project constitutes a lease of more than 35 percent of a single facility, these requirements shall apply to construction work at the entire facility;

(11) that during the eligibility period, the anchor institution and, if applicable, each partner anchor institution shall partner with one or more local community organizations that provide support and services to Work First New Jersey program recipients, in order to provide work activity opportunities and other appropriate services to Work First New Jersey program recipients, which activities and services may include, but shall not be limited to: work-study programs, internships, sector-based contextualized literacy training, skills-based training in growth industries in the State, and job retention and advancement services;

(12) the extent to which the community-anchored development will result in the expansion of a targeted industry in this State;

(13) that the timing of the award and investment of tax credits under the program shall allow for the successful completion and operation of the community-anchored project; and

(14) that the community-anchored project is viable and that the anchor institution and, if applicable, each partner anchor institution is a credible partner for completing the community-anchored project and providing the agreed-upon potential returns to the authority, as detailed in the tax credit agreement entered into pursuant to section 50 of P.L.2020, c.156 (C.34:1B-318).

c. Prior to the board considering an application submitted by an anchor institution and, if applicable, each partner anchor institution, the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury shall each report to the chief executive officer of the authority whether the anchor institution and, if applicable, each partner anchor institution and any partner business is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan. The authority may also contract with an independent third party to perform a background check on an anchor institution and, if applicable, each partner anchor institution and any partner business.

d. In order to facilitate the creation of new partnerships with anchor institutions and, if applicable, partner anchor institutions, the authority shall publish on the authority's website a list of names and contact information for each anchor institution that has submitted an application pursuant to this section.

C.34:1B-316 Submission of application by anchor institution.

48. a. Prior to March 1, 2027, an anchor institution and, if applicable, each partner anchor institution seeking a tax credit pursuant to the program shall submit an application to the authority in a form and manner prescribed in regulations adopted by the authority pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The authority shall accept and certify applications for tax credits during the award rounds established pursuant to section 49 of P.L.2020, c.156 (C.34:1B-317).

b. The authority shall not consider an application for a community-anchored project unless the anchor institution and, if applicable, each partner anchor institution submits, with the application, a letter evidencing support for the community-anchored project from the governing body of the municipality in which the community-anchored project is located.

c. The authority shall review the project costs for a proposed community-anchored project and evaluate and validate the underlying financial structure proposed by the anchor institution and, if applicable, each partner anchor institution. The authority shall conduct a State fiscal impact analysis to ensure that the overall value of tax credits provided to the community-anchored project is projected to result in net benefits to the State, taking into account the current and deferred returns to the authority. The authority shall assess the cost of these reviews to the applicant. An anchor institution and, if applicable, each partner anchor institution shall pay to the authority the full amount of the direct costs of an analysis concerning the anchor institution's and, if applicable, each partner anchor institution's application for tax credits that a third party retained by the authority performs, if the authority deems such retention to be necessary.

d. If at any time during the eligibility period the authority determines that an anchor institution or a partner anchor institution made a material misrepresentation on the program application, the anchor institution or partner anchor institution shall forfeit or repay to the authority the value of tax credits associated with that application.

C.34:1B-317 Awarding of tax credits.

49. a. The authority shall award tax credits under the program through a competitive application process consisting of up to two award rounds each year. The authority shall provide notice to the public of the opening and

closing dates for submission of program applications on the authority's Internet website.

b. (1) The authority shall review applications for tax credits submitted to the authority by the deadline date of the award round and shall evaluate each application as if it were received on the deadline date, without providing any preference for early submissions. To determine priority for an award of a tax credit, all applications for community-anchored projects that satisfy the criteria set forth in sections 47 and 48 of P.L.2020, c.156 (C.34:1B-315 and C.34:1B-316) in a given award round shall be ranked on the basis of a scoring system developed by the authority through regulations adopted pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Prior to the commencement of an award round, the authority shall determine the minimum score for the award round that an anchor institution or, if applicable, each partner anchor institution is required to attain to be eligible for a tax credit.

(2) The authority may establish different criteria for community-anchored projects that are located in a New Jersey State opportunity zone and community-anchored projects that are primarily designed to result in the economic expansion of a targeted industry in this State.

c. The scoring system developed by the authority pursuant to subsection b. of this section shall assess applications for tax credits based on the following competitive criteria, which shall include, but shall not be limited to:

(1) the amount of tax credit requested by the anchor institution and, if applicable, each partner anchor institution compared to the overall investments required for the completion of the community-anchored project, along with the amount of the potential return on the authority's investment of tax credits to the State by the end of the commitment period, the amount of the tax credit, if any, that is unlikely to be realized as a return on investment to the State, and the proposed terms and structure for the authority's investment in the project, including applicable current and deferred returns;

(2) the financial benefit of the community-anchored project to the community in which the community-anchored project will be located;

(3) apprenticeships or workforce programs to be offered because of the community-anchored project;

(4) the ability of the community-anchored project to absorb and adapt to changing environmental conditions and deliver its objectives;

(5) how the community-anchored project will advance State, regional, and local development and planning strategies;

(6) the relationship of the community-anchored project to a comprehensive local development strategy, including its relation to other development and redevelopment projects in the municipality;

(7) the degree to which the community-anchored project enhances and promotes job creation and economic development;

(8) the extent of economic and related social distress in the municipality and the immediate area surrounding the community-anchored project;

(9) the extent to which the community-anchored project provides for the development of workforce housing and housing for individuals with special needs;

(10) the extent to which the community-anchored project constitutes the expansion of the anchor institution and, if applicable, each partner anchor institution to different areas of the State;

(11) the extent to which the community-anchored project provides for infrastructure, parking, retail, green space, or other public amenities creating a mixed-use community-anchored project;

(12) the inclusion of a qualified business accelerator or incubator facility as a part of the community-anchored project;

(13) the length of the commitment period for the community-anchored project;

(14) the quality and number of new full-time jobs that will be created by the anchor institution, partner anchor institution or a partner business at the community-anchored project;

(15) the quality and number of existing full-time jobs that will be retained by the anchor institution, partner anchor institution or a partner business in the State as a result of completing the community-anchored project, with the criteria specifying, in scoring the application, that the retention of an existing full-time job shall be given not more than one-third the weight of a new full-time job of a similar quality; and

(16) if the anchor institution has a board of directors, the extent to which that board of directors is diverse and representative of the community in which the community-anchored project is located.

d. Notwithstanding the provisions of subsection c. of this section, the authority may adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations adjusting competitive criteria required under the program when necessary to respond to the prevailing economic conditions in the State.

e. Prior to the award of a tax credit to an anchor institution or, if applicable, each partner anchor institution, to be converted into an authority investment in a community-anchored project, the Department of Labor and

Workforce Development, the Department of Environmental Protection, and the Department of the Treasury shall each report to the chief executive officer of the authority as to whether the anchor institution and, if applicable, each partner anchor institution, along with any partner business identified in a program application, and each contractor and subcontractor performing work at the community-anchored project, is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan. Provided that all parties are in substantial good standing, or have entered into such an agreement, the authority shall allocate tax credits to community-anchored projects according to the community-anchored project's score and until either the available tax credits are exhausted or all community-anchored projects obtaining the minimum score receive a tax credit, whichever occurs first. If insufficient funding exists to fully fund all eligible community-anchored projects, a community-anchored project may be offered partial funding.

f. Applications that do not receive the minimum score established by the authority for that award round shall not receive further consideration for a tax credit by the authority in that award round; however, an anchor institution or partner anchor institution may revise or complete a new application to be submitted in a subsequent award round.

g. If an anchor institution or partner anchor institution declines a tax credit offered by the authority, the authority shall offer the tax credit to the applicant with the application having the next highest score, and having obtained at least the minimum score in that award round.

C.34:1B-318 Tax credit agreement with anchor institution.

50. a. Following approval and selection of an application pursuant to sections 48 and 49 of P.L.2020, c.156 (C.34:1B-316 and C.34:1B-317), the authority shall enter into a tax credit agreement with the anchor institution and, if applicable, each partner anchor institution. The chief executive officer of the authority shall negotiate the terms and conditions of the tax credit agreement on behalf of the State.

b. (1) A tax credit agreement shall specify the amount of the tax credit that the authority shall award to the anchor institution and, if applicable, each partner anchor institution for conversion into an authority investment and specify the duration of the eligibility period, which shall not exceed 10 years. The tax credit agreement shall provide an estimated date of completion for the community-anchored project and include a requirement for periodic progress reports through completion, including the submittal of executed financing commitments and documents or agreements that evidence site control.

(2) If, as a result of a default under the tax credit agreement, the authority rescinds a tax credit in the same calendar year in which the authority approved the tax credit, then the authority may assign the tax credit to another applicant that attained the minimum score determined pursuant to section 49 of P.L.2020, c.156 (C.34:1B-317).

c. The terms of the tax credit agreement shall:

(1) provide for a verification of project financing at the time the anchor institution, each partner anchor institution, and any partner business provides executed financing commitments to the authority and a verification of the anchor institution's projected cash flow and each partner anchor institution's cash flow at the time of certification that the project is completed;

(2) specify the length of the commitment period for the community-anchored project and the terms by which the anchor institution and, if applicable, each partner anchor institution shall provide to the authority current or deferred returns on investment generated by the community-anchored project and commit to a structure for returns on investment;

(3) allow the anchor institution and, if applicable, each partner anchor institution to distribute returns on investment to the authority for the tax credits in the amount specified in the tax credit agreement at any time within the commitment period, but require such distribution to occur if the community-anchored project is sold before the end of the commitment period;

(4) specify amounts of returns to be retained by the anchor institution and, if applicable, each partner anchor institution for capital reserves, programming, or other purposes;

(5) identify the value of any monetary or financial benefit offered or provided by the anchor institution and, if applicable, each partner anchor institution to any partner business that works with the anchor institution and, if applicable, each partner anchor institution to complete and operate the community-anchored project;

(6) identify any benefits created by the anchor institution and, if applicable, each partner anchor institution for a partner business through equity investment in or debt-financing of a community-anchored project and specify the formula by which such benefits are passed through to a partner business;

(7) specify that the authority or the State may purchase tax credits offered for sale by an anchor institution and, if applicable, each partner anchor institution for 90 percent of the stated value of the tax credit before considering any further discounting to present value which shall be permitted;

(8) at a minimum, require an anchor institution and, if applicable, each partner anchor institution to provide oversight of the community-anchored

project through ongoing reporting by a partner business to the anchor institution and, if applicable, each partner anchor institution, and subsequent ongoing reporting by the anchor institution and, if applicable, each partner anchor institution to the authority;

(9) specify other measures through which the authority shall ensure oversight of outstanding tax credit investments, and, in the event that an anchor institution or partner anchor institution fails to meet its obligations under the tax credit agreement or any program requirement, establish the right of the authority to assume direct oversight of any or all projects for which the anchor institution or partner anchor institution has entered into investment agreements and require the anchor institution or partner anchor institution to pursue any remedies it may have against a partner business; and

(10) at a minimum, require that the anchor institution, each partner anchor institution, and any partner businesses, adopt specific nondiscrimination policies for the operation of a community-anchored project.

d. The tax credit agreement shall include a requirement that the chief executive officer of the authority receive annual reports from the anchor institution and, if applicable, each partner institution that are to include separate certifications by the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury demonstrating that the anchor institution and, if applicable, each partner institution any partner business, and each contractor and subcontractor performing work at the community-anchored project is in substantial good standing with that department, or have entered into an agreement with that department that includes a corrective action plan, and the tax credit agreement shall include a provision that the anchor institution and, if applicable, each partner institution shall forfeit the tax credit in any year in which an uncured default exists under the tax credit agreement. The tax credit agreement shall, however, allow the authority to extend, in individual cases, the deadline for any annual reporting or certification requirement.

e. An anchor institution and, if applicable, each partner institution shall, as required at the discretion of the authority, submit to the authority satisfactory evidence of actual project costs, as certified by a certified public accountant, evidence of a temporary certificate of occupancy, or other event evidencing project completion. The anchor institution and, if applicable, each partner institution, or an authorized agent of the anchor institution or partner institution, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

C.34:1B-319 Awarding of base tax credit.

51. a. Up to the limits established in subsection b. of this section and in accordance with a tax credit agreement, beginning upon the receipt of occupancy permits for any portion of the community-anchored project, or upon any other event evidencing project completion as set forth in the tax credit agreement, an anchor institution and, if applicable, each partner institution of an approved community-anchored project shall be awarded a base tax credit of $5,000,000 for conversion into an authority investment in the community-anchored project.

b. An anchor institution and, if applicable, each partner institution may be allowed a tax credit in excess of the base amount, if approved by the authority, provided, however, the total tax credit allowed per community-anchored project shall not exceed $75,000,000 and the total investment of all State resources not including rent payments in a community-anchored project shall not exceed 40 percent of the total cost of the project.

C.34:1B-320 Report by anchor institution.

52. a. An anchor institution and, if applicable, each partner institution that is awarded a tax credit under sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321) shall, commencing in the year in which the tax credit is awarded, and each year thereafter for the remainder of the eligibility period, submit a report indicating whether the anchor institution and, if applicable, each partner institution is aware of any condition, event, or act that would cause the anchor institution or partner institution not to be in compliance with the tax credit agreement or the provisions of sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321) and any additional reporting requirements contained in the tax credit agreement or tax credit certificate. The anchor institution and, if applicable, each partner institution, or an authorized agent of the anchor institution or partner institution, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

b. (1) Upon receipt and review of each report submitted during the eligibility period, the authority shall provide to the anchor institution and, if applicable, each partner institution and the Director of the Division of Taxation in the Department of the Treasury a certificate of compliance indicating the amount of tax credits awarded to the anchor institution and, if applicable, each partner institution for conversion into an authority investment in the community-anchored project, that the anchor institution and, if applicable, each partner institution may:

(a) offer for sale through the provision of a tax credit transfer certificate pursuant to section 53 of P.L.2020, c.156 (C.34:1B-321); or

(b) use as collateral or to secure any financial instrument approved by the authority to provide financing for the community-anchored project, if that use is in accordance with rules and regulations adopted by the authority, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to govern the use of program tax credits.

(2) Upon receipt by the director of the certificate of compliance, the director shall coordinate with the anchor institution and, if applicable, each partner institution and the authority to provide the anchor institution and, if applicable, each partner institution with a tax credit transfer certificate, as described in section 53 of P.L.2020, c.156 (C.34:1B-321), or a tax credit certificate for the value awarded by the authority for that year that the anchor institution and, if applicable, each partner institution may use as provided in paragraph (1) of this subsection b. and in accordance with the rules adopted pursuant to subparagraph (b) of paragraph (1) of this subsection.

C.34:1B-321 Application for tax credit transfer certificate.

53. a. An anchor institution and, if applicable, each partner institution may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, covering one or more years. The tax credit transfer certificate, upon receipt thereof by the anchor institution or partner institution from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part, in the privilege period during which the anchor institution or partner institution receives the tax credit transfer certificate from the director, to another person, who may apply the credit against a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5.

b. The anchor institution or partner institution shall not sell or assign, including a collateral assignment, a tax credit transfer certificate allowed under this section for consideration received by the anchor institution or partner institution of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted. The tax credit transfer certificate issued to an anchor institution or partner institution by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321) and any other terms and conditions that the director may prescribe.

c. A purchaser or assignee of a tax credit transfer certificate pursuant to this section may make any subsequent transfers, assignments, or sales of a tax credit transfer certificate for an amount to be negotiated with a subsequent purchaser or assignee.

d. The authority shall publish on its Internet website the following information concerning each tax credit transfer certificate approved by the authority and the director pursuant to this section:

(1) the name of the transferor;

(2) the name of the transferee;

(3) the value of the tax credit transfer certificate;

(4) the State tax against which the transferee may apply the tax credit; and

(5) the consideration received by the transferor.

C.34:1B-322 Short title.

54. Sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) shall be known and may be cited as the "New Jersey Aspire Program Act."

C.34:1B-323 Definitions.

55. As used in sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335):

"Agency" means the New Jersey Housing and Mortgage Finance Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.).

"Authority" means the New Jersey Economic Development Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Aviation district" means all areas within the boundaries of the Atlantic City International Airport, established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation Administration William J. Hughes Technical Center and the area within a one-mile radius of the outermost boundary of the Atlantic City International Airport and the Federal Aviation Administration William J. Hughes Technical Center.

"Board" means the Board of the New Jersey Economic Development Authority, established by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Building services" means any cleaning or routine building maintenance work, including but not limited to sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash, window cleaning, securing, patrolling, or other work in connection with the care or securing of an existing building, including services typically provided by a door-attendant or concierge. "Building services" shall not include any skilled maintenance work, professional services, or other public work for which a contractor is

required to pay the "prevailing wage" as defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

"Cash flow" means the profit or loss that an investment property earns from rent, deposits, and other fees after financial obligations, such as debt, maintenance, and other expenses, have been paid.

"Collaborative workspace" means coworking, accelerator, incubator, or other shared working environments that promote collaboration, interaction, socialization, and coordination among tenants through the clustering of multiple businesses or individuals. For this purpose, the collaborative workspace shall be the greater of: 2,500 of dedicated square feet or 10 percent of the total property on which the redevelopment project is situated. The collaborative workspace shall include a community manager, be focused on collaboration among the community members, and include regularly scheduled education events for the community members. The collaborative workspace shall also include a physical open space that supports the engagement of its community members.

"Commercial project" means a building, which is predominantly commercial and contains 100,000 or more square feet of office and retail space, industrial space, or film studios, professional stages, television studios, recording studios, screening rooms, or other infrastructure for film production, for purchase or lease and may include a parking component.

"Developer" means a person who enters or proposes to enter into an incentive award agreement pursuant to the provisions of section 60 of P.L.2020, c.156 (C.34:1B-328), including, but not limited, to a lender that completes a redevelopment project, operates a redevelopment project, or completes and operates a redevelopment project.

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

"Distressed municipality" means a municipality that is qualified to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a municipality under the supervision of the Local Finance Board pursuant to the provisions of the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality identified by the Director of the Division of Local Government Services in the Department of Community Affairs to be facing serious fiscal distress, a SDA municipality, or a municipality in which a major rail station is located.

"Economic development incentive" means a financial incentive, awarded by the authority, or agreed to between the authority and a business

or person, for the purpose of stimulating economic development or redevelopment in New Jersey, including, but not limited to, a bond, grant, loan, loan guarantee, matching fund, tax credit, or other tax expenditure.

"Eligibility period" means the period not to exceed 15 years for a commercial or mixed-use project or the period not to exceed 10 years for a residential project specified in an incentive award agreement during which a developer may claim a tax credit under the program.

"Food delivery source" means access to nutritious foods, such as fresh fruits and vegetables, through grocery operators, including, but not limited to a full-service supermarket or grocery store, and other healthy food retailers of at least 18,000 square feet, including, but not limited to, a prepared food establishment selling primarily nutritious ready-to-serve meals.

"Food desert community" means a physically contiguous area in the State in which residents have limited access to nutritious foods, such as fresh fruits and vegetables, through supermarkets and grocery stores.

"Government-restricted municipality" means a municipality in this State with a municipal revitalization index distress score of at least 7, that met the criteria for designation as an urban aid municipality in the 2019 State fiscal year, and that, on the effective date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial restrictions imposed pursuant to the "Municipal Stabilization and Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is restricted in its ability to levy property taxes on property in that municipality as a result of the State of New Jersey owning or controlling property representing at least 25 percent of the total land area of the municipality or as a result of the federal government of the United States owning or controlling at least 50 acres of the total land area of the municipality, which is dedicated as a national natural landmark.

"Health care or health services center" means an establishment where patients are admitted for examination and treatment by one or more physicians, dentists, psychologists, or other medical practitioners.

"Incentive area" means an area designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), or a Designated Center, provided an area designated as Planning Area 2 (Suburban) or a Designated Center shall be located within a one-half mile radius of the mid-point, with bicycle and pedestrian connectivity, of a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station, including all light rail stations, or a high frequency bus stop as certified by the New Jersey Transit Corporation.

"Incentive award" means an award of tax credits to reimburse a developer for all or a portion of the project financing gap of a redevelopment project pursuant to the provisions of sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

"Incentive award agreement" means the contract executed between a developer and the authority pursuant to section 60 of P.L.2020, c.156 (C.34:1B-328), which sets forth the terms and conditions under which the developer may receive the incentive awards authorized pursuant to the provisions of sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

"Incubator facility" means a commercial property, which contains 5,000 or more square feet of office, laboratory, or industrial space, which is located near, and presents opportunities for collaboration with, a research institution, teaching hospital, college, or university, and within which at least 75 percent of the gross leasable area is restricted for use by one or more technology startup companies.

"Individuals with special needs" means individuals with mental illness, individuals with physical or developmental disabilities, and individuals in other emerging special needs groups identified by the authority, based on guidelines established for the administration of the Special Needs Housing Trust Fund established pursuant to section 1 of P.L.2005, c.163 (C.34:1B-21.25a) or developed in consultation with other State agencies.

"Low-income housing" means housing affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to 50 percent or less of the median gross household income for households of the same size within the housing region in which the housing is located.

"Major rail station" means a railroad station that is located within a qualified incentive area and that provides to the public access to a minimum of six rail passenger service lines operated by the New Jersey Transit Corporation.

"Minimum environmental and sustainability standards" means standards established by the authority in accordance with the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources to reduce environmental degradation and encourage long-term cost reduction.

"Moderate-income housing" means housing affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to more than

50 percent, but less than 80 percent, of the median gross household income for households of the same size within the housing region in which the housing is located.

"Municipal Revitalization Index" means the index by the Department of Community Affairs ranking New Jersey's municipalities according to eight separate indicators that measure diverse aspects of social, economic, physical, and fiscal conditions in each locality.

"Port district" means the portions of a qualified incentive area that are located within:

a. the "Port of New York District" of the Port Authority of New York and New Jersey, as defined in Article II of the Compact Between the States of New York and New Jersey of 1921; or

b. a 15-mile radius of the outermost boundary of each marine terminal facility established, acquired, constructed, rehabilitated, or improved by the South Jersey Port District established pursuant to "The South Jersey Port Corporation Act," P.L.1968, c.60 (C.12:11A-1 et seq.).

"Program" means the New Jersey Aspire Program established by section 56 of P.L.2020, c.156 (C.34:1B-324).

"Project cost" means the costs incurred in connection with a redevelopment project by a developer until the issuance of a permanent certificate of occupancy, or until such other time specified by the authority, for a specific investment or improvement, including the costs relating to lands, buildings, improvements, real or personal property, or any interest therein, including leases discounted to present value, including lands under water, riparian rights, space rights, and air rights acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated, or improved, any environmental remediation costs, plus costs not directly related to construction, of an amount not to exceed 20 percent of the total costs, capitalized interest paid to third parties, and the cost of infrastructure improvements, including ancillary infrastructure projects. The cost of acquisition of land or fees associated with the application or administration of a grant under sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) shall not constitute a project cost.

"Project financing gap" means the part of the total project cost, including reasonable and appropriate return on investment, that remains to be financed after all other sources of capital have been accounted for, including, but not limited to developer contributed capital, which shall not be less than 20 percent of the total project cost, and investor or financial entity capital or loans for which the developer, after making all good faith efforts to raise additional capital, certifies that additional capital cannot be raised from other sources on a non-recourse basis.

"Project labor agreement" means a form of pre-hire collective bargaining agreement covering terms and conditions of a specific project that satisfies the requirements set forth in section 5 of P.L.2002, c.44 (C.52:38-5).

"Qualified incentive tract" means (i) a population census tract having a poverty rate of 20 percent or more; or (ii) a census tract in which the median family income for the census tract does not exceed 80 percent of the greater of the Statewide median family income or the median family income of the metropolitan statistical area in which the census tract is situated.

"Quality childcare facility" is a child care center licensed by the Department of Children and Families, operating continuously, which has not been subject to an enforcement action, and which has and maintains a total licensed capacity of at least 60 children age 6 years or younger.

"Redevelopment project" means a specific construction project or improvement undertaken by a developer, owner or tenant, or both, and any ancillary infrastructure project. A redevelopment project may involve construction or improvement upon lands, buildings, improvements, or real and personal property, or any interest therein, including lands under water, riparian rights, space rights, and air rights, acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated, or improved.

"Residential project" means a redevelopment project that is predominantly residential, intended for multi-family residency, and may include a parking component.

"SDA district" means an SDA district as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3).

"SDA municipality" means a municipality in which an SDA district is situated.

"Total project cost" means the costs incurred in connection with the redevelopment project by the developer until the issuance of a permanent certificate of occupancy, or upon such other event evidencing project completion as set forth in the incentive grant agreement, for a specific investment or improvement.

"Tourism destination project" means a non-gaming business facility that will be among the most visited privately owned or operated tourism or recreation sites in the State, and which has been determined by the authority to be in an area appropriate for development and in need of economic development incentive assistance, including a non-gaming business within an established Tourism District with a significant impact on the economic viability of that district.

"Transit hub" means an urban transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-208), that is located within an eligible municipality, as defined in section 2 of P.L.2007, c.346 (C.34:1B-208) and also located within a qualified incentive area.

"Transit hub municipality" means a Transit Village or a municipality: a. which qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.), or which has continued to be a qualified municipality thereunder pursuant to P.L.2007, c.111; and b. in which 30 percent or more of the value of real property was exempt from local property taxation during tax year 2006. The percentage of exempt property shall be calculated by dividing the total exempt value by the sum of the net valuation which is taxable and that which is tax exempt.

"Transit Village" means a municipality that has been designated as a transit village by the Commissioner of Transportation and the Transit Village Task Force established pursuant to P.L.1985, c.398 (C.27:1A-5).

"Workforce housing" means housing that is affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs, and occupied or reserved for occupancy by households with a gross household income of more than 80 percent, but less than 120 percent, of the median gross household income for households of the same size within the housing region in which the housing is located.

C.34:1B-324 New Jersey Aspire Program.

56. a. The New Jersey Aspire Program is hereby established as a program under the jurisdiction of the New Jersey Economic Development Authority. The authority shall administer the program to encourage redevelopment projects through the provision of incentive awards to reimburse developers for certain project financing gap costs. The board may approve the award of an incentive award to a developer upon application to the authority pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and C.34:1B-327). The value of all tax credits approved by the authority pursuant to sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), shall be subject to the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362).

b. The chief executive officer of the authority shall designate one staff member per government-restricted municipality in order to keep the municipality informed on activities within the municipality and to coordinate economic development initiatives.

C.34:1B-325 Eligibility for incentive award for redevelopment project.

57. a. Prior to March 1, 2027, a developer shall be eligible to receive an incentive award for a redevelopment project only if the developer demonstrates to the authority at the time of application that:

(1) without the incentive award, the redevelopment project is not economically feasible;

(2) a project financing gap exists, or the authority determines that the redevelopment project will generate a below market rate of return;

(3) the redevelopment project is located in the incentive area;

(4) except for demolition and site remediation activities, the developer has not commenced any construction at the site of the redevelopment project prior to submitting an application, unless the authority determines that the redevelopment project would not be completed otherwise or, in the event the redevelopment project is to be undertaken in phases, the requested incentive award is limited to only phases for which construction has not yet commenced;

(5) the redevelopment project shall comply with minimum environmental and sustainability standards;

(6) the redevelopment project shall comply with the authority's affirmative action requirements, adopted pursuant to section 4 of P.L.1979, c.303 (C.34:1B-5.4);

(7) during the eligibility period, each worker employed to perform construction work or building services work at the redevelopment project shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.). In the event a redevelopment project is undertaken by a tenant and the tenant has a leasehold of more than 55 percent of space in the building owned or controlled by the developer, the requirement that each worker employed to perform building service work at the building be paid not less than the prevailing wage shall apply to the entire building;

(8) the redevelopment project shall be completed, and the developer shall be issued a certificate of occupancy for the redevelopment project facilities by the applicable enforcing agency within four years of executing the incentive award agreement corresponding to the redevelopment project;

(9) the developer has complied with all requirements for filing tax and information returns and for paying or remitting required State taxes and fees by submitting, as a part of the application, a tax clearance certificate, as described in section 1 of P.L.2007, c.101 (C.54:50-39); and

(10) the developer is not more than 24 months in arrears at the time of application.

b. In addition to the requirements set forth in subsection a. of this section, for a commercial project to qualify for an incentive award the developer shall demonstrate that:

(1) the incremental increase of State revenues realized from the commercial project upon its completion shall be in excess of the amount necessary to reimburse the developer for its project financing gap; and

(2) the developer shall have an equity participation of at least 20 percent of the total project cost.

c. In addition to the requirements set forth in subsection a. of this section, for a residential project to qualify for an incentive award, the residential project shall:

(1) have a total project cost of at least $17,500,000, if the project is located in a municipality with a population greater than 200,000 according to the latest federal decennial census;

(2) have a total project cost of at least $10,000,000 if the project is located in a municipality with a population less than 200,000 according to the latest federal decennial census; or

(3) have a total project cost of at least $5,000,000 if the project is in a qualified incentive tract or government-restricted municipality.

d. In addition to the requirements set forth in subsections a. and c. of this section, for a residential project consisting of newly-constructed residential units to qualify for an incentive award, the developer shall reserve at least 20 percent, but not more than 50 percent, of the residential units constructed for occupancy by low- and moderate-income households with affordability controls as required under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-301 et al.) and at least 5 percent of the residential units constructed as workforce housing, unless: the municipality in which the property is located has received substantive certification from the council and such a reservation is not required under the approved affordable housing plan; the municipality has been given a judgment of repose or a judgment of compliance by the court, and such a reservation is not required under the approved affordable housing plan. If the municipality in which the property is located has received substantive certification from the council and such a reservation is not required under the approved affordable housing plan or the municipality has been given a judgment of repose or a judgment of compliance by the court, and such a reservation is not required under the approved affordable housing plan, then the developer shall reserve at least 10 percent, but not more than 50 percent, of the residential units constructed for occupancy by low- and moderate-income households with affordability controls as required

under the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) and at least 15 percent of the residential units constructed as workforce housing.

e. Prior to the board considering an application submitted by a developer, the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury shall each report to the chief executive officer of the authority whether the developer is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the developer. The authority may also contract with an independent third party to perform a background check on the developer.

C.34:1B-326 Application for incentive award.

58. a. Prior to March 1, 2027, a developer that meets the eligibility criteria in section 57 of P.L.2020, c.156 (C.34:1B-325) and is seeking an incentive award for a redevelopment project shall submit an application to the authority and, in the case of a residential project, shall submit an application to the authority and the agency, in a form and manner prescribed in regulations adopted by the authority, in consultation with the agency, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The authority shall accept applications for incentive awards during the grant periods established pursuant to section 59 of P.L.2020, c.156 (C.34:1B-327).

b. The authority shall not consider an application for a commercial project unless the developer submits a letter evidencing support for the commercial project from the governing body of the municipality in which the commercial project is located with the application.

c. The authority shall review the project cost, evaluate and validate the project financing gap estimated by the developer, and conduct a State fiscal impact analysis to ensure that the overall public assistance provided to the project will result in a net positive benefit to the State, provided that the net benefit analysis shall not apply to capital investment for a food delivery source; a health care or health services center with a minimum of 10,000 square feet of space devoted to health care or health services that is located in a municipality with a Municipal Revitalization Index distress score of at least 50 lacking adequate access, as determined by the Commissioner of Health; or a residential project. In determining whether a project will result in a net positive benefit to the State, the authority shall not consider the value of any taxes exempted, abated, rebated, or retained under the "Five-Year Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.), the

"New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the effect of lowering or eliminating the developer's State or local tax liability. The determination made pursuant to this subsection shall be based on the potential tax liability of the developer without regard for potential tax losses if the developer were to locate in another state. The authority shall assess the cost of these reviews to the applicant. A developer shall pay to the authority the full amount of the direct costs of an analysis concerning the developer's application for a tax credit that a third party retained by the authority performs, if the authority deems such retention to be necessary. The authority shall evaluate the net economic benefits on a present value basis under which the requested tax credit allocation amount is discounted to present value at the same discount rate as the projected benefits from the implementation of the proposed redevelopment project for which an award of tax credits is being sought.

d. For a redevelopment project subject to the requirement of subsection c. of this section to be eligible for any tax credits under the program, a developer shall demonstrate to the authority that the award of tax credits will yield a net positive benefit to the State equaling an amount determined by the authority through regulation that exceeds the requested tax credit amount. The developer shall certify, under the penalty of perjury, that all documents submitted, and factual assertions made, to the authority to demonstrate that the award of tax credits will yield a net positive benefit to the State in accordance with this subsection are true and accurate at the time of submission. A redevelopment project located in a government-restricted municipality shall yield a net positive benefit to the State that exceeds the requested tax credit amount, but the net benefit requirement set by the authority for such redevelopment projects may be up to 35 percentage points lower than the net benefit requirement set by the authority for all other eligible redevelopment projects.

e. If at any time during the eligibility period the authority determines that the developer made a material misrepresentation on the developer's application, the developer shall forfeit the incentive award.

f. If circumstances require a developer to amend its application to the authority, then the developer, or an authorized agent of the developer, shall certify to the authority that the information provided in its amended application is true under the penalty of perjury.

C.34:1B-327 Awarding of incentive awards.

59. a. Prior to March 1, 2027, for redevelopment projects eligible pursuant to section 57 of P.L.2020, c.156 (C.34:1B-325), the authority shall award incentive awards based on the order in which complete, qualifying applications

were received by the authority. If a developer intends to apply to both the authority and the agency for subsidies, the developer shall notify the agency simultaneously with any application made to the authority. The authority shall transmit its grant determination for such residential projects to the agency along with any information developed by the authority and confirmation of the authority's intent to provide an incentive award or award to the project. Approval of an application by the agency shall be the final determination required for an incentive award for a residential project under this section.

b. Prior to allocating an incentive award to a redevelopment project, the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury shall each report to the chief executive officer of the authority whether the developer and each contractor and subcontractor performing work at the redevelopment project is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan. The authority may also contract with an independent third party to perform a background check on the developer. Provided that the developer and all contractors and subcontractors are in substantial good standing, or have entered into such agreements, the authority shall allocate incentive awards to redevelopment projects according to the redevelopment project's score and until either the available incentive awards are exhausted or all redevelopment projects obtaining the minimum score receive an incentive award, whichever occurs first. If insufficient funding exists to fully fund all eligible projects, a project may be offered partial funding.

C.34:1B-328 Incentive award agreement.

60. a. Following approval and selection of an application pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and C.34:1B-327), the authority shall enter into an incentive award agreement with the developer. The chief executive officer of the authority shall negotiate the terms and conditions of the incentive award agreement on behalf of the State.

b. An incentive award agreement shall specify the amount of the incentive award the authority shall award to the developer and the duration of the eligibility period, which shall not exceed 15 years for a commercial or mixed-use project and shall not exceed 10 years for a residential project. The incentive award agreement shall provide an estimated date of completion and include a requirement for periodic progress reports, including the submittal of executed financing commitments and documents that evidence site control. If the authority does not receive periodic progress reports, or if the pro-

gress reports demonstrate unsatisfactory progress, then the authority may rescind the incentive award. If the authority rescinds an incentive award in the same calendar year in which the authority approved the incentive award, then the authority may assign the incentive award to another applicant. The incentive award agreement may also provide for a verification of the financing gap at the time the developer provides executed financing commitments to the authority and a verification of the developer's projected cash flow at the time of certification that the project is completed.

c. To ensure the protection of taxpayer money, if the authority determines that the project financing gap is smaller than determined at board approval, the authority shall reduce the amount of the tax credit on a pro rata basis. If there is no project financing gap, then the developer shall forfeit the incentive award. This test shall be conducted at the end of the third year of the eligibility period whereupon the authority shall evaluate the developer's cash flow and compare that cash flow to the projected cash flow at the time of board approval. For a commercial project, if the actual cash flow exceeds the projected cash flow at the time of board approval by more than 15 percent, the authority shall require the developer to pay up to 15 percent of the amount of the excess, which payment shall be deposited in the State General Fund. To the extent applicable, in the case of a residential project, the developer's return on investment shall be subject to the provisions of section 7 of P.L.1983, c.530 (C.55:14K-7).

d. The incentive award agreement shall include a requirement that the chief executive officer of the authority receive annual reports from the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury demonstrating that the developer and each contractor and subcontractor performing work at the redevelopment project is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action. The incentive award agreement shall also include a provision that the developer shall forfeit the incentive award in any year in which any such report is not received. The incentive award agreement shall also require a developer to engage in on-site consultations with the Division of Workplace Safety and Health in the Department of Health.

e. (1) Except as provided in paragraph (2) of this subsection, the authority shall not enter into an incentive award agreement for a redevelopment project that includes at least one retail establishment which will have more than 10 employees, at least one distribution center which will have more than 20 employees, or at least one hospitality establishment which will have more

than 10 employees, unless the incentive award agreement includes a precondition that any business that serves as the owner or operator of the retail establishment or distribution center enters into a labor harmony agreement with a labor organization or cooperating labor organizations which represent retail or distribution center employees in the State.

(2) A labor harmony agreement shall be required only if the State has a proprietary interest in the redevelopment project and shall remain in effect for as long as the State acts as a market participant in the redevelopment project. The authority may enter into an incentive award agreement with a developer without the labor harmony agreement required under paragraph (1) of this subsection if the authority determines that the redevelopment project would not be able to go forward if a labor harmony agreement is required. The authority shall support the determination by a written finding, which provides the specific basis for the determination.

(3) As used in this subsection:

"Hospitality establishment" means a hotel, motel, or any business, however organized, that sells food, beverages, or both for consumption by patrons on the premises.

"Labor harmony agreement" means an agreement between a business that serves as the owner or operator of a retail establishment or distribution center and one or more labor organizations, which requires, for the duration of the agreement: that any participating labor organization and its members agree to refrain from picketing, work stoppages, boycotts, or other economic interference against the business; and that the business agrees to maintain a neutral posture with respect to efforts of any participating labor organization to represent employees at an establishment or other unit in the retail establishment or distribution center, agrees to permit the labor organization to have access to the employees, and agrees to guarantee to the labor organization the right to obtain recognition as the exclusive collective bargaining representatives of the employees in an establishment or unit at the retail establishment or distribution center by demonstrating to the New Jersey State Board of Mediation, Division of Private Employment Dispute Settlement, or a mutually agreed-upon, neutral, third-party, that a majority of workers in the unit have shown their preference for the labor organization to be their representative by signing authorization cards indicating that preference. The labor organization or organizations shall be from a list of labor organizations which have requested to be on the list and which the Commissioner of Labor and Workforce Development has determined represent substantial numbers of retail or distribution center employees in the State.

f. (1) For a redevelopment project whose total project cost equals or exceeds $10 million, in addition to the incentive award agreement, a developer shall enter into a community benefits agreement with the authority and the county or municipality in which the redevelopment project is located. The agreement may include, but shall not be limited to, requirements for training, employment, and youth development and free services to underserved communities in and around the community in which the redevelopment project is located. Prior to entering a community benefits agreement, the governing body of the county or municipality in which the redevelopment project is located shall hold at least one public hearing at which the governing body shall hear testimony from residents, community groups, and other stakeholders on the needs of the community that the agreement should address.

(2) The community benefits agreement shall provide for the creation of a community advisory committee to oversee the implementation of the agreement, monitor successes, ensure compliance with the terms of the agreement, and produce an annual public report. The community advisory committee created pursuant to this paragraph shall be comprised of representatives of diverse community groups and residents of the county or municipality in which the redevelopment project is located.

(3) At the time the developer submits the annual report required pursuant to section 62 of P.L.2020, c.156 (C.34:1B-330) to the authority, the developer shall certify, under the penalty of perjury, that it is in compliance with the terms of the community benefits agreement. If the developer fails to provide the certification required pursuant to this paragraph or the authority determines that the developer is not in compliance with the terms of the community benefits agreement based on the reports submitted by the community advisory committee pursuant to paragraph (2) of this subsection, then the authority may rescind an award or recapture all or part of any tax credits awarded.

(4) A developer shall not be required to enter into a community benefits agreement pursuant to this subsection if the developer submits to the authority a copy of the developer's redevelopment agreement that is certified by the municipality in which the redevelopment project is located.

g. A developer shall submit, prior to the first disbursement of tax credits under the incentive award agreement, but no later than six months following project completion, satisfactory evidence of actual project costs, as certified by a certified public accountant, evidence of a temporary certificate of occupancy, or other event evidencing project completion that begins the eligibility period indicated in the incentive award agreement. The developer, or an authorized agent of the developer, shall certify that the information provided

pursuant to this subsection is true under the penalty of perjury. Claims, records, or statements submitted by a developer to the authority in order to receive tax credits shall not be considered claims, records, or statements made in connection with State tax laws.

h. The incentive award agreement shall include a provision allowing the authority to extend, in individual cases, the deadline for any annual reporting or certification requirement.

C.34:1B-329 Total tax credit.

61. a. Up to the limits established in subsection b. of this section and in accordance with an incentive award agreement, beginning upon the receipt of occupancy permits for any portion of the redevelopment project, or upon any other event evidencing project completion as set forth in the incentive award agreement, a developer shall be allowed a total tax credit that shall not exceed 45 percent of the total project cost of the redevelopment project, except for a commercial project that is located in a government-restricted municipality, in which case the total tax credit allowed shall not exceed 50 percent of the total project cost of the commercial project.

b. The value of all tax credits approved by the authority under the program for a redevelopment project shall not exceed $50,000,000 per redevelopment project if located in a qualified incentive tract, government-restricted municipality, or municipality with a Municipal Revitalization Index distress score of at least 50, or $32,000,000 for any other redevelopment project.

C.34:1B-330 Report by developer.

62. a. A developer approved for an incentive award pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and C.34:1B-327) and that enters an incentive award agreement pursuant to section 60 of P.L.2020, c.156 (C.34:1B-328) shall submit annually, commencing in the year in which the incentive award is issued and for the remainder of the eligibility period, a report indicating whether the developer is aware of any condition, event, or act that would cause the developer not to be in compliance with the incentive award agreement or the provisions of sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) and any additional reporting requirements contained in the incentive award agreement or tax credit certificate. The developer, or an authorized agent of the developer, shall certify that the information provided pursuant to this subsection is true under the penalty of perjury.

b. (1) Upon receipt and review of each report submitted during the eligibility period, the authority shall provide to the developer and the director a

certificate of compliance indicating the amount of tax credits that the developer may apply against the developer's tax liability.

(2) Upon receipt by the director of the certificate of compliance, the director shall allow the developer a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). A developer shall apply the credit awarded against the developer's liability under section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5 for the privilege period during which the director allows the developer a tax credit pursuant to this subsection. A developer shall not carry forward an unused credit unless the developer was unable to use the credit because the developer's redevelopment project was directly impacted due to a natural disaster, state emergency, national emergency, or a situation that was out of the developer's control that impacted the developer's use of the credit that year, in which case the developer is permitted to carry forward an unused credit for up to two years upon submitting evidence of the developer's redevelopment project being directly impacted by such a circumstance and receiving approval from the authority. Credits granted to a partnership shall be passed through to the partners, members, or owners, respectively, pro-rata, or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method provided to the director accompanied by any additional information as the director may prescribe.

(3) The director shall prescribe the order of priority of the application of the credit allowed under this section and any other credits allowed by law against the tax imposed under section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with any other credits allowed by law, shall not reduce the tax liability to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

C.34:1B-331 Tax credit transfer certificate.

63. a. A developer may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, covering one or more years, in lieu of the developer being allowed any amount of the credit against the tax liability of the developer. The tax credit transfer certificate, upon receipt thereof by the developer from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part in an amount not less than $25,000, in the privilege period during which the developer receives the tax credit transfer certificate from the director, to another person,

who may apply the credit against a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate provided to the developer shall include a statement waiving the developer's right to claim the amount of the credit that the developer has elected to sell or assign against the developer's tax liability.

b. The developer shall not sell or assign, including a collateral assignment, a tax credit transfer certificate allowed under this section for consideration received by the developer of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted, except a developer of a residential project consisting of newly-constructed residential units may assign a tax credit transfer certificate for consideration of less than 85 percent subject to the submission of a plan to the authority and the agency to use the proceeds derived from the assignment of tax credits to complete the residential project, except a developer of a residential project consisting of newly-constructed residential units that has received federal low income housing tax credits under 26 U.S.C. s.42(b)(2)(B)(i) may assign a tax credit transfer certificate for consideration of no less than 75 percent subject to the submission of a plan to the authority and the New Jersey Housing and Mortgage Finance Agency to use the proceeds derived from the assignment of tax credits to complete the residential project. The tax credit transfer certificate issued to a developer by the director shall be subject to any limitations and conditions imposed on the application of State tax credits pursuant to sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) and any other terms and conditions that the director may prescribe.

c. A purchaser or assignee of a tax credit transfer certificate pursuant to this section shall not make any subsequent transfers, assignments, or sales of the tax credit transfer certificate.

d. The authority shall publish on its Internet website the following information concerning each tax credit transfer certificate approved by the authority and the director pursuant to this section:

(1) the name of the transferrer;

(2) the name of the transferee;

(3) the value of the tax credit transfer certificate; and

(4) the consideration received by the transferrer.

C.34:1B-332 Assignment of rights of incentive award agreement.

64. a. A developer who has entered into an incentive award agreement pursuant to section 60 of P.L.2020, c.156 (C.34:1B-328) may, upon notice to

and written consent of the authority and State Treasurer, pledge, assign, transfer, or sell any or all of its right, title, and interest in and to the incentive award agreement and in the incentive awards payable under the incentive award agreement, and the right to receive the incentive awards, along with the rights and remedies provided to the developer under the incentive award agreement. Any assignment shall be an absolute assignment for all purposes, including the federal bankruptcy code.

b. Any pledge of an incentive award made by the developer shall be valid and binding from the time the pledge is made and filed in the records of the authority. The incentive award pledged and thereafter received by the developer shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the developer irrespective of whether the parties have notice thereof. As a condition of any incentive grant, the grantee, assignee, pledgee or subsequent holder of the incentive grant shall immediately file notice of the same with the clerk of the county in which the project is located.

c. The authority shall publish on its Internet website the following information concerning each pledge, assignment, transfer, or sale approved by the authority pursuant to this section:

(1) the name of the person or entity offering the pledge, assignment, transfer, or sale of a right, title, or interest in an incentive grant agreement or tax credit agreement;

(2) the name of the person or entity receiving the pledge, assignment, transfer, or sale of a right, title, or interest in the incentive grant agreement or tax credit agreement;

(3) the value of the right, title, or interest in the incentive grant agreement or tax credit agreement; and

(4) the consideration received by the person or entity offering the pledge, assignment, transfer, or sale of the right, title, or interest in the incentive grant agreement or tax credit agreement.

C.34:1B-333 "Transformative project."

65. a. As used in this section, "transformative project" means a redevelopment project that has a project financing gap, that has a total project cost of at least $100,000,000, and that includes 500,000 or more square feet of new or substantially renovated industrial, commercial, or residential space or that includes 250,000 or more square feet of film studios, professional stages, television studios, recording studios, screening rooms, or other infrastructure

for film production and which is of special economic importance as measured by the level of new jobs, new capital investment, opportunities to leverage leadership in a high-priority targeted industry, or other state priorities as determined by the authority pursuant to rules and regulations promulgated to implement this section. The criteria developed by the authority shall include, but shall not be limited to:

(1) the extent to which the proposed transformative project would create modern facilities that enhance the State's competitiveness in attracting targeted industries;

(2) for a residential or mixed-use project, the construction of 1,000 or more new residential units, 20 percent of which shall be constructed for occupancy by low- and moderate-income households with affordability controls as required under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-301 et al.) and at least 5 percent of the residential units constructed as workforce housing, unless: the municipality in which the property is located has received substantive certification from the council and such a reservation is not required under the approved affordable housing plan; the municipality has been given a judgment of repose or a judgment of compliance by the court, and such a reservation is not required under the approved affordable housing plan. If the municipality in which the property is located has received substantive certification from the council and such a reservation is not required under the approved affordable housing plan or the municipality has been given a judgment of repose or a judgment of compliance by the court, and such a reservation is not required under the approved affordable housing plan, then the developer shall reserve at least 10 percent, but not more than 50 percent, of the residential units constructed for occupancy by low- and moderate-income households with affordability controls as required under the "Fair Housing Act," P.L.1985, c. 222 (C.52:27D-301 et al.) and at least 15 percent of the residential units constructed as workforce housing; and

(3) the extent to which the proposed project would leverage the competitive economic development advantages of the State's mass transit assets, higher education assets, and other economic development assets in attracting or retaining both employers and skilled workers generally or in targeted industries.

A "transformative project" shall not include a redevelopment project at which more than 50 percent of the premises is occupied by one or more businesses engaged in final point of sale retail.

b. The authority may award an incentive award to no more than ten transformative projects in accordance with the provisions of sections 59 through 67 of P.L.2020, c.156 (C.34:1B-327 through C.34:1B-335); provided, however, a transformative project shall not be subject to the competitive application procedure set forth in section 59 of P.L.2020, c.156 (C.34:1B-327).

A transformative project receiving an incentive award pursuant to this section, other than a project that includes 250,000 or more square feet of film studios, professional stages, television studios, recording studios, screening rooms or other infrastructure for film production, shall be located in a distressed municipality, a government-restricted municipality, or an urban transit hub municipality. No more than two transformative projects receiving an incentive award pursuant to this section shall be located in the same municipality. The authority shall not consider an application for a transformative project unless the applicant submits with its application a letter evidencing support for the transformative project from the governing body of the municipality in which the transformative project is located.

c. The authority shall review the transformative project cost, evaluate and validate the project financing gap estimated by the developer, and conduct a State fiscal impact analysis to ensure that the overall public assistance provided to the transformative project will result in a net positive benefit to the State. In determining whether a transformative project will result in a net positive benefit to the State, the authority shall not consider the value of any taxes exempted, abated, rebated, or retained under the "Five-Year Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the effect of lowering or eliminating the developer's State or local tax liability. The determination made pursuant to this subsection shall be based on the potential tax liability of the developer without regard for potential tax losses if the developer were to locate in another state. The authority shall assess the cost of these reviews to the applicant. A developer shall pay to the authority the full amount of the direct costs of an analysis concerning the developer's application for an incentive award that a third party retained by the authority performs, if the authority deems such retention to be necessary. The authority shall evaluate the net economic benefits on a present value basis under which the requested tax credit allocation amount is discounted to present value at the same discount rate as the projected benefits from the implementation of the proposed transformative project for which an award of tax credits is being sought. Projects that are predominantly residential shall be excluded from the calculation of the net benefit test required pursuant to this subsection.

d. In determining net benefits for any business or person considering locating in a transformative project and applying to receive from the authority any other economic development incentive subsequent to the award of transformative project tax credits pursuant to section 65 of P.L.2020, c.156

(C.34:1B-333), the authority shall not credit the business or person with any benefit that was previously credited to the transformative project pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333).

e. The authority shall administer the credits awarded pursuant to this section in accordance with the provisions of sections 62 and 63 of P.L.2020, c.156 (C.34:1B-330 and C.34:1B-331).

f. Prior to allocating an incentive award to a developer, the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury shall each report to the chief executive officer of the authority whether the developer and each contractor and subcontractor performing work at the transformative project is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan. The authority may also contract with an independent third party to perform a background check on the applicant.

g. Notwithstanding the limitation on incentive awards set forth in subsection b. of section 61 and section 98 of P.L.2020, c.156 (C.34:1B-329 and C.34:1B-362) to the contrary, the authority may allow a developer of a transformative project a tax credit, as reimbursement for certain project financing gap costs, in an amount not to exceed 30 percent of the total project cost, the total value of the project financing gap, or $250,000,000 whichever is less.

C.34:1B-334 Report by State college, university.

66. Beginning the year next following the year in which P.L.2020, c.156 (C.34:1B-269 et al.) takes effect and every two years thereafter, a State college or university established pursuant to chapter 64 of Title 18A of the New Jersey Statutes shall, pursuant to an agreement executed between the State college or university and the authority, prepare a report on the implementation of the program, and submit the report to the authority, the Governor, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. Each biennial report required under this section shall include a description of each redevelopment project receiving a tax credit under the program, a detailed analysis of the consideration given in each project to the factors set forth in sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and C.34:1B-327), in the case of a commercial project, the return on investment for incentive awards provided and the commercial project's impact on the State's economy, and any other metrics the State college or university determines are relevant based upon national best practices. The authority shall prepare a written response to the report, which the authority shall submit to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

C.34:1B-335 Regulations.

67. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the chief executive officer of the authority may adopt, immediately, upon filing with the Office of Administrative Law, regulations that the chief executive officer deems necessary to implement the provisions of sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), which regulations shall be effective for a period not to exceed 180 days from the date of the filing. The chief executive officer shall thereafter amend, adopt, or readopt the regulations in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

C.34:1B-336 Short title.

68. Sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.) shall be known and may be cited as the "Emerge Program Act."

C.34:1B-337 Definitions.

69. As used in sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.):

"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by the business. Control exists in all cases in which the entity is a member of a controlled group of corporations, as defined pursuant to section 1563 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563), or the entity is an organization in a group of organizations under common control, as defined pursuant to subsection (c) of section 414 of the Internal Revenue Code of 1986 (26 U.S.C. s.414). A taxpayer may establish by clear and convincing evidence, as determined by the Director of the Division of Taxation in the Department of the Treasury, that control exists in situations involving lesser percentages of ownership than required by sections 1563 and 414 of the Internal Revenue Code of 1986 (26 U.S.C. ss.1563 and 414).

"Authority" means the New Jersey Economic Development Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Aviation district" means all areas within the boundaries of the Atlantic City International Airport, established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation Administration William J. Hughes Technical Center and the area within a one-mile radius of the outermost boundary of the Atlantic City International Airport and the Federal Aviation Administration William J. Hughes Technical Center.

"Board" means the Board of the New Jersey Economic Development Authority, established by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Building services" means any cleaning or routine building maintenance work, including but not limited to sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash, window cleaning, securing, patrolling, or other work in connection with the care or securing of an existing building, including services typically provided by a door-attendant or concierge. "Building services" shall not include any skilled maintenance work, professional services, or other public work for which a contractor is required to pay the "prevailing wage" as defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

"Business" means an applicant proposing to own or lease premises in a qualified business facility that is: a corporation that is subject to the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, or is a partnership, S corporation, limited liability company, or non-profit corporation. A business shall include an affiliate of the business if that business applies for a credit based upon any capital investment made by or full-time employees of an affiliate. If the business or tenant is a cooperative or part of a cooperative, then the cooperative may qualify for credits by counting the full-time employees and capital investments of its member organizations, and the cooperative may distribute credits to its member organizations. If the business or tenant is a cooperative that leases to its member organizations, the lease shall be treated as a lease to an affiliate or affiliates. A business shall include an affiliate of the business if that business applies for a credit based upon any capital investment made by full-time employees of an affiliate.

"Capital investment" means expenses that a business or an affiliate of the business incurs following its submission of an application to the authority pursuant to section 72 of P.L.2020, c.156 (C.34:1B-340), but prior to the project completion date, as shall be defined in the project agreement, for: a. site preparation and construction, repair, renovation, improvement, equipping, or furnishing on real property or of a building, structure, facility, or improvement to real property; b. obtaining and installing furnishings and machinery, apparatus, or equipment, including but not limited to material goods subject to bonus depreciation under sections 168 and 179 of the federal Internal Revenue Code (26 U.S.C. ss.168 and 179), for the operation of a business on real property or in a building, structure, facility, or improvement to real property; or any combination of the foregoing.

"College or university" means a county college, an independent institution of higher education, a public research university, or a State college.

"Commitment period" means a period that is 1.5 times the eligibility period specified in the project agreement entered into pursuant to section 73 of P.L.2020, c.156 (C.34:1B-341), rounded up, for each applicable phase agreement.

"County college" means an educational institution established by one or more counties, pursuant to chapter 64A of Title 18A of the New Jersey Statutes.

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

"Distressed municipality" means a municipality that is qualified to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a municipality under the supervision of the Local Finance Board pursuant to the provisions of the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality identified by the Director of the Division of Local Government Services in the Department of Community Affairs to be facing serious fiscal distress, a SDA municipality, or a municipality in which a major rail station is located.

"Doctoral university" means a university located within New Jersey that is classified as a doctoral university under the Carnegie Classification of Institutions of Higher Education's Basic Classification methodology on the effective date of P.L.2017, c.221.

"Eligibility period" means the period in which an eligible business may claim a tax credit under the program for a given project phase, beginning with the tax period in which the authority accepts certification of the eligible business that it has met the capital investment and employment requirements of the program for the respective project phase, and extending thereafter for a term of not more than seven years, with the term to be determined at the discretion of the applicant, provided that the term of the eligibility period may consist of nonconsecutive tax years if the applicant elects at any time after the end of the first tax period of the eligibility period to defer the continuation of the eligibility period to a subsequent tax period. The authority may extend the eligibility period one additional tax period to accommodate a prorated payment pursuant to paragraph (2) of subsection a. of section 77 of P.L.2020, c.156 (C.34:1B-345).

"Eligible business" means any business that satisfies the criteria set forth in section 71 of P.L.2020, c.156 (C.34:1B-339) at the time of application for tax credits under the program.

"Eligible position" or "full-time job" means a full-time position in a business in this State which the business has filled with a full-time employee. An eligible position shall not include an independent contractor or a consultant.

"Employment and Investment Corridor" means the portions of the qualified incentive area that are not located within a distressed municipality and which:

a. are designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), a designated center under the State Development and Redevelopment Plan, or a designated growth center in an endorsed plan until June 30, 2013, or until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to revise this definition;

b. intersect with portions of: a port district, a qualified incentive tract, or federally-owned land approved for closure under a federal Commission on Base Realignment and Closure action;

c. are the proposed site of a qualified incubator facility, a tourism destination project, or transit oriented development; or

d. contain: a vacant commercial building having over 400,000 square feet of office, laboratory, or industrial space available for occupancy for a period of over one year; or a site that has been negatively impacted by the approval of a "qualified business facility," as defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208).

"Enhanced area" means (1) an urban transit hub as defined in section 2 of P.L.2007, c.346 (C.34:1B-208), (2) the five municipalities with the highest poverty rates according to the 2017 Municipal Revitalization Index, and (3) the three municipalities with the highest percentage of SNAP recipients according to the 2017 Municipal Revitalization Index.

"Full-time employee" means a person:

a. who is employed by a business for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.;

b. who is employed by a professional employer organization pursuant to an employee leasing agreement between the business and the professional employer organization, pursuant to P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.; or

c. who is a resident of another State, but whose income is not subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or who is a partner of a business who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by

custom or practice as full-time employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

A "full time employee" further means a person who, except for purposes of the Statewide workforce, is provided, by the business, with employee health benefits under a health benefits plan authorized pursuant to State or federal law and who is paid no less than $15 per hour or 120 percent of the minimum wage fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher.

With respect to a logistics, manufacturing, energy, defense, aviation, or maritime business, excluding primarily warehouse or distribution operations, located in a port district having a container terminal, the requirement that employee health benefits are to be provided shall be deemed to be satisfied if the benefits are provided in accordance with industry practice by a third party obligated to provide such benefits pursuant to a collective bargaining agreement.

A "full-time employee" shall include, but shall not be limited to, an employee that has been hired by way of a labor union hiring hall or its equivalent. 35 hours of employment per week per qualified business facility shall constitute one "full-time employee," regardless of whether or not the hours of work were performed by one or more persons.

"Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the business or a contract worker whose income is subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., except that any person working as an independent contractor or contract worker whose income is subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., for the business shall be deemed a full-time employee if the business demonstrates to the authority that: (a) the person working as an independent contractor for the business works at least 35 hours per week or renders any other standard service generally accepted by custom or practice as full- time employment, and the person is provided with employee health benefits under a health benefits plan authorized pursuant to State or federal law; and (b) the business provides documentation to the authority to permit the authority to verify the compensation paid to, and the time worked by, the person working as an independent contractor. The business shall provide to the authority an annual report that identifies the number of persons working as independent contractors for the business and their contractual or partnering relationship with the business.

"Full-time employee" shall not include any person who, at the time of project application, works in New Jersey for consideration for at least 35 hours per week for the business, or who renders any other standard of service generally accepted by custom or practice as full-time employment, but who, prior to project application, was not provided, by the business, with employee health benefits under a health benefits plan authorized pursuant to State or federal law.

"Government-restricted municipality" means a municipality in this State with a municipal revitalization index distress score of at least 75, that met the criteria for designation as an urban aid municipality in the 2019 State fiscal year, and that, on the effective date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial restrictions imposed pursuant to the "Municipal Stabilization and Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is restricted in its ability to levy property taxes on property in that municipality as a result of the State of New Jersey owning or controlling property representing at least 25 percent of the total land area of the municipality or as a result of the federal government of the United States owning or controlling at least 50 acres of the total land area of the municipality, which is dedicated as a national natural landmark.

"Incentive agreement" means the contract between the business and the authority, which sets forth the terms and conditions under which the business shall be eligible to receive the incentives authorized pursuant to the program.

"Hospitality establishment" means a hotel, motel, or any business, however organized, that sells food, beverages, or both for consumption by patrons on the premises.

"Incentive area" means:

a. an aviation district;

b. a port district;

c. a distressed municipality or transit hub municipality;

d. an area designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), Planning Area 3 (Fringe Planning Area); or a Designated Center under the State Development and Redevelopment Plan, provided an area designated as Planning Area 2 (Suburban) or Planning Area 3 (Fringe Planning Area) or a Designated Center shall be located within a one-half mile radius of the mid-point, with bicycle and pedestrian connectivity, of a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station, including all light rail stations, or a high frequency bus stop as certified by the New Jersey Transit Corporation.

e. an area located within a smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan adopted by the New Jersey Meadowlands Commission pursuant to section 20 of P.L.1968, c.404 (C.13:17-21);

f. an area located within any land owned by the New Jersey Sports and Exposition Authority, established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.), within the boundaries of the Hackensack Meadowlands District as delineated in section 4 of P.L.1968, c.404 (C.13:17-4);

g. an area located within a regional growth area, rural development area zoned for industrial use as of the effective date of P.L.2016, c.75, or town, village, or a military and federal installation area designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);

h. an area located within a government-restricted municipality;

i. an area located within land approved for closure under any federal Commission on Base Realignment and Closure action;

j. an area located within an area designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive), or Planning Area 5 (Environmentally Sensitive), so long as that area designated as Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive), or Planning Area 5 (Environmentally Sensitive) is located within: (1) a designated center under the State Development and Redevelopment Plan; (2) a designated growth center in an endorsed plan until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to revise this definition as it pertains to Statewide planning areas; (3) any area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14); (4) any area on which a structure exists or previously existed including any desired expansion of the footprint of the existing or previously existing structure provided the expansion otherwise complies with all applicable federal, State, county, and local permits and approvals; or (5) any area on which an existing tourism destination project is located; or

k. an area located in a qualified opportunity zone.

"Incentive phase agreement" means a sub-agreement of the incentive agreement that governs the timing, capital investment, employment levels, and other applicable details of the respective phase.

"Independent institution of higher education" means a college or university incorporated and located in New Jersey, which by virtue of law, character, or license is a nonprofit educational institution authorized to grant academic degrees and which provides a level of education that is equivalent to the education provided by the State's public institutions of higher education, as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which is eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis, or other professional persons in the field of religion.

"Industrial premises" or "industrial space" means premises or space in which at least 51 percent of the square footage will be or has been used for the assembling, processing, manufacturing, or any combination thereof, of finished or partially finished products from materials or fabricated parts, including, but not limited to, factories or as a warehouse if the business uses the warehouse as part of the chain of distribution for products assembled, processed, manufactured, or any combination thereof, by the business at the qualified business facility; for the breaking or demolishing of finished or partially finished products; or for the production of oil or gas or the generation or transformation of electricity.

"Industrial use" means assembling, processing, manufacturing, or any combination thereof, of finished or partially finished products from materials or fabricated parts; the breaking or demolishing of finished or partially finished products; or the production of oil or gas or the generation or transformation of electricity. "Industrial use" includes farming purposes as that term is defined under 26 U.S.C. s.6420(c)(3)(A), undertaken in an industrial space.

"Infrastructure Fund" means the Recovery Infrastructure Fund established pursuant to section 79 of P.L.2020, c.156 (C.52:27D-520) to fund local infrastructure improvements.

"Labor harmony agreement" means an agreement between a business that serves as the owner or operator of a retail establishment or distribution center and one or more labor organizations, which requires, for the duration of the agreement: that any participating labor organization and its members agree to refrain from picketing, work stoppages, boycotts, or other economic interference against the business; and that the business agrees to maintain a neutral posture with respect to efforts of any participating labor organization to represent employees at an establishment or other unit in the retail establishment or distribution center, agrees to permit the labor organization to

have access to the employees, and agrees to guarantee to the labor organization the right to obtain recognition as the exclusive collective bargaining representatives of the employees in an establishment or unit at the retail establishment or distribution center by demonstrating to the New Jersey State Board of Mediation, Division of Private Employment Dispute Settlement, or a mutually agreed-upon, neutral, third-party, that a majority of workers in the unit have shown their preference for the labor organization to be their representative by signing authorization cards indicating that preference. The labor organization or organizations shall be from a list of labor organizations which have requested to be on the list and which the Commissioner of Labor and Workforce Development has determined represent substantial numbers of retail or distribution center employees in the State.

"Major rail station" means a railroad station that is located within a qualified incentive area and that provides to the public access to a minimum of six rail passenger service lines operated by the New Jersey Transit Corporation.

"Mega project" means a project of special economic importance, as determined pursuant to regulations adopted by the board, as measured by the level of new jobs, new capital investment, and opportunities to leverage leadership in a high-priority targeted industry, as determined by the authority pursuant to rules and regulations promulgated to implement sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.).

"Minimum environmental and sustainability standards" means standards established by the authority in accordance with the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources to reduce environmental degradation and encourage long-term cost reduction.

"Municipal Revitalization Index" means the index by the Department of Community Affairs ranking New Jersey's municipalities according to eight separate indicators that measure diverse aspects of social, economic, physical, and fiscal conditions in each locality.

"New full-time job" means an eligible position created by a business at a qualified business facility that did not previously exist in this State. For the purposes of determining the number of new full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the business.

"Other eligible area" means the portions of the incentive area that are not located within a distressed municipality, or the employment and investment corridor.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Port district" means the portions of an incentive area that are located within the "Port of New York District" of the Port Authority of New York and New Jersey, as defined in Article II of the Compact Between the States of New York and New Jersey of 1921; or a 15-mile radius of the outermost boundary of each marine terminal facility established, acquired, constructed, rehabilitated, or improved by the South Jersey Port District established pursuant to "The South Jersey Port Corporation Act," P.L.1968, c.60 (C.12:11A-1 et seq.).

"Professional employer organization" means an employee leasing company registered with the Department of Labor and Workforce Development pursuant to P.L.2001, c.260 (C.34:8-67 et seq.).

"Program" means the Emerge Program established by section 70 of P.L.2020, c.156 (C.34:1B-338).

"Project" means the capital investment and the employment commitment at a qualified business facility pursuant to the project agreement.

"Project agreement" means the contract executed between an eligible business and the authority pursuant to section 73 of P.L.2020, c.156 (C.34:1B-341), which sets forth the terms and conditions under which the eligible business may receive the incentives authorized pursuant to the program.

"Project labor agreement" means a form of pre-hire collective bargaining agreement covering terms and conditions of a specific project that satisfies the requirements set forth in section 5 of P.L.2002, c.44 (C.52:38-5).

"Public research university" means a public research university as defined in section 3 of P.L.1994, c.48 (C.18A:3B-3).

"Qualified business facility" means any building, complex of buildings, or structural components of buildings, and all machinery and equipment located therein, used in connection with the operation of a business that is not engaged in final point of sale retail business at that location, unless the building, complex of buildings or structural components of buildings, and all machinery and equipment therein, are used in connection with the operation of a tourism destination project located in the Atlantic City Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219).

"Qualified incentive tract" means: a. a population census tract having a poverty rate of 20 percent or more; or b. a census tract in which the median family income for the census tract does not exceed 80 percent of the greater of the Statewide median family income or the median family income of the metropolitan statistical area in which the census tract is situated.

"Qualified incubator facility" means a commercial building located within an incentive area: that contains 5,000 or more square feet of office, laboratory, or industrial space; that is located near, and presents opportunities

for collaboration with, a research institution, teaching hospital, college, or university; and within which at least 50 percent of the gross leasable area is restricted for use by one or more technology startup companies during the commitment period.

"Qualified opportunity zone" means a federal population census tract in this State that was eligible to be designated as a qualified opportunity zone pursuant to 26 U.S.C. s.1400Z-1.

"Quality child care facility" is a child care center licensed by the Department of Children and Families, operating continuously, which has not been subject to an enforcement action, and which has and maintains a total licensed capacity of at least 60 children age 6 years or younger.

"Retained full-time job" means an eligible position that currently exists in New Jersey and is filled by a full-time employee, but which, because of a potential relocation by the business, is at risk of being lost to another state or country or of being eliminated. For the purposes of determining the number of retained full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the business.

"SDA district" means an SDA district as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3).

"SDA municipality" means a municipality in which an SDA district is situated.

"Small business" means a business engaged primarily in a targeted industry with fewer than 100 employees, as determined at the time of application.

"State college" means a State college or university established pursuant to chapter 64 of Title 18A of the New Jersey Statutes.

"Targeted industry" means any industry identified from time to time by the authority which shall initially include advanced transportation and logistics, advanced manufacturing, aviation, autonomous vehicle and zero-emission vehicle research or development, clean energy, life sciences, hemp processing, information and high technology, finance and insurance, professional services, film and digital media, non-retail food and beverage businesses including food innovation, and other innovative industries that disrupt current technologies or business models.

"Tourism destination project" means a qualified non-gaming business facility that will be among the most visited privately owned or operated tourism or recreation sites in the State, and which is located within the incentive area and has been determined by the authority to be in an area appropriate for development and in need of economic development incentive assistance, including a non-gaming business within an established tourism district with a significant impact on the economic viability of that tourism district.

"Transit oriented development" means a qualified business facility located within a 1/2-mile radius, or one-mile radius for projects located in a Government-restricted municipality, surrounding the mid-point of a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station platform area, including all light rail stations.

"Transit hub" means an urban transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-208), that is located within an eligible municipality, as defined in section 2 of P.L.2007, c.346 (C.34:1B-208), and that is also located within an incentive area.

"Transit hub municipality" means a Transit Village or a municipality: a. which qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.), or which has continued to be a qualified municipality thereunder pursuant to P.L.2007, c.111; and b. in which 30 percent or more of the value of real property was exempt from local property taxation during tax year 2006. The percentage of exempt property shall be calculated by dividing the total exempt value by the sum of the net valuation which is taxable and that which is tax exempt.

"Transit Village" means a municipality that has been designated as a transit village by the Commissioner of Transportation and the Transit Village Task Force.

C.34:1B-338 Emerge Program.

70. a. The Emerge Program is hereby established as a program under the jurisdiction of the New Jersey Economic Development Authority. The authority shall administer the program to encourage economic development, job creation, and the retention of significant numbers of jobs in imminent danger of leaving the State. The board may approve the award of tax credits to an eligible business upon application of the chief executive officer of the eligible business and following the execution of a letter of intent and the payment of fees, subject to the limitations set forth in subsection b. of this section:

b. value of all tax credits approved by the authority for businesses eligible pursuant to section 71 of P.L.2020, c.156 (C.34:1B-339) shall be subject to the limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362).

C.34:1B-339 Application for tax credits.

71. a. Beginning on the effective date of P.L.2020, c.156 (C.34:1B-269 et al.), but prior to March 1, 2027, to be eligible for tax credits under the program, a business's chief executive officer, or equivalent officer, shall demonstrate to the authority at the time of application that:

(1) the business will make, acquire, or lease a capital investment at the qualified business facility equal to or greater than the applicable amount set forth in subsection b. of this section;

(2) the business will create or retain new and retained full-time jobs at the qualified business facility in an amount equal to or greater than the applicable number set forth in subsection c. of this section;

(3) the qualified business facility is located in a qualified incentive area;

(4) the award of tax credits will be a material factor in the business's decision to create or retain the number of new and retained full-time jobs set forth in its application;

(5) the award of tax credits, the capital investment resultant from the award of tax credits, and the resultant creation and retention of new and retained full-time jobs will yield a net positive benefit to the State equaling at least 400 percent of the requested tax credit allocation amount, or for a phased project the requested tax credit allocation amount for the initial phase, and on a cumulative basis each phase thereafter, which determination shall be calculated prior to considering the value of the requested tax credit under the program and shall be based on the benefits generated during the period of time from approval through the end of the commitment period, or through the end of the longer period of extended commitment that the business may elect for purposes of receiving credit for benefits projected to occur after the expiration of the commitment period, except that:

(a) an award of tax credits to a business for a qualified business facility located in a distressed municipality or transit hub municipality shall yield a net positive benefit to the State, based on the benefits generated during the period of time from approval through the end of the commitment period, that equals at least 300 percent of the requested tax credit amount;

(b) an award of tax credits to a business for a qualified business facility located in a government-restricted municipality, or for a mega project, shall yield a net positive benefit to the State, based on the benefits generated during the period of time from approval through the end of the commitment period, that equals at least 200 percent of the requested tax credit amount;

(c) the net economic benefits shall be evaluated on a present value basis with the requested tax credit allocation amount discounted to present value at the same discount rate as the benefits from capital investment resultant from the award of tax credits and the resultant retention and creation of full-time jobs as provided in subparagraph (d) of this paragraph; and

(d) the net economic benefits shall be discounted to reflect the uncertainty of the business's location after the commitment period expires, provided that a business may elect a period of extended commitment for which

time the economic benefits shall be creditable to the determination of the net economic benefit of the project, and a business electing a period of extended commitment and failing to maintain the project through the expiration of that extended commitment period shall be obligated to repay a proportion of the incremental benefits received on account of having extended the commitment period, taking into consideration the number of years of extended commitment during which the business maintained the project;

(e) in making the determination required pursuant to this paragraph, the authority shall not consider the value of any taxes exempted, abated, rebated, or retained under the "Five-Year Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the effect of lowering or eliminating the business's State or local tax liability, and the business's chief executive officer or equivalent officer shall certify, under the penalty of perjury, that all documents submitted, and factual assertions made, to the authority to demonstrate that the award of tax credits will yield a net positive benefit to the State in accordance with this paragraph are true and accurate at the time of submission;

(f) If, during the term of the program, the methodology used by the authority in projecting benefits of a project in making the determination required pursuant to this paragraph is modified, the respective percentages by which the benefits must exceed the requested tax credit allocation amount set forth pursuant to this paragraph (5) may be adjusted to ensure consistent application of the respective thresholds in this paragraph (5) applied to each application;

(6) the qualified business facility shall be in compliance with minimum environmental and sustainability standards;

(7) the project shall comply with the authority's affirmative action requirements, adopted pursuant to section 4 of P.L.1979, c.303 (C.34:1B-5.4); and

(8) (a) each worker employed to perform construction work or building services work at the qualified business facility shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.), unless:

(i) the work performed under the contract is performed at a qualified business facility owned by a landlord that is not a business receiving authority assistance;

(ii) the landlord is a party to the construction contract; and

(iii) the qualified business facility constitutes a lease of less than 35 percent of the qualified business facility at the time of contract and under any agreement to subsequently lease the qualified business facility.

(b) In accordance with section 1 of P.L.1979, c.303 (C.34:1B-5.1), nothing in this paragraph shall be construed as requiring the payment of prevailing wage for construction commencing more than two years after a business has executed with the authority a commitment letter regarding authority financial assistance and the first payment or other provision of the assistance is received.

b. (1) The minimum capital investment required to be eligible under the program shall be as follows:

(a) for the rehabilitation, improvement, fit-out, or retrofit of an existing industrial, warehousing, logistics, or research and development portion of the premises for continued similar use by the business, a minimum investment of $20 per square foot of gross leasable area;

(b) for the new construction of an industrial, warehousing, logistics, or research and development portion of the premises for use by the business, a minimum investment of $60 per square foot of gross leasable area;

(c) for the rehabilitation, improvement, fit-out, or retrofit of existing portion of the premises that does not qualify pursuant to subparagraph (a) or (b) of this paragraph, a minimum investment of $40 per square foot of gross leasable area;

(d) for the new construction of a portion of the premises that does not qualify pursuant to subparagraph (a) or (b) of this paragraph, a minimum investment of $120 per square foot of gross leasable area; and

(e) for a small business, no new minimum capital investment shall be required, provided the applicant has demonstrated evidence satisfactory to the authority of its intent to remain in the State for the commitment period.

(2) In the event the business invests less than that amount set forth in paragraph (1) of this subsection in the qualified business facility, the business shall donate the uninvested balance to the infrastructure fund established pursuant to section 79 of P.L.2020, c.156 (C.52:27D-520).

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this subsection, the authority may adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations adjusting the minimum capital investment amounts required under the program when necessary to respond to the prevailing economic conditions in the State.

c. (1) The minimum number of new or retained full-time jobs required to be eligible under the program shall be as follows:

(a) for a small business, 25 percent growth of its workforce with new full-time jobs within the eligibility period in accordance with subsection e. of section 76 of P.L.2020, c.156 (C.34:1B-344);

(b) for a business engaged primarily in a targeted industry which does not qualify as a small business, 25 new full-time jobs;

(c) for any other business, a minimum of 35 new full-time jobs;

(d) for a business located in qualified incentive tract or government-restricted municipality that will retain 500 or more retained full-time jobs, a minimum of the business's retained full-time jobs at the time of application and new construction or rehabilitation, improvement, fit-out, or retrofit of an existing portion of the premises equal in size to the space occupied by the business's retained full-time jobs at the time of application;

(e) for a business located in the State that will retain 1,000 or more retained full-time jobs, a minimum of the business's retained full-time jobs at the time of application and new construction or rehabilitation, improvement, fit-out, or retrofit of an existing portion of the premises equal in size to the space occupied by the business's retained full-time jobs at the time of application.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, the authority may adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations adjusting the minimum number of new or retained full-time jobs required under the program when necessary to respond to the prevailing economic conditions in the State.

d. A business shall provide and adhere to a plan that demonstrates that the qualified business facility is capable of accommodating more than half of the business's new or retained full-time employees as approved and shall certify, under the penalty of perjury, that not less than 80 percent of the withholdings of new or retained full-time jobs are subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. The requirements set forth in this subsection may be modified by the authority to respond to an emergency, disaster, or other factors that result in employees of an eligible business having to work from a location other than the qualified business facility.

e. The owner of the business, or an authorized agent of the owner, shall certify that all factual representations made by the business to the authority pursuant to subsection a. of this section are true under the penalty of perjury.

f. A business eligible pursuant to this section may submit an application to the authority in accordance with the provisions of section 72 of P.L.2020, c.156 (C.34:1B-340) on or after the effective date of P.L.2020, c.156 (C.34:1B-269 et al.) but prior to March 1, 2027.

C.34:1B-340 Application for approval of project.

72. a. A business that meets the eligibility criteria in section 71 of P.L.2020, c.156 (C.34:1B-339) and is seeking a grant of tax credits for a project under the program shall submit an application for approval of the project to the authority in a form and manner prescribed in regulations adopted by the authority pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. (1) Before the board may consider an eligible business's application for tax credits, the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury shall each report to the chief executive officer of the authority whether the eligible business is in compliance with the respective department, or, if necessary, has entered into an agreement with the respective department that includes a practical corrective action plan for the eligible business. The authority may also contract with an independent third party to perform a background check on the eligible business. Provided that the eligible business is in substantial good standing, or has entered into such an agreement, before the board may approve an eligible business's application for tax credits, the eligible business shall execute a non-binding letter of intent with the chief executive officer of the authority, specifying the amount and terms and conditions of tax credits that the authority is prepared to propose for board approval and that are intended to be a material factor in the decision by the eligible business to create or retain the proposed number of new and retained full-time jobs, and in which the eligible business certifies such tax credits are a material factor in its decision.

(2) To assist the authority in determining whether the award of tax credits is a material factor in the eligible business's decision to create or retain the minimum number of new and retained full-time jobs for eligibility under the program, the chief executive officer of the authority shall require the eligible business to submit, as part of its application, a full economic analysis of all locations under consideration by the eligible business; all lease agreements, ownership documents, or substantially similar documentation for the eligible business's current in-State locations; and all lease agreements, ownership documents, or substantially similar documentation for potential out-of-State location alternatives, to the extent they exist. The chief executive officer of the authority may further consider the costs associated with opening and maintaining a business in New Jersey, competitive proposals that the eligible business has received from other states, the prevailing economic conditions, and any other factors that the chief executive officer of the authority deems relevant to assist the authority in determining whether an award of tax credits

is a material factor in the eligible business's decision. Based on this information, the authority shall independently verify and confirm the eligible business's assertion that the award of tax credits under the program is a material factor in the eligible business's decision to create or retain the minimum number of new and retained full-time jobs for eligibility under the program and, in the case of retained full-time jobs, the jobs are actually at risk of leaving the State, before the authority may award the eligible business any tax credits under the " Emerge Program Act," sections 70 through 81 of P.L.2020, c.156 (C.34:1B-338 et al.). The owner of the eligible business, or an authorized agent of the owner, shall certify that all factual representations made by the business to the authority pursuant to this paragraph are true under the penalty of perjury.

c. An eligible business shall pay to the authority the full amount of the direct costs of an analysis concerning the eligible business's application for a tax credit, which a third party retained by the authority performs, if the authority deems such retention to be necessary. The authority shall have the discretion to waive all or a portion of the costs of application for a small business.

d. If at any time during the eligibility period the authority determines that the eligible business made a material misrepresentation on the eligible business's application, the eligible business shall forfeit all tax credits awarded under the program, which shall be in addition to any other criminal or civil penalties to which the business and the officer may be subject.

e. If circumstances require an eligible business to amend its application to the authority, then the owner of the eligible business, or an authorized agent of the owner, shall certify to the authority that the information provided in its amended application is true under the penalty of perjury.

f. Nothing shall preclude a business from applying for tax credits under the program for more than one project pursuant to one or more applications.

C.34:1B-341 Project agreement.

73. a. Following approval by the board, but before the issuance of tax credits, the authority shall require an eligible business to enter into a project agreement. The terms of the project agreement shall be consistent with the eligibility requirements of section 71 of P.L.2020, c.156 (C.34:1B-339), as applicable, and shall include, but shall not be limited to, the following:

(1) (a) a detailed description of the proposed project which will result in job creation or retention, and the number of new and retained full-time jobs that are approved for tax credits;

(b) for a phased project, an incentive phase agreement for which each phase identifies a description of the phase, the expected capital investment

and number of new full-time jobs, and the time following acceptance of the incentive agreement when each phase is to begin and be completed, with the awarding of tax credits under the incentive agreement to be predicated on the number of full-time jobs created through the fulfillment of each incentive phase agreement;

(2) the eligibility period of the tax credits or, for a phased project, the eligibility period of the tax credits for each phase;

(3) personnel information that will enable the authority to administer the program;

(4) a requirement that the eligible business maintain the project at a location in New Jersey for the commitment period, with at least the minimum number of full-time jobs as required by this program, and a provision to permit the authority to recapture all or part of any tax credits awarded, at its discretion, if the eligible business does not remain in compliance with this provision for the required term or significantly reduces the number of full-time employees, or the salaries thereof, to which the eligible business certified at the commencement of the eligibility period;

(5) a method for the eligible business to certify that it has met the capital investment and employment requirements of the program set forth in subsections b. and c. of section 71 of P.L.2020, c.156 (C.34:1B-339) and to report annually to the authority the number of new and retained full-time employees, and the salaries thereof, for which the tax credits are to be allowed;

(6) representations that the eligible business is in substantial good standing or meets the agreement requirements described in paragraph (1) of subsection b. of section 71 of P.L.2020, c.156 (C.34:1B-339), the project complies with all applicable laws, and specifically, that the project does not violate any environmental law;

(7) a provision permitting an audit of the payroll records of the business from time to time, as the authority deems necessary;

(8) a provision that the chief executive officer of the authority receives annual reports from the Department of Environmental Protection, the Department of Labor and Workforce Development, and the Department of the Treasury demonstrating that the eligible business and each contractor and subcontractor performing work at the qualified business facility is in compliance with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan, and a provision providing that if the eligible business is not in compliance with its legal obligations of rules administered by these departments and has been given formal notice thereof, then the authority may suspend the issuance of tax credits pending resolution of the dispute;

(9) a requirement for the eligible business to engage in on-site consultations with the Division of Workplace Safety and Health in the Department of Health;

(10) a provision permitting the authority to amend the agreement; and

(11) a provision establishing the conditions under which the authority, the eligible business, or both, may terminate the agreement.

b. (1) For a project whose total project cost equals or exceeds $10 million, in addition to the project agreement, an eligible business shall enter into a community benefits agreement with the authority and the county or municipality in which the qualified business facility is located. The agreement may include, but shall not be limited to, requirements for training, employment, and youth development and free services to underserved communities in and around the community in which the qualified business facility is located. Prior to entering a community benefits agreement, the governing body of the county or municipality in which the qualified business facility is located shall hold at least one public hearing at which the governing body shall hear testimony from residents, community groups, and other stakeholders on the needs of the community that the agreement should address.

(2) The community benefits agreement shall provide for the creation of a community advisory committee to oversee the implementation of the agreement, monitor successes, ensure compliance with the terms of the agreement, and produce an annual public report. The community advisory committee created pursuant to this paragraph shall be comprised of representatives from community groups and residents of the county or municipality in which the qualified business facility is located.

(3) At the time the eligible business submits the annual report required pursuant to section 77 of P.L.2020, c.156 (C.34:1B-345) to the authority, the eligible business shall certify, under the penalty of perjury, that it is in compliance with the terms of the community benefits agreement. If the eligible business fails to provide the certification required pursuant to this paragraph or the authority determines that the eligible business is not in compliance with the terms of the community benefits agreement based on the reports submitted by the community advisory committee pursuant to paragraph (2) of this subsection, then the authority may rescind the award or recapture all or part of any tax credits awarded.

(4) An eligible business shall not be required to enter into a community benefits agreement pursuant to this subsection if the eligible business submits to the authority a copy of the eligible business's project agreement that is certified by the municipality in which the project is located.

C.34:1B-342 Site plan approval, financing, site control for qualified business facility.

74. a. Commencing with the date six months following the date the authority and an eligible business execute a project agreement, the eligible business shall demonstrate that it has obtained site plan approval and has committed financing for, and site control of, the qualified business facility. If the eligible business obtained site control of the qualified business facility prior to the execution of the letter of intent pursuant to section 72 of P.L.2020, c.156 (C.34:1B-340), then the authority may rescind approval of the award of tax credits, unless the eligible business disclosed the fact that the eligible business had obtained the site prior to executing the letter of intent and the authority determines that the award of tax credits was still a material factor in the eligible business's decision to create or retain the minimum number of new and retained full-time jobs for eligibility under the program. The eligible business shall provide an estimated date of completion and shall submit periodic progress reports. The authority may rescind an award of tax credits if an eligible business fails to provide the information required under this section within the period indicated in the approval of the tax credits by the board. The authority may rescind an award of tax credits under the program if a project fails to advance in accordance with the project agreement.

b. Upon completion of the capital investment and employment requirements of the program, an eligible business shall submit to the authority certifications evidencing that the eligible business has satisfied the conditions relating to the capital investment and employment requirements of the project agreement with supporting evidence satisfactory to the authority. Absent extenuating circumstances and the written approval of the authority, the eligible business shall submit the certification within three years following the date of approval of the application. The authority may grant two six-month extensions of the deadline; provided that the date of completion shall not occur later than four years following the date of approval of the application by the authority; provided further that the authority may grant one additional extension not to exceed one year upon a finding by the authority that: (1) the project is delayed due to unforeseeable acts related to the project beyond the eligible business's control and without its fault or negligence; (2) the eligible business is using best efforts, with all due diligence, to proceed with the completion of the project and the submission of the certification; and (3) the eligible business has made, and continues to make, all reasonable efforts to prevent, avoid, mitigate, and overcome the delay. To qualify for the one-year extension, the eligible business shall provide timely notice to the authority of the delay within 30 days after the eligible business has actual or constructive knowledge of the delay, and shall provide periodic reports, not less than

every 30 days, of the status of the delay and the steps the eligible business is taking to mitigate or overcome the delay.

c. If the Governor declares an emergency, then the chief executive officer of the authority shall have the discretion to grant an extension for the duration of the emergency and the board of the authority, upon recommendation of the chief executive officer, may grant two additional six-month extensions; provided, however, that: (i) the extensions are due to the economic disruption caused by the emergency; (ii) the project is delayed due to unforeseeable acts related to the project beyond the eligible business's control and without its fault or negligence; (iii) the eligible business is using best efforts, with all due diligence, to proceed with the completion of the project and the submission of the certification; and (iv) the eligible business has made, and continues to make, all reasonable efforts to prevent, avoid, mitigate, and overcome the delay.

d. The owner of the eligible business, or an authorized agent of the owner, shall certify that the information provided pursuant to this section is true under the penalty of perjury.

C.34:1B-343 Total amount of tax credit.

75. a. The total amount of the tax credit for an eligible business for each new or retained full-time job shall be as set forth in subsections b. through g. of this section. The total tax credit amount shall be calculated and credited to the business annually for each year of the eligibility period, notwithstanding any other provisions of P.L.2020, c.156 (C.34:1B-269 et al.) to the contrary.

b. The base amount of the tax credit for each new or retained full-time job for an eligible business shall be as follows:

(1) for an eligible business facility located within a government-restricted municipality, or which is a mega project, $4,000 per year;

(2) for a qualified business facility located within an enhanced area, $3,500 per year;

(3) for a qualified business facility located within a distressed municipality, $3,000 per year;

(4) for a project in a qualified opportunity zone or an employment and investment corridor, $2,500 per year; and

(5) for a project in other eligible areas, $500 per year.

c. (1) In addition to the base amount of the tax credit, the amount of the tax credit to be awarded for each new or retained full-time job shall be increased with the following bonuses:

(a) for an eligible business with a qualified business facility located in a municipality with a Municipal Revitalization Index score greater than 50, an increase of $1,000 per year;

(b) for an eligible business with a qualified business facility at which the capital investment in industrial or research and development premises for industrial or research and development use by the business is in excess of the minimum capital investment required for eligibility pursuant to subsection b. of section 71 of P.L.2020, c.156 (C.34:1B-339), an increase of $1,000 per year for each additional amount of investment that exceeds the minimum amount required for eligibility by 40 percent, with a maximum increase of $3,000 per year, unless the project qualifies as a mega project or the qualified business facility is located in a government-restricted municipality, in which case the maximum increase is $5,000 per year;

(c) for an eligible business with large numbers of new full-time jobs during the commitment period, the increases shall be in accordance with the following schedule:

(i) if the number of new full-time jobs is between 251 and 400, $500 per year;

(ii) if the number of new full-time jobs is between 401 and 600, $750 per year;

(iii) if the number of new full-time jobs is between 601 and 800, $1000 per year;

(iv) if the number of new full-time jobs is between 801 and 1,000, $1,250 per year;

(v) if the number of new full-time jobs is in excess of 1,000, $1,500 per year;

(d) for an eligible business that annually funds an industry-specific training program, which has the capacity to enroll 10 percent or more of the eligible business's full-time workforce, or pays a State educational institution to provide to the public an industry-specific training program, an increase of $500 per year; provided, however, that if the training program is provided by a State educational institution that is within 10 miles of the qualified business facility, then the increase shall be $1,000 per year;

(e) for an eligible business that qualifies as a small business, an increase of $500 per year;

(f) for an eligible business with new full-time jobs and retained full-time jobs at the qualified business facility with a median salary in excess of the existing median salary for the county in which the project is located, or, in the case of a project in a government-restricted municipality, a business that employs full-time positions at the project with a median salary in excess of the

median salary for the government-restricted municipality, an increase of $250 per year during the eligibility period for each 35 percent by which the project's median salary levels exceeds the county or government-restricted municipality median salary, with a maximum increase of $1,500 per year;

(g) for an eligible business with a qualified business facility located in a qualified incentive tract, an increase of $500 per year;

(h) for an eligible business engaged primarily in a targeted industry, an increase of $500 per year;

(i) for an eligible business with a qualified business facility located in a qualified incubator facility, an increase of $500 per year;

(j) for an eligible business that enters into a labor harmony agreement in accordance with section 69 of P.L.2020, c.156 (C.34:1B-337), an increase of $2,000 per year for the portion of the project subject to that labor harmony agreement; provided further that an eligible business receiving a bonus under this subparagraph may exceed the limitation applicable to the eligible business pursuant to subsection d. of this section by an amount not to exceed $1,000;

(k) for an eligible business that provides its employees access to child care either through an on-site quality child care facility free of charge to its employees or through reimbursements paid by the eligible business to its employees for the cost of child care in accordance with standards adopted by the authority, an increase of $1,000 per year;

(l) for an eligible business that enters into a partnership with a prisoner re-entry program for the purpose of identifying and promoting employment opportunities at the eligible business for former inmates and current inmates leaving the corrections system, and that hires at least one active participant in the re-entry program, an increase of $500 per year.

(m) for an eligible business with a qualified business facility that exceeds the Leadership in Energy and Environmental Design's "Silver" rating standards but does not exceed "Gold" rating standards or completes substantial environmental remediation, an additional increase of $250 per year, or for an eligible business with a qualified business facility that exceeds the Leadership in Energy and Environmental Design's "Gold" rating standards, an additional increase of $500 per year;

(n) for an eligible business in a targeted industry with a qualified business facility that is used by the eligible business to conduct a full time collaborative relationship with a college or university, including, but not limited to, a doctoral university, an increase of $1,000 per year;

(o) for an eligible business with a project that generates solar energy on site for use within the qualified business facility of an amount that equals at

least 50 percent of the qualified business facility electric supply service needs, an increase of $500 per year;

(p) for an eligible business with a marine terminal project in a municipality located outside a government-restricted municipality, but within the geographical boundaries of the South Jersey Port District, an increase of $1,500 per year;

(q) for an eligible business with a qualified business facility located in a qualified opportunity zone, an increase of $1,000 per year; and

(r) for an eligible business if one-third or more of the members of the eligible business's governing board or other governing body self-identify as members of an underrepresented community, which may include Black, African American, Hispanic, Latino, Asian, Pacific Islander, Native American, Native Hawaiian, Alaska Native or gay, lesbian, bisexual or transgender, an increase of $2,000 per year. The authority shall work with the Chief Diversity Officer or other State entities to ensure that the bonus provided under this subparagraph is implemented faithfully and in compliance with law.

(2) The authority shall not award a bonus to an eligible business with full-time jobs at the qualified business facility that pay less than $15 per hour or 120 percent of the minimum wage fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher.

(3) The authority may adopt, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), criteria in addition to, or in place of, the criteria set forth in paragraph (1) of this subsection in response to the prevailing economic conditions in the State.

d. The gross amount of the tax credit available to an eligible business for each new or retained full-time job shall be the sum of the base amount set forth in subsection b. of this section and the various additional bonus amounts for which the business is eligible pursuant to subsection c. of this section, subject to the following limitations:

(1) for a mega project or a project in a government-restricted municipality, the gross amount for each new or retained full-time job shall not exceed $8,000 per year;

(2) for a qualified business facility located within an enhanced area, the gross amount for each new or retained full-time job shall not exceed $6,000 per year;

(3) for a qualified business facility within a distressed municipality, the gross amount for each new or retained full-time job shall not exceed $5,000 per year;

(4) for a qualified business facility in a qualified opportunity zone or an employment and investment corridor, the gross amount for each new or retained full-time job shall not exceed $4,000 per year; and

(5) for a qualified business facility in other eligible areas, the gross amount for each new or retained full-time job shall not exceed $3,000 per year.

e. The authority shall reduce the gross amount of tax credits per full-time job if the median salary of new full-time jobs and retained full-time jobs at the qualified business facility is less than the existing median salary for the county in which the qualified business facility is located. The authority shall reduce the gross amount of tax credits per full-time job by an amount, in percentage points, equal to the percentage the median salary of new full-time jobs and retained full-time jobs at the qualified business facility is below the existing median salary for the county in which the qualified business facility is located. The authority shall not award a tax credit to an eligible business if the median salary of new full-time jobs and retained full-time jobs at the qualified business facility is 30 percent or more below the existing median salary for the county in which the qualified business facility is located.

f. After the determination by the authority of the gross amount of tax credits for which an eligible business is eligible pursuant to subsection d. of this section, the final total tax credit amount shall be calculated as follows: (1) for each new full-time job, the eligible business shall be allowed tax credits equaling the lesser of 100 percent of the gross amount of tax credits for each new full-time job; and (2) for each retained full-time job, the eligible business shall be allowed tax credits equaling 50 percent of the gross amount of tax credits for each retained full-time job.

g. Notwithstanding the provisions of subsections a. through f. of this section to the contrary, for each application approved by the board, the amount of tax credits available to be applied by the business annually shall not exceed an amount determined by the authority to be necessary to induce the project to be sited in New Jersey as determined by the board. The authority shall determine the amount necessary to complete the project through staff analysis of all locations under consideration by the eligible business and all lease agreements, ownership documents, or substantially similar documentation for the eligible business's current in-State locations and potential out-of-State location alternatives, competitive proposals from other states, the prevailing economic conditions, and any other information that the authority deems relevant.

C.34:1B-344 Forfeit of credit.

76. a. (1) If, in any tax period, an eligible business reduces the total number of full-time employees in its Statewide workforce by more than 20 percent from the number of full-time employees in its Statewide workforce in the last tax period prior to the credit amount approval under the program, then the eligible business shall forfeit its credit amount for that tax period

and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the eligible business's Statewide workforce to the threshold levels required by this subsection has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(2) If the annual report filed by an eligible business pursuant to section 77 of P.L.2020, c.156 (C.34:1B-345) provides that the number of new full-time employees employed by the eligible business at the qualified business facility, or the salaries thereof, was reduced by more than 10 percent of the number of new full-time employees, or salaries thereof, in the annual report of the prior year, or the project agreement if the annual report is the first such report filed, then the authority may reevaluate the net positive economic benefit of the project and reduce the size of the award accordingly. This reduction shall not affect any recapture under subsection f. of this section.

b. If, in any tax period, the number of full-time employees employed by the eligible business at the qualified business facility, or the salaries thereof, drops below 80 percent of the number of new and retained full-time jobs, and the salaries thereof, specified in the project agreement or the incentive phase agreement, then the eligible business shall forfeit its tax credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the eligible business at the qualified business facility to 80 percent of the number of jobs specified in the project agreement or incentive phase agreement or the restoration of 80 percent of the salaries specified in the project agreement is reviewed and approved by the authority.

c. Except for an eligible business engaged primarily in a targeted industry with less than 50 employees at application:

(1) If the qualified business facility is sold in whole or in part during the eligibility period, the new owner shall not acquire the capital investment of the seller, provided, however, that any tax credits of tenants shall remain unaffected. The seller shall forfeit all tax credits for the tax period in which the sale occurs and all subsequent tax periods, provided, however, that an eligible business may change the location of the qualified business facility if:

(a) the new facility:

(i) meets all applicable location qualifying criteria and has gross leasable area not less than the gross leasable area of the qualified business facility initially approved by the authority and the alternate qualified business facility meets the minimum capital investment and sustainability requirements of the program; or

(ii) does not meet all applicable location qualifying criteria or has less gross leasable area than the gross leasable area of the qualified business facility initially approved by the authority, if the alternate qualified business facility meets the minimum capital investment and sustainability requirements of the program, provided that the authority shall require a new cost benefit analysis illustrating the economics of the project which reflect occupancy at the alternate proposed qualified business facility location for the remaining duration of the commitment period and shall re-calculate the net economic benefit of the project to reflect the economics of occupancy at the alternate proposed location for the remaining duration of the net benefit test period in lieu of the economics of continuing occupancy at the qualified business facility proposed to be vacated, and provided further that the award of tax credits shall be reduced consistent with the variations in qualifying criteria for the alternate qualified business facility location as well as in a manner consistent with the revised net economic benefit calculation.

(b) in the event that the modified project economics materially deviate from the economics of the initial approval in a manner that undermines the recommendation of approval made by the staff of the authority at the time of the initial approval, then the business requesting to re-locate a qualified business facility shall be required to obtain the approval of the members of the authority.

(2) If a tenant subleases its tenancy in whole or in part during the eligibility period, the new tenant shall not acquire the tax credits of the sublessor, and the sublessor shall forfeit all tax credits for any tax period of its sublease in which the sublessor, in continued occupation of a portion of the qualified business facility, fails to maintain the number of jobs required for the sublessor to earn tax credits for the tax period or fails to independently satisfy the minimum capital investment or sustainability requirements for the program as set forth in section 71 of P.L.2020, c.156 (C.34:1B-339). Provided, however, if the capital investment of the sublessor in the occupied portion of the qualified business facility is below the project minimum capital investment as set forth in section 71 of P.L.2020, c.156 (C.34:1B-339), the sublessor may include capital investment made by or on behalf of the new tenant in the subleased portion of the qualified business facility, so long as that capital investment is not the subject of an independent application under an incentive program with the authority.

d. A small business may move its qualified business facility provided that the business remains in New Jersey during the commitment period.

e. The authority may require a small business to submit a growth plan, which specifies the number of new full-time employees at the qualified business facility that the eligible business will hire each year of the eligibility

period; provided that by the end of the eligibility period, the eligible business shall have a minimum of 25 percent growth of its workforce with new full-time jobs. If the eligible business meets the number of new full-time employees specified in the growth plan each year of the eligibility period, then the eligible business shall be entitled to an increased credit amount for that tax period, and each subsequent tax period, for each additional full-time employee added above the number of full-time employees certified, until the full-time employees number the maximum number projected for the final year of the eligibility period. Failure to meet the projections in any year shall not constitute a default but shall cause the authority to reduce the award in accordance with a schedule attached to the project agreement.

f. (1) The authority may recapture all or part of a tax credit awarded if an eligible business does not remain in compliance with the requirements of a project agreement for the duration of the commitment period. A recapture pursuant to this subsection may include interest on the recapture amount, at a rate equal to the statutory rate for corporate business or insurance premiums tax deficiencies, plus any statutory penalties, and all costs incurred by the authority and the Division of Taxation in the Department of the Treasury in connection with the pursuit of the recapture, including, but not limited to, counsel fees, court costs, and other costs of collection. Failure of the eligible business to meet any program criteria shall constitute a default and shall result in the recapture of all or part of the tax credit awarded.

(2) If all or part of a tax credit sold or assigned pursuant to section 78 of P.L.2020, c.156 (C.34:1B-346) is subject to recapture, then the authority shall pursue recapture from the eligible business and not from the purchaser or assignee of the tax credit transfer certificate. The purchaser or assignee of a tax credit transfer certificate shall be subject to any limitations and conditions that apply to the use of the tax credits by the eligible business.

(3) Any funds recaptured pursuant to this subsection, including penalties and interest, shall be deposited into the General Fund of the State.

g. A business may include an affiliate for any period, provided that the business provides a valid tax clearance certificate for the affiliate and a verification of the nature of the affiliate relationship during the relevant period, and provided further that the affiliate provides acceptable responses to the authority's legal disclosures inquiries, as determined by the authority. A formal modification of the authority's approval of the incentive agreement shall not be necessary to add or remove an affiliate after approval or execution of the incentive agreement.

h. A business may change its name filed with the authority by providing a copy of the filed amendment to the certificate of incorporation or formation,

as the case may be, of the business and a valid tax clearance certificate with the business's new name. A formal modification of the authority's approval shall not be necessary to change a business's name after approval or execution of the incentive agreement.

C.34:1B-345 Annual report.

77. a. (1) An eligible business which is awarded tax credits under the program shall submit annually, no later than the date indicated in the project agreement, commencing in the year in which the grant of tax credits is issued and for the remainder of the commitment period, a report that indicates that the eligible business continues to maintain the number of new and retained full-time jobs, and the salaries thereof, specified in the project agreement. As part of the annual report required pursuant to this subsection, an eligible business shall provide to the authority a copy of its applicable New Jersey tax return showing business income and withholdings as a condition of its continuation in the program, and the quarterly wage report required under R.S.43:21-14 submitted to the Department of Labor and Workforce Development together with an annual payroll report showing: (a) the new full-time jobs which were created in accordance with the project agreement, and (b) the new full-time jobs created during each subsequent year of the commitment period. The failure of an eligible business to submit to the authority a copy of its annual payroll report or submit the quarterly wage report in accordance with the provisions of this subsection during the eligibility period shall result in the forfeiture of the award for that year. An eligible business shall explain, in the reports required by this subsection, the reason for any discrepancies between the annual payroll report submitted by the eligible business and the quarterly wage report. The owner of the eligible business, or an authorized agent of the owner, shall certify that the information provided pursuant to this paragraph is true under the penalty of perjury. Claims, records, or statements submitted by an eligible business to the authority in order to receive tax credits shall not be considered claims, records, or statements made in connection with State tax laws.

(2) Upon receipt and review of each report submitted during the eligibility period, the authority shall provide to the eligible business and the director a certificate of compliance indicating the amount of tax credits that the eligible business may apply against its tax liability. The authority shall pro rate the tax credit for the first and last years of the eligibility period based on the number of full months the project was certified in the year the eligible business first certifies.

b. (1) In conducting its annual review, the authority may require a business to submit any information determined by the authority to be necessary and relevant to its review.

(2) An eligible business shall forfeit the credit amount for any tax period for which the eligible business's documentation remains uncertified as of the date for certification indicated in the project agreement, although credit amounts for the remainder of the years of the eligibility period shall remain available to the eligible business.

c. Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.

d. (1) Upon receipt by the director of the certificate of compliance, the director shall allow the eligible business a tax credit. The eligible business may apply the credit allowed by the director against the eligible business's tax liability for the tax period in which the director allowed the tax credit or may carry forward the credit for use by the eligible business in any of the next seven successive tax periods, which credit shall expire thereafter.

(2) (a) The amount of credit allowed may be applied against the tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5.

(b) Credits granted to a partnership shall be passed through to the partners, members, or owners, respectively, pro-rata, or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method provided to the director accompanied by any additional information as the director may prescribe. With respect to credits passed through to a person subject to tax liability due pursuant to section 2 or 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), the person shall be allowed to apply credits against the person's tax liability without the provision of a tax credit certificate to the Division of Taxation in the Department of the Treasury for the tax period accompanying the person's tax return and the person shall be considered the tax certificate holder and be subject to subparagraph (c) of this paragraph. The authority may recapture all or part of any tax credits claimed by a person pursuant to subparagraph (b) of this paragraph with penalties and interest from the person or the business in the event the Division of Taxation in the Department of the Treasury does not issue a tax credit certificate in an amount at least equal to the tax credit amount claimed on the person's tax return for the applicable tax period.

(3) The director shall prescribe the order of priority of the application of the credit allowed under this section and any other credits allowed by law against the tax imposed under section 5 of P.L.1945, c.162 (C.54:10A-5).

The amount of a credit applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with any other credits allowed by law, shall not reduce the tax liability to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

(4) In lieu of applying any credit certificate or credit transfer certificate against tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5, the credit certificate or credit transfer certificate may be surrendered to the Division of Taxation in the Department of the Treasury for a cash payment equal to 90 percent of the amount of tax credits evidenced by the certificate, provided that the issuance date of the credit certificate or credit transfer certificate to the taxpayer surrendering such certificate occurred at least two years prior to the date of surrender.

C.34:1B-346 Application for tax credit transfer certificate.

78. a. An eligible business may apply to the director and the chief executive officer of the authority for a tax credit transfer certificate, within three years of the tax period in which the director allows the eligible business a tax credit, in lieu of any amount of the tax credit against the eligible business's State tax liability. The tax credit transfer certificate, upon receipt thereof by the eligible business from the director and the chief executive officer of the authority, may be sold or assigned, in an amount not less than $25,000, within three years of the tax period in which the eligible business receives the tax credit transfer certificate from the director, to another person that may have a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. A purchaser or assignee of a tax credit transfer certificate pursuant to this section shall apply the transferred credit against the same tax for which the eligible business was approved a tax credit under the program. The tax credit transfer certificate provided to the eligible business shall include a statement waiving the eligible business's right to claim the credit that the eligible business has elected to sell or assign.

b. (1) The eligible business shall not sell or assign a tax credit transfer certificate allowed under this section for consideration received by the eligible business of less than 85 percent of the transferred credit amount before considering any further discounting to present value which shall be permitted. The tax credit transfer certificate issued to the eligible business by the director shall be subject to any limitations and conditions imposed on the

application of State tax credits pursuant to sections 70 through 81 of P.L.2020, c.156 (C.34:1B-338 et al.) and any other terms and conditions that the director may prescribe.

(2) With respect to credits to be sold or assigned, in full or in part, pursuant to an application to the authority for a tax credit transfer certificate by a business to a person subject to tax liability due pursuant to section 2 or 3 of P.L.1945, c.132 (C.54:18A-2 or C.54:18A-3), the person shall be allowed to apply the credits against the person's tax liability without the provision of a tax credit certificate to the Division of Taxation in the Department of the Treasury for the tax period accompanying its tax return, and the person be considered a tax credit transferee and be subject to paragraph (3) of this subsection.

(3) The authority may recapture all or part of any tax credits claimed by a person pursuant to paragraph (2) of this subsection with penalties and interest from the person or the business in the event the authority does not issue a tax credit certificate in an amount at least equal to the tax credit amount claimed on the person's tax return for the applicable tax period.

c. A purchaser or assignee of a tax credit transfer certificate pursuant to this section shall not make any subsequent transfers, assignments, or sales of the tax credit transfer certificate.

d. The authority shall publish on its Internet website the following information concerning each tax credit transfer certificate approved by the authority and the director pursuant to this section:

(1) the name of the transferrer;

(2) the name of the transferee;

(3) the value of the tax credit transfer certificate;

(4) the State tax against which the transferee may apply the tax credit; and

(5) the consideration received by the transferrer.

C.52:27D-520 "Recovery Infrastructure Fund."

79. a. The authority shall establish a dedicated fund to be known as the "Recovery Infrastructure Fund." Money in the fund shall be dedicated to the purpose of funding local infrastructure, which shall include:

(1) buildings and structures, such as schools, fire houses, police stations, recreation centers, public works garages, and water and sewer treatment and pumping facilities;

(2) sidewalks, streets, roads, ramps, and jug handles;

(3) open space with improvements such as athletic fields, playgrounds, and planned parks;

(4) open space without improvements;

(5) public transportation facilities such as train stations and public parking facilities; and

(6) the purchase of equipment considered vital to public safety.

b. The fund shall be credited with money remitted by eligible businesses pursuant to paragraph (2) of subsection b. of section 71 of P.L.2020, c.156 (C.34:1B-339).

c. Money remitted to the fund by an eligible business pursuant to paragraph (2) of subsection b. of section 71 of P.L.2020, c.156 (C.34:1B-339) shall be earmarked for use on local infrastructure projects in the municipality in which the eligible business's project is located.

d. A municipality shall apply to the authority, in a form and manner prescribed by the authority, for disbursements from the Recovery Infrastructure Fund. The authority, in consultation with the Department of Community Affairs, shall review and approve applications for disbursements of money from the fund pursuant to the provisions of this section and the rules and regulations promulgated by the authority pursuant to paragraph (1) of subsection f. of this section.

e. The Department of Community Affairs shall coordinate with the authority and other boards, commissions, institutions, departments, agencies, State officers, and employees to carry out the local infrastructure projects funded through the Recovery Infrastructure Fund.

f. (1) The authority shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of subsections a. through d. of this section.

(2) The Department of Community Affairs shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of subsection e. of this section.

C.34:1B-347 Report by State college, university.

80. Beginning the year next following the year in which P.L.2020, c.156 (C.34:1B-269 et al.) takes effect and every two years thereafter, a State college or university shall, pursuant to an agreement executed between the State college or university and the authority, prepare a report on the implementation of the program, and submit the report to the authority, the Governor, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. Each biennial report required under this section shall include a description of each eligible business receiving a tax credit under the program, a detailed analysis of the consideration given to each applicant, an analysis of whether the incentives awarded influenced the eligible business's decisions to locate

a qualified business facility in the State, the return on investment for incentives awarded, the eligible business's impact on the State's economy, and any other metrics the State college determines are relevant based upon national best practices. The authority shall prepare a written response to the report, which the authority shall submit to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

C.34:1B-348 Regulations.

81. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the chief executive officer of the authority may adopt, immediately, upon filing with the Office of Administrative Law, regulations that the chief executive officer deems necessary to implement the provisions of sections 70 through 81 of P.L.2020, c.156 (C.34:1B-338 et al.), including but not limited to examples of and the determination of capital investment and the determination of the limits, if any, on the expense or type of furnishings that may constitute capital improvements, which regulations shall be effective for a period not to exceed 180 days from the date of the filing. The chief executive officer shall thereafter amend, adopt, or readopt the regulations in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

C.34:1B-349 Short title.

82. Sections 82 through 88 of P.L.2020, c.156 (C.34:1B-349 et al.) shall be known and may be cited as the "Main Street Recovery Finance Program Act."

C.34:1B-350 Definitions.

83. As used in sections 82 through 88 of P.L.2020, c.156 (C.34:1B-349 et al.):

"Authority" means the New Jersey Economic Development Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Board" means the Board of the New Jersey Economic Development Authority, established by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Eligible microbusiness" means a business enterprise located in the State that produces goods or provides services and has fewer than 10 full-time equivalent employees and annual gross revenue of less than $1,000,000 at the time of application for a loan under the program.

"Eligible small business" means any business that satisfies the criteria set forth in subsection b. of section 85 of P.L.2020, c.156 (C.34:1B-352) at the time of application for a grant under the program.

"Program" means the Main Street Recovery Finance Program established pursuant to section 84 of P.L.2020, c.156 (C.34:1B-351).

"Small business" means a business engaged in the conduct of a trade or business in this State that qualifies as a "small business concern" within the meaning of the federal "Small Business Act," Pub.L.85-536 (15 U.S.C. § 631 et seq.) for the purpose of the small business's eligibility assistance from the United States Small Business Administration.

C.34:1B-351 Main Street Recovery Finance Program.

84. The Main Street Recovery Finance Program is hereby established as a program under the jurisdiction of the New Jersey Economic Development Authority. The authority shall administer the program for the purpose of providing grants, loans, and loan guarantees to eligible small businesses in accordance with the provisions of sections 82 through 88 of P.L.2020, c.156 (C.34:1B-349 et al.). A business seeking a grant, loan, or loan guarantee under the program shall submit an application to the authority. The authority shall adopt eligibility criteria for the program and may consider a business's benefit to the community in which it is situated and the degree to which the business enhances and promotes job creation and economic development in communities that have been severely impacted by the COVID-19 pandemic when making awards under the program.

C.34:1B-352 Grants to eligible small businesses.

85. a. As part of the Main Street Recovery Finance Program, the authority shall provide grants to eligible small businesses from the Main Street Recovery Fund, subject to appropriation or the availability of federal funds provided that not less than 40 percent of such funds shall be made available to eligible microbusinesses certified by the State as a "minority business" or a "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.). Grants awarded pursuant to the program may be used by an eligible small business for capital improvements or to cover operating expenses. The authority may dedicate up to 10 percent of any amount appropriated for the purposes of this section to provide technical assistance grants to eligible microbusinesses.

b. (1) A small business shall be eligible to receive a grant pursuant to this section if the small business demonstrates to the authority that:

(a) the small business has complied with all requirements for filing tax and information returns and for paying or remitting required State taxes and fees by submitting, as a part of the application, a tax clearance certificate, as described in section 1 of P.L.2007, c.101 (C.54:50-39); and

(b) each worker employed by the small business shall be paid not less than $15 per hour or 120 percent of the minimum wage fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher,

except an employee who customarily and regularly receives gratuities or tips shall be paid not less than 120 percent of the minimum wage.

(2) In addition to the requirements of paragraph (1) of this subsection, a small business shall be eligible to receive a grant pursuant to this subsection for capital improvements only if the small business demonstrates to the authority at the time of application that:

(a) any capital improvement undertaken with grant funds shall comply with standards established by the authority in accordance with the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources to reduce environmental degradation and encourage long-term cost reduction; and

(b) each worker employed to perform construction work in connection with a capital improvement undertaken with grant funds in excess of $50,000 shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.).

c. Prior to March 1, 2025, an eligible small business seeking a grant pursuant to this section shall submit an application for approval to the authority in the form and manner prescribed in regulations adopted by the authority pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Before the board may consider an eligible small business's application for grants, the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury shall each report to the chief executive officer of the authority whether the eligible small business is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the eligible small business. The authority may also contract with an independent third party to perform a background check on the eligible small business. The eligible small business, or an authorized agent thereof, shall certify under the penalty of perjury that any information provided in the application required pursuant to this subsection is true.

d. Following approval by the board, but before the disbursement of grant funds, the authority shall require an eligible small business to enter into a grant agreement. The grant agreement shall specify the amount of the grant to be awarded the eligible small business and the frequency of payments. If the authority determines that an eligible small business made a material misrepresentation on the eligible small business's grant application or the eligi-

ble small business has filed to comply with any requirement set forth in paragraphs (1) through (4) of subsection b. of this section, then the small business shall return to the authority any grant awarded pursuant to this section.

C.34:1B-353 Moneys available to eligible lenders.

86. a. As part of the Main Street Recovery Finance Program, the authority shall make available from the Main Street Recovery Fund, subject to annual appropriation and the availability of funds, to eligible community development finance institutions and other eligible lenders pursuant to subsection b. of this section and to eligible microbusinesses pursuant to subsection c. of this section, provided that not less than 40 percent of such funds shall be made available to eligible microbusinesses certified by the State as a "minority business" or a "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.). The authority may dedicate up to 10 percent of any amount appropriated for the purposes of this section to provide technical assistance grants to eligible microbusinesses.

b. The authority shall provide loans and grants to eligible community development finance institutions and other eligible lenders in accordance with this subsection. Loans and grants made available to eligible community development finance institutions and other eligible lenders pursuant to this paragraph shall be used to strengthen capital structures, leverage additional debt capital, and increase lending and investing in economically disadvantaged communities. The authority shall require an eligible community development finance institution or other eligible lender that receives a grant or loan pursuant to this subsection to enter into an agreement with the authority.

As used in this section, "other eligible lender" means a zone development corporation as defined in section 3 of P.L.1983, c.303 (C.52:27H-62) that is located in a municipality with a population greater than 100,000 or another nonprofit lender with at least 10 years experience lending to microbusinesses.

c. The authority shall provide loans to eligible microbusinesses in accordance with this subsection. Loans made available to eligible microbusinesses pursuant to this subsection may be used for capital improvements, employee training, salaries for new positions, and to pay for day-to-day operating expenditures, including payroll, rent, utilities, insurance, and purchases of goods and services. The authority shall require an eligible microbusiness to enter into a loan agreement. Loans made pursuant to this subsection shall have a term and an interest rate determined by the authority based on conditions currently prevailing in the market. The authority may forgive loans provided to eligible microbusinesses pursuant to this subsection at the authority's

discretion. The authority may, through the terms of the loan agreement, establish terms governing the incidence of default by an eligible microbusiness.

d. Prior to March 1, 2025, an eligible community development finance institution or other eligible lender seeking a loan or a grant pursuant to subsection b. of this section or an eligible microbusiness seeking a loan pursuant to subsection c. of this section shall submit an application for approval to the authority in the form and manner prescribed in regulations adopted by the authority pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Before the authority may consider an application, the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury shall each report to the chief executive officer of the authority whether the applicant is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the applicant. The authority may also contract with an independent third party to perform a background check on the applicant. The applicant, or an authorized agent thereof, shall certify under the penalty of perjury that any information provided in the application required pursuant to this subsection is true.

C.52:18A-262 "Main Street Recovery Fund."

87. a. To aid in the economic recovery of those communities most impacted by the COVID-19 pandemic and to better ensure their long-term economic growth, there is created the "Main Street Recovery Fund" to be held by the State Treasurer. All moneys deposited in the fund shall be held and disbursed in the amounts necessary to fulfill the purposes of providing grants and loans pursuant to sections 85 and 86 of P.L.2020, c.156 (C.34:1B-352 and C.34:1B-353) and the purposes enumerated in subsection b. of this section, and for reasonable administrative costs of implementing sections 82 through 88 of P.L.2020, c.156 (C.34:1B-349 et al.). The fund may be credited with pay backs; bonuses; entitlements; money received from the federal government; transfers; grants; gifts; bequests; moneys appropriated by the Legislature; or any other money made available from any source. The State Treasurer, in consultation with the authority, may invest and reinvest any moneys in the fund in the State Treasurer's discretion. Any income from, interest on, or increment to moneys so invested or reinvested shall be included in the fund.

b. Upon application to the State Treasurer, and in consultation with the Chief Executive Officer of the New Jersey Economic Development Authority, the State Treasurer shall make loan guarantees from the fund to leverage

private and public lending to help finance small businesses, real estate developments, and manufacturers that are creditworthy but not receiving the financing needed to expand and create jobs. In making loan guarantees under this section, the State Treasurer shall give due consideration to small businesses and real estate developments in underserved communities throughout the State that have been deeply impacted by the COVID-19 pandemic.

c. (1) The State Treasurer shall monitor the activities of the beneficiaries of the loan guarantees issued pursuant to this section on an annual basis to ensure compliance with the terms and conditions imposed on the recipient by the chief executive officer.

(2) An entity receiving a loan guarantee and the beneficiaries of such loan guarantee under this section shall provide the State Treasurer with an annual accounting of how the benefit it received from the fund was applied.

(3) The annual accounting required under this section shall include certifications by the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury that the entity and the beneficiaries are in substantial good standing with the respective departments, or have entered into an agreement with the respective department that includes a practical corrective action plan.

(4) The entity and beneficiary, or an authorized agent thereof, shall certify under the penalty of perjury that the information provided pursuant to this subsection is true.

C.34:1B-354 Regulations.

88. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the chief executive officer of the authority may adopt, immediately, upon filing with the Office of Administrative Law, regulations that the chief executive officer deems necessary to implement the provisions of sections 82 through 88 of P.L.2020, c.156 (C.34:1B-349 et al.), which regulations shall be effective for a period not to exceed 180 days from the date of the filing. The chief executive officer shall thereafter amend, adopt, or readopt the regulations in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

C.52:18A-263 Purchase of unused tax credits.

89. a. The Director of the Division of Taxation in the Department of the Treasury may purchase unused tax credits awarded under a program listed in subsection b. of this section, including tax credit transfer certificates issued by the director in lieu of a tax credit allowed under such programs. The director shall not pay consideration in excess of 75 percent of the credit amount

to be purchased, except for a credit awarded under the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), which shall be subject to the provisions of paragraph (4) of subsection d. of section 77 of P.L.2020, c.156 (C.34:1B-345).

b. The Director of the Division of Taxation in the Department of the Treasury may purchase tax credits awarded under the following:

(1) the "Historic Property Reinvestment Act," sections 1 through 8 of P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276);

(2) the "Brownfield Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287);

(3) the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302);

(4) the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310);

(5) the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321);

(6) the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335);

(7) the " Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.);

(8) the Grow New Jersey Assistance Program established pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244);

(9) section 6 of P.L.2010, c.57 (C.34:1B-209.4);

(10) the State Economic Redevelopment and Growth Grant program established pursuant to section 5 of P.L.2009, c.90 (C.52:27D-489e);

(11) section 1 of P.L.2018, c.56 (C.54:10A-5.39b); and

(12) section 2 of P.L.2018, c.56 (C.54A:4-12b).

C.34:1B-355 Working Group on Entrepreneur Zones.

90. a. There is established in the New Jersey Economic Development Authority a Working Group on Entrepreneur Zones for the purpose of making recommendations for the establishment of entrepreneur zones throughout the State. The working group shall consider whether the establishment of entrepreneur zones in which the State provides the tax incentives, regulation relief, and financial support to local entrepreneurs is the most effective way to create jobs in the State. The working group shall identify census tracts within the State that are suitable for designation as an entrepreneur zone.

b. The working group shall consist of seven members appointed by the chief executive officer of the New Jersey Economic Development Authority.

c. Appointments to the working group shall be made within 30 days after the effective date of this act. Vacancies in the membership of the working group shall be filled in the same manner as the original appointments were made.

C.52:34-27 Definitions.

91. a. As used in this section:

"Personal protective equipment" means coveralls, face shields, gloves, gowns, masks, respirators, and other equipment designed to protect the wearer from the spread of infection or illness.

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

b. Notwithstanding the provisions of any other law to the contrary, whenever the Director of the Division of Purchase and Property, or the head of any State agency shall consider bids on any contract for the purchase of personal protective equipment that is publicly advertised for bids, the director or the head of a State agency shall list the bidders in order based upon which bid, conforming to the invitation for bids, would be most advantageous to the State, price, and other factors considered. If the first bidder on the list has its principal place of business in this State it shall be awarded the contract. If no bidder having its principal place of business in this State has submitted a bid that is within five percent of the bid submitted by the bidder at the top of the list that has its principal place of business outside of this State, the contract shall be awarded to the bidder at the top of the list. If the first bidder on the list has its principal place of business outside of this State and a bidder that has its principal place of business in this State is on the list and has submitted a bid that is within five percent of the bid submitted by the bidder at the top of the list that has its principal place of business outside of this State, the contract shall be awarded to the highest listed in-State bidder.

Any specifications for the provision of personal protective equipment under this act shall be drafted in a manner to encourage free, open, and competitive bidding.

Any specification which knowingly excludes prospective bidders by reason of the impossibility of performance, bidding, or qualifications by any but one bidder shall be null and void and of no effect.

Nothing in this section shall limit the ability of the Director of the Division of Purchase and Property or the head of any State agency to make awards to multiple bidders, pursuant to section 1 of P.L.1986, c.26 (C.52:34-12.1) to furnish the same or similar materials, supplies, services or equipment, where multiple bidders are necessary.

c. The State Treasurer shall adopt such rules and regulations as may be necessary to implement the provisions of this section pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

C.34:1B-356 Short title.

92. Sections 92 through 97 of P.L.2020, c.156 (C.34:1B-356 through C.34:1B-361) shall be known and may be cited as the "New Jersey Ignite Act."

C.34:1B-357 Definitions.

93. As used in sections 92 through 97 of P.L.2020, c.156 (C.34:1B-356 through C.34:1B-361):

"Authority" means the New Jersey Economic Development Authority established pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4).

"Authority commitment period" means the period for which the authority commits to provide a start-up rent grant for the payment of rent in a collaborative workspace.

"Collaborative workspace" means a business facility certified pursuant to section 95 of P.L.2020, c.156 (C.34:1B-359), located in this State, developed to provide flexible workspaces for early stage innovation economy businesses, and designed to encourage community and collaboration within an inter-connected environment in which multiple start-up businesses have access to shared community events and shared workplace accommodations including, but not limited to, kitchens and makerspaces.

"Collaborative workspace commitment period" means a period of months equal to one-half the number of months of the authority commitment period.

"Community event" means an event hosted by a collaborative workspace and accessible to start-up tenant or member businesses, without charge or with nominal charge, organized to support an innovation ecosystem, as defined in section 21 of P.L.2020, c.156 (C.34:1B-289), at the collaborative workspace, including, but not limited to, events such as meet-ups, speaker series, and office hours for lawyers, accountants, consultants, or investors.

"Early stage innovation economy business" means a business that operates within a targeted industry with at least one full-time employee, who is assigned to the collaborative workspace, and fewer than 10 employees overall

and with less than $1,000,000 in gross sales over the 12-month period immediately prior to submitting an application for tenancy at a collaborative workspace. To be considered an "early stage innovation economy business" the earliest date of formation for the business must have been not more than three years prior to utilizing or renting space in, or access to, the collaborative workspace under the program, and the business shall not have previously utilized or rented space in, or access to, another collaborative workspace in the State.

"Full time employee" means a person who is: employed by the start-up tenant or member business for at least 35 hours a week; working as an independent contractor providing critical capabilities to the start-up tenant or member business for at least 35 hours a week; or an owner or partner of the start-up tenant or member business who works for at start-up tenant or member business for at least 35 hours a week.

"Grant agreement" means an agreement between the authority and the owner and operator of a collaborative workspace which memorializes the terms and conditions of the collaborative workspace's participation in the program.

"Program" means the New Jersey Ignite Program established pursuant to section 94 of P.L.2020, c.156 (C.34:1B-358).

"Targeted industry" means any industry identified from time to time by the authority which shall initially include advanced transportation and logistics, advanced manufacturing, aviation, autonomous vehicle and zero-emission vehicle research or development, clean energy, life sciences, hemp processing, information and high technology, finance and insurance, professional services, film and digital media, non-retail food and beverage businesses including food innovation, and other innovative industries that disrupt current technologies or business models.

"Start-up rent grant" means a grant provided by the authority to a collaborative workspace for the rent that would otherwise be due to the collaborative workspace from a start-up tenant or member business for the period of the authority commitment period.

"Start-up tenant or member business" means an early stage innovation economy business that is registered to do business in New Jersey, rents space in, or access to, a collaborative workspace under the program, and enters into an agreement with the owner and operator of the collaborative workspace to rent space in, or access to, the collaborative workspace for an agreed upon period, which shall include the authority commitment period, collaborative workspace commitment period, and start-up tenant or member business commitment period.

"Start-up tenant or member business commitment period" means a period of months equal to the sum of the authority commitment period and the collaborative workspace commitment period.

C.34:1B-358 New Jersey Ignite Program.

94. The New Jersey Ignite Program is hereby established as a program under the jurisdiction of the authority. The purpose of the program shall be to foster early stage innovation economy businesses and to help those businesses overcome barriers to commercial success. The authority shall structure the program as a public-private partnership through which the authority provides start-up rent grants to collaborative workspaces, certified pursuant to section 95 of P.L.2020, c.156 (C.34:1B-359), to support the early months of an early stage innovation economy business's rent at the collaborative workspace.

C.34:1B-359 Application for certification as collaborative workspace.

95. a. The owner and operator of a business facility located in the State may apply to the authority to have the business facility certified as a collaborative workspace under the program. A business facility shall be eligible for certification as a collaborative workspace if:

(1) the business facility is developed to provide flexible workspaces for early stage innovation economy businesses;

(2) the business facility is designed to encourage community and collaboration within an inter-connected environment in which multiple start-up businesses have access to shared workplace accommodations;

(3) the owner and operator of the business facility commits to hosting at least eight community events at the business facility each year;

(4) the owner and operator of the business facility possesses a tax clearance certificate issued by the Division of Taxation in the Department of the Treasury;

(5) the owner and operator of the business facility possesses a business registration certificate issued by the Division of Revenue in the Department of the Treasury;

(6) at least five unique tenant or member businesses, in which the owner and operator of the business facility does not have a direct financial interest, have paid rent for space in, or access to, the business facility over the two years immediately preceding the submission of the application for certification as a collaborative workspace pursuant to this section or, if the business facility has been open for less than 90 days, the owner and operator of the business facility provides to the authority at least three letters of intent from prospective tenant or member businesses;

(7) the business facility is subject to ongoing operating costs, such as rent, mortgage payments, or internal corporate charge-backs, at the time of application for certification pursuant to this section;

(8) the owner and operator of the business facility offers at least one type of workspace at the business facility for rent by an early stage innovation economy business;

(9) the owner and operator of the business facility charges rent to tenants or members; and

(10) the owner and operator of the business facility certifies that any rent charged to a start-up tenant or member business is to be market-rate.

b. In addition to the requirements set forth in subsection a. of this section, for a business facility to qualify for certification as a collaborative workspace, the authority may, in its discretion and subject to available funds, require the owner and operator of the business facility shall commit to paying one month's rent for a start-up tenant or member business at the business facility for every two months of rent to be paid by the authority as a start-up rent grant under the program.

c. (1) The owner and operator of a business facility eligible for certification as a collaborative workspace pursuant to subsections a. and b. of this section shall submit an application for certification and participation in the program in such form as required by the authority. The application shall include any information the authority determines is necessary to administer the program.

(2) In evaluating applications for certification as a collaborative workspace, the authority may conduct site visits or perform any other investigation necessary to confirm any statement made in the application submitted by the owner and operator of the business facility. If the authority later finds that any statement made in the application for certification is inaccurate, then the authority may rescind its certification of the collaborative workspace.

d. Following approval of an application for certification, to participate in the program the authority and the owner and operator of a collaborative workspace shall enter into a grant agreement governing the terms, conditions, and timing under which the authority shall pay the start-up rent grant to the owner and operator of the collaborative workspace. The grant agreement shall require a collaborative workspace to share data concerning its participation in the program and on collaborative workspace utilization for the purpose of better program planning and the development of new programs to further support the State's economy.

C.34:1B-360 Start-up rent grants.

96. a. Up to the limits established in this subsection and in accordance with the grant agreement, the authority shall provide start-up rent grants to the

owner and operator of a collaborative workspace through a series of scheduled payments as set forth in the grant agreement. The owner and operator of the collaborative workspace shall utilize the grant funding to provide rent-free space to a start-up tenant or member business that agrees to continue renting space in, or access to, the collaborative workspace for the start-up tenant or member business commitment period. The maximum start-up rent grant that the authority may provide to a collaborative workspace for the tenancy of a single start-up tenant or member business shall not exceed $25,000.

b. The authority may provide a start-up rent grant for the payment of rent for space in, or access to, a collaborative workspace for up to six months; provided, however, if a collaborative workspace or start-up tenant or member business satisfies any of the bonuses set forth in paragraphs (1) through (5) of this subsection, then the authority may provide an additional month of rent for each bonus satisfied by the collaborative workspace or start-up tenant or member business. The authority may award a bonus to the owner and operator of a collaborative workspace if:

(1) the collaborative workspace is located in a qualified opportunity zone designated pursuant to 26 U.S.C. s.1400Z-1;

(2) the collaborative workspace is affiliated with a hospital system or a New Jersey university;

(3) the collaborative workspace has been open less than 90 days from the date on which the owner and operator of the collaborative workspace applied to the authority to participate in the program and the collaborative workspace is not in the same location as an existing facility;

(4) the start-up tenant or member business for which the start-up rent grant is paid is certified by the State as a "minority business" or a "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.); or

(5) the start-up tenant or member business for which the start-up rent grant is paid is the first presence of a foreign company entering into the United States.

c. (1) The owner and operator of a collaborative workspace shall annually certify to the authority, under the penalty of perjury, that it is in compliance with the grant agreement.

(2) In addition to the certification required pursuant to paragraph (1) of this subsection, the authority shall conduct an annual inspection and review of the collaborative workspace and may request documentation evidencing that the collaborative workspace utilized the start-up rent grant it received from the authority in accordance with the requirements of the program and the grant agreement.

d. (1) If a start-up tenant or member business stops occupying or accessing a collaborative workspace before the end of the start-up tenant or member business commitment period, then the collaborative workspace shall refund to the authority that portion of the start-up rent grant covering any period in which the start-up tenant or member business did not have space in, or access to, the collaborative workspace.

(2) If the authority determines that a collaborative workspace is not in compliance with the requirements of the program or of the grant agreement, then the authority shall rescind the business facility's certification as a collaborative workspace and bar the business facility from further participation in the program.

C.34:1B-361 Rules, regulations.

97. The authority shall promulgate rules and regulations necessary for the effective implementation of sections 92 through 97 of P.L.2020, c.156 (C.34:1B-356 through C.34:1B-361). Notwithstanding any provision of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the authority may adopt, immediately upon filing with the Office of Administrative Law, such regulations as are necessary to implement the provisions of sections 92 through 97 of P.L.2020, c.156 (C.34:1B-356 through C.34:1B-361), which shall be effective for a period not to exceed 12 months following enactment, and shall thereafter be amended, adopted, or readopted by the authority in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

C.34:1B-362 Combined value of all tax credits.

98. a. The combined value of all tax credits awarded under the "Historic Property Reinvestment Act," sections 1 through 8 of P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276), the "Brownfield Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302), the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310), the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321); the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335); and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.) shall not exceed an overall cap of $11.5 billion over a seven-year period, subject to the conditions and limitations set forth in this section. Of

this $11.5 billion, $2.5 billion shall be reserved for transformative projects approved under the Aspire Program or the Emerge Program.

b. (1) The total value of tax credits awarded under any constituent program of the "New Jersey Economic Recovery Act of 2020," P.L.2020, c.156 (C.34:1B-269 et al.) shall be subject to the following annual limitations, except as otherwise provided in subsection c. of this section:

(a) for tax credits awarded under the "Historic Property Reinvestment Act," sections 1 through 8 of P.L.2020, c.156 (C.34:1B-269 through C.34:1B-276), the total value of tax credits annually awarded during each of the first six years of the seven-year period shall not exceed $50 million;

(b) for tax credits awarded under the "Brownfield Redevelopment Incentive Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287), the total value of tax credits annually awarded during each of the first six years of the seven-year period shall not exceed $50 million;

(c) for tax credits awarded under the "New Jersey Innovation Evergreen Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288 through C.34:1B-302), the total value of tax credits annually awarded during each of the first six years of the seven-year period shall not exceed $60 million and the total value of tax credits awarded over the entirety of the seven-year program shall not exceed $300,000,000;

(d) for tax credits awarded under the "Food Desert Relief Act," sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310), the total value of tax credits annually awarded during each of the first six years of the seven-year period shall not exceed $40 million;

(e) for tax credits awarded under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the total value of tax credits annually awarded during each of the first six years of the seven-year period shall not exceed $200 million, except that during each of the first six years of the seven-year period, the authority shall annually award tax credits valuing no greater than $130 million for projects located in the 13 northern counties of the State, and the authority shall annually award tax credits valuing no greater than $70 million for projects located in the eight southern counties of the State. If during any of the first six years of the seven-year period, the authority awards tax credits in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic

area, except that (i) after the completion of the third year of the seven-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits from any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the seven-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located;

(f) for tax credits awarded under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-34:1B-336 et al.), not including tax credits awarded for transformative projects, the total value of tax credits annually awarded during each of the first six years of the seven-year period shall not exceed $1.1 billion, except that during each of the first six years of the seven-year period, the authority shall annually award tax credits valuing no greater than $715 million for projects located in the northern counties of the State, and the authority shall annually award tax credits valuing no greater than $385 million for projects located in the southern counties of the State. If during any of the first six years of the seven-year period, the authority awards tax credits in an amount less than the annual limitation for projects located in northern counties or southern counties, as applicable, the uncommitted portion of the annual limitation shall be available to be deployed by the authority in a subsequent year, provided that the uncommitted portion of tax credits shall be awarded for projects located in the applicable geographic area, except that (i) after the completion of the third year of the seven-year period, the authority may deploy 50 percent of the uncommitted portion of tax credits for any previous year without consideration to the county in which a project is located; and (ii) after the completion of the sixth year of the seven-year period, the authority may deploy all available tax credits, including the uncommitted portion of the annual limitation for any previous year, without consideration to the county in which a project is located; and

(g) for tax credits awarded for transformative projects under the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), the total value of tax credits awarded during the seven-year period shall not exceed $2.5 billion. The total value of tax credits awarded for transformative projects in a given year shall not be subject to an annual limitation, except that no more than 10 transformative projects shall be awarded tax credits during the seven-year period, and the total value of tax credits awarded to any transformative project shall not exceed $250 million.

(2) The authority may in any given year determine that it is in the State's interest to approve an amount of tax credits in excess of the annual limitations set forth in paragraph (1) of this subsection, but in no event more than $200,000,000 in excess of the annual limitation, upon a determination by the authority board that such increase is warranted based on specific criteria that may include:

(i) the increased demand for opportunities to create or retain employment and investment in the State as indicated by the volume of project applications and the amount of tax credits being sought by those applications;

(ii) the need to protect the State's economic position in the event of an economic downturn;

(iii) the quality of project applications and the net economic benefit to the State and municipalities associated with those applications;

(iv) opportunities for project applications to strengthen or protect the competitiveness of the state under the prevailing market conditions;

(v) enhanced access to employment and investment for underserved populations in distressed municipalities and qualified incentives tracts;

(vi) increased investment and employment in high-growth technology sectors and in projects that entail collaboration with education institutions in the State;

(vii) increased development proximate to mass transit facilities;

(viii) any other factor deemed relevant by the authority.

c. In the event that the authority in any year approves projects for tax credits in an amount less than the annual limitations set forth in paragraph (1) of subsection b. of this section, then the uncommitted portion of the annual limitation shall be available to be deployed by the authority in future years for projects under the same program; provided however, that in no event shall the aggregate amount of tax credits approved be in excess of the overall cap of $11.5 billion, and in no event shall the uncommitted portion of the annual limitation for any previous year be deployed after the conclusion of the seven-year period.

C.34:1B-363 Short title.

99. Sections 99 through 105 of P.L.2020, c.156 (C.34:1B-363 through C.34:1B-369) shall be known and may be cited as the "Economic Development Authority Integrity and Protection Act."

C.34:1B-364 Definitions.

100. As used in sections 99 through 105 of P.L.2020, c.156 (C.34:1B-363 through C.34:1B-369):

"Economic development incentive" means a financial incentive, awarded by the authority to a person or entity, or agreed to between the authority and a person or entity, for the purpose of stimulating economic development or redevelopment in New Jersey, including, but not limited to, a bond, grant, loan, loan guarantee, matching fund, tax credit, tax deduction, or other tax expenditure.

"Fraud" means a deception or misrepresentation made by any person or entity with the knowledge that the deception or misrepresentation could result in some unauthorized benefit to that person or entity or another person or entity, including any act that constitutes fraud under applicable federal or State law.

"Economic development investigation" means an investigation of fraud, abuse, or illegal acts perpetrated within economic development incentive programs by applicants for, or recipients of, economic development incentives.

"Office of the Economic Development Inspector General" means the Office of the Economic Development Inspector General created by section 102 of P.L.2020, c.156 (C.34:1B-366).

C.34:1B-365 Chief Compliance Officer.

101. a. The New Jersey Economic Development Authority shall employ a Chief Compliance Officer, who shall be appointed by the Chief Executive Officer of the authority to manage the Division of Portfolio Management and Compliance in the authority.

b. The Chief Compliance Officer shall:

(1) create, maintain, monitor, and coordinate procedures to ensure that all economic development incentive programs, authority employees, and economic development incentive program applicants and recipients comply fully with the requirements of the corresponding economic development incentive program;

(2) conduct, on such periodic basis as determined by the authority, systematic audits of economic development incentive programs for compliance with the laws, regulations, codes, orders, procedures, advisory opinions and rulings concerning those programs;

(3) maintain a central database of information concerning the management of all economic development incentive programs and information on economic development incentive program applicants and recipients to provide for the regular and ongoing reporting, verification, and monitoring of the State's economic development incentive programs;

(4) prior to the adoption of any rule or regulation by the authority or the board related to the general administration of the programs administered by

the authority pursuant to section 6 of P.L.2020, c.156 (C.34:1B-274), section 19 of P.L.2020, c.156 (C.34:1B-287), section 29 of P.L.2020, c.156 (C.34:1B-297), section 34 of P.L.2020, c.156 (C.34:1B-302), section 41 of P.L.2020, c.156 (C.34:1B-309), section 67 of P.L.2020, c.156 (C.34:1B-335), section 79 of P.L.2020, c.156 (C.52:27D-520), section 88 of P.L.2020, c.156 (C.34:1B-354), and section 97 of P.L.2020, c.156 (C.34:1B-361), or any other regulation specifically related to the recapture of economic development incentive award values, review and certify that the provisions of program rules or regulations provide the authority with adequate procedures to pursue the recapture of the value of an economic development incentive in the case of substantial noncompliance, fraud, or abuse by the economic development incentive recipient, and that program rules and regulations are sufficient to ensure against economic development incentive fraud, waste, and abuse; and

(5) refer, to the Economic Development Inspector General and to the Attorney General, information on suspected fraud or abuse identified by the Division of Portfolio Management and Compliance.

c. The Chief Compliance Officer, in consultation with the Department of Labor and Workforce Development and the Department of the Treasury, shall:

Develop, adopt, and implement a corrective action plan, within one year of the effective date of sections 99 through 105 of P.L.2020, c.156 (C.34:1B-363 through C.34:1B-369) and within six months of receiving notice of any program deficiency issued by the Economic Development Inspector General, that is designed to enable the authority to properly manage the economic development incentive programs administered by the authority, and adopt rules and regulations concerning the administration and enforcement of the Division of Portfolio Management and Compliance's duties in a manner that is most compatible with ensuring against fraud and abuse in the State's economic development incentive programs.

C.34:1B-366 Office of the Economic Development Inspector General.

102. a. There is established, in the authority, the Office of the Economic Development Inspector General, which shall operate independent of the oversight or management of the Chief Executive Officer of the authority. The Office of the Economic Development Inspector General shall operate under the Economic Development Inspector General, who shall be a retired member of the Judicial Branch of the State, to be appointed by the Governor with the advice and consent of the Senate for a term of four years. The Economic Development Inspector General shall direct the work of the Office of

the Economic Development Inspector General and have the following general functions, duties, powers, and responsibilities:

(1) to appoint such deputies, directors, assistants, and other officers and employees as may be needed for the Office of the Economic Development Inspector General to meet its responsibilities, and to prescribe their duties and fix their compensation within the amounts appropriated therefor;

(2) to conduct and supervise State government activities relating to State economic development incentive integrity, fraud, and abuse;

(3) to call upon any department, office, division, or agency of State government to provide such information, resources, or other assistance as the Economic Development Inspector General deems necessary to discharge the duties and functions and to fulfill the responsibilities of the Economic Development Inspector General under sections 99 through 105 of P.L.2020, c.156 (C.34:1B-363 through C.34:1B-369). Each department, office, division, and agency of this State shall cooperate with the Economic Development Inspector General and furnish the Office of the Economic Development Inspector General with the assistance necessary to accomplish the purposes of sections 99 through 105 of P.L.2020, c.156 (C.34:1B-363 through C.34:1B-369);

(4) to coordinate activities to prevent, detect, and investigate economic development incentive fraud and abuse among the following: the authority, State and local government officials, and all economic development incentive applicants and recipients;

(5) to recommend and implement policies relating to economic development incentive integrity, fraud, and abuse, and monitor the implementation of any recommendations made by the Office of the Economic Development Inspector General to the authority for the administration of economic development incentives;

(6) to perform any other functions that are necessary or appropriate in furtherance of the mission of the Office of the Economic Development Inspector General; and

(7) to direct an economic development incentive applicant or recipient to cooperate with the Office of the Economic Development Inspector General and provide such information or assistance as shall be reasonably required by the Office of the Economic Development Inspector General.

b. As it relates to ensuring compliance with applicable economic development incentive standards and requirements, identifying and reducing fraud and abuse, and improving the efficiency and effectiveness of economic development incentives, the functions, duties, powers, and responsibilities of

the Economic Development Inspector General shall include, but not be limited to, the following:

(1) to establish, in consultation with the authority and the Attorney General, guidelines under which the withholding of payments or exclusion from economic development incentive programs shall be imposed on an economic development incentive applicant or recipient;

(2) to review the utilization of economic development incentives to ensure that economic development incentive funds are appropriately spent to meet the goals and purposes of an individual economic development incentive program;

(3) to review and audit contracts, reports, documentation, claims, and all awards of economic development incentives to determine compliance with applicable laws, regulations, guidelines, and standards, and enhance program integrity;

(4) to consult with the authority to optimize the economic development incentive management information system in furtherance of the mission of the Office of the Economic Development Inspector General. The authority shall consult with the Economic Development Inspector General on matters that concern the operation, upgrade, and implementation of the economic development incentive management information system;

(5) to coordinate the implementation of information technology relating to economic development incentive integrity, fraud, and abuse;

(6) to conduct educational programs for economic development incentive for State and local government officials and economic development incentive recipients designed to limit economic development incentive fraud and abuse; and

(7) to provide notice to the Chief Compliance Officer, appointed pursuant to section 101 of P.L.2020, c.156 (C.34:1B-365) if the Economic Development Inspector General determines that a program deficiency exists in an economic development incentive program administered by the authority and to provide notice to the Chief Executive Officer of the Authority of pending investigations if the Economic Development Inspector General determines that such disclosure is consistent with the public interest in maintaining the integrity of an economic development incentive program administered by the authority or to abate the continuation of fraud or abuse.

c. As it relates to investigating allegations of economic development incentive fraud and abuse and enforcing applicable laws, rules, regulations, and standards, the functions, duties, powers, and responsibilities of the Economic Development Inspector General shall include, but not be limited to, the following:

(1) to conduct economic development investigations concerning any acts of misconduct within economic development incentive programs;

(2) to provide information concerning the economic development investigations of the Office of the Economic Development Inspector General to the Attorney General, law enforcement authorities, and any prosecutor of competent jurisdiction, and endeavor to develop these economic development investigations in a manner that expedites and facilitates criminal prosecutions and the recovery of improperly expended economic development incentives, including the maintenance of detailed records for cases processed by the Economic Development Inspector General. The records shall include: information on the total number of cases processed and, for each case, the agency and division to which the case is referred for an economic development investigation; the date on which the case is referred; and the nature of the suspected fraud or abuse.

(3) to provide information and evidence relating to suspected criminal acts that the Economic Development Inspector General may obtain in carrying out its duties to law enforcement officials when appropriate, and to provide such information to the Attorney General and county prosecutors in order to facilitate criminal economic development investigations and prosecutions;

(4) to refer complaints alleging criminal conduct to the Attorney General or other appropriate prosecutorial authority. The Economic Development Inspector General shall maintain a record of all matters referred to the Attorney General and shall be authorized to disclose information received, as appropriate and as may be necessary to resolve the matter referred, to the extent consistent with the public interest in disclosure, the need for protecting the confidentiality of complainants and informants, and preserving the confidentiality of ongoing criminal economic development investigations. Notwithstanding any referral made pursuant to this subsection, the Economic Development Inspector General may pursue any administrative or civil remedy under the law. A referral by the inspector general to the Attorney General or a prosecutorial authority shall in no way preclude the inspector general from performing its own separate, independent investigation; and

(5) in furtherance of an economic development investigation, to compel at a specific time and place, by subpoena, the appearance and sworn testimony of any person whom the Economic Development Inspector General reasonably believes may be able to give information relating to a matter subject to an economic development investigation:

(a) for this purpose, the Economic Development Inspector General is empowered to administer oaths and examine witnesses under oath, and compel any person to produce at a specific time and place, by subpoena, any

documents, books, records, papers, objects, or other evidence that the Economic Development Inspector General reasonably believes may relate to a matter subject to an economic development investigation; and

(b) if any person to whom a subpoena is issued fails to appear or, having appeared, refuses to give testimony, or fails to produce the books, papers, or other documents required, the Economic Development Inspector General may apply to the Superior Court and the court may order the person to appear and give testimony or produce the books, papers, or other documents, as applicable. Any person failing to obey that order may be held by the court in contempt;

(6) subject to applicable State law, to have full and unrestricted access to all records, reports, audits, reviews, documents, papers, data, recommendations, or other material available to the authority and other State and local government agencies with respect to which the Office of the Economic Development Inspector General has responsibilities under sections 102 through 105 of P.L.2020, c.156 (C.34:1B-366 through C.34:1B-369);

(7) to solicit, receive, and investigate complaints related to economic development incentive integrity, fraud, and abuse; and

(8) to prepare cases, provide expert testimony, and support administrative hearings and other legal proceedings.

d. As it relates to recovering improperly obtained economic development incentives, imposing administrative sanctions, damages, or penalties, and negotiating settlements to assure that all governmental resources have been properly expended, the functions, duties, powers, and responsibilities of the Economic Development Inspector General shall include, but not be limited to, the following:

(1) to pursue civil and administrative enforcement actions against those who engage in fraud, abuse, or illegal acts perpetrated under economic development incentive programs. These civil and administrative enforcement actions shall include the imposition of administrative sanctions, penalties, suspension of fraudulent or illegal awards, and actions for civil recovery and seizure of property or other assets connected with such economic incentive awards;

(2) to initiate civil suits consistent with the provisions of sections 99 through 105 of P.L.2020, c.156 (C.34:1B-363 through C.34:1B-369), maintain actions for civil recovery on behalf of the State, and enter into civil settlements;

(3) to require that the authority withhold payments to an economic development incentive applicant or recipient if the applicant or recipient unreasonably fails to produce complete and accurate records related to an economic development investigation that is initiated by the Office of the Economic Development Inspector General with reasonable cause; and

(4) to monitor and pursue the recoupment of economic development incentive awards or portions thereof, damages, penalties, and sanctions.

C.34:1B-367 Powers of Economic Development Inspector General.

103. a. The Economic Development Inspector General is authorized to request, and shall be entitled to receive, such information, assistance, and cooperation from any State or local government department, board, bureau, commission, or other agency or unit thereof, as may be necessary to carry out the duties and responsibilities of the Office of the Economic Development Inspector General pursuant to sections 102 through 105 of P.L.2020, c.156 (C.34:1B-366 through C.34:1B-369).

b. Upon the request of a prosecutor of competent jurisdiction, an office, department, or any other State or local government entity, the Economic Development Inspector General shall provide information, data, assistance, staff, and other resources as shall be necessary, appropriate and available to aid and facilitate the economic development investigation and prosecution of economic development incentive fraud.

C.34:1B-368 Report by Economic Development Inspector General.

104. The Economic Development Inspector General shall report annually to the Governor, to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and to the Attorney General, the activities of the Office of the Economic Development Inspector General, as well as recommendations, if any, for legislation to provide for the management of the State's economic development incentive programs.

C.34:1B-369 Rules, regulations.

105. The Economic Development Inspector General, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations, in consultation with the authority, the Department of Labor and Workforce Development, and the Department of the Treasury, concerning the administration and enforcement of the Office of the Economic Development Inspector General's duties pursuant to sections 102 through 105 of P.L.2020, c.156 (C.34:1B-366 through C.34:1B-369) in a manner that is most compatible with ensuring against fraud and abuse in the State's economic development incentive programs.

C.54:10A-5.47 Credit against tax; definitions.

106. a. For privilege periods ending in 2020, 2021, and 2022, a taxpayer, upon approval of an application to the authority, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-

5) in the amount of $10,000 for each qualifying new hire involved in the manufacture of personal protective equipment in a qualified facility in which the taxpayer made a capital investment during the privilege period.

b. The minimum capital investment in a qualified facility required to be eligible for a credit under this section shall be as follows:

(1) for the rehabilitation, improvement, fit-out, or retrofit of an existing premises in Atlantic County, Burlington County, Cape May County, Cumberland County, Gloucester County, Ocean County, or Salem County, a minimum investment of $10 per square foot of gross leasable area;

(2) for the rehabilitation, improvement, fit-out, or retrofit of an existing premises in counties in the State not listed in paragraph (1) of this subsection, a minimum investment of $20 per square foot of gross leasable area;

(3) for the new construction of a premises in Atlantic County, Burlington County, Cape May County, Cumberland County, Gloucester County, Ocean County, or Salem County, a minimum investment of $100 per square foot of gross leasable area; or

(4) for the new construction of a premises in counties in the State not listed in paragraph (3) of this subsection, a minimum investment of $120 per square foot of gross leasable area.

c. The minimum number of new or retained qualifying full-time jobs required to be eligible for a credit under this section shall be as follows:

(1) for a qualified facility in Atlantic County, Burlington County, Cape May County, Cumberland County, Gloucester County, Ocean County, or Salem County, a minimum of five new or 15 retained qualifying full-time jobs; or

(2) for a qualified facility in counties in the State not listed in paragraph (1) of this subsection, a minimum of ten new or 25 retained qualifying full-time jobs.

d. In addition to the amount of credit allowed pursuant to subsection a. of this section, a taxpayer shall be allowed the following tax credits for privilege periods ending in 2020, 2021, and 2022:

(1) $1,000 per qualifying full-time job in the privilege period at a qualified facility that is a building vacant for not less than seven years in need of rehabilitation with a minimum of 250,000 square feet;

(2) $1,500 per qualifying full-time job in the privilege period at a qualified facility in which the manufacturing of personal protective equipment is part of a research collaboration between the taxpayer and a college or university located within the State; and

(3) $1,000 per qualifying full-time job in the privilege period at a qualified facility in which the taxpayer has established an apprenticeship program

or pre-apprenticeship program with a technical school or county college located within the State.

e. The total credit allowed to a taxpayer pursuant to this section during the privilege period shall not exceed $500,000. A taxpayer shall not be eligible for a tax credit under this section for the same qualifying new hire for which the taxpayer is receiving a tax credit incentive award under the Emerge Program established by sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.).

f. Notwithstanding the minimum tax schedule imposed pursuant to subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5), if the amount of the tax credit allowed exceeds the amount of corporation business tax otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), the amount of excess shall be treated as a refundable overpayment except that interest shall not be paid pursuant to section 7 of P.L.1992, c.175 (C.54:49-15.1) on the amount of overpayment attributable to this credit amount. The director shall determine the order of priority of the application of the credit allowed pursuant to this section and any other credits allowed by law.

g. The combined value of all tax credits approved by the authority and the director pursuant to this section and pursuant to section 2 of P.L.2020, c.156 (C.34:1B-270) shall not exceed $10,000,000 in any State fiscal year to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

h. An application for the tax credit shall be submitted to the authority in a form and manner prescribed by the chief executive officer of the authority. As a condition of receiving tax credits under this section, an applicant shall be required to commit to employ qualifying new hires for which tax credits are awarded under this section for a period of five years.

i. Notwithstanding any provision of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the director chief executive officer of the authority is authorized to adopt immediately upon filing with the Office of Administrative Law such rules and regulations shall be effective for a period not to exceed 360 days following the date of filing and may thereafter be amended, adopted, or readopted by the chief executive officer of the authority in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.). The chief executive officer of the authority shall consult with the Commissioner of Health related to any specification requirements for what manufactured products are to qualify as personal protective equipment pursuant to this section.

j. As used in this section:

"Authority" means the New Jersey Economic Development Authority established pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4).

"Director" means Director of the Division of Taxation in the Department of the Treasury;

"Personal protective equipment" means coveralls, face shields, gloves, gowns, masks, respirators, safeguard equipment, and other equipment designed to protect the wearer from the spread of infection or illness as may be modified from time to time by the board of the authority.

"Qualified facility" means a facility that is:

(1) located in a redevelopment area or rehabilitation area as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3);

(2) located in a Smart Growth Area as identified by the Office of Planning Advocacy;

(3) a facility in which the manufacturing of personal protective equipment is part of a research collaboration between the taxpayer and a college or university located within the State;

(4) a facility in which the taxpayer has established an apprenticeship program or pre-apprenticeship program with a technical school or community located within the State; or

(5) a building vacant for not less than seven years in need of rehabilitation with a minimum of 250,000 square feet.

"Qualifying full-time job" means a full-time position in a business in this State which the business has filled with a full-time employee for the manufacturing of personal protective equipment in this State. The employee shall be employed for at least 35 hours a week and shall be paid employee wages at a rate of not less than $15 per hour, or render any other standard of service generally accepted by custom or practice as full-time employment, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. and is paid employee wages at a rate of not less than $15 per hour. "Qualifying new hire" shall not include any person who works as an independent contractor or on a consulting basis for the business. "Qualifying new or retained job" includes only a position for which the taxpayer provides employee health benefits under a health benefits plan authorized pursuant to State or federal law.

C.54A:4-21 Credit against tax.

107. a. For taxable years 2020, 2021, and 2022, a taxpayer, upon approval of an application to the authority shall be allowed a credit against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. in the amount of $10,000 for each qualifying new hire involved in the

manufacture of personal protective equipment in a qualified facility in which the taxpayer made a capital investment during the taxable year.

b. The minimum capital investment in a qualified facility required to be eligible for a credit under this section shall be as follows:

(1) for the rehabilitation, improvement, fit-out, or retrofit of an existing premises in Atlantic County, Burlington County, Cape May County, Cumberland County, Gloucester County, Ocean County, or Salem County, a minimum investment of $10 per square foot of gross leasable area;

(2) for the rehabilitation, improvement, fit-out, or retrofit of an existing premises in counties in the State not listed in paragraph (1) of this subsection, a minimum investment of $20 per square foot of gross leasable area;

(3) for the new construction of a premises in Atlantic County, Burlington County, Cape May County, Cumberland County, Gloucester County, Ocean County, or Salem County, a minimum investment of $100 per square foot of gross leasable area; or

(4) for the new construction of a premises in counties in the State not listed in paragraph (3) of this subsection, a minimum investment of $120 per square foot of gross leasable area.

c. The minimum number of new or retained qualifying full-time jobs required to be eligible for a credit under this section shall be as follows:

(1) for a qualified facility in Atlantic County, Burlington County, Cape May County, Cumberland County, Gloucester County, Ocean County, or Salem County, a minimum of five new or 15 retained qualifying full-time jobs; and

(2) for a qualified facility in counties in the State not listed in paragraph (1) of this subsection, a minimum of ten new or 25 retained qualifying full-time jobs.

d. In addition to the amount of credit allowed pursuant to subsection a. of this section, a taxpayer shall be allowed the following tax credits for taxable years 2020, 2021, and 2022:

(1) $1,000 per qualifying full-time job in a taxable year at a qualified facility that is a building vacant for not less than seven years in need of rehabilitation with a minimum of 250,000 square feet;

(2) $1,500 per qualifying full-time job in a taxable year at a qualified facility in which the manufacturing of personal protective equipment is part of a research collaboration between the taxpayer and a college or university located within the State; and

(3) $1,000 per qualifying full-time job in a taxable year at a qualified facility in which the taxpayer has established an apprenticeship program or pre-apprenticeship program with a technical school or county college located within the State.

e. The total credit allowed to a taxpayer pursuant to this section during the taxable year shall not exceed $500,000. A taxpayer shall not be eligible for a tax credit under this section for the same qualifying new hire for which the taxpayer is receiving a tax credit incentive award under the Emerge Program established by sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.).

f. If the amount of the credit exceeds the amount of tax otherwise due, that amount of excess shall be an overpayment for the purposes of N.J.S.54A:9-7; provided however, that subsection (f) of N.J.S.54A:9-7 shall not apply. The director shall determine the order of priority of the application of the credit allowed pursuant to this section and any other credits allowed by law.

g. (1) A business entity that is classified as a partnership for federal income tax purposes shall not be allowed a tax credit pursuant to this section directly, but the amount of tax credit of a taxpayer in respect to the distributive share of entity income, shall be determined by allocating to the taxpayer that proportion of the tax credit acquired by the entity that is equal to the taxpayer's share, whether or not distributed, of the total distributive income or gain of the entity for its taxable year ending within or with the taxpayer's taxable year.

(2) A New Jersey S Corporation shall not be allowed a tax credit pursuant to this section directly, but the amount of the tax credit of a taxpayer in respect of a pro rata share of S Corporation income, shall be determined by allocating to the taxpayer that proportion of the tax credit acquired by the New Jersey S Corporation that is equal to the taxpayer's share, whether or not distributed, of the total pro rata share of S Corporation income of the New Jersey S Corporation for its privilege period ending within or with the taxpayer's taxable year.

h. The combined value of all tax credits approved by the authority and the director pursuant to this section and pursuant to section 1 of P.L.2020, c.156 (C.34:1B-269) shall not exceed $10,000,000 in any State fiscal year to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

i. An application for the tax credit shall be submitted to the authority in a form and manner prescribed by the chief executive officer of the authority. As a condition of receiving tax credits under this section, an applicant shall be required to commit to employ qualifying new hires for which tax credits are awarded under this section for a period of five years.

j. Notwithstanding any provision of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the chief executive officer of the authority is authorized to adopt immediately upon filing

with the Office of Administrative Law such rules and regulations shall be effective for a period not to exceed 360 days following the date of filing and may thereafter be amended, adopted, or readopted by the chief executive officer of the authority in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.). The chief executive officer of the authority shall consult with the Commissioner of Health related to any specification requirements for what manufactured products are to qualify as personal protective equipment pursuant to this section.

k. As used in this section:

"Authority" means the New Jersey Economic Development Authority established pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4).

"Director" means Director of the Division of Taxation in the Department of the Treasury;

"Personal protective equipment" means coveralls, face shields, gloves, gowns, masks, respirators, safeguard equipment, and other equipment designed to protect the wearer from the spread of infection or illness as may be modified from time to time by the board of the authority.

"Qualified facility" means a facility that is:

(1) located in a redevelopment area or rehabilitation area as defined in section 3 of P.L.1992, c.79 (C.40A:12A-3);

(2) located in a Smart Growth Area as identified by the Office of Planning Advocacy;

(3) a facility in which the manufacturing of personal protective equipment is part of a research collaboration between the taxpayer and a college or university located within the State;

(4) a facility in which the taxpayer has established an apprenticeship program or pre-apprenticeship program with a technical school or community located within the State; or

(5) a building vacant for not less than seven years in need of rehabilitation with a minimum of 250,000 square feet.

"Qualifying full-time job" means a full-time employee hired by the taxpayer during the privilege period for the manufacturing of personal protective equipment in this State. The person hired shall be employed for at least 35 hours a week and shall be paid employee wages at a rate of not less than $15 per hour, or render any other standard of service generally accepted by custom or practice as full-time employment, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. and is paid employee wages at a rate of not less than $15 per hour. "Qualifying new hire" shall not include any person who works

as an independent contractor or on a consulting basis for the business. "Qualifying new or retained job" includes only a position for which the taxpayer provides employee health benefits under a health benefits plan authorized pursuant to State or federal law.

108. Section 6 of P.L.2011, c.149 (C.34:1B-247) is amended to read as follows:

C.34:1B-247 Limits on combined value of approved credits.

6. a. (1) The combined value of all credits approved by the authority pursuant to P.L.2007, c.346 (C.34:1B-207 et seq.) and P.L.2011, c.149 (C.34:1B-242 et al.) prior to December 31, 2013 shall not exceed $1,750,000,000, except as may be increased by the authority as set forth in paragraph (5) of subsection a. of section 35 of P.L.2009, c.90 (C.34:1B-209.3). Following the enactment of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), there shall be no monetary cap on the value of credits approved by the authority attributable to the program pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.).

(2) (Deleted by amendment, P.L.2013, c.161)

(3) (Deleted by amendment, P.L.2013, c.161)

(4) (Deleted by amendment, P.L.2013, c.161)

(5) (Deleted by amendment, P.L.2013, c.161)

b. (1) A business shall submit an application for tax credits prior to July 1, 2019. The authority shall not approve an application for tax credits unless the application was submitted prior to July 1, 2019.

(2) (a) A business shall submit its documentation indicating that it has met the capital investment and employment requirements and all conditions of approvals specified in the incentive agreement for certification of its tax credit amount, to the authority's satisfaction, within three years following the date of approval of its application by the authority. The authority shall have the discretion to grant two six-month extensions of this deadline. If the authority accepts the documentation, the authority shall request that the Division of Taxation in the Department of the Treasury issue a tax credit based on the approved documentation to be used by the business during the eligibility period. Except as provided in subparagraphs (b) and (c) of this paragraph, in no event shall the incentive effective date occur later than four years following the date of approval of an application by the authority.

(b) As of the effective date of P.L.2017, c.314, a business which applied for the tax credit prior to July 1, 2014 under P.L.2011, c.149 (C.34:1B-242 et

al.), shall submit its documentation to the authority no later than July 28, 2019, indicating that it has met the capital investment and employment requirements specified in the incentive agreement for certification of its tax credit amount.

(c) If the Governor declares an emergency, then the chief executive officer of the authority shall have the discretion to grant an extension for the duration of the emergency and the board of the authority, upon recommendation of the chief executive officer, may grant two additional six-month extensions; provided that (i) the extensions are due to the economic disruption caused by the emergency; (ii) the project is delayed due to unforeseeable acts related to the project beyond the eligible business's control and without its fault or negligence; (iii) the eligible business is using best efforts, with all due diligence, to proceed with the completion of the project and the submission of the certification; and (iv) the eligible business has made, and continues to make, all reasonable efforts to prevent, avoid, mitigate, and overcome the delay.

(3) Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.

(4) A business seeking a credit for a mega project shall apply for the credit within four years after the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.).

c. (1) In conducting its annual review, the authority may require a business to submit any information determined by the authority to be necessary and relevant to its review.

The credit amount for any tax period for which the documentation of a business's credit amount remains uncertified as of a date three years after the closing date of that period shall be forfeited, although credit amounts for the remainder of the years of the eligibility period shall remain available to it.

The credit amount may be taken by the tax certificate holder for the tax period for which it was issued or may be carried forward for use by the tax certificate holder in any of the next 20 successive tax periods, and shall expire thereafter. The tax certificate holder may transfer the tax credit amount on or after the date of issuance or at any time within three years of the date of issuance for use by the transferee in the tax period for which it was issued or in any of the next 20 successive tax periods. Notwithstanding the foregoing, no more than the amount of tax credits equal to the total credit amount divided by the duration of the eligibility period in years may be taken in any tax period.

A business may elect to suspend its obligations for the 2020 tax period and, if the public health emergency or state of emergency declared due to the

COVID-19 pandemic extends past March 2021, the 2021 tax period, provided that the business shall make such election in writing to the authority before the date the annual report is due and such suspension shall extend the term of the eligibility period by a corresponding amount of time. The authority shall amend the incentive agreement, and the business shall execute the amended incentive agreement within the time period provided by the authority. The amended incentive agreement shall provide that the failure to submit the annual report due to the suspension shall not be a forfeiture or an uncertified tax period.

(2) Credits granted to a partnership shall be passed through to the partners, members, or owners, respectively, pro-rata or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method provided to the Director of the Division of Taxation in the Department of the Treasury accompanied by any additional information as the director may require.

(3) The amount of credit allowed may be applied against the tax liability otherwise due pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), pursuant to section 1 of P.L.1950, c.231 (C.17:32-15), or pursuant to N.J.S.17B:23-5.

(4) In order to respond to the profoundly negative impact of the COVID-19 pandemic on the State's economy and finances, the authority may request a tax certificate holder, at the tax certificate holder's discretion, to defer the application of a credit amount allowed pursuant to this section to a later tax period. Upon request, the authority and the tax certificate holder shall negotiate the terms of the deferral, which shall hold the certificate holder harmless, which will be made in the incentive agreement or as an addendum to the incentive agreement.

d. (1) If, in any tax period, the business reduces the total number of full-time employees in its Statewide workforce by more than 20 percent from the number of full-time employees in its Statewide workforce in the last tax period prior to the credit amount approval under section 3 of P.L.2011, c.149 (C.34:1B-244), then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the business's Statewide workforce to the threshold levels required by the incentive agreement has been reviewed and approved by the authority, for which tax period and each subsequent tax period the full amount of the credit shall be allowed.

(2) If, in any tax period, the number of full-time employees employed by the business at the qualified business facility located within a qualified

incentive area drops below 80 percent of the number of new and retained full-time jobs specified in the incentive agreement, then the business shall forfeit its credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the business at the qualified business facility to 80 percent of the number of jobs specified in the incentive agreement.

(3) (a) If the qualified business facility is sold by the owner in whole or in part during the eligibility period, the new owner shall not acquire the capital investment of the seller and the seller shall forfeit all credits for the tax period in which the sale occurs and all subsequent tax periods, provided however that any credits of the business shall remain unaffected.

(b) In connection with a regional distribution facility of foodstuffs, the business entity or entities which own or lease the facility shall qualify as a business regardless of: (i) the type of the business entity or entities which own or lease the facility; (ii) the ownership or leasing of the facility by more than one business entity; or (iii) the ownership of the business entity or entities which own or lease the facility. The ownership or leasing, whether by members, shareholders, partners, or other owners of the business entity or entities, shall be treated as ownership or leasing by affiliates. The members, shareholders, partners, or other ownership or leasing participants and others that are tenants in the facility shall be treated as affiliates for the purpose of counting the full-time employees and capital investments in the facility. The business entity or entities may distribute credits to members, shareholders, partners, or other ownership or leasing participants in accordance with their respective interests. If the business entity or entities or their members, shareholders, partners, or other ownership or leasing participants lease space in the facility to members, shareholders, partners, or other ownership or leasing participants or others as tenants in the facility, the leases shall be treated as a lease to an affiliate, and the business entity or entities shall not be subject to forfeiture of the credits. For the purposes of this section, leasing shall include subleasing and tenants shall include subtenants.

(4) (a) For a project located within a Garden State Growth Zone, if, in any tax period, the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area increases above the number of full-time employees specified in the incentive agreement, then the business shall be entitled to an increased base credit amount for that tax period and each subsequent tax period, for each additional full-time employee added above the number of full-time employees specified in the incentive agreement, until the first tax period for which documentation

demonstrating a reduction of the number of full-time employees employed by the business at the qualified business facility, at which time the tax credit amount will be adjusted accordingly pursuant to this section.

(b) For a project located within a Garden State Growth Zone which qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, and which qualifies for a tax credit pursuant to subsubparagraph (ii) of subparagraphs (a) through (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), if, in any tax period the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area increases above the number of full-time employees specified in the incentive agreement such that the business shall then meet the minimum number of employees required in subparagraph (b), (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), then the authority shall recalculate the total tax credit amount per full-time job by using the certified capital investment of the project allowable under the applicable subsubparagraph and the number of full-time jobs certified on the date of the recalculation and applying those numbers to subparagraph (b), (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of P.L.2011, c.149 (C.34:1B-246), until the first tax period for which documentation demonstrating a reduction of the number of full-time employees employed by the business at the qualified business facility, at which time the tax credit amount shall be adjusted accordingly pursuant to this section.

e. The authority shall not enter into an incentive agreement with a business that has previously received incentives pursuant to the "Business Retention and Relocation Assistance Act," P.L.1996, c.25 (C.34:1B-112 et seq.), the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.), or any other program administered by the authority unless:

(1) the business has satisfied all of its obligations underlying the previous award of incentives or is compliant with section 4 of P.L.2011, c.149 (C.34:1B-245); or

(2) the capital investment incurred and new or retained full-time jobs pledged by the business in the new incentive agreement are separate and apart from any capital investment or jobs underlying the previous award of incentives.

f. A business which has already applied for a tax credit incentive award prior to the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), but who has not yet been ap-

proved for the tax credits, or has not executed an agreement with the authority, may proceed under that application or seek to amend the application or reapply for a tax credit incentive award for the same project or any part thereof for the purpose of availing itself of any more favorable provisions of the program.

g. A business that has entered into an incentive agreement may request before December 31, 2022 to terminate the incentive agreement due to the COVID-19 public health emergency; provided that the business shall submit a certification from the business's chief executive officer or equivalent officer stating that the termination is due to the public health emergency and describing the impact of the public health emergency on the business. All credits for the tax period in which the termination occurs and all subsequent tax periods shall be forfeited, provided however that any credits of the business shall remain unaffected.

h. A business that has entered into an incentive agreement may request to reduce the number of new or retained full-time jobs specified in the incentive agreement based on a certification of the business of the eligible positions at the qualified business facility commencing with the 2020 tax period and each subsequent tax period remaining in the eligibility period, provided that the business maintains the minimum number of new or retained full-time jobs required to be eligible pursuant to subsection c. of section 3 of P.L.2011, c.149 (C.34:1B-244). The reduction in employment shall first apply to the number of new full-time employees, and then shall apply to the number of retained full-time employees.

The authority shall calculate a new tax credit total amount for the 2020 tax period and the remainder of the eligibility period based on the reduced employment and shall amend the incentive agreement to reflect the recalculated award amount. In no event shall the modification result in an increase in employment or tax credit amount.

109. Section 6 of P.L.2010, c.57 (C.34:1B-209.4) is amended to read as follows:

C.34:1B-209.4 Credit to business for wind energy facility; eligibility.

6. a. (1) A business, upon application to and approval from the authority, shall be awarded a credit of 100 percent of its capital investment, made after the effective date of P.L.2010, c.57 (C.48:3-87.1 et al.) but prior to its submission of documentation pursuant to subsection c. of this section, in a qualified wind energy facility located in the State, pursuant to the restrictions and

requirements of this section. The award of a tax credit pursuant to this section shall be structured so that the authority shall make up to four awards, each equaling 25 percent of the total value of the tax credit, to a qualified business over four privilege periods or taxable years in which the business meets the requirements for the minimum number of new, full-time employees. Otherwise eligible businesses with between 150 and 300 new, full-time jobs may receive an award based on a prorated formula developed by the authority. To be eligible for any tax credits authorized under this section, a business shall demonstrate to the authority, at the time of application, that the State's financial support of the proposed capital investment in a qualified wind energy facility will yield a net positive benefit to the State. The value of all credits approved by the authority pursuant to this section may be up to $100,000,000, except as may be increased by the authority if the chief executive officer of the authority judges certain qualified offshore wind projects to be meritorious. Credits provided pursuant to this section shall not be applicable to the cap on the credits provided in section 3 of P.L.2007, c.346 (C.34:1B-209).

(2) (a) A business, other than a tenant eligible pursuant to subparagraph (b) of this paragraph, shall make or acquire capital investments totaling not less than $50,000,000 in a qualified wind energy facility, at which the business, including tenants at the qualified wind energy facility, shall employ the minimum number of new, full-time employees, to be eligible for a credit under this section. A business that acquires a qualified wind energy facility after the effective date of P.L.2010, c.57 (C.48:3-87.1 et al.) shall also be deemed to have acquired the capital investment made or acquired by the seller.

(b) A business that is a tenant in the qualified wind energy facility, the owner of which has made or acquired capital investments in the facility totaling more than $50,000,000, shall occupy a leased area of the qualified wind energy facility that represents at least $17,500,000 of the capital investment in the qualified wind energy facility at which the minimum number of new, full-time employees in the aggregate are employed, to be eligible for a credit under this section. The amount of capital investment in a facility that a leased area represents shall be equal to that percentage of the owner's total capital investment in the facility that the percentage of net leasable area leased by the tenant is of the total net leasable area of the qualified business facility. Capital investments made by a tenant shall be deemed to be included in the calculation of the capital investment made or acquired by the owner, but only to the extent necessary to meet the owner's minimum capital investment of $50,000,000. Capital investments made by a tenant and not allocated to meet the owner's minimum capital investment threshold of $50,000,000

shall be added to the amount of capital investment represented by the tenant's leased area in the qualified wind energy facility.

(c) The calculation of the number of new, full-time employees required pursuant to subparagraphs (a) and (b) of this paragraph may include the number of new, full-time positions resulting from an equipment supply coordination agreement with equipment manufacturers, suppliers, installers and operators associated with the supply chain required to support the qualified wind energy facility.

For the purposes of this paragraph, "full time employee" shall not include an employee who is a resident of another state and whose income is not subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., unless that state has entered into a reciprocity agreement with the State of New Jersey.

(3) A business shall not be awarded a tax credit pursuant to this section if the business receives a business employment incentive grant pursuant to the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.), relating to the same capital and employees that qualify the business for this credit, or if the business receives assistance pursuant to the "Business Retention and Relocation Assistance Act," P.L.1996, c.25 (C.34:1B-112 et seq.). A business that is awarded a tax credit under this section shall not be eligible for incentives authorized pursuant to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.).

(4) Full-time employment for an accounting or privilege period shall be determined as the average of the monthly full-time employment for the period.

b. A business shall apply for the credit by July 1, 2025, and a business shall submit its documentation for approval of its credit amount by July 1, 2028.

c. The credit awarded pursuant to this section shall be administered in accordance with the provisions of subsection c. of section 3 of P.L.2007, c.346 (C.34:1B-209) and section 33 of P.L.2009, c.90 (C.34:1B-209.1), except that all references therein to "qualified business facility" shall be deemed to refer to "qualified wind energy facility," as that term is defined in subsection f. of this section.

d. The amount of the credit awarded pursuant to this section shall, except as otherwise provided, be equal to the capital investment made by the business, or the capital investment represented by the business's leased area, and shall be taken over a five-year period, at the rate of one-fifth of the total amount of the business's credit for each tax accounting or privilege period of the business, beginning with the privilege period or taxable year in which the

business is first approved by the authority as having met the investment capital and employment qualifications, subject to any disqualification as determined by annual review by the authority. In conducting its annual review, the authority may require a business to submit any information determined by the authority to be necessary and relevant to its review. The credit amount for any privilege period or taxable year ending after the date 18 years after the effective date of P.L.2007, c.346 (C.34:1B-207 et seq.) during which the documentation of a business's credit amount remains unapproved shall be forfeited, although credit amounts for the remainder of the years of the five-year credit period shall remain available. The amount of the credit awarded for a privilege period or taxable year to a business that is a tenant in a qualified wind energy facility shall not exceed the business's total lease payments for occupancy of the qualified wind energy facility for the privilege period or taxable year.

e. The authority shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to implement this section, including, but not limited to: examples of and the determination of capital investment; the nature of businesses and employment positions constituting and participating in an equipment supply coordination agreement; a determination of the types of businesses that may be eligible and expenses that may constitute capital improvements; the promulgation of procedures and forms necessary to apply for a credit; and provisions for applicants to be charged an initial application fee, and ongoing service fees, to cover the administrative costs related to the credit.

The rules and regulations established by the authority pursuant to this subsection shall be effective immediately upon filing with the Office of Administrative Law and shall be effective for a period not to exceed 12 months and may, thereafter, be amended, adopted or readopted in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

f. As used in this section: the terms "authority," "business," and "capital investment" shall have the same meanings as defined in section 2 of the "Urban Transit Hub Tax Credit Act," P.L.2007, c.346 (C.34:1B-208), except that all references therein to "qualified business facility" shall be deemed to refer to "qualified wind energy facility" as defined in this subsection.

In addition, as used in this section:

"Equipment supply coordination agreement" means an agreement between a business and equipment manufacturer, supplier, installer, and operator that supports a qualified offshore wind project, or other wind energy project as determined by the authority, and that indicates the number of new, full-time

jobs to be created by the agreement participants towards the employment requirement as set forth in paragraph (2) of subsection a. of this section.

"Minimum number of new, full-time employees" means:

(1) for the first award, at least a cumulative 100 new, full-time employees compared to the number of full-time employees at the time of application;

(2) for the second award, for a privilege period or taxable year following the first award, at least a cumulative 150 new, full-time employees compared to the number of full-time employees at the time of application;

(3) for the third award, for a privilege period or taxable year following the second award, at least a cumulative 200 new, full-time employees compared to the number of full-time employees at the time of application; and

(4) for the fourth award, for a privilege period or taxable year following the third award, at least a cumulative 300 new, full-time employees compared to the number of full-time employees at the time of application.

"Qualified offshore wind project" shall have the same meaning as provided in section 3 of P.L.1999, c.23 (C.48:3-51).

"Qualified wind energy facility" means any building, complex of buildings, or structural components of buildings, including water access infrastructure, and all machinery and equipment used in the manufacturing, assembly, development or administration of component parts that support the development and operation of a qualified offshore wind project, or other wind energy project as determined by the authority.

110. Section 1 of P.L.2018, c.56 (C.54:10A-5.39b) is amended to read as follows:

C.54:10A-5.39b Credit against tax imposed for qualified film production expenses.

1. a. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to 30 percent of the qualified film production expenses of the taxpayer during a privilege period commencing on or after July 1, 2018 but before July 1, 2028, provided that:

(a) at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed, and goods purchased through vendors authorized to do business, in New Jersey, or the qualified film production expenses of the taxpayer during the privilege period exceed $1,000,000 per production;

(b) principal photography of the film commences within the earlier of 180 days from the date of the original application for the tax credit, or 150 days from the date of approval of the application for the tax credit;

(c) the film includes, when determined to be appropriate by the commission, at no cost to the State, marketing materials promoting this State as a film and entertainment production destination, which materials shall include placement of a "Filmed in New Jersey" or "Produced in New Jersey" statement, or an approved logo approved by the commission, in the end credits of the film;

(d) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

(e) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection a. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 35 percent of the qualified film production expenses of the taxpayer during a privilege period that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer or Salem County.

b. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) in an amount equal to 20 percent of the qualified digital media content production expenses of the taxpayer during a privilege period commencing on or after July 1, 2018 but before July 1, 2028, provided that:

(a) at least $2,000,000 of the total digital media content production expenses of the taxpayer are incurred for services performed, and goods purchased through vendors authorized to do business, in New Jersey;

(b) at least 50 percent of the qualified digital media content production expenses of the taxpayer are for wages and salaries paid to full-time or full-time equivalent employees in New Jersey;

(c) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection f. of this section; and

(d) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection g. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection b. of this section to the contrary, the tax credit allowed pursuant to this subsection

against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) shall be in an amount equal to 25 percent of the qualified digital media content production expenses of the taxpayer during a privilege period that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County.

c. No tax credit shall be allowed pursuant to this section for any costs or expenses included in the calculation of any other tax credit or exemption granted pursuant to a claim made on a tax return filed with the director, or included in the calculation of an award of business assistance or incentive, for a period of time that coincides with the privilege period for which a tax credit authorized pursuant to this section is allowed. The order of priority in which the tax credit allowed pursuant to this section and any other tax credits allowed by law may be taken shall be as prescribed by the director. The amount of the tax credit applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), for a privilege period, when taken together with any other payments, credits, deductions, and adjustments allowed by law shall not reduce the tax liability of the taxpayer to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax credit otherwise allowable under this section which cannot be applied for the privilege period due to the limitations of this subsection or under other provisions of P.L.1945, c.162 (C.54:10A-1 et seq.) may be carried forward, if necessary, to the seven privilege periods following the privilege period for which the tax credit was allowed.

d. A taxpayer, with an application for a tax credit provided for in subsection a. or subsection b. of this section, may apply to the authority and the director for a tax credit transfer certificate in lieu of the taxpayer being allowed any amount of the tax credit against the tax liability of the taxpayer. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the authority and the director, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), or the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has applied for and been granted the tax credit. The tax credit transfer certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the tax credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) that the taxpayer has elected to sell or assign. The sale or assignment of any amount of a tax

credit transfer certificate allowed under this section shall not be exchanged for consideration received by the taxpayer of less than 75 percent of the transferred tax credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.) shall be subject to the same limitations and conditions that apply to the use of a tax credit pursuant to subsection c. of this section. Any amount of a tax credit transfer certificate obtained by a purchaser or assignee under subsection a. or subsection b. of this section may be applied against the purchaser's or assignee's tax liability under N.J.S.54A:1-1 et seq. and shall be subject to the same limitations and conditions that apply to the use of a credit pursuant to subsections c. and d. of section 2 of P.L.2018, c.56 (C.54A:4-12b).

e. (1) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to taxpayers, other than New Jersey film partners and New Jersey film-lease partners, shall not exceed a cumulative total of $100,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year 2029 to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. In addition to the $100,000,000 limitation on the value of tax credits approved by the director for New Jersey film-lease partners and the $100,000,000 limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film partners shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2034 to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. In addition to the $100,000,000 limitation on the value of tax credits approved by the director for New Jersey film partners and the $100,000,000 limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of

P.L.2018, c.56 (C.54A:4-12b) to New Jersey film-lease partners shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2034 to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

If the cumulative total amount of tax credits, and tax credit transfer certificates, allowed to taxpayers for privilege periods or taxable years commencing during a single fiscal year under subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) exceeds the amount of tax credits available in that fiscal year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall be allowed, in the order in which they have submitted an application, the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection a. of this section and subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) are not in excess of the amount of credits available.

Notwithstanding any provision of paragraph (1) of this subsection to the contrary, for any fiscal year in which the amount of tax credits approved pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the amount of tax credits previously approved, but not subject to redemption or transfer.

(2) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the authority and the director pursuant to subsection b. of this section and pursuant to subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12b) shall not exceed a cumulative total of $10,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year 2029 to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

If the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for privilege periods or taxable years commencing during

a single fiscal year under subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12.b) exceeds the amount of tax credits available in that year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall be allowed, in the order in which they have submitted an application, the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection b. of this section and subsection b. of section 2 of P.L.2018, c.56 (C.54A:4-12.b) are not in excess of the amount of credits available.

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the amount of tax credits previously approved, but not subject to redemption or transfer.

f. A taxpayer shall submit to the authority and the director a report prepared by an independent certified public accountant licensed in this State to verify the taxpayer's tax credit claim following the completion of the production. The report shall be prepared by the independent certified public accountant pursuant to agreed upon procedures prescribed by the authority and the director, and shall include such information and documentation as shall be determined to be necessary by the authority and the director to substantiate the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. A single report with attachments deemed necessary by the authority shall be submitted electronically. Upon receipt of the report, the authority and the director shall review the findings of the independent certified public accountant's report, and shall make a determination as to the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. The determination shall be provided in writing to the taxpayer, and a copy of the written determination shall be included in the filing of a return that includes a claim for a tax credit allowed pursuant to this section.

g. A taxpayer shall withhold from each payment to a loan out company or to an independent contractor an amount equal to 6.37 percent of the payment otherwise due. The amounts withheld shall be deemed to be withholding of liability pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall be deemed to have the rights, duties, and responsibilities of an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes. The director shall allocate the amounts withheld for a taxable year to the accounts of the individuals who are employees of a loan out company in proportion to the employee's payment by the loan out company in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during the taxable year. A loan out company that reports its payments to employees in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during a taxable year shall be relieved of its duties and responsibilities as an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the taxable year for any payments relating to the payments on which the taxpayer withheld.

h. As used in this section:

"Authority" means the New Jersey Economic Development Authority.

"Business assistance or incentive" means "business assistance or incentive" as that term is defined pursuant to section 1 of P.L.2007, c.101 (C.54:50-39).

"Commission" means the Motion Picture and Television Development Commission.

"Digital media content" means any data or information that is produced in digital form, including data or information created in analog form but reformatted in digital form, text, graphics, photographs, animation, sound, and video content. "Digital media content" shall not mean content offerings generated by the end user (including postings on electronic bulletin boards and chat rooms); content offerings comprised primarily of local news, events, weather, or local market reports; public service content; electronic commerce platforms (such as retail and wholesale websites); websites or content offerings that contain obscene material as defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are produced or maintained primarily for private, industrial, corporate, or institutional purposes; or digital media content acquired or licensed by the taxpayer for distribution or incorporation into the taxpayer's digital media content.

"Film" means a feature film, a television series, or a television show of 22 minutes or more in length, intended for a national audience, or a television series or a television show of 22 minutes or more in length intended for a

national or regional audience, including, but not limited to, a game show, award show, or other gala event filmed and produced at a nonprofit arts and cultural venue receiving State funding. "Film" shall not include a production featuring news, current events, weather, and market reports or public programming, talk show, or sports event, a production that solicits funds, a production containing obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a production primarily for private, industrial, corporate, or institutional purposes, or a reality show, except if the production company of the reality show owns, leases, or otherwise occupies a production facility of no less than 20,000 square feet of real property for a minimum term of 24 months, and invests no less than $3,000,000 in such a facility within a designated enterprise zone established pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et al.), or a UEZ-impacted business district established pursuant to section 3 of P.L.2001, c.347 (C.52:27H-66.2). "Film" shall not include an award show or other gala event that is not filmed and produced at a nonprofit arts and cultural venue receiving State funding.

"Full-time or full-time equivalent employee" means an individual employed by the taxpayer for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or who is a partner of a taxpayer, who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time or full-time equivalent employee" shall not include an individual who works as an independent contractor or on a consulting basis for the taxpayer.

"Highly compensated individual" means an individual who directly or indirectly receives compensation in excess of $500,000 for the performance of services used directly in a production. An individual receives compensation indirectly when the taxpayer pays a loan out company that, in turn, pays the individual for the performance of services.

"Independent contractor" means an individual treated as an independent contractor for federal and State tax purposes who is contracted with by the taxpayer for the performance of services used directly in a production.

"Loan out company" means a personal service corporation or other entity that is contracted with by the taxpayer to provide specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production. "Loan out company" shall not include entities contracted with by the taxpayer to provide goods or ancillary contractor services such as catering, construction, trailers, equipment, or transportation.

"New Jersey film partner" means a film production company that has made a commitment to produce films or commercial audiovisual products in New Jersey and has developed, purchased, or executed a 10-year contract to lease a production facility of 250,000 square feet or more as a "transformative project" pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333). No more than five film production companies may be designated as a New Jersey film partner.

"New Jersey film-lease partner" means a taxpayer, including any taxpayer that is a member of a combined group under P.L.2018, c.131 (C.54:10A-4.11), that has made a commitment to lease or acquire a New Jersey production facility with an aggregate square footage of at least 50,000 square feet, which includes a sound stage and production support space such as production offices or a backlot, for a period of five or more successive years and commits to spend, on a separate-entity basis or in the aggregate with other members of the taxpayer's combined group, an annual average of $50,000,000 of qualified film production expenses over the period of at least five but not to exceed 10 years.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Post-production costs" means the costs of the phase of production of a film that follows principal photography, in which raw footage is cut and assembled into a finished film with sound synchronization and visual effects.

"Pre-production costs" means the costs of the phase of production of a film that precedes principal photography, in which a detailed schedule and budget for the production is prepared, the script and location is finalized, and contracts with vendors are negotiated.

"Qualified digital media content production expenses" means an expense incurred in New Jersey for the production of digital media content. "Qualified digital media content production expenses" shall include but not be limited to: wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the costs

of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified digital media content production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection g. of this section. "Qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, or advertising digital media or other costs not directly related to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or incorporation into the taxpayer's digital media content shall not be deemed "qualified digital media content production expenses."

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film including pre-production costs and post-production costs incurred in New Jersey. "Qualified film production expenses" shall include but not be limited to: wages and salaries of individuals employed in the production of a film on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the costs for tangible personal property used, and services performed, directly and exclusively in the production of a film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified film production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pursuant to subsection g. of this section. "Qualified film production expenses" shall not include: expenses incurred in marketing or advertising a film; and payment in excess of $500,000 to a highly compensated individual for costs for a story, script, or scenario used in the production of a film and wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, except as follows:

(1) for a New Jersey film partner that incurs more than $15,000,000, but less than $50,000,000, in qualified film production expenses in the State, an amount, not to exceed $15,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and

performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(2) for a New Jersey film partner that incurs $50,000,000 or more, but less than $100,000,000, in qualified film production expenses in the State, an amount, not to exceed $25,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(3) for a New Jersey film partner that incurs $100,000,000 or more, but less than $150,000,000, in qualified film production expenses in the State, an amount, not to exceed $40,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(4) for a New Jersey film partner that incurs $150,000,000 or more in qualified film production expenses in the State, an amount, not to exceed $60,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses.

"Total digital media content production expenses" means costs for services performed and property used or consumed in the production of digital media content.

"Total film production expenses" means costs for services performed and tangible personal property used or consumed in the production of a film.

i. A business that is not a "taxpayer" as defined and used in the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.) and therefore is not directly allowed a credit under this section, but is a business entity that is classified as a partnership for federal income tax purposes and is ultimately owned by a business entity that is a "corporation" as defined in subsection (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), or a limited liability company formed under the "Revised Uniform Limited Liability Company Act," P.L.2012, c.50 (C.42:2C-1 et seq.), or qualified to do business in this State as a foreign limited liability company, with one member, and is wholly owned by the business entity that is a "corporation" as defined in subsection (c) of section 4 of P.L.1945, c.162 (C.54:10A-4), but otherwise meets all other requirements of this section, shall be considered an eligible applicant and "taxpayer" as that term is used in this section.

111. Section 2 of P.L.2018, c.56 (C.54A:4-12b) is amended to read as follows:

C.54A:4-12b Tax credit for certain film expenses.

2. a. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 30 percent of the qualified film production expenses of the taxpayer during a taxable year commencing on or after July 1, 2018 but before July 1, 2028, provided that:

(a) at least 60 percent of the total film production expenses, exclusive of post-production costs, of the taxpayer are incurred for services performed, and goods purchased through vendors authorized to do business, in New Jersey, or the qualified film production expenses of the taxpayer during the taxable year exceed $1,000,000 per production;

(b) principal photography of the film commences within the earlier of 180 days from the date of the original application for the tax credit, or 150 days from the date of approval of the application for the tax credit;

(c) the film includes, when determined to be appropriate by the commission, at no cost to the State, marketing materials promoting this State as a film and entertainment production destination, which materials shall include placement of a "Filmed in New Jersey" or "Produced in New Jersey" statement, or an appropriate logo approved by the commission, in the end credits of the film;

(d) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(e) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection a. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 35 percent of the qualified film production expenses of the taxpayer during a taxable year that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County.

b. (1) A taxpayer, upon approval of an application to the authority and the director, shall be allowed a credit against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 20 percent of the qualified digital media content production expenses of the taxpayer during a taxable year commencing on or after July 1, 2018 but before July 1, 2028, provided that:

(a) at least $2,000,000 of the total digital media content production expenses of the taxpayer are incurred for services performed, and goods purchased through vendors authorized to do business, in New Jersey;

(b) at least 50 percent of the qualified digital media content production expenses of the taxpayer are for wages and salaries paid to full-time or full-time equivalent employees in New Jersey;

(c) the taxpayer submits a tax credit verification report prepared by an independent certified public accountant licensed in this State in accordance with subsection g. of this section; and

(d) the taxpayer complies with the withholding requirements provided for payments to loan out companies and independent contractors in accordance with subsection h. of this section.

(2) Notwithstanding the provisions of paragraph (1) of subsection b. of this section to the contrary, the tax credit allowed pursuant to this subsection against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be in an amount equal to 25 percent for the qualified digital media content production expenses of the taxpayer during a taxable year that are incurred for services performed and tangible personal property purchased through vendors whose primary place of business is located in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, or Salem County.

c. No tax credit shall be allowed pursuant to this section for any costs or expenses included in the calculation of any other tax credit or exemption granted pursuant to a claim made on a tax return filed with the director, or included in the calculation of an award of business assistance or incentive, for a period of time that coincides with the taxable year for which a tax credit authorized pursuant to this section is allowed. The order of priority in which the tax credit allowed pursuant to this section and any other tax credits allowed by law may be taken shall be as prescribed by the director. The amount of the tax credit applied under this section against the tax otherwise due under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., for a taxable year, when taken together with any other payments, credits, deductions, and adjustments allowed by law shall not reduce the tax liability of the taxpayer to an amount less than zero. The amount of the tax credit otherwise allowable

under this section which cannot be applied for the taxable year due to the limitations of this subsection or under other provisions of N.J.S.54A:1-1 et seq., may be carried forward, if necessary, to the seven taxable years following the taxable year for which the tax credit was allowed.

d. (1) A business entity that is classified as a partnership for federal income tax purposes shall not be allowed a tax credit pursuant to this section directly, but the amount of tax credit of a taxpayer in respect of a distributive share of entity income, shall be determined by allocating to the taxpayer that proportion of the tax credit acquired by the entity that is equal to the taxpayer's share, whether or not distributed, of the total distributive income or gain of the entity for its taxable year ending within or with the taxpayer's taxable year.

(2) A New Jersey S Corporation shall not be allowed a tax credit pursuant to this section directly, but the amount of tax credit of a taxpayer in respect of a pro rata share of S Corporation income, shall be determined by allocating to the taxpayer that proportion of the tax credit acquired by the New Jersey S Corporation that is equal to the taxpayer's share, whether or not distributed, of the total pro rata share of S Corporation income of the New Jersey S Corporation for its privilege period ending within or with the taxpayer's taxable year.

A business entity that is not a gross income "taxpayer" as defined and used in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and therefore is not directly allowed a credit under this section, but otherwise meets all the other requirements of this section, shall be considered an eligible applicant and "taxpayer" as that term is used in this section, and the application of an otherwise allowed credit amount shall be distributed to appropriate gross income taxpayers pursuant to the other requirements of this subsection.

e. A taxpayer, with an application for a tax credit provided for in subsection a. or subsection b. of this section, may apply to the authority and the director for a tax credit transfer certificate in lieu of the taxpayer being allowed any amount of the tax credit against the tax liability of the taxpayer. The tax credit transfer certificate, upon receipt thereof by the taxpayer from the authority and the director, may be sold or assigned, in full or in part, to any other taxpayer that may have a tax liability under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), in exchange for private financial assistance to be provided by the purchaser or assignee to the taxpayer that has applied for and been granted the tax credit. The tax credit transfer certificate provided to the taxpayer shall include a statement waiving the taxpayer's right to claim that amount of the tax credit against the tax imposed pursuant to N.J.S.54A:1-1 et seq. that the taxpayer has elected to sell

or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this section shall not be exchanged for consideration received by the taxpayer of less than 75 percent of the transferred tax credit amount. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability under N.J.S.54A:1-1 et seq. shall be subject to the same limitations and conditions that apply to the use of a tax credit pursuant to subsections c. and d. of this section. Any amount of a tax credit transfer certificate obtained by a purchaser or assignee under subsection e. of this section may be applied against the purchaser's or assignee's tax liability under P.L.1945, c.162 (C.54:10A-1 et seq.) and shall be subject to the same limitations and conditions that apply to the use of a credit pursuant to subsection c. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b).

f. (1) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) to taxpayers, other than New Jersey film partners and New Jersey film-lease partners, shall not exceed a cumulative total of $100,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year 2029 to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5). In addition to the $100,000,000 limitation on the value of tax credits approved by the director for New Jersey film-lease partners and the $100,000,000 limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 2 of P.L.2018, c.56 (C.54A:4-12b) to New Jersey film partners shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2034 to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. In addition to the $100,000,000 limitation on the value of tax credits approved by the director for New Jersey film partners and the $100,000,000 limitation on the value of tax credits approved by the director for other taxpayers imposed by this paragraph, the value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the director and the authority pursuant to subsection a. of this section and pursuant to subsection a. of section 1 of P.L.2018, c.56

(C.54A:4-12b) to New Jersey film-lease partners shall not exceed a cumulative total of $100,000,000 in fiscal year 2021 and in each fiscal year thereafter prior to fiscal year 2034 to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

If the cumulative total amount of tax credits, and tax credit transfer certificates, allowed to taxpayers for taxable years or privilege periods commencing during a single fiscal year under subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits available in that fiscal year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall be allowed, in the order in which they have submitted an application, the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection a. of this section and subsection a. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of credits available.

Notwithstanding any provision of paragraph (1) of this subsection to the contrary, for any fiscal year in which the amount of tax credits approved pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the amount of tax credits previously approved, but not subject to redemption or transfer.

(2) The value of tax credits, including tax credits allowed through the granting of tax credit transfer certificates, approved by the authority and the director pursuant to subsection b. of this section and pursuant to subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) shall not exceed a cumulative total of $10,000,000 in fiscal year 2019 and in each fiscal year thereafter prior to fiscal year 2029 to apply against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. and the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5).

If the total amount of tax credits and tax credit transfer certificates allowed to taxpayers for taxable years or privilege periods commencing during

a single fiscal year under subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) exceeds the amount of tax credits available in that year, then taxpayers who have first applied for and have not been allowed a tax credit or tax credit transfer certificate amount for that reason shall be allowed, in the order in which they have submitted an application, the amount of tax credit or tax credit transfer certificate on the first day of the next succeeding fiscal year in which tax credits and tax credit transfer certificates under subsection b. of this section and subsection b. of section 1 of P.L.2018, c.56 (C.54:10A-5.39b) are not in excess of the amount of credits available.

Notwithstanding any provision of this paragraph to the contrary, for any fiscal year in which the amount of tax credits approved pursuant to this paragraph is less than the cumulative total amount of tax credits permitted to be approved in that fiscal year, the authority shall certify the amount of the remaining tax credits available for approval in that fiscal year, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the certified amount remaining from the prior fiscal year. The authority shall also certify, for each fiscal year, the amount of tax credits that were previously approved, but that the taxpayer is not able to redeem or transfer to another taxpayer under this section, and shall increase the cumulative total amount of tax credits permitted to be approved in the subsequent fiscal year by the amount of tax credits previously approved, but not subject to redemption or transfer.

g. A taxpayer shall submit to the authority and the director a report prepared by an independent certified public accountant licensed in this State to verify the taxpayer's tax credit claim following the completion of the production. The report shall be prepared by the independent certified public accountant pursuant to agreed upon procedures prescribed by the authority and the director, and shall include such information and documentation as shall be determined to be necessary by the authority and the director to substantiate the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. A single report with attachments deemed necessary by the authority shall be submitted electronically. Upon receipt of the report, the authority and the director shall review the findings of the independent certified public accountant's report, and shall make a determination as to the qualified film production expenses or the qualified digital media content production expenses of the taxpayer. The determination shall be provided in writing to the taxpayer, and a copy of the written determination shall be included in the filing of a return that includes a claim for a tax credit allowed pursuant to this section.

h. A taxpayer shall withhold from each payment to a loan out company or to an independent contractor an amount equal to 6.37 percent of the payment otherwise due. The amounts withheld shall be deemed to be withholding of liability pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., and the taxpayer shall be deemed to have the rights, duties, and responsibilities of an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes. The director shall allocate the amounts withheld for a taxable year to the accounts of the individuals who are employees of a loan out company in proportion to the employee's payment by the loan out company in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during the taxable year. A loan out company that reports its payments to employees in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State during a taxable year shall be relieved of its duties and responsibilities as an employer pursuant to chapter 7 of Title 54A of the New Jersey Statutes for the taxable year for any payments relating to the payments on which the taxpayer withheld.

i. As used in this section:

"Authority" means the New Jersey Economic Development Authority.

"Business assistance or incentive" means "business assistance or incentive" as that term is defined pursuant to section 1 of P.L.2007, c.101 (C.54:50-39).

"Commission" means the Motion Picture and Television Development Commission.

"Digital media content" means any data or information that is produced in digital form, including data or information created in analog form but reformatted in digital form, text, graphics, photographs, animation, sound, and video content. "Digital media content" shall not mean content offerings generated by the end user (including postings on electronic bulletin boards and chat rooms); content offerings comprised primarily of local news, events, weather or local market reports; public service content; electronic commerce platforms (such as retail and wholesale websites); websites or content offerings that contain obscene material as defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are produced or maintained primarily for private, industrial, corporate, or institutional purposes; or digital media content acquired or licensed by the taxpayer for distribution or incorporation into the taxpayer's digital media content.

"Film" means a feature film, a television series, or a television show of 22 minutes or more in length, intended for a national audience, or a television series or a television show of 22 minutes or more in length intended for a

national or regional audience, including, but not limited to, a game show, award show, or other gala event filmed and produced at a nonprofit arts and cultural venue receiving State funding. "Film" shall not include a production featuring news, current events, weather, and market reports or public programming, talk show, sports event, or reality show, a production that solicits funds, a production containing obscene material as defined under N.J.S.2C:34-2 and N.J.S.2C:34-3, or a production primarily for private, industrial, corporate, or institutional purposes. "Film" shall not include an award show or other gala event that is not filmed and produced at a nonprofit arts and cultural venue receiving State funding.

"Full-time or full-time equivalent employee" means an individual employed by the taxpayer for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or who is a partner of a taxpayer, who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time or full-time equivalent employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. "Full-time or full-time equivalent employee" shall not include an individual who works as an independent contractor or on a consulting basis for the taxpayer.

"Highly compensated individual" means an individual who directly or indirectly receives compensation in excess of $500,000 for the performance of services used directly in a production. An individual receives compensation indirectly when the taxpayer pays a loan out company that, in turn, pays the individual for the performance of services.

"Independent contractor" means an individual treated as an independent contractor for federal and State tax purposes who is contracted with by the taxpayer for the performance of services used directly in a production.

"Loan out company" means a personal service corporation or other entity that is contracted with by the taxpayer to provide specified individual personnel, such as artists, crew, actors, producers, or directors for the performance of services used directly in a production. "Loan out company" shall not include entities contracted with by the taxpayer to provide goods or ancillary contractor services such as catering, construction, trailers, equipment, or transportation.

"New Jersey film partner" means a film production company that has made a commitment to produce films or commercial audiovisual products in New Jersey and has developed, purchased, or executed a 10-year contract to lease a production facility of 250,000 square feet or more as a "transformative project" pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333). No more than five film production companies may be designated as a New Jersey film partner.

"New Jersey film-lease partner" means a taxpayer, including any taxpayer that is a member of a combined group under P.L.2018, c.131 (C:54:10A-4.11), that has made a commitment to lease or acquire a New Jersey production facility with an aggregate square footage of at least 50,000 square feet, which includes a sound stage and production support space such as production offices or a backlot, for a period of five or more successive years and commits to spend, on a separate-entity basis or in the aggregate with other members of the taxpayer's combined group, an annual average of $50,000,000 of qualified film production expenses over the period of at least five but not to exceed 10 years.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Post-production costs" means the costs of the phase of production of a film that follows principal photography, in which raw footage is cut and assembled into a finished film with sound synchronization and visual effects.

"Pre-production costs" means the costs of the phase of production of a film that precedes principal photography, in which a detailed schedule and budget for the production is prepared, the script and location is finalized, and contracts with vendors are negotiated.

"Qualified digital media content production expenses" means an expense incurred in New Jersey for the production of digital media content. "Qualified digital media content production expenses" shall include but not be limited to: wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified digital media content production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required pur-

suant to subsection h. of this section. "Qualified digital media content production expenses" shall not include expenses incurred in marketing, promotion, or advertising digital media or other costs not directly related to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or incorporation into the taxpayer's digital media content shall not be deemed "qualified digital media content production expenses."

"Qualified film production expenses" means an expense incurred in New Jersey for the production of a film including pre-production costs and post-production costs incurred in New Jersey. "Qualified film production expenses" shall include but not be limited to: wages and salaries of individuals employed in the production of a film on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; and the costs for tangible personal property used, and services performed, directly and exclusively in the production of a film, such as expenditures for film production facilities, props, makeup, wardrobe, film processing, camera, sound recording, set construction, lighting, shooting, editing, and meals. Payment made to a loan out company or to an independent contractor shall not be deemed a "qualified film production expense" unless the payment is made in connection with a trade, profession, or occupation carried on in this State or for the rendition of personal services performed in this State and the taxpayer has made the withholding required by subsection h. of this section. "Qualified film production expenses" shall not include: expenses incurred in marketing or advertising a film; and payment in excess of $500,000 to a highly compensated individual for costs for a story, script, or scenario used in the production of a film and wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, except as follows:

(1) for a New Jersey film partner that incurs more than $15,000,000, but less than $50,000,000, in qualified film production expenses in the State, an amount, not to exceed $15,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(2) for a New Jersey film partner that incurs $50,000,000 or more, but less than $100,000,000, in qualified film production expenses in the State, an amount, not to exceed $25,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses;

(3) for a New Jersey film partner that incurs $100,000,000 or more, but less than $150,000,000, in qualified film production expenses in the State, an amount, not to exceed $40,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses; and

(4) for a New Jersey film partner that incurs $150,000,000 or more in qualified film production expenses in the State, an amount, not to exceed $60,000,000, of the wages or salaries or other compensation for writers, directors, including music directors, producers, and performers, other than background actors with no scripted lines, shall constitute qualified film production expenses.

"Total digital media content production expenses" means costs for services performed and property used or consumed in the production of digital media content.

"Total film production expenses" means costs for services performed and tangible personal property used or consumed in the production of a film.

112. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to read as follows:

C.34:1B-5.1 Rules, regulations.

1. a. The New Jersey Economic Development Authority shall adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any construction contract, including contracts for millwork fabrication, undertaken in connection with authority financial assistance or any of its projects, those projects which it undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.), or undertaken to fulfill any condition of receiving authority financial assistance, including the performance of any contract to construct, renovate or otherwise prepare a facility for operations which are necessary for the receipt of authority financial assistance, unless the work performed under the contract is performed on a facility owned by a landlord of the entity receiving the assistance and less than 35 percent of the facility is leased by the entity at the time of the contract and under any agreement to subsequently lease the facility. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the purposes of this section, "authority financial assistance" means any loan, loan guarantee, grant, incentive, tax exemption or other financial assistance that is approved, funded, authorized,

administered or provided by the authority to any entity and is provided before, during or after completion of a project, including but not limited to, all authority financial assistance received by the entity pursuant to the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.) that enables the entity to engage in a construction contract, but this section shall not be construed as requiring the payment of the prevailing wage for construction commencing more than two years after an entity has executed with the authority a commitment letter regarding authority financial assistance and the first payment or other provision of the assistance is received.

b. The New Jersey Economic Development Authority shall adopt rules and regulations requiring that not less than the prevailing wage rate be paid to workers employed in the performance of any contract, for construction, demolition, remediation, removal of hazardous substances, alteration, custom fabrication, repair work, or maintenance work, including painting and decorating, or excavation, grading, pile driving, concrete form, or other types of foundation work in connection with the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through 34:1B-321), the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). The requirements of this subsection shall apply to any site preparation work performed 24 months prior to and during the incentive eligibility period of any project receiving tax credits under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in which there is a continuity of ownership in the site of the redevelopment project, including work undertaken to fulfill any condition of receiving tax credits under the programs. Work that is subject to the requirements of this subsection shall include the performance of any contract for construction, demolition, remediation, removal of hazardous substances, alteration, custom fabrication, repair work, or maintenance work, including painting and decorating, or excavation, grading, pile driving, concrete form, or other types of foundation work undertaken on a facility for operations which are necessary for the receipt of tax credits under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-

335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), unless the work performed under the contract is performed on a facility owned by a landlord of the entity receiving the tax credit and less than 35 percent of the facility is leased by the entity at the time of the contract and under any agreement to subsequently lease the facility. The prevailing wage rate shall be the rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.), and all contractors and subcontractors subject to the prevailing wage requirement set forth in this section shall be registered with the Department of Labor and Workforce Development pursuant to the provisions of section 5 of P.L.1999, c.238 (C.34:11-56.52). An applicant for tax credits under the "New Jersey Community-Anchored Development Act," sections 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-321), the "New Jersey Aspire Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the "New Jersey Emerge Program Act," sections 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), shall certify under penalty of perjury as part of its application that all construction contracts undertaken on any project in connection with an award under the programs comply with the prevailing wage requirements of this subsection. If at any time the authority determines that the developer made a material misrepresentation regarding compliance with the provisions of this subsection on the developer's application, the developer shall forfeit 35 percent of the tax credits allowed under the programs, and pay to the affected workers back wages in an amount that compensates the workers at the prevailing wage rate for the work performed.

113. Section 1 of P.L.1997, c. 334 (C.34:1B-7.42a) is amended to read as follows:

C.34:1B-7.42a Corporation business tax benefit certificate transfer program.

1. a. The New Jersey Economic Development Authority shall establish within the New Jersey Emerging Technology and Biotechnology Financial Assistance Program established pursuant to P.L.1995, c.137 (C.34:1B-7.37 et seq.), a corporation business tax benefit certificate transfer program to allow new or expanding emerging technology and biotechnology companies in this State with unused amounts of research and development tax credits otherwise allowable which cannot be applied for the credit's tax year due to the limitations of subsection b. of section 1 of P.L.1993, c.175 (C.54:10A-5.24) and unused prior net operating loss conversion carryover or net operating loss carryover pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4),

to surrender those tax benefits for use by other corporation business taxpayers in this State, provided that the taxpayer receiving the surrendered tax benefits is not affiliated with a corporation that is surrendering its tax benefits under the program established under P.L.1997, c.334. For the purposes of this section, the test of affiliation is whether the same entity directly or indirectly owns or controls five percent or more of the voting rights or five percent or more of the value of all classes of stock of both the taxpayer receiving the benefits and a corporation that is surrendering the benefits. The tax benefits may be used on the corporation business tax returns to be filed by those taxpayers in exchange for private financial assistance to be provided by the corporation business taxpayer that is the recipient of the corporation business tax benefit certificate to assist in the funding of costs incurred by the new or expanding emerging technology and biotechnology company. For purposes of this subsection, a member of a combined group may sell prior net operating loss conversion carryover to other members of the combined group, if otherwise applicable and allowable under section 2 of P.L.1997, c.334 (C.54:10A-4.2) and this section; provided, however, such sale of prior net operating loss conversion carryover shall be made at arm's length price at the same rate as though the sale was to an unrelated taxpayer.

b. The authority, in cooperation with the Division of Taxation in the Department of the Treasury, shall review and approve applications by new or expanding emerging technology and biotechnology companies in this State with unused but otherwise allowable carryover of research and development tax credits pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24), and unused but otherwise allowable prior net operating loss conversion carryover or net operating loss carryover pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4), to surrender those tax benefits in exchange for private financial assistance to be made by the corporation business taxpayer that is the recipient of the corporation business tax benefit certificate in an amount equal to at least 80% of the amount of the surrendered tax benefit. Provided that the amount of the surrendered tax benefit for a surrendered research and development tax credit carryover is the amount of the credit, and provided that the amount of the surrendered tax benefit for a surrendered prior net operating loss conversion carryover or net operating loss carryover is that amount for the tax year in which the benefit is transferred and subsequently multiplied by the corporation business tax rate provided pursuant to subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-5). The authority shall be authorized to approve the transfer of no more than $75,000,000 of tax benefits in a State fiscal year. If the total amount of transferable tax benefits requested to be surrendered by approved applicants exceeds $75,000,000 for a State fiscal year, the authority,

in cooperation with the Division of Taxation in the Department of the Treasury, shall not be authorized to approve the transfer of more than $75,000,000 for that State fiscal year and shall allocate the transfer of tax benefits by approved companies using the following method:

(1) an eligible applicant with $250,000 or less of transferable tax benefits shall be authorized to surrender the entire amount of its transferable tax benefits;

(2) an eligible applicant with more than $250,000 of transferable tax benefits shall be authorized to surrender a minimum of $250,000 of its transferable tax benefits;

(3) (Deleted by amendment, P.L.2009, c.90.)

(4) an eligible applicant with more than $250,000 shall also be authorized to surrender additional transferable tax benefits determined by multiplying the applicant's transferable tax benefits less the minimum transferable tax benefits that company is authorized to surrender under paragraph (2) of this subsection by a fraction, the numerator of which is the total amount of transferable tax benefits that the authority is authorized to approve less the total amount of transferable tax benefits approved under paragraphs (1), (2), and (5) of this subsection and the denominator of which is the total amount of transferable tax benefits requested to be surrendered by all eligible applicants less the total amount of transferable tax benefits approved under paragraphs (1), (2), and (5) of this subsection;

(5) The authority shall establish the boundaries for three innovation zones to be geographically distributed in the northern, central, and southern portions of this State. Of the $75,000,000 of transferable tax benefits authorized for each State fiscal year, $10,000,000 shall be allocated for the surrender of transferable tax benefits exclusively by new and expanding emerging technology and biotechnology companies that operate within the boundaries of the innovation zones, except that any portion of the $10,000,000 that is not so approved shall be available for that State fiscal year for the surrender of transferable tax benefits by new and expanding emerging technology and biotechnology companies that do not operate within the boundaries of an innovation zone.

If the total amount of transferable tax benefits that would be authorized using the above method exceeds $75,000,000 for a State fiscal year, then the authority, in cooperation with the Division of Taxation in the Department of the Treasury, shall limit the total amount of tax benefits authorized to be transferred to $75,000,000 by applying the above method on an apportioned basis.

For purposes of this section transferable tax benefits include an eligible applicant's unused but otherwise allowable prior net operating loss conversion carryover or net operating loss carryover determined pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4) for the tax year in which the benefit is

transferred and subsequently multiplied by the corporation business tax rate as provided in subsection (c) of section 5 of P.L.1945, c.162 (C.54:10A-5) plus the total amount of the applicant's unused but otherwise allowable carryover of research and development tax credits. An eligible applicant's transferable tax benefits shall be limited to net operating losses and research and development tax credits that the applicant requests to surrender in its application to the authority and shall not, in total, exceed the maximum amount of tax benefits that the applicant is eligible to surrender.

No application for a corporation business tax benefit transfer certificate shall be approved in which the new or expanding emerging technology or biotechnology company (1) has demonstrated positive net operating income in any of the two previous full years of ongoing operations as determined on its financial statements issued according to generally accepted accounting standards endorsed by the Financial Accounting Standards Board; or (2) is directly or indirectly at least 50 percent owned or controlled by another corporation that has demonstrated positive net operating income in any of the two previous full years of ongoing operations as determined on its financial statements issued according to generally accepted accounting standards endorsed by the Financial Accounting Standards Board or is part of a consolidated group of affiliated corporations, as filed for federal income tax purposes, that in the aggregate has demonstrated positive net operating income in any of the two previous full years of ongoing operations as determined on its combined financial statements issued according to generally accepted accounting standards endorsed by the Financial Accounting Standards Board.

For purposes of this subsection, a member of a combined group may sell prior net operating loss conversion carryover to other members of the combined group, if otherwise applicable and allowable under section 2 of P.L.1997, c.334 (C.54:10A-4.2) and this section; provided, however, such sale of prior net operating loss conversion carryover shall be made at arm's length price at the same rate as though the sale was to an unrelated taxpayer.

The maximum lifetime value of surrendered tax benefits that a corporation shall be permitted to surrender pursuant to the program is $20,000,000. Applications must be received on or before June 30 of each State fiscal year.

The authority, in consultation with the Division of Taxation, shall establish rules for the recapture of all, or a portion of, the amount of a grant of a corporation business tax benefit certificate from the new or expanding emerging technology and biotechnology company having surrendered tax benefits pursuant to this section in the event the taxpayer fails to use the private financial assistance received for the surrender of tax benefits as required by this section or fails to maintain a headquarters or a base of operation in

this State during the five years following receipt of the private financial assistance; except if the failure to maintain a headquarters or a base of operation in this State is due to the liquidation of the new or expanding emerging technology and biotechnology company.

c. The authority, in cooperation with the Division of Taxation in the Department of the Treasury, shall review and approve applications by taxpayers under the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), to acquire surrendered tax benefits approved pursuant to subsection b. of this section which shall be issued in the form of corporation business tax benefit transfer certificates, in exchange for private financial assistance to be made by the taxpayer in an amount equal to at least 80% of the amount of the surrendered tax benefit of an emerging technology or biotechnology company in the State. A corporation business tax benefit transfer certificate shall not be issued unless the applicant certifies that as of the date of the exchange of the corporation business tax benefit certificate it is operating as a new or expanding emerging technology or biotechnology company and has no current intention to cease operating as a new or expanding emerging technology or biotechnology company.

The managerial member of a combined group shall be the member that acquires a corporation business tax benefit certificate on behalf of the combined group for use on the combined return.

The private financial assistance shall assist in funding expenses incurred in connection with the operation of the new or expanding emerging technology or biotechnology company in the State, including but not limited to the expenses of fixed assets, such as the construction and acquisition and development of real estate, materials, start-up, tenant fit-out, working capital, salaries, research and development expenditures and any other expenses determined by the authority to be necessary to carry out the purposes of the New Jersey Emerging Technology and Biotechnology Financial Assistance Program.

The authority shall require a corporation business taxpayer that acquires a corporation business tax benefit certificate to enter into a written agreement with the new or expanding emerging technology or biotechnology company concerning the terms and conditions of the private financial assistance made in exchange for the certificate. The written agreement may contain terms concerning the maintenance by the new or expanding emerging technology or biotechnology company of a headquarters or a base of operation in this State.

d. (Deleted by amendment, P.L.2009, c.90.)

114. Section 1 of P.L.1999, c.140 (C.34:1B-7.42b) is amended to read as follows:

C.34:1B-7.42b Definitions relative to certain corporation tax benefit programs.

1. As used in P.L.1997, c.334 (C.34:1B-7.42a et al.):

"Authority" means the New Jersey Economic Development Authority established pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4).

"Biotechnology" means the continually expanding body of fundamental knowledge about the functioning of biological systems from the macro level to the molecular and sub-atomic levels, as well as novel products, services, technologies and sub-technologies developed as a result of insights gained from research advances that add to that body of fundamental knowledge. This definition may be modified by regulation to conform to definitions in other programs administered by the authority.

"Biotechnology company" means an emerging corporation that has its headquarters or base of operations in this State; that owns, has filed for, or has a valid license to use protected, proprietary intellectual property; and that is engaged in the research, development, production, or provision of biotechnology for the purpose of developing or providing products or processes for specific commercial or public purposes, including but not limited to, medical, pharmaceutical, nutritional, and other health-related purposes, agricultural purposes, and environmental purposes. This definition may be modified by regulation to conform to definitions in other programs administered by the authority.

"Full-time employee" means a person employed by a new or expanding emerging technology or biotechnology company for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or who is a partner of a new or expanding emerging technology or biotechnology company who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. To qualify as a "full-time employee," an employee shall also receive from the new or expanding emerging technology or biotechnology company health benefits under a health benefits plan authorized pursuant to State or federal law. "Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the new or expanding emerging technology or biotechnology company.

"New or expanding" means a technology or biotechnology company that (1) on June 30 of the year in which the company files an application for surrender of unused but otherwise allowable tax benefits under P.L.1997, c.334 (C.34:1B-7.42a et al.) and on the date of the exchange of the corporation business tax benefit certificate, has fewer than 225 employees in the United States of America; (2) on June 30 of the year in which the company files such an application, has at least one full-time employee working in this State if the company has been incorporated for less than three years, has at least five full-time employees working in this State if the company has been incorporated for more than three years but less than five years, and has at least 10 full-time employees working in this State if the company has been incorporated for more than five years; and (3) on the date of the exchange of the corporation business tax benefit certificate, the company has the requisite number of full-time employees in New Jersey that were required on June 30 as set forth in part (2) of this definition.

"Technology company" means an emerging corporation that has its headquarters or base of operations in this State; that owns, has filed for, or has a valid license to use protected, proprietary intellectual property; and that employs some combination of the following: highly educated or trained managers and workers, or both, employed in this State who use sophisticated scientific research service or production equipment, processes or knowledge to discover, develop, test, transfer or manufacture a product or service. This definition may be modified by regulation to conform to definitions in other programs administered by the authority.

115. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read as follows:

C.34:1B-5 Powers.

5. The authority shall have the following powers:

a. To adopt bylaws for the regulation of its affairs and the conduct of its business;

b. To adopt and have a seal and to alter the same at pleasure;

c. To sue and be sued;

d. To acquire in the name of the authority by purchase or otherwise, on such terms and conditions and such manner as it may deem proper, or by the exercise of the power of eminent domain in the manner provided by the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or other property which it may determine is reasonably necessary for any project; provided, however, that the authority in connection

with any project shall not take by exercise of the power of eminent domain any real property except upon consent thereto given by resolution of the governing body of the municipality in which such real property is located; and provided further that the authority shall be limited in its exercise of the power of eminent domain in connection with any project in qualifying municipalities as defined 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 or the school facilities project and any project financed pursuant to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.);

g. To sell, convey or lease to any person all or any portion of a project 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, P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);

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 subdivision thereof, or from any other source and to comply, subject to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137 (C.52:18A-235 et al.), with the terms and conditions thereof;

k. In connection with any action undertaken by the authority in the performance of its duties and any application for assistance or commitments therefor and modifications thereof, to require and collect such fees and

charges as the authority shall determine to be reasonable, including but not limited to fees and charges for the authority's administrative, organizational, insurance, operating, legal, and other expenses;

l. To adopt, amend and repeal regulations to carry out the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L.2007, c.137 (C.52:18A-235 et al.);

m. To acquire, purchase, manage and operate, hold and dispose of real and personal property or interests therein, take assignments of rentals and leases and make and enter into all contracts, leases, agreements and arrangements necessary or incidental to the performance of its duties;

n. To purchase, acquire and take assignments of notes, mortgages and other forms of security and evidences of indebtedness;

o. To purchase, acquire, attach, seize, accept or take title to any project or school facilities project by conveyance or by foreclosure, and sell, lease, manage or operate any project or school facilities project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);

p. To borrow money and to issue bonds of the authority and to provide for the rights of the holders thereof, as provided in P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);

q. To extend credit or make loans to any person for the planning, designing, acquiring, constructing, reconstructing, improving, equipping and furnishing of a project or school facilities project, which credits or loans may be secured by loan and security agreements, mortgages, leases and any other instruments, upon such terms and conditions as the authority shall deem reasonable, including provision for the establishment and maintenance of reserve and insurance funds, and to require the inclusion in any mortgage, lease, contract, loan and security agreement or other instrument, of such provisions for the construction, use, operation and maintenance and financing of a project or school facilities project as the authority may deem necessary or desirable;

r. To guarantee up to 90% of the amount of a loan to a person, if the proceeds of the loan are to be applied to the purchase and installation, in a

building devoted to industrial or commercial purposes, or in an office building, of an energy improvement system;

s. To employ consulting engineers, architects, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the redevelopment utility to carry out the purposes of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.), and to fix and pay their compensation from funds available to the redevelopment utility therefor, all without regard to the provisions of Title 11A of the New Jersey Statutes;

t. To do and perform any acts and things authorized by P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.), under, through or by means of its own officers, agents and employees, or by contract with any person;

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

v. To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);

w. To construct, reconstruct, rehabilitate, improve, alter, equip, maintain or repair or provide for the construction, reconstruction, improvement, alteration, equipping or maintenance or repair of any development property and lot, award and enter into construction contracts, purchase orders and other contracts with respect thereto, upon such terms and conditions as the authority shall determine to be reasonable, including, but not limited to, reimbursement for the planning, designing, financing, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of any such development property and the settlement of any claims arising therefrom and the establishment and maintenance of reserve funds with respect to the financing of such development property;

x. When authorized by the governing body of a municipality exercising jurisdiction over an urban growth zone, to construct, cause to be constructed or to provide financial assistance to projects in an urban growth zone which shall be exempt from the terms and requirements of the land use ordinances and regulations, including, but not limited to, the master plan and zoning ordinances, of such municipality;

y. To enter into business employment incentive agreements as provided in the "Business Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124 et al.);

z. To enter into agreements or contracts, execute instruments, and do and perform all acts or things necessary, convenient or desirable for the purposes of the redevelopment utility to carry out any power expressly provided pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.), P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137 (C.52:18A-235 et al.), including, but not limited to, entering into contracts with the State Treasurer, the Commissioner of Education, districts, the New Jersey Schools Development Authority, and any other entity which may be required in order to carry out the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.), and sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et al.);

aa. (Deleted by amendment, P.L.2007, c.137);

bb. To make and contract to make loans to local units to finance the cost of school facilities projects and to acquire and contract to acquire bonds, notes or other obligations issued or to be issued by local units to evidence the loans, all in accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L.2007, c.137 (C.52:18A-235 et al.);

cc. Subject to any agreement with holders of its bonds issued to finance a project or school facilities project, obtain as security or to provide liquidity for payment of all or any part of the principal of and interest and premium on the bonds of the authority or for the purchase upon tender or otherwise of the bonds, lines of credit, letters of credit, reimbursement agreements, interest rate exchange agreements, currency exchange agreements, interest rate floors or caps, options, puts or calls to hedge payment, currency, rate, spread or similar exposure or similar agreements, float agreements, forward agreements, insurance contract, surety bond, commitment to purchase or sell bonds, purchase or sale agreement, or commitments or other contracts or agreements, and other security agreements or instruments in any amounts and upon any terms as the authority may determine and pay any fees and expenses required in connection therewith;

dd. To charge to and collect from local units, the State and any other person, any fees and charges in connection with the authority's actions undertaken with respect to school facilities projects, including, but not limited to, fees and charges for the authority's administrative, organization, insurance, operating and other expenses incident to the financing of school facilities projects;

ee. To make loans to refinance solid waste facility bonds through the issuance of bonds or other obligations and the execution of any agreements with counties or public authorities to effect the refunding or rescheduling of solid waste facility bonds, or otherwise provide for the payment of all or a portion of any series of solid waste facility bonds. Any county or public authority refunding or rescheduling its solid waste facility bonds pursuant to this subsection shall provide for the payment of not less than fifty percent of the aggregate debt service for the refunded or rescheduled debt of the particular county or public authority for the duration of the loan; except that, whenever the solid waste facility bonds to be refinanced were issued by a public authority and the county solid waste facility was utilized as a regional county solid waste facility, as designated in the respective adopted district solid waste management plans of the participating counties as approved by the department prior to November 10, 1997, and the utilization of the facility was established pursuant to tonnage obligations set forth in their respective interdistrict agreements, the public authority refunding or rescheduling its solid waste facility bonds pursuant to this subsection shall provide for the payment of a percentage of the aggregate debt service for the refunded or rescheduled debt of the public authority not to exceed the percentage of the specified tonnage obligation of the host county for the duration of the loan. Whenever the solid waste facility bonds are the obligation of a public authority, the relevant county shall execute a deficiency agreement with the authority, which shall provide that the county pledges to cover any shortfall and to pay deficiencies in scheduled repayment obligations of the public authority. All costs associated with the issuance of bonds pursuant to this subsection may be paid by the authority from the proceeds of these bonds. Any county or public authority is hereby authorized to enter into any agreement with the authority necessary, desirable or convenient to effectuate the provisions of this subsection.

The authority shall not issue bonds or other obligations to effect the refunding or rescheduling of solid waste facility bonds after December 31, 2002. The authority may refund its own bonds issued for the purposes herein at any time;

ff. To pool loans for any local government units that are refunding bonds and do and perform any and all acts or things necessary, convenient or desirable for the purpose of the authority to achieve more favorable interest rates and terms for those local governmental units;

gg. To finance projects approved by the board, provide staff support to the board, oversee and monitor progress on the part of the board in carrying out the revitalization, economic development and restoration projects authorized pursuant to the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) and otherwise fulfilling its responsibilities pursuant thereto;

hh. To offer financial assistance to qualified film production companies as provided in the "New Jersey Film Production Assistance Act," P.L.2003, c.182 (C.34:1B-178 et al.);

ii. To finance or develop private or public parking facilities or structures, which may include the use of solar photovoltaic equipment, in municipalities qualified to receive State aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) and municipalities that contain areas designated pursuant to P.L.1985, c.398 (C.52:18A-196 et al.) as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), or a town center, and to provide appropriate assistance, including but not limited to, extensions of credit, loans, and guarantees, to municipalities qualified to receive State aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) and municipalities that contain areas designated pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), or a town center, and their agencies and instrumentalities or to private entities whose projects are located in those municipalities, in order to facilitate the financing and development of parking facilities or structures in such municipalities. The authority may serve as the issuing agent of bonds to finance the undertaking of a project for the purposes of this subsection;

jj. To make grants for the planning, designing, acquiring, constructing, reconstructing, improving, equipping, and furnishing of a project, including, but not limited to, grants for working capital and meeting payroll requirements, upon such terms and conditions as the authority shall deem reasonable, during periods of emergency declared by the Governor and for the duration of economic disruptions due to the emergency; and

kk. To purchase and lease real property at a nominal rate when it would result in a net economic benefit to the State, enhance access to employment and investment for underserved populations, or increase investment and employment in high-growth technology sectors.

116. Section 4 of P.L.1992, c.16 (C.34:1B-7.13) is amended to read as follows:

C.34:1B-7.13 Use of moneys in fund.

4. The authority may use the moneys in the fund to pay principal of, premium, if any, and interest on bonds or notes, which shall be entitled "Economic Recovery Fund Bonds or Notes," as appropriate, the proceeds, or net proceeds, of which shall be deposited into the fund, or used for purposes of the fund, and moneys in the fund, including money received from the sale of bonds shall, in such manner as is determined by the authority, and pursuant to subsections d., e., and f. of this section, be used for the financing of projects as set forth in section 3 of P.L.1974, c.80 (C.34:1B-3) and to establish:

a. an economic growth account for programs and initiatives, which will support and invest in small and medium-size businesses and other entities engaged in economic, community, and workforce development that have the greatest potential for creating jobs and stimulating economic growth through such elements including, but not limited to:

(1) a Statewide lending pool and guarantee pool for small business, whether directly or through a community development financial institution;

(2) a business composite bond guarantee;

(3) a fund to further supplement the export finance program of the authority to provide direct loans and working capital necessary for New Jersey businesses to compete in the global market, real estate partnerships;

(4) a Statewide composite bond pool to assist municipalities in acquiring needed financing for capital expenditures;

(5) financial assistance to assist municipalities, municipal entities, counties, county entities, regional entities, State instrumentalities, and not-for-profit local economic and community development entities to execute programs and initiatives to stimulate community and economic development;

(6) a venture, seed, or angel capital fund for start-up costs for businesses developing new concepts and inventions;

(7) a fund to assist businesses, either directly or through a not-for-profit or for-profit entity with expansion or transition to a new business model in such areas including, but not limited to, manufacturing retooling to improve quality, to reduce production costs and to train employees to apply the latest technology;

(8) a "Main Street Business Assistance Program" to provide guarantees and loans to small and mid-size businesses and not-for-profit entities to stimulate the economy;

(9) in consultation with the Department of Labor and Workforce Development and the Office of the Secretary of Higher Education, a fund to support and invest in innovative workforce development approaches and programs, including those that could benefit individuals directly, either undertaken directly by the authority or through a governmental, not-for-profit, or for-profit entity, that align with targeted industries as defined by the authority's board or support a high-demand occupation;

(10) a fund to provide grants, financing, or equity to collaborations between large corporations, small-to-medium sized businesses, academic institutions, government entities, or not-for-profit entities, where one of the purposes of the collaboration is to stimulate community or economic development;

(11) a fund to provide grants, financing, or equity in innovation centers, research centers, incubators, and accelerators, and other similar innovation-oriented entities, which are focused on the targeted industries as defined by the authority's board or support increasing diversity and inclusion within the State's entrepreneurial economy; the fund may also be used to pay for membership fees, or other similar arrangements, for the authority to join or participate in such innovation-oriented entities;

(12) a fund to provide grants or competition prizes to fund initiative-based activities which stimulate growth in targeted industries as defined by the authority's board or supports increasing diversity and inclusion within the State's entrepreneurial economy; this fund may also support not-for-profit industry, trade, and labor organization initiatives; and

(13) a fund to provide grants or competition prizes, either directly or through a not-for-profit entity, that is consistent with economic development priorities as defined by the authority's board, where funds have been specifically allocated to the economic recovery fund for this purpose, including but not limited to an appropriation or transfer from another government entity.

The authority may promulgate rules and regulations for the effective implementation of the "Main Street Business Assistance Program." Notwithstanding any provision of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the authority may adopt, immediately upon filing with the Office of Administrative Law, such regulations as are necessary to implement the provisions of this act, which shall be effective for a period not to exceed 12 months following enactment, and may thereafter be amended, adopted, or readopted by the authority in accordance with the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The authority may use the economic growth account for the planning, designing, acquiring, constructing, reconstructing, improving, equipping, and furnishing by small and medium-size businesses and not-

for-profit corporations of a project as defined in section 3 of P.L.1974, c. 80 (C.34:1B-3), including, but not limited to, grants for working capital and meeting payroll requirements, upon such terms and conditions as the authority shall deem reasonable;

b. an economic development infrastructure program account, which shall provide for the financing and development of infrastructure and transportation projects, including but not limited to ports, terminal and transit facilities, roads and airports, parking facilities used in connection with transit facilities, and related facilities, including public-private partnerships, that are integral to economic growth;

c. an account for a cultural, recreational, fine and performing arts, military and veterans memorial, historic preservation project and tourism facilities and improvements program, which shall provide for the financing and development of cultural, recreational, fine and performing arts, military and veterans memorial, historic preservation and tourism projects, including partnerships with public, private and nonprofit entities;

d. an account, into which shall be deposited an amount not less than $45,000,000, out of the total amounts deposited or credited to the fund from the proceeds of the sale of Economic Recovery Fund Bonds or Notes, for the financing of capital facilities for primary and secondary schools in the State for the purpose of the renovation, repair or alteration of existing school buildings, the construction of new school buildings or the conversion of existing school buildings to other instructional purposes.

(1) Of the amount deposited in the account, not less than $25,000,000 shall be deposited in the "Public School Facilities Code Compliance Loan Fund" established pursuant to section 4 of P.L.1993, c.102 (C.34:1B-7.23).

(2) Of the amount deposited in the account, not less than $20,000,000 shall be deposited in the "Public School Facilities Loan Assistance Fund" established pursuant to section 5 of P.L.1993, c.102 (C.34:1B-7.24);

e. an environmental cleanup assistance account, into which shall be deposited an amount not less than $10,000,000, out of the total amounts deposited or credited to the fund from the proceeds of the sale of Economic Recovery Fund Bonds or Notes, to provide financial assistance to the persons and other entities entitled to apply for financial assistance pursuant to P.L.1993, c.139; and

f. an account, into which shall be deposited an amount not less than $15,000,000, out of the total amounts deposited or credited to the fund from the proceeds of the sale of Economic Recovery Fund Bonds or Notes, for the financing of shore restoration, maintenance, monitoring, protection and

preservation projects pursuant to the shore protection master plan prepared by the Department of Environmental Protection pursuant to P.L.1978, c.157.

117. Section 2 of P.L.1997, c.349 (C.54:10A-5.29) is amended to read as follows:

C.54:10A-5.29 Definitions relative to emergency businesses.

2. As used in sections 1 through 3 of P.L.1997, c.349 (C.54:10A-5.28 through C.54:10A-5.30):

"Advanced computing" means a technology used in the designing and developing of computing hardware and software, including innovations in designing the full spectrum of hardware from hand- held calculators to super computers, and peripheral equipment.

"Advanced materials" means materials with engineered properties created through the development of specialized processing and synthesis technology, including ceramics, high value-added metals, electronic materials, composites, polymers, and biomaterials.

"Biotechnology" means the continually expanding body of fundamental knowledge about the functioning of biological systems from the macro level to the molecular and sub-atomic levels, as well as novel products, services, technologies, and sub-technologies developed as a result of insights gained from research advances which add to that body of fundamental knowledge.

"Carbon footprint reduction technology" means a technology using equipment for the commercial, institutional, and industrial sectors that: increases energy efficiency; develops and delivers renewable or non-carbon-emitting energy technologies; develops innovative carbon emissions abatement with significant carbon emissions reduction potential; or promotes measurable electricity end-use energy efficiency.

"Control" with respect to a corporation means ownership, directly or indirectly, of stock possessing 80 percent or more of the total combined voting power of all classes of the stock of the corporation entitled to vote; and "control" with respect to a trust means ownership, directly or indirectly, of 80 percent or more of the beneficial interest in the principal or income of the trust. The ownership of stock in a corporation, of a capital or profits interest in a partnership or association or of a beneficial interest in a trust shall be determined in accordance with the rules for constructive ownership of stock provided in subsection (c) of section 267 of the federal Internal Revenue Code of 1986 (26 U.S.C. § 267), other than paragraph (3) of subsection (c) of that section.

"Controlled group" means one or more chains of corporations connected through stock ownership with a common parent corporation if stock possessing at least 80 percent of the voting power of all classes of stock of each of the corporations is owned directly or indirectly by one or more of the corporations and the common parent owns directly stock possessing at least 80 percent of the voting power of all classes of stock of at least one of the other corporations.

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

"Diverse entrepreneur" means a New Jersey based business that meets the criteria for a minority business or female business set forth in section 3 of P.L.1983, c.482 (C.52:32-19).

"Electronic device technology" means a technology involving microelectronics, semiconductors, electronic equipment and instrumentation, radio frequency, microwave and millimeter electronics, and optical and optic-electrical devices, or data and digital communications and imaging devices.

"Information technology" means software publishing, motion picture and video production, television production and post-production services, telecommunications, data processing, hosting and related services, custom computer programming services, computer system design, computer facilities management services, other computer related services, and computer training.

"Life sciences" means the production of medical equipment, ophthalmic goods, medical or dental instruments, diagnostic substances, biopharmaceutical products, or physical and biological research.

"Medical device technology" means a technology involving any medical equipment or product (other than a pharmaceutical product) that has therapeutic value, diagnostic value, or both, and is regulated by the federal Food and Drug Administration.

"Mobile communications technology" means a technology involving the functionality and reliability of the transmission of voice and multimedia data using a communication infrastructure via a computer or a mobile device, that shall include, but not be limited to, smartphones, electronic books and tablets, digital audio players, motor vehicle electronics, home entertainment systems, and other wireless appliances, without having connected to any physical or fixed link.

"New Jersey based business" means a company with fewer than 225 employees, of whom at least 75 percent are filling a position in New Jersey, that is doing business, employing or owning capital or property, or maintaining an office in this State.

"New Jersey emerging technology business" means a company with fewer than 225 employees, of whom at least 75 percent are filling a position

in New Jersey, that is doing business, employing or owning capital or property, or maintaining an office in this State and: has qualified research expenses paid or incurred for research conducted in this State; conducts pilot scale manufacturing in this State; or conducts technology commercialization in this State in the fields of advanced computing, advanced materials, biotechnology, carbon footprint reduction technology, electronic device technology, information technology, life sciences, medical device technology, mobile communications technology, or renewable energy technology.

"New Jersey emerging technology business holding company" means any corporation, association, firm, partnership, trust, or other form of business organization, but not a natural person, which directly or indirectly, owns, has the power or right to control, or has the power to vote, a controlling share of the outstanding voting securities of a corporation or other form of a New Jersey emerging technology business.

"Partnership" means a syndicate, group, pool, joint venture, or other unincorporated organization through or by means of which any business, financial operation, or venture is carried on, and which is not a trust or estate, a corporation, or a sole proprietorship.

"Pilot scale manufacturing" means the design, construction, and testing of preproduction prototypes and models in the fields of advanced computing, advanced materials, biotechnology, carbon footprint reduction technology electronic device technology, information technology, life sciences, medical device technology, mobile communications technology, and renewable energy technology, other than for commercial sale, excluding sales of prototypes or sales for market testing if the total gross receipts, as calculated in the manner provided in section 6 of P.L.1945, c.162 (C.54:10A-6), from the sales of the product, service, or process do not exceed $1,000,000.

"Qualified investment" means the non-refundable transfer of cash to a New Jersey emerging technology business or to a New Jersey emerging technology business holding company by a taxpayer that is not a related person of the New Jersey emerging technology business or the New Jersey emerging technology business holding company, the transfer of which is in connection with either: a transaction between or among the taxpayer and the New Jersey emerging technology business or the New Jersey emerging technology holding company or both in exchange for stock, interests in partnerships or joint ventures, licenses (exclusive or non-exclusive), rights to use technology, marketing rights, warrants, options, or any items similar to those included herein, including, but not limited to, options or rights to acquire any of the items included herein; or a purchase, production, or research agreement be-

tween or among the taxpayer and the New Jersey emerging technology business or the New Jersey emerging technology holding company or both. "Qualified investment" also means the non-refundable transfer of cash or irrevocable contractual commitment to a qualified venture fund.

"Qualified research expenses" means qualified research expenses, as defined in section 41 of the federal Internal Revenue Code of 1986 (26 U.S.C. § 41), as in effect on June 30, 1992, in the fields of advanced computing, advanced materials, biotechnology, carbon footprint reduction technology, electronic device technology, information technology, life sciences, medical device technology, mobile communications technology, or renewable energy technology.

"Qualified venture fund" means a venture fund required by contract to invest a minimum of 50 percent of its funds in New Jersey based businesses that the authority, in its sole discretion, based upon the qualified venture fund's investment history, if any, its private placement memorandum and other relevant information, has determined has the capacity to make the minimum investment.

"Related person" means:

a corporation, partnership, association or trust controlled by the taxpayer;

an individual, corporation, partnership, association or trust that is in the control of the taxpayer;

a corporation, partnership, association or trust controlled by an individual, corporation, partnership, association or trust that is in the control of the taxpayer; or

a member of the same controlled group as the taxpayer.

"Renewable energy technology" means a technology involving the generation of electricity from solar energy; wind energy; wave or tidal action; geothermal energy; the combustion of gas from the anaerobic digestion of food waste and sewage sludge at a biomass generating facility; the combustion of methane gas captured from a landfill; and a fuel cell powered by methanol, ethanol, landfill gas, digestor gas, biomass gas, or other renewable fuel but not powered by a fossil fuel.

"Tax year" means the fiscal or calendar accounting period of a taxpayer.

"Venture fund" means a partnership, corporation, trust, or limited liability company that invests cash in a business during the early or expansion stages of a business in exchange for an equity stake in the business in, which the investment is made. Venture firm may include a venture capital fund, a family office fund, or a corporate investor fund, provided that a professional manager administers the venture firm.

"Verified transfer of funds" means a non-refundable transfer of funds equal to 100 percent of the taxpayer's qualified investment in the New Jersey emerging technology business holding company to a New Jersey emerging

technology business by the New Jersey emerging technology business holding company that is accompanied by documentation, as required by the New Jersey Economic Development Authority, which provides proof of a cash transaction originating with a taxpayer and concluding with a New Jersey emerging technology business, provided that the transactions from origin to destination occur within the same tax year.

The definitions of "advanced computing," "advanced materials," "biotechnology," "carbon footprint reduction technology," "electronic device technology," "information technology," "life sciences," "medical device technology," "mobile communications technology," "New Jersey emerging technology business," "pilot scale manufacturing," and "renewable energy technology" may be modified by regulation to conform to definitions in other programs administered by the authority.

118. Section 3 of P.L.1997, c.349 (C.54:10A-5.30) is amended to read as follows:

C.54:10A-5.30 Taxpayer allowed credit.

3. a. (1) A taxpayer, upon approval of the taxpayer's application therefor by the New Jersey Economic Development Authority and in consultation with the director, shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), in an amount equal to 20 percent of the qualified investment made by the taxpayer in a New Jersey emerging technology business, in a New Jersey emerging technology business holding company that makes a verified transfer of funds to a New Jersey emerging technology business, or in a qualified venture fund; provided, however, a taxpayer may be allowed a tax credit in an amount equal to 25 percent of the qualified investment if the taxpayer satisfies one of the requirements set forth in paragraph (2) of this subsection. The value of tax credits allowed to a taxpayer pursuant to this section shall not exceed $500,000 for the privilege period for each qualified investment made by the taxpayer.

(2) Subject to the limits established in paragraph (1) of this subsection, the New Jersey Economic Development Authority, in consultation with the director, shall increase the amount of a tax credit allowed pursuant to this section by five percent if the taxpayer makes a qualified investment in a New Jersey emerging technology business, or in a New Jersey emerging technology business holding company that makes a verified transfer of funds to a New Jersey emerging technology business, or in a qualified venture fund, if the New Jersey emerging technology business is either located in a qualified

opportunity zone pursuant to 26 U.S.C. § 1400Z-1, or a low-income community as defined in subparagraph (e) of 26 U.S.C. § 45D or

certified by the State as a minority business or a women's business pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.) and, in the case of a qualified venture fund, if the qualified venture fund commits by contract to invest 50 percent of its funds in diverse entrepreneurs.

b. A credit shall not be allowed pursuant to section 1 of P.L.1993, c.175 (C.54:10A-5.24), for expenses paid from funds for which a credit is allowed, or which are includable in the calculation of a credit allowed, under this section. Notwithstanding any other provision of law, the order of priority in which the credit allowed by this section and any other credits allowed by law may be taken shall be as prescribed by the director.

c. Except as provided in subsection d. of this section, the amount of credit otherwise allowable under this section which cannot be applied for the privilege period against tax liability otherwise due for that privilege period may either be carried over, if necessary, to the 15 privilege periods following the privilege period for which the credit was allowed or, at the election of the taxpayer, be claimed as and treated as an overpayment for the purposes of R.S.54:49-15, provided, however, that section 7 of P.L.1992, c.175 (C.54:49-15.1) shall not apply.

d. A taxpayer may not carry over any amount of credit allowed under subsection a. of this section to a privilege period during which a corporate acquisition with respect to which the taxpayer was a target corporation occurred or during which the taxpayer was a party to a merger or a consolidation, or to any subsequent privilege period, if the credit was allowed for a privilege period prior to the year of acquisition, merger or consolidation, except that if in the case of a corporate merger or corporate consolidation the taxpayer can demonstrate, through the submission of a copy of the plan of merger or consolidation and such other evidence as may be required by the director, the identity of the constituent corporation which was the acquiring person, a credit allowed to the acquiring person may be carried over by the taxpayer. As used in this subsection, "acquiring person" means the constituent corporation the stockholders of which own the largest proportion of the total voting power in the surviving or consolidated corporation after the merger or consolidation.

e. The Executive Director of the New Jersey Economic Development Authority, in consultation with the director, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations that are necessary to implement sections 1 through 3 of P.L.1997, c.349 (C.54:10A-5.28 through C.54:10A-5.30) and section 4 of P.L.2013,

c.14 (C.54A:4-13), including, but not limited to: examples of and the determination of qualified investments of which applicants shall provide documentation with their tax credit application; the promulgation of procedures and forms necessary to apply for a credit; provisions for recapture in the event a taxpayer receives a credit on the basis of its commitment to transfer cash to a qualified venture fund and it does not fund its commitment; and provisions for credit applicants to be charged an initial application fee and ongoing service fees to cover the administrative costs related to the credit.

The amount of credits approved by the Executive Director of the New Jersey Economic Development Authority, and in consultation with the director, pursuant to subsection a. of this section and pursuant to section 4 of P.L.2013, c.14 (C.54A:4-13), shall not exceed a cumulative total of $35,000,000 in any calendar year to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. If the cumulative amount of credits allowed to taxpayers in a calendar year exceeds the amount of credits available in that year, then taxpayers who have first applied for and have not been allowed a credit amount for that reason shall be allowed, in the order in which they have submitted an application, the amount of the tax credit on the first day of the next succeeding calendar year in which tax credits under this section and section 4 of P.L.2013, c.14 (C.54A:4-13) are not in excess of the amount of credits available.

119. Section 4 of P.L.2013, c.14 (C.54A:4-13) is amended to read as follows:

C.54A:4-13 Credit against tax due.

4. a. (1) A taxpayer, upon approval of the taxpayer's application therefor by the New Jersey Economic Development Authority, and in consultation with the director, shall be allowed a credit against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to 20 percent of the qualified investment made by the taxpayer in a New Jersey emerging technology business, in a New Jersey emerging technology business holding company that makes a verified transfer of funds to a New Jersey emerging technology business, or in a qualified venture fund; provided, however, a taxpayer may be allowed a tax credit in an amount equal to 25 percent of the qualified investment if the taxpayer satisfies one of the requirements set forth in paragraph (2) of this subsection. The value of tax credits allowed to a taxpayer pursuant to this section shall

not exceed $500,000 for the taxable year for each qualified investment made by the taxpayer.

(2) Subject to the limits established in paragraph (1) of this subsection, the New Jersey Economic Development Authority, in consultation with the director, shall increase the amount of a tax credit allowed pursuant to this section by five percent if the taxpayer makes a qualified investment in a New Jersey emerging technology business, in a New Jersey emerging technology business holding company that makes a verified transfer of funds to a New Jersey emerging technology business, or in a qualified venture fund, if the New Jersey emerging technology business is either located in a qualified opportunity zone pursuant to 26 U.S.C. § 1400Z-1, or a low-income community as defined in subparagraph (e) of 26 U.S.C. § 45D; or

certified by the State as a minority business or a women's business pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.) and, in the case of a qualified venture fund, if the qualified venture fund commits by contract to invest 50 percent of its funds in diverse entrepreneurs.

b. The amount of the credit allowed pursuant to this section shall be applied against the tax otherwise due under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., after all other credits and payments. If the credit exceeds the amount of tax liability otherwise due, that amount of excess shall be an overpayment for the purposes of N.J.S.54A:9-7, provided, however, that subsection (f) of N.J.S.54A:9-7 shall not apply.

c. (1) A partnership shall not be allowed a credit under this section directly, but the amount of credit of a taxpayer in respect of a distributive share of partnership income under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall be determined by allocating to the taxpayer that proportion of the credit acquired by the partnership that is equal to the taxpayer's share, whether or not distributed, of the total distributive income or gain of the partnership for its taxable year ending within or with the taxpayer's taxable year. For the purposes of subsection b. of this section, the amount of tax liability that would be otherwise due of a taxpayer is that proportion of the total liability of the taxpayer that the taxpayer's share of the partnership income or gain included in gross income bears to the total gross income of the taxpayer.

(2) The credit for a corporation that has made a valid election as a New Jersey S corporation pursuant to section 3 of P.L.1993, c.173 (C.54:10A-5.22) may be applied by the shareholders of the S corporation against the tax liability otherwise due under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., provided that the amount of credit that may be used by a shareholder of the S corporation shall be determined by allocating to

each shareholder of the S corporation that proportion of the tax credit of the S corporation that is equal to the shareholder's proportionate share of the S corporation, whether or not distributed, of the total distributive income or gain of the S corporation for its tax period ending with or within the shareholder's tax period, and the credit may be applied by the shareholders against the tax liability otherwise due pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

d. The Executive Director of the New Jersey Economic Development Authority, in consultation with the director, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations that are necessary to implement sections 1 through 3 of P.L.1997, c.349 (C.54:10A-5.28 through C.54:10A-5.30) and this section, including, but not limited to: examples of and the determination of qualified investments of which applicants shall provide documentation with their tax credit application; the promulgation of procedures and forms necessary to apply for a credit; provisions for recapture in the event a taxpayer receives a credit on the basis of its commitment to transfer cash to a qualified venture fund and it does not fund its commitment; and provisions for credit applicants to be charged an initial application fee and ongoing service fees to cover the administrative costs related to the credit.

The amount of credits approved by the Executive Director of the New Jersey Economic Development Authority and the Director of the Division of Taxation in the Department of the Treasury, pursuant to subsection a. of this section and pursuant to section 3 of P.L.1997, c.349 (C.54:10A-5.30), shall not exceed a cumulative total of $35,000,000 in any calendar year to apply against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), and the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. If the cumulative amount of credits allowed to taxpayers in a calendar year exceeds the amount of credits available in that year, then taxpayers who have first applied for and have not been allowed a credit amount for that reason shall be allowed, in the order in which they have submitted an application, the amount of the tax credit on the first day of the next succeeding calendar year in which tax credits under this section and section 3 of P.L.1997, c.349 (C.54:10A-5.30) are not in excess of the amount of credits available.

e. As used in this section:

"Advanced computing" means a technology used in the designing and developing of computing hardware and software, including innovations in designing the full spectrum of hardware from hand-held calculators to super computers, and peripheral equipment.

"Advanced materials" means materials with engineered properties created through the development of specialized processing and synthesis technology, including ceramics, high value-added metals, electronic materials, composites, polymers, and biomaterials.

"Biotechnology" means the continually expanding body of fundamental knowledge about the functioning of biological systems from the macro level to the molecular and sub-atomic levels, as well as novel products, services, technologies, and sub-technologies developed as a result of insights gained from research advances which add to that body of fundamental knowledge.

"Carbon footprint reduction technology" means a technology using equipment for the commercial, institutional, and industrial sectors that: increases energy efficiency; develops and delivers renewable or non-carbon-emitting energy technologies; develops innovative carbon emissions abatement with significant carbon emissions reduction potential; or promotes measurable electricity end-use energy efficiency.

"Control" with respect to a corporation, means ownership, directly or indirectly, of stock possessing 80 percent or more of the total combined voting power of all classes of the stock of the corporation entitled to vote; and "control," with respect to a trust, means ownership, directly or indirectly, of 80 percent or more of the beneficial interest in the principal or income of the trust. The ownership of stock in a corporation, of a capital or profits interest in a partnership or association or of a beneficial interest in a trust shall be determined in accordance with the rules for constructive ownership of stock provided in subsection (c) of section 267 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.267), other than paragraph (3) of subsection (c) of that section.

"Controlled group" means one or more chains of corporations connected through stock ownership with a common parent corporation if stock possessing at least 80 percent of the voting power of all classes of stock of each of the corporations is owned directly or indirectly by one or more of the corporations and the common parent owns directly stock possessing at least 80 percent of the voting power of all classes of stock of at least one of the other corporations.

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

"Diverse entrepreneur" means a New Jersey based business that meets the criteria for a minority business or female business set forth in section 3 of P.L.1983, c.482 (C.52:32-19).

"Electronic device technology" means a technology involving microelectronics, semiconductors, electronic equipment and instrumentation, radio

frequency, microwave and millimeter electronics, and optical and optic-electrical devices, or data and digital communications and imaging devices.

"Information technology" means software publishing, motion picture and video production, television production and post-production services, telecommunications, data processing, hosting and related services, custom computer programming services, computer system design, computer facilities management services, other computer related services, and computer training.

"Life sciences" means the production of medical equipment, ophthalmic goods, medical or dental instruments, diagnostic substances, biopharmaceutical products, or physical and biological research.

"Medical device technology" means a technology involving any medical equipment or product (other than a pharmaceutical product) that has therapeutic value, diagnostic value, or both, and is regulated by the federal Food and Drug Administration.

"Mobile communications technology" means a technology involving the functionality and reliability of the transmission of voice and multimedia data using a communication infrastructure via a computer or a mobile device, that shall include, but not be limited to, smartphones, electronic books and tablets, digital audio players, motor vehicle electronics, home entertainment systems, and other wireless appliances, without having connected to any physical or fixed link.

"New Jersey based business" means a company with fewer than 225 employees, of whom at least 75 percent are filling a position in New Jersey, that is doing business, employing or owning capital or property, or maintaining an office in this State.

"New Jersey emerging technology business" means a company with fewer than 225 employees, of whom at least 75 percent are filling a position in New Jersey, that is doing business, employing or owning capital or property, or maintaining an office in this State and: has qualified research expenses paid or incurred for research conducted in this State; conducts pilot scale manufacturing in this State; or conducts technology commercialization in this State in the fields of advanced computing, advanced materials, biotechnology, carbon footprint reduction technology, electronic device technology, information technology, life sciences, medical device technology, mobile communications technology, or renewable energy technology.

"New Jersey emerging technology business holding company" means any corporation, association, firm, partnership, trust or other form of business organization, but not a natural person, which directly or indirectly, owns, has the power or right to control, or has the power to vote, a controlling share of

the outstanding voting securities of a corporation or other form of a New Jersey emerging technology business.

"Partnership" means a syndicate, group, pool, joint venture, or other unincorporated organization through or by means of which any business, financial operation, or venture is carried on, and which is not a trust or estate, a corporation, or a sole proprietorship.

"Pilot scale manufacturing" means design, construction, and testing of preproduction prototypes and models in the fields of advanced computing, advanced materials, biotechnology, carbon footprint reduction technology electronic device technology, information technology, life sciences, medical device technology, mobile communications technology, or renewable energy technology, other than for commercial sale, excluding sales of prototypes or sales for market testing if the total gross receipts, as calculated in the manner provided in section 6 of P.L.1945, c.162 (C.54:10A-6), from the sales of the product, service, or process do not exceed $1,000,000.

"Qualified investment" means the non-refundable transfer of cash to a New Jersey emerging technology business or to a New Jersey emerging technology business holding company by a taxpayer that is not a related person of the New Jersey emerging technology business or the New Jersey emerging technology business holding company, the transfer of which is in connection with either: a transaction between or among the taxpayer and the New Jersey emerging technology business or the New Jersey emerging technology holding company or both in exchange for stock, interests in partnerships or joint ventures, licenses (exclusive or non-exclusive), rights to use technology, marketing rights, warrants, options, or any items similar to those included herein, including, but not limited to, options or rights to acquire any of the items included herein; or a purchase, production, or research agreement between or among the taxpayer and the New Jersey emerging technology business or the New Jersey emerging technology holding company or both. "Qualified investment" also means the non-refundable transfer of cash or irrevocable contractual commitment to transfer cash to a qualified venture fund.

"Qualified research expenses" means qualified research expenses, as defined in section 41 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.41), as in effect on June 30, 1992, in the fields of advanced computing, advanced materials, biotechnology, electronic device technology, information technology, life sciences, medical device technology, mobile communications technology, or renewable energy technology.

"Qualified venture fund" means a venture fund required by contract to invest a minimum of 50 percent of its funds in New Jersey based businesses that the authority, in its sole discretion, based upon the qualified venture

fund's investment history, if any, its private placement memorandum and other relevant information, has determined has the capacity to make the minimum investment.

"Related person" means:

a corporation, partnership, association or trust controlled by the taxpayer;

an individual, corporation, partnership, association or trust that is in the control of the taxpayer;

a corporation, partnership, association or trust controlled by an individual, corporation, partnership, association or trust that is in the control of the taxpayer; or

a member of the same controlled group as the taxpayer.

"Renewable energy technology" means a technology involving the generation of electricity from solar energy; wind energy; wave or tidal action; geothermal energy; the combustion of gas from the anaerobic digestion of food waste and sewage sludge at a biomass generating facility; the combustion of methane gas captured from a landfill; and a fuel cell powered by methanol, ethanol, landfill gas, digestor gas, biomass gas, or other renewable fuel but not powered by a fossil fuel.

"Venture fund" means a partnership, corporation, trust, or limited liability company that invests cash in a business during the early or expansion stages of a business in exchange for an equity stake in the business in, which the investment is made. Venture firm may include a venture capital fund, a family office fund, or a corporate investor fund, provided that a professional manager administers the venture firm.

"Verified transfer of funds" means a non-refundable transfer of funds equal to 100 percent of the taxpayer's qualified investment in the New Jersey emerging technology business holding company to a New Jersey emerging technology business by the New Jersey emerging technology business holding company that is accompanied by documentation, as required by the New Jersey Economic Development Authority, which provides proof of a cash transaction originating with a taxpayer and concluding with a New Jersey emerging technology business, provided that the transactions from origin to destination occur within the same taxable year.

The definitions of "advanced computing," "advanced materials," "biotechnology," "carbon footprint reduction technology," "electronic device technology," "information technology," "life sciences," "medical device technology," "mobile communications technology," "New Jersey emerging technology business," "pilot scale manufacturing," and "renewable energy technology" may be modified by regulation to conform to definitions in other programs administered by the authority.

120. Section 2 of P.L.2011, c.149 (C.34:1B-243) is amended to read as follows:

C.34:1B-243 Definitions relative to the "Grow New Jersey Act."

2. As used in P.L.2011, c.149 (C.34:1B-242 et seq.):

"Affiliate" means an entity that directly or indirectly controls, is under common control with, or is controlled by the business. Control exists in all cases in which the entity is a member of a controlled group of corporations as defined pursuant to section 1563 of the Internal Revenue Code of 1986 (26 U.S.C. s.1563) or the entity is an organization in a group of organizations under common control as defined pursuant to subsection (b) or (c) of section 414 of the Internal Revenue Code of 1986 (26 U.S.C. s.414). A taxpayer may establish by clear and convincing evidence, as determined by the Director of the Division of Taxation in the Department of the Treasury, that control exists in situations involving lesser percentages of ownership than required by those statutes. An affiliate of a business may contribute to meeting either the qualified investment or full-time employee requirements of a business that applies for a credit under section 3 of P.L.2007, c.346 (C.34:1B-209).

"Authority" means the New Jersey Economic Development Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

"Aviation district" means all areas within the boundaries of the "Atlantic City International Airport," established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation Administration William J. Hughes Technical Center and the area within a one-mile radius of the outermost boundary of the "Atlantic City International Airport" and the Federal Aviation Administration William J. Hughes Technical Center.

"Business" means an applicant proposing to own or lease premises in a qualified business facility that is:

a corporation that is subject to the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5);

a corporation that is subject to the tax imposed pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15) or N.J.S.17B:23-5;

a partnership;

an S corporation;

a limited liability company; or

a non-profit corporation.

If the business or tenant is a cooperative or part of a cooperative, then the cooperative may qualify for credits by counting the full-time employees and capital investments of its member organizations, and the cooperative

may distribute credits to its member organizations. If the business or tenant is a cooperative that leases to its member organizations, the lease shall be treated as a lease to an affiliate or affiliates.

A business shall include an affiliate of the business if that business applies for a credit based upon any capital investment made by or full-time employees of an affiliate.

"Capital investment" in a qualified business facility means expenses by a business or any affiliate of the business incurred after application for:

a. site preparation and construction, repair, renovation, improvement, equipping, or furnishing on real property or of a building, structure, facility, or improvement to real property;

b. obtaining and installing furnishings and machinery, apparatus, or equipment, including but not limited to material goods subject to bonus depreciation under sections 168 and 179 of the federal Internal Revenue Code (26 U.S.C. s.168 and s.179), for the operation of a business on real property or in a building, structure, facility, or improvement to real property;

c. receiving Highlands Development Credits under the Highlands Transfer Development Rights Program authorized pursuant to section 13 of P.L.2004, c.120 (C.13:20-13); or

d. any of the foregoing.

In addition to the foregoing, in a Garden State Growth Zone, the following qualify as a capital investment: any development, redevelopment, and relocation costs, including, but not limited to, site acquisition if made within 24 months of application to the authority, engineering, legal, accounting, and other professional services required; and relocation, environmental remediation, and infrastructure improvements for the project area, including, but not limited to, on- and off-site utility, road, pier, wharf, bulkhead, or sidewalk construction or repair.

In addition to the foregoing, if a business acquires or leases a qualified business facility, the capital investment made or acquired by the seller or owner, as the case may be, if pertaining primarily to the premises of the qualified business facility, shall be considered a capital investment by the business and, if pertaining generally to the qualified business facility being acquired or leased, shall be allocated to the premises of the qualified business facility on the basis of the gross leasable area of the premises in relation to the total gross leasable area in the qualified business facility. The capital investment described herein may include any capital investment made or acquired within 24 months prior to the date of application so long as the amount of capital investment made or acquired by the business, any affiliate of the business, or any owner after the date of application equals at least 50 percent

of the amount of capital investment, allocated to the premises of the qualified business facility being acquired or leased on the basis of the gross leasable area of the premises in relation to the total gross leasable area in the qualified business facility made or acquired prior to the date of application.

"College or university" means a county college, an independent institution of higher education, a public research university, or a State college.

"Commitment period" means the period of time that is 1.5 times the eligibility period.

"County college" means an educational institution established by one or more counties, pursuant to chapter 64A of Title 18A of the New Jersey Statutes.

"Deep poverty pocket" means a population census tract having a poverty level of 20 percent or more, and which is located within the qualified incentive area and has been determined by the authority to be an area appropriate for development and in need of economic development incentive assistance.

"Disaster recovery project" means a project located on property that has been wholly or substantially damaged or destroyed as a result of a federally-declared disaster which, after utilizing all disaster funds available from federal, State, county, and local funding sources, demonstrates to the satisfaction of the authority that access to additional funding authorized pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), is necessary to complete the redevelopment project, and which is located within the qualified incentive area and has been determined by the authority to be in an area appropriate for development and in need of economic development incentive assistance.

"Distressed municipality" means a municipality that is qualified to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a municipality under the supervision of the Local Finance Board pursuant to the provisions of the "Local Government Supervision Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality identified by the Director of the Division of Local Government Services in the Department of Community Affairs to be facing serious fiscal distress, a SDA municipality, or a municipality in which a major rail station is located.

"Doctoral university" means a university located within New Jersey that is classified as a doctoral university under the Carnegie Classification of Institutions of Higher Education's Basic Classification methodology on the effective date of P.L.2017, c.221.

"Eligibility period" means the period in which a business may claim a tax credit under the Grow New Jersey Assistance Program, beginning with the tax period in which the authority accepts certification of the business that it has met the capital investment and employment requirements of the Grow

New Jersey Assistance Program and extending thereafter for a term of not more than 10 years, with the term to be determined solely at the discretion of the applicant.

"Eligible position" or "full-time job" means a full-time position in a business in this State which the business has filled with a full-time employee.

"Full-time employee" means a person:

a. who is employed by a business for consideration for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment; or

b. who is employed by a professional employer organization pursuant to an employee leasing agreement between the business and the professional employer organization, in accordance with P.L.2001, c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.; or

c. who is a resident of another State but whose income is not subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. or who is a partner of a business who works for the partnership for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose distributive share of income, gain, loss, or deduction, or whose guaranteed payments, or any combination thereof, is subject to the payment of estimated taxes, as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.; and

d. who, except for purposes of the Statewide workforce, is provided, by the business, with employee health benefits under a health benefits plan authorized pursuant to State or federal law.

With respect to a logistics, manufacturing, energy, defense, aviation, or maritime business, excluding primarily warehouse or distribution operations, located in a port district having a container terminal:

the requirement that employee health benefits are to be provided shall be deemed to be satisfied if the benefits are provided in accordance with industry practice by a third party obligated to provide such benefits pursuant to a collective bargaining agreement;

full-time employment shall include, but not be limited to, employees that have been hired by way of a labor union hiring hall or its equivalent;

35 hours of employment per week at a qualified business facility shall constitute one "full-time employee," regardless of whether or not the hours of work were performed by one or more persons.

For any project located in a Garden State Growth Zone which qualifies under the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), or any project located in the Atlantic City Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority, and which will include a retail facility of at least 150,000 square feet, of which at least 50 percent will be occupied by either a full-service supermarket or grocery store, 30 hours of employment per week at a qualified business facility shall constitute one "full-time employee," regardless of whether the hours of work were performed by one or more persons, and the requirement that employee health benefits are to be provided shall be deemed to be satisfied if the employees of the business are covered by a collective bargaining agreement.

"Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the business.

Full-time employee shall also not include any person who at the time of project application works in New Jersey for consideration for at least 35 hours per week, or who renders any other standard of service generally accepted by custom or practice as full-time employment but who prior to project application was not provided, by the business, with employee health benefits under a health benefits plan authorized pursuant to State or federal law.

"Garden State Create Zone" means the campus of a doctoral university, and the area within a three-mile radius of the outermost boundary of the campus of a doctoral university, according to a map appearing in the doctoral university's official catalog or other official publication on the effective date of P.L.2017, c.221.

"Garden State Growth Zone" or "growth zone" means the four New Jersey cities with the lowest median family income based on the 2009 American Community Survey from the US Census, (Table 708. Household, Family, and Per Capita Income and Individuals, and Families Below Poverty Level by City: 2009); a municipality which contains a Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219) and regulated by the Casino Reinvestment Development Authority; or an aviation district.

"Highlands development credit receiving area or redevelopment area" means an area located within a qualified incentive area and designated by the Highlands Water Protection and Planning Council for the receipt of Highlands Development Credits under the Highlands Transfer Development Rights Program authorized pursuant to section 13 of P.L.2004, c.120 (C.13:20-13).

"Incentive agreement" means the contract between the business and the authority, which sets forth the terms and conditions under which the business shall be eligible to receive the incentives authorized pursuant to the program.

"Incentive effective date" means the date a business submits the documentation required pursuant to paragraph (1) of subsection b. of section 6 of P.L.2011, c.149 (C.34:1B-247) in a form satisfactory to the authority.

"Independent institution of higher education" means a college or university incorporated and located in New Jersey, which by virtue of law or character or license is a nonprofit educational institution authorized to grant academic degrees and which provides a level of education which is equivalent to the education provided by the State's public institutions of higher education, as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which is eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

"Major rail station" means a railroad station located within a qualified incentive area which provides access to the public to a minimum of six rail passenger service lines operated by the New Jersey Transit Corporation.

"Mega project" means:

a. a qualified business facility located in a port district housing a business in the logistics, manufacturing, energy, defense, or maritime industries, either:

(1) having a capital investment in excess of $20,000,000, and at which more than 250 full-time employees of the business are created or retained; or

(2) at which more than 1,000 full-time employees of the business are created or retained;

b. a qualified business facility located in an aviation district housing a business in the aviation industry, in a Garden State Growth Zone, or in a priority area housing the United States headquarters and related facilities of an automobile manufacturer, either:

(1) having a capital investment in excess of $20,000,000, and at which more than 250 full-time employees of the business are created or retained, or

(2) at which more than 1,000 full-time employees of the business are created or retained;

c. a qualified business facility located in an urban transit hub housing a business of any kind, having a capital investment in excess of $50,000,000, and at which more than 250 full-time employees of the business are created or retained;

d. a project located in an area designated in need of redevelopment, pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.) prior to the enactment of P.L.2014, c.63 (C.34:1B-251 et al.) within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, or Salem counties having a capital investment in excess of $20,000,000, and at which more than 150 full-time employees of the business are created or retained; or

e. a qualified business facility primarily used by a business principally engaged in research, development, or manufacture of a drug or device, as defined in R.S.24:1-1, or primarily used by a business licensed to conduct a clinical laboratory and business facility pursuant to the "New Jersey Clinical Laboratory Improvement Act," P.L.1975, c.166 (C.45:9-42.26 et seq.), either:

(1) having a capital investment in excess of $20,000,000, and at which more than 250 full-time employees of the business are created or retained, or

(2) at which more than 1,000 full-time employees of the business are created or retained.

"Minimum environmental and sustainability standards" means standards established by the authority in accordance with the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction.

"Moderate-income housing" means housing affordable, according to United States Department of Housing and Urban Development or other recognized standards for home ownership and rental costs, and occupied or reserved for occupancy by households with a gross household income equal to more than 50 percent but less than 80 percent of the median gross household income for households of the same size within the housing region in which the housing is located.

"Municipal Revitalization Index" means the 2007 index by the Office for Planning Advocacy within the Department of State measuring or ranking municipal distress.

"New full-time job" means an eligible position created by the business at the qualified business facility that did not previously exist in this State. For the purposes of determining a number of new full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the business.

"Other eligible area" means the portions of the qualified incentive area that are not located within a distressed municipality, or the priority area.

"Partnership" means an entity classified as a partnership for federal income tax purposes.

"Port district" means the portions of a qualified incentive area that are located within:

a. the "Port of New York District" of the Port Authority of New York and New Jersey, as defined in Article II of the Compact Between the States of New York and New Jersey of 1921; or

b. a 15-mile radius of the outermost boundary of each marine terminal facility established, acquired, constructed, rehabilitated, or improved by the South Jersey Port District established pursuant to "The South Jersey Port Corporation Act," P.L.1968, c.60 (C.12:11A-1 et seq.).

"Priority area" means the portions of the qualified incentive area that are not located within a distressed municipality and which:

a. are designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), a designated center under the State Development and Redevelopment Plan, or a designated growth center in an endorsed plan until June 30, 2013, or until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to revise this definition;

b. intersect with portions of: a deep poverty pocket, a port district, or federally-owned land approved for closure under a federal Commission on Base Realignment and Closure action;

c. are the proposed site of a disaster recovery project, a qualified incubator facility, a highlands development credit receiving area or redevelopment area, a tourism destination project, or transit oriented development; or

d. contain: a vacant commercial building having over 400,000 square feet of office, laboratory, or industrial space available for occupancy for a period of over one year; or a site that has been negatively impacted by the approval of a "qualified business facility," as defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208).

"Professional employer organization" means an employee leasing company registered with the Department of Labor and Workforce Development pursuant to P.L.2001, c.260 (C.34:8-67 et seq.).

"Program" means the "Grow New Jersey Assistance Program" established pursuant to section 3 of P.L.2011, c.149 (C.34:1B-244).

"Public research university" means a public research university as defined in section 3 of P.L.1994, c.48 (C.18A:3B-3).

"Qualified business facility" means any building, complex of buildings or structural components of buildings, and all machinery and equipment located within a qualified incentive area, used in connection with the operation of a business that is not engaged in final point of sale retail business at that location unless the building, complex of buildings or structural components

of buildings, and all machinery and equipment located within a qualified incentive area, are used in connection with the operation of:

a. a final point of sale retail business located in a Garden State Growth Zone that will include a retail facility of at least 150,000 square feet, of which at least 50 percent is occupied by either a full-service supermarket or grocery store; or

b. a tourism destination project located in the Atlantic City Tourism District as established pursuant to section 5 of P.L.2011, c.18 (C.5:12-219).

"Qualified incentive area" means:

a. an aviation district;

b. a port district;

c. a distressed municipality or urban transit hub municipality;

d. an area (1) designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as:

(a) Planning Area 1 (Metropolitan);

(b) Planning Area 2 (Suburban); or

(c) Planning Area 3 (Fringe Planning Area);

(2) located within a smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6) or subject to a redevelopment plan adopted by the New Jersey Meadowlands Commission pursuant to section 20 of P.L.1968, c.404 (C.13:17-21);

(3) located within any land owned by the New Jersey Sports and Exposition Authority, established pursuant to P.L.1971, c.137 (C.5:10-1 et seq.), within the boundaries of the Hackensack Meadowlands District as delineated in section 4 of P.L.1968, c.404 (C.13:17-4);

(4) located within a regional growth area, rural development area zoned for industrial use as of the effective date of P.L.2016, c.75, town, village, or a military and federal installation area designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.);

(5) located within the planning area of the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands development credit receiving area or redevelopment area;

(6) located within a Garden State Growth Zone;

(7) located within land approved for closure under any federal Commission on Base Realignment and Closure action; or

(8) located only within the following portions of the areas designated pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et seq.), as

Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive) if Planning Area 4A (Rural Planning Area), Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive) is located within:

(a) a designated center under the State Development and Redevelopment Plan;

(b) a designated growth center in an endorsed plan until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to revise this definition as it pertains to Statewide planning areas;

(c) any area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and C.40A:12A-6) or in need of rehabilitation pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14);

(d) any area on which a structure exists or previously existed including any desired expansion of the footprint of the existing or previously existing structure provided the expansion otherwise complies with all applicable federal, State, county, and local permits and approvals;

(e) the planning area of the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3) or a highlands development credit receiving area or redevelopment area; or

(f) any area on which an existing tourism destination project is located.

"Qualified incentive area" shall not include any property located within the preservation area of the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3).

"Qualified incubator facility" means a commercial building located within a qualified incentive area: which contains 50,000 or more square feet of office, laboratory, or industrial space; which is located near, and presents opportunities for collaboration with, a research institution, teaching hospital, college, or university; and within which, at least 50 percent of the gross leasable area is restricted for use by one or more technology startup companies during the commitment period.

"Retained full-time job" means an eligible position that currently exists in New Jersey and is filled by a full-time employee but which, because of a potential relocation by the business, is at risk of being lost to another state or country, or eliminated. For the purposes of determining a number of retained full-time jobs, the eligible positions of an affiliate shall be considered eligible positions of the business. For the purposes of the certifications and annual reports required in the incentive agreement pursuant to subsection e. of section 4 of P.L.2011, c.149 (C.34:1B-245), to the extent an eligible position that was the basis of the award no longer exists, a business shall include as a

retained full-time job a new eligible position that is filled by a full-time employee provided that the position is included in the order of date of hire and is not the basis for any other incentive award. For a project located in a Garden State Growth Zone which qualified for the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), retained full-time job shall include any employee previously employed in New Jersey and transferred to the new location in the Garden State Growth Zone which qualified for the "Municipal Rehabilitation and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.).

"SDA district" means an SDA district as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3).

"SDA municipality" means a municipality in which an SDA district is situate.

"State college" means a State college or university established pursuant to chapter 64 of Title 18A of the New Jersey Statutes.

"Targeted industry" means any industry identified from time to time by the authority which shall initially include advanced transportation and logistics, advanced manufacturing, aviation, autonomous vehicle and zero-emission vehicle research or development, clean energy, life sciences, hemp processing, information and high technology, finance and insurance, professional services, film and digital media, non-retail food and beverage businesses including food innovation, and other innovative industries that disrupt current technologies or business models.

"Technology startup company" means a for profit business that has been in operation fewer than five years and is developing or possesses a proprietary technology or business method of a high-technology or life science-related product, process, or service which the business intends to move to commercialization.

"Tourism destination project" means a qualified non-gaming business facility that will be among the most visited privately owned or operated tourism or recreation sites in the State, and which is located within the qualified incentive area and has been determined by the authority to be in an area appropriate for development and in need of economic development incentive assistance, including a non-gaming business within an established Tourism District with a significant impact on the economic viability of that District.

"Transit oriented development" means a qualified business facility located within a 1/2-mile radius, or one-mile radius for projects located in a Garden State Growth Zone, surrounding the mid-point of a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority

Trans-Hudson Corporation rail, bus, or ferry station platform area, including all light rail stations.

"Urban transit hub" means an urban transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-208), that is located within an eligible municipality, as defined in section 2 of P.L.2007, c.346 (C.34:1B-208) and also located within a qualified incentive area.

"Urban transit hub municipality" means a municipality: a. which qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.), or which has continued to be a qualified municipality thereunder pursuant to P.L.2007, c.111; and b. in which 30 percent or more of the value of real property was exempt from local property taxation during tax year 2006. The percentage of exempt property shall be calculated by dividing the total exempt value by the sum of the net valuation which is taxable and that which is tax exempt.

121. Section 4 of P.L.2011, c.149 (C.34:1B-245) is amended to read as follows:

C.34:1B-245 Incentive agreement required prior to issuance of tax credits.

4. The authority shall require an eligible business to enter into an incentive agreement prior to the issuance of tax credits. The incentive agreement shall include, but shall not be limited to, the following:

a. A detailed description of the proposed project which will result in job creation or retention, and the number of new or retained full-time jobs that are approved for tax credits.

b. The eligibility period of the tax credits, including the first year for which the tax credits may be claimed.

c. Personnel information that will enable the authority to administer the program.

d. A requirement that the applicant maintain the project at a location in New Jersey for the commitment period, with at least the minimum number of full-time employees as required by this program, except as otherwise agreed to pursuant to subsection h. of section 6 of P.L.2011, c.159 (C.34:1B-247) and a provision to permit the authority to recapture all or part of any tax credits awarded, at its discretion, if the business does not remain in compliance with this provision for the required term, and in the instance of the business terminating an existing incentive agreement in order to participate in an incentive agreement authorized pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), such permitted recapture may be calculated to recognize the period of time that the business was in compliance prior to termination.

e. A method for the business to certify that it has met the capital investment and employment requirements of the program pursuant to paragraph (1) of subsection a. of section 3 of P.L.2011, c.149 (C.34:1B-244) and to report annually to the authority the number of full-time employees for which the tax credits are to be made.

f. A provision permitting an audit of the payroll records of the business from time to time, as the authority deems necessary.

g. A provision which permits the authority to amend the agreement.

h. A provision establishing the conditions under which the agreement may be terminated.

122. Section 5 of P.L.2009, c.90 (C.52:27D-489e) is amended to read as follows:

C.52:27D-489e Economic Development and Growth Grant Program.

5. a. The New Jersey Economic Development Authority, in consultation with the State Treasurer, shall establish an Economic Redevelopment and Growth Grant program for the purpose of encouraging redevelopment projects in qualifying economic redevelopment and growth grant incentive areas that do not qualify as such areas solely by virtue of being a transit village, through the provision of incentive grants to reimburse developers for certain project financing gap costs.

b. (1) A developer shall submit an application for a State incentive grant prior to July 1, 2019, except: (a) a developer of a qualified residential project or a mixed use parking project seeking an award of credits toward the funding of its incentive grant for a project restricted under category (viii) of subparagraph (b) of paragraph (3) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f) shall submit an incentive grant application prior to December 31, 2021 and (b) a developer seeking an award of credits toward the funding of its incentive grant under subparagraphs (f) and (g) of paragraph (3) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f) shall submit an incentive grant application prior to December 31, 2021. A developer that submits an application for a State incentive grant shall indicate on the application whether it is also applying for a local incentive grant. Tax credits awarded to developers who apply after the effective date of P.L.2020, c.156 (C.34:1B-269 et al.) under subparagraphs (f) and (g) of paragraph (3) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f) shall not exceed $200,000,000 subject to the limitations of subparagraphs (f) and (g) of that paragraph.

(2) When an applicant indicates it is also applying for a local incentive grant, the authority shall forward a copy of the application to the municipality wherein the redevelopment project is to be located for approval by municipal ordinance.

c. An application for a State incentive grant shall be reviewed and approved by the authority. The authority shall not approve an application for a State incentive grant unless the application was submitted prior to July 1, 2019, except: (1) the authority shall not approve an application for a State incentive grant by a developer of a qualified residential project or a mixed use parking project seeking an award of credits toward the funding of its incentive grant for a project restricted under category (viii) of subparagraph (b) of paragraph (3) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f) unless the application was submitted prior to December 31, 2021 and (2) the authority shall not approve an application for a State incentive grant by a developer under subparagraphs (f) and (g) of paragraph (3) of subsection b. of section 6 of P.L.2009, c.90 (C.52:27D-489f) unless the application was submitted prior to December 31, 2021.

d. A developer shall not be required to purchase pinelands development credits under the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), the pinelands comprehensive management plan, or any other rule or regulation adopted pursuant to that act in connection with any approval or relief obtained related to a redevelopment project located in an aviation district on or after the effective date of P.L.2018, c.120, except if seeking to develop in permanently protected open space pursuant to the Pinelands Protection Act. The provisions of this subsection shall not apply to a developer of a qualified residential project.

123. Section 6 of P.L.2009, c.90 (C.52:27D-489f) is amended to read as follows:

C.52:27D-489f Payment to developer from State.

6. a. Up to the limits established in subsection b. of this section and in accordance with a redevelopment incentive grant agreement, beginning upon the receipt of occupancy permits for any portion of the redevelopment project, or upon any other event evidencing project completion as set forth in the incentive grant agreement, the State Treasurer shall pay to the developer incremental State revenues directly realized from businesses operating at the site of the redevelopment project from the following taxes: the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.), the tax imposed on marine insurance companies pursuant to R.S.54:16-1 et seq., the tax imposed on

insurers generally, pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.), the public utility franchise tax, public utilities gross receipts tax and public utility excise tax imposed on sewerage and water corporations pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.), those tariffs and charges imposed by electric, natural gas, telecommunications, water and sewage utilities, and cable television companies under the jurisdiction of the New Jersey Board of Public Utilities, or comparable entity, except for those tariffs, fees, or taxes related to societal benefits charges assessed pursuant to section 12 of P.L.1999, c.23 (C.48:3-60), any charges paid for compliance with the "Global Warming Response Act," P.L.2007, c.112 (C.26:2C-37 et seq.), transitional energy facility assessment unit taxes paid pursuant to section 67 of P.L.1997, c.162 (C.48:2-21.34), and the sales and use taxes on public utility and cable television services and commodities, the tax derived from net profits from business, a distributive share of partnership income, or a pro rata share of S corporation income under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., the tax derived from a business at the site of a redevelopment project that is required to collect the tax pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), the tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) from the purchase of furniture, fixtures and equipment, or materials for the remediation, the construction of new structures at the site of a redevelopment project, the hotel and motel occupancy fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1), or the portion of the fee imposed pursuant to section 3 of P.L.1968, c.49 (C.46:15-7) derived from the sale of real property at the site of the redevelopment project and paid to the State Treasurer for use by the State, that is not credited to the "Shore Protection Fund" or the "Neighborhood Preservation Nonlapsing Revolving Fund" ("New Jersey Affordable Housing Trust Fund") pursuant to section 4 of P.L.1968, c.49 (C.46:15-8). Any developer shall be allowed to assign their ability to apply for the tax credit under this subsection to a non-profit organization with a mission dedicated to attracting investment and completing development and redevelopment projects in a Garden State Growth Zone. The non-profit organization may make an application on behalf of a developer which meets the requirements for the tax credit, or a group of non-qualifying developers, such that these will be considered a unified project for the purposes of the incentives provided under this section.

b. (1) Up to an average of 75 percent of the projected annual incremental revenues or 85 percent of the projected annual incremental revenues in a Garden State Growth Zone may be pledged towards the State portion of an incentive grant.

(2) In the case of a qualified residential project or a project involving university infrastructure, if the authority determines that the estimated

amount of incremental revenues pledged towards the State portion of an incentive grant is inadequate to fully fund the amount of the State portion of the incentive grant, then in lieu of an incentive grant based on the incremental revenues, the developer shall be awarded tax credits equal to the full amount of the incentive grant.

(3) In the case of a mixed use parking project, if the authority determines that the estimated amount of incremental revenues pledged towards the State portion of an incentive grant is inadequate to fully fund the amount of the State portion of the incentive grant, then, in lieu of an incentive grant based on the incremental revenues, the developer shall be awarded tax credits equal to the full amount of the incentive grant.

The value of all credits approved by the authority pursuant to paragraphs (2) and (3) of this subsection shall not exceed $1,043,000,000, of which:

(a) $250,000,000 shall be restricted to qualified residential projects within Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem counties, of which $175,000,000 of the credits shall be restricted to the following categories of projects: (i) qualified residential projects located in a Garden State Growth Zone located within the aforementioned counties; and (ii) mixed use parking projects located in a Garden State Growth Zone or urban transit hub located within the aforementioned counties; (iii) and $75,000,000 of the credits shall be restricted to qualified residential projects in municipalities with a 2007 Municipal Revitalization Index of 400 or higher as of the date of enactment of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.) and located within the aforementioned counties;

(b) $395,000,000 shall be restricted to the following categories of projects: (i) qualified residential projects located in urban transit hubs that are commuter rail in nature that otherwise do not qualify under subparagraph (a) of this paragraph; (ii) qualified residential projects located in Garden State Growth Zones that do not qualify under subparagraph (a) of this paragraph; (iii) mixed use parking projects located in urban transit hubs or Garden State Growth Zones that do not qualify under subparagraph (a) of this paragraph, provided however, an urban transit hub shall be allocated no more than $25,000,000 for mixed use parking projects; (iv) qualified residential projects which are disaster recovery projects that otherwise do not qualify under subparagraph (a) of this paragraph; (v) qualified residential projects in SDA municipalities located in Hudson County that were awarded State Aid in State Fiscal Year 2013 through the Transitional Aid to Localities program and otherwise do not qualify under subparagraph (a) of this paragraph; (vi) $25,000,000 of credits shall be restricted to mixed use parking projects in

Garden State Growth Zones which have a population in excess of 125,000 and do not qualify under subparagraph (a) of this paragraph; (vii) $40,000,000 of credits shall be restricted to qualified residential projects that include a theater venue for the performing arts and do not qualify under subparagraph (a) of this paragraph, which projects are located in a municipality with a population of less than 100,000 according to the latest federal decennial census, and within which municipality is located an urban transit hub and a campus of a public research university, as defined in section 1 of P.L.2009, c.308 (C.18A:3B-46); and (viii) $125,000,000 of credits shall be restricted to qualified residential projects and mixed use parking projects in Garden State Growth Zones having a population in excess of 125,000 and do not qualify under subparagraph (a) of this paragraph;

(c) $87,000,000 shall be restricted to the following categories of projects: (i) qualified residential projects located in distressed municipalities, deep poverty pockets, highlands development credit receiving areas or redevelopment areas, otherwise not qualifying pursuant to subparagraph (a) or (b) of this paragraph; and (ii) mixed use parking projects that do not qualify under subparagraph (a) or (b) of this paragraph, and which are used by an independent institution of higher education, a school of medicine, a nonprofit hospital system, or any combination thereof; provided, however, that $20,000,000 of the $87,000,000 shall be allocated to mixed use parking projects that do not qualify under subparagraph (a) or (b) of this paragraph;

(d) (i) $16,000,000 shall be restricted to qualified residential projects that are located within a qualifying economic redevelopment and growth grant incentive area otherwise not qualifying under subparagraph (a), (b), or (c) of this paragraph; and

(ii) an additional $50,000,000 shall be restricted to qualified residential projects which, as of the effective date of P.L.2016, c.51, are located in a city of the first class with a population in excess of 270,000, are subject to a Renewal Contract for a Section 8 Mark-Up-To-Market Project from the United States Department of Housing and Urban Development, and for which an application for the award of tax credits under this subsection was submitted prior to January 1, 2016;

(e) $25,000,000 shall be restricted to projects involving university infrastructure;

(f) $150,000,000 shall be restricted to applications submitted after the effective date of P.L.2020, c.156 (C.34:1B-269 et al.) for projects which are predominantly commercial and contain 100,000 or more square feet of office and retail space, or industrial space for purchase or lease and may include a parking component; and

(g) $50,000,000 shall be restricted to applications submitted after the effective date of P.L.2020, c.156 (C.34:1B-269 et al.) for residential projects in any county of the State.

(h) For subparagraphs (a) through (d) of this paragraph, not more than $40,000,000 of credits shall be awarded to any qualified residential project in a deep poverty pocket or distressed municipality and not more than $20,000,000 of credits shall be awarded to any other qualified residential project. The developer of a qualified residential project seeking an award of credits towards the funding of its incentive grant shall submit an incentive grant application prior to July 1, 2016 and if approved after September 18, 2013, the effective date of P.L.2013, c.161 (C.52:27D-489p et al.) shall submit a temporary certificate of occupancy for the project no later than December 31, 2023. The developer of a mixed use parking project seeking an award of credits towards the funding of its incentive grant pursuant to subparagraph (c) of this paragraph and if approved after the effective date of P.L.2015, c.217, shall submit a temporary certificate of occupancy for the project no later than December 31, 2023. The developer of a qualified residential project or a mixed use parking project seeking an award of credits toward the funding of its incentive grant for a project restricted under categories (vi) and (viii) of subparagraph (b) of this paragraph shall submit an incentive grant application prior to July 1, 2019 or, in the case of a project restricted under category (viii) of subparagraph (b) of this paragraph, December 31, 2021, and if approved after the effective date of P.L.2017, c.59, shall submit a temporary certificate of occupancy for the project no later than December 31, 2023 provided that the municipality in which the project is located shall have submitted to the chief executive officer of the authority a letter of support identifying up to six projects prior to July 1, 2018. The letter of support is to contain a project scope for each of the projects and may be supplemented or amended from time to time until July 1, 2019 or, in the case of a project restricted under category (viii) of subparagraph (b) of this paragraph, December 31, 2021. Applications for tax credits pursuant to this subsection relating to an ancillary infrastructure project or infrastructure improvement in the public right-of-way, or both, shall be accompanied with a letter of support relating to the project or improvement by the governing body or agency in which the project is located. Credits awarded to a developer pursuant to this subsection shall be subject to the same financial and related analysis by the authority, the same term of the grant, and the same mechanism for administering the credits, and shall be utilized or transferred by the developer as if the credits had been awarded to the developer pursuant to section 35 of P.L.2009, c.90 (C.34:1B-209.3) for qualified residential projects thereunder.

No portion of the revenues pledged pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.) shall be subject to withholding or retainage for adjustment, in the event the developer or taxpayer waives its rights to claim a refund thereof.

(i) The developer of a project seeking an award of credits for a project restricted under subparagraphs (f) and (g) of this paragraph shall submit an incentive grant application prior to December 31, 2021, and if approved after the effective date of P.L.2020, c.156 (C.34:1B-269 et al.), shall submit a temporary certificate of occupancy for the project no later than December 31, 2024. In addition to the requirements for an award of credits set forth in P.L.2009, c.90 (C.52:27D-489a et al.), a developer shall be eligible to receive an award of credits for a project restricted under subparagraphs (f) and (g) of this paragraph only if the developer demonstrates to the authority at that time of application that: (i) the project shall comply with minimum environmental and sustainability standards; (ii) the project shall comply with the authority's affirmative action requirements, adopted pursuant to section 4 of P.L.1979, c.303 (C.34:1B-5.4); (iii) each worker employed by the developer or subcontractor of a developer working at the project shall be paid not less than $15 per hour or 120 percent of the minimum wage fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher; and (iv) during the eligibility period, each worker employed to perform construction work or building services work at the project shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

Prior to the board considering an application submitted by a developer for a project restricted under subparagraphs (f) and (g) of this paragraph, the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury shall each report to the chief executive officer of the authority whether the developer is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the developer. The developer, or an authorized agent of the developer, shall certify to the authority that all factual assertions made in the developer's application are true under the penalty of perjury. If at any time the authority determines that the developer made a material misrepresentation on the developer's application, the developer shall forfeit the award of credits and the authority shall recapture any tax credits awarded to the developer.

(4) A developer may apply to the Director of the Division of Taxation in the Department of the Treasury and the chief executive officer of the authority for a tax credit transfer certificate, if the developer is awarded a tax credit pursuant to paragraph (2) or paragraph (3) of this subsection, covering one or more years, in lieu of the developer being allowed any amount of the credit against the tax liability of the developer. The tax credit transfer certificate, upon receipt thereof by the developer from the director and the chief executive officer of the authority, may be sold or assigned, in full or in part, to any other person who may have a tax liability pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The certificate provided to the developer shall include a statement waiving the developer's right to claim that amount of the credit against the taxes that the developer has elected to sell or assign. The sale or assignment of any amount of a tax credit transfer certificate allowed under this paragraph shall not be exchanged for consideration received by the developer of less than 75 percent of the transferred credit amount before considering any further discounting to present value that may be permitted. Any amount of a tax credit transfer certificate used by a purchaser or assignee against a tax liability shall be subject to the same limitations and conditions that apply to the use of the credit by the developer who originally applied for and was allowed the credit.

c. All administrative costs associated with the incentive grant shall be assessed to the applicant and be retained by the State Treasurer from the annual incentive grant payments.

d. The incremental revenue for the revenues listed in subsection a. of this section shall be calculated as the difference between the amount collected in any fiscal year from any eligible revenue source included in the State redevelopment incentive grant agreement, less the revenue increment base for that eligible revenue.

e. The municipality is authorized to collect any information necessary to facilitate grants under this program and remit that information in order to assist in the calculation of incremental revenue.

124. Section 8 of P.L.2009, c.90 (C.52:27D-489h) is amended to read as follows:

C.52:27D-489h Incentive grant application form, procedures.

8. a. (1) The authority, in consultation with the State Treasurer, shall promulgate an incentive grant application form and procedure for the Economic Redevelopment and Growth Grant program.

(2) (a) The Local Finance Board, in consultation with the authority, shall develop a minimum standard incentive grant application form for municipal Economic Redevelopment and Growth Grant programs.

(b) Through regulation, the authority shall establish standards for redevelopment projects seeking State or local incentive grants based on the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6), regarding the use of renewable energy, energy-efficient technology, and non-renewable resources in order to reduce environmental degradation and encourage long-term cost reduction.

b. Within each incentive grant application, a developer shall certify information concerning:

(1) the status of control of the entire redevelopment project site;

(2) all required State and federal government permits that have been issued for the redevelopment project, or will be issued pending resolution of financing issues;

(3) local planning and zoning board approvals, as required, for the redevelopment project;

(4) estimates of the revenue increment base, the eligible revenues for the project, and the assumptions upon which those estimates are made.

c. (1) With regard to State tax revenues proposed to be pledged for an incentive grant the authority and the State Treasurer shall review the project costs, evaluate and validate the project financing gap estimated by the developer, and conduct a State fiscal impact analysis to ensure that the overall public assistance provided to the project, except with regards to a qualified residential project, a mixed use parking project, or a project involving university infrastructure, will result in net benefits to the State including, without limitation, both direct and indirect economic benefits and non-financial community revitalization objectives, including but not limited to, the promotion of the use of public transportation in the case of the ancillary infrastructure project portion of any transit project.

(2) With regard to local incremental revenues proposed to be pledged for an incentive grant the authority and the Local Finance Board shall review the project costs, and except with respect to an application by a municipal redeveloper, evaluate and validate the project financing gap projected by the developer, and conduct a local fiscal impact analysis to ensure that the overall public assistance provided to the project, except with regards to a qualified residential project, a mixed use parking project, or a project involving university infrastructure, will result in net benefits to the municipality wherein the redevelopment project is located including, without limitation, both di-

rect and indirect economic benefits and non-financial community revitalization objectives, including but not limited to, the promotion of the use of public transportation in the case of the ancillary infrastructure project portion of any transit project.

(3) The authority, State Treasurer, and Local Finance Board may act cooperatively to administer and review applications, and shall consult with the Office of State Planning on matters concerning State, regional, and local development and planning strategies.

(4) The costs of the aforementioned reviews shall be assessed to the applicant as an application fee, except for applications submitted on or after January 1, 2018, but before June 30, 2018, which are amended after the effective date of P.L.2020, c.156 (C.34:1B-269 et al.), the authority may waive fees.

(5) A developer who has already applied for an incentive grant award prior to the effective date of the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), but who has not yet been approved for the grant, or has not executed an agreement with the authority, may proceed under that application or seek to amend the application or reapply for an incentive grant award for the same project or any part thereof for the purpose of availing himself or herself of any more favorable provisions of the Economic Redevelopment and Growth Grant program established pursuant to the "New Jersey Economic Opportunity Act of 2013," P.L.2013, c.161 (C.52:27D-489p et al.), except that projects with costs exceeding $200,000,000 shall not be eligible for revised percentage caps under subsection d. of section 19 of P.L.2013, c.161 (C.52:27D-489i).

125. R.S.54:50-8 is amended to read as follows:

Confidentiality.

54:50-8. a. The records and files of the director respecting the administration of the State Uniform Tax Procedure Law or of any State tax law shall be considered confidential and privileged and neither the director nor any employee engaged in the administration thereof or charged with the custody of any such records or files, nor any former officer or employee, nor any person who may have secured information therefrom under subsection d., e., f., g., p., q., or r. of R.S.54:50-9 or any other provision of State law, shall divulge, disclose, use for their own personal advantage, or examine for any reason other than a reason necessitated by the performance of official duties any information obtained from the said records or files or from any examination or inspection of the premises or property of any person. Neither the director nor any employee engaged in such administration or charged with

the custody of any such records or files shall be required to produce any of them for the inspection of any person or for use in any action or proceeding except when the records or files or the facts shown thereby are directly involved in an action or proceeding under the provisions of the State Uniform Tax Procedure Law or of the State tax law affected, or where the determination of the action or proceeding will affect the validity or amount of the claim of the State under some State tax law, or in any lawful proceeding for the investigation and prosecution of any violation of the criminal provisions of the State Uniform Tax Procedure Law or of any State tax law.

b. The prohibitions of this section, against unauthorized disclosure, use or examination by any present or former officer or employee of this State or any other individual having custody of such information obtained pursuant to the explicit authority of State law, shall specifically include, without limitation, violations involving the divulgence or examination of any information from or any copy of a federal return or federal return information required by New Jersey law to be attached to or included in any New Jersey return. Any person violating this section by divulging, disclosing or using information shall be guilty of a crime of the fourth degree. Any person violating this section by examining records or files for any reason other than a reason necessitated by the performance of official duties shall be guilty of a disorderly persons offense.

c. Whenever records and files are used in connection with the prosecution of any person for violating the provisions of this section by divulging, disclosing or using records or files or examining records and files for any reason other than a reason necessitated by the performance of official duties, the defendant shall be given access to those records and files. The court shall review such records and files in camera, and that portion of the court record containing the records and files shall be sealed by the court.

126. R.S.54:50-9 is amended to read as follows:

Certain officers entitled to examine records.

54:50-9. Nothing herein contained shall be construed to prevent:

a. The delivery to a taxpayer or the taxpayer's duly authorized representative of a copy of any report or any other paper filed by the taxpayer pursuant to the provisions of this subtitle or of any such State tax law;

b. The publication of statistics so classified as to prevent the identification of a particular report and the items thereof;

c. The director, in the director's discretion and subject to reasonable conditions imposed by the director, from disclosing the name and address of

any licensee under any State tax law, unless expressly prohibited by such State tax law;

d. The inspection by the Attorney General or other legal representative of this State of the reports or files relating to the claim of any taxpayer who shall bring an action to review or set aside any tax imposed under any State tax law or against whom an action or proceeding has been instituted in accordance with the provisions thereof;

e. The examination of said records and files by the Comptroller, State Auditor or State Commissioner of Finance, or by their respective duly authorized agents;

f. The furnishing, at the discretion of the director, of any information contained in tax reports or returns or any audit thereof or the report of any investigation made with respect thereto, filed pursuant to the tax laws, to the taxing officials of any other state, the District of Columbia, the United States and the territories thereof, providing said jurisdictions grant like privileges to this State and providing such information is to be used for tax purposes only;

g. The furnishing, at the discretion of the director, of any material information disclosed by the records or files to any law enforcing authority of this State who shall be charged with the investigation or prosecution of any violation of the criminal provisions of this subtitle or of any State tax law;

h. The furnishing by the director to the State agency responsible for administering the Child Support Enforcement program pursuant to Title IV-D of the federal Social Security Act, Pub.L.93-647 (42 U.S.C. s.651 et seq.), with the names, home addresses, social security numbers and sources of income and assets of all absent parents who are certified by that agency as being required to pay child support, upon request by the State agency and pursuant to procedures and in a form prescribed by the director;

i. The furnishing by the director to the Board of Public Utilities any information contained in tax information statements, reports or returns or any audit thereof or a report of any investigation made with respect thereto, as may be necessary for the administration of P.L.1991, c.184 (C.54:30A-18.6 et al.) and P.L.1997, c.162 (C.54:10A-5.25 et al.);

j. The furnishing by the director to the Director of the Division of Alcoholic Beverage Control in the Department of Law and Public Safety any information contained in tax information statements, reports or returns or any audit thereof or a report of any investigation made with respect thereto, as may be relevant, in the discretion of the director, in any proceeding conducted for the issuance, suspension or revocation of any license authorized pursuant to Title 33 of the Revised Statutes;

k. The inspection by the Attorney General or other legal representative of this State of the reports or files of any tobacco product manufacturer, as defined in section 2 of P.L.1999, c.148 (C.52:4D-2), for any period in which that tobacco product manufacturer was not or is not in compliance with subsection a. of section 3 of P.L.1999, c.148 (C.52:4D-3), or of any licensed distributor as defined in section 102 of P.L.1948, c.65 (C.54:40A-2), for the purpose of facilitating the administration of the provisions of P.L.1999, c.148 (C.52:4D-1 et seq.);

l. The furnishing, at the discretion of the director, of information as to whether a contractor or subcontractor holds a valid business registration as defined in section 1 of P.L.2001, c.134 (C.52:32-44);

m. The furnishing by the director to a State agency as defined in section 1 of P.L.1995, c.158 (C.54:50-24) the names of licensees subject to suspension for non-payment of State tax indebtedness pursuant to P.L.2004, c.58 (C.54:50-26.1 et al.);

n. The release to the United States Department of the Treasury, Bureau of Financial Management Service, or its successor of relevant taxpayer information for purposes of implementing a reciprocal collection and offset of indebtedness agreement entered into between the State of New Jersey and the federal government pursuant to section 1 of P.L.2006, c.32 (C.54:49-12.7);

o. The examination of said records and files by the Commissioner of Health and Senior Services, the Commissioner of Human Services, the Medicaid Inspector General, or their respective duly authorized agents, pursuant to section 5 of P.L.2007, c.217 (C.26:2H-18.60e), section 3 of P.L.1968, c.413 (C.30:4D-3), or section 5 of P.L.2005, c.156 (C.30:4J-12);

p. The furnishing at the discretion of the director of employer provided wage and tax withholding information contained in tax reports or returns filed pursuant to N.J.S.54A:7-2, 54A:7-4 and 54A:7-7, to the designated municipal officer of a municipality authorized to impose an employer payroll tax pursuant to the provisions of Article 5 (Employer Payroll Tax) of the "Local Tax Authorization Act," P.L.1970, c.326 (C.40:48C-14 et seq.), for the limited purpose of verifying the payroll information reported by employers subject to the employer payroll tax;

q. The furnishing by the director to the Commissioner of Labor and Workforce Development of any information, including, but not limited to, tax information statements, reports, audit files, returns, or reports of any investigation for the purpose of labor market research or assisting in investigations pursuant to any State wage, benefit or tax law as enumerated in section 1 of P.L.2009, c.194 (C.34:1A-1.11); or pursuant to P.L.1940, c.153 (C.34:2-21.1 et seq.).

r. The furnishing by the director to the New Jersey Economic Development Authority any information contained in tax information statements, reports or returns, or any audit thereof or a report of any investigation made with respect thereto, as may be relevant to assist the authority in the implementation of programs through which grants, loans, tax credits, or other forms of financial assistance are provided. The director shall provide to the New Jersey Economic Development Authority, upon request, such information.

127. There is appropriated from the General Fund:

a. to the Main Street Recovery Fund, the sum of $50,000,000 to implement the provisions of sections 82 through 88 of P.L.2020, c.156 (C.34:1B-349 et al.);

b. to the Office of the Economic Development Inspector General in the Economic Development Authority, the sum of $250,000 to implement the provisions of sections 99 through 105 of P.L.2020, c.156 (C.34:1B-363 through C.34:1B-369);

c. to the Economic Development Authority, the sum of $250,000 to implement the provisions of sections 92 through 97 of P.L.2020, c.156 (C.34:1B-356 through C.34:1B-361); and

d. to the Economic Development Authority, the sum of $5,000,000 to be used to award competitive grants for zoning and economic planning services in government-restricted municipalities or economic redevelopment plans for distressed assets in other municipalities.

128. This act shall take effect immediately.

Approved January 7, 2021.

JOINT RESOLUTIONS

JOINT RESOLUTION NO. 1

A JOINT RESOLUTION urging the Federal Communications Commission to take temporary measures to secure broadband access for those affected by the COVID-19 public health emergency.

WHEREAS, On January 31, 2020, the United States Secretary of Health and Human Services declared the outbreak of a novel coronavirus, abbreviated as COVID-19, as a public health emergency for the United States; and

WHEREAS, Early research of COVID-19 indicates that the virus is more contagious than the seasonal flu, SARS, and MERS; and

WHEREAS, In efforts to contain the spread of COVID-19, the United States Center for Disease Control recommended the practice of social distancing, which entails avoiding mass gatherings, and quarantine, if an individual might have been exposed; and

WHEREAS, In order to practice social distancing, many schools and businesses have closed, cancelled mass gatherings, and have opted to continue operations remotely via the Internet; and

WHEREAS, Telemedicine services, accessed through the Internet, are vital to the COVID-19 public health emergency response because hospital-acquired infections dissuade in-person visits, healthcare systems reach capacity, and quarantines prevent certain individuals from physically accessing healthcare facilities; and

WHEREAS, A 2019 Pew Research Center survey found that only 73 percent of American adults had high-speed Internet access at home and this figure was even lower in rural areas and low-income areas; and

WHEREAS, This public health emergency has exposed the digital divide in America, making it difficult for rural and low-income areas to access medical care, continue education, and maintain employment; and

WHEREAS, Under section 254 of the federal "Communications Act of 1954," the Federal Communications Commission (FCC) can secure universal broadband access for those affected by COVID-19 by taking temporary measures, such as approving experimental licenses to expand wireless networks, applying funds to boost connectivity in areas of need, and urging carriers to launch mobile cell towers; and

WHEREAS, The FCC has taken similar temporary measures in the wake of Hurricane Katrina by enabling rural and non-rural health care providers to apply for advanced telecommunications and information services; and

WHEREAS, The closing of schools and businesses and the challenges of accessing in-person healthcare during this crisis has the potential to exacerbate geographic and income inequality in this country and can be addressed by taking emergency measures that secure broadband access for areas in need; now, therefore,

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

1. The Governor and the Legislature of the State of New Jersey urge the Federal Communications Commission to take temporary measures to secure broadband access for those affected by the COVID-19 public health emergency.

2. Copies of this resolution, as filed with the Secretary of State, shall be transmitted by the Clerk of the General Assembly or the Secretary of the Senate to the President of the United States, the Chairman of the Federal Communications Commission, and each Commissioner of the Federal Communication Commission

3. This joint resolution shall take effect immediately.

Approved March 20, 2020.

JOINT RESOLUTION NO. 2

A JOINT RESOLUTION designating August 31 of each year as "Overdose Awareness Day" in New Jersey.

WHEREAS, Substance use disorder is a chronic disease characterized by the problematic, compulsive, or difficult-to-control use of drugs and other substances, despite harmful consequences; and

WHEREAS, Substance use disorder, particularly when it involves opioid drugs, is seen by both the federal Centers for Disease Control and Prevention and the World Health Organization as a fast-growing epidemic that can all too easily lead to overdose and death; and

WHEREAS, In 2018, 67,367 individuals died from drug overdoses in the United States; and

WHEREAS, In New Jersey alone, 2,900 people died from drug overdoses in 2018; and

WHEREAS, Furthermore, for every drug overdose that results in death, there are many more nonfatal overdoses, each taking an emotional and economic toll on individuals, their families, and the community at large; and

WHEREAS, A substance use disorder can fuel feelings of shame, guilt, embarrassment, depression, and hopelessness, causing individuals to resist seeking treatment and support; and

WHEREAS, Overdose Awareness Day is a global event held on August 31 of each year that aims to raise awareness of drug overdoses, reduce the stigma of a drug-related death, and acknowledge the grief felt by families and friends remembering those who died or were permanently injured as a result of a drug overdose; and

WHEREAS, Recognizing Overdose Awareness Day in New Jersey sends a strong message to former and current substance users, namely, that they are valued, and that overdose death is preventable; now, therefore,

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

C.36:2-394 "Overdose Awareness Day," August 31; designated.

1. August 31 of each year shall be designated as "Overdose Awareness Day" in New Jersey to raise awareness of overdose and reduce the stigma of a drug-related death.

C.36:2-395 Annual observance.

2. The Governor is respectfully requested to observe a moment of silence on August 31 of each year and to annually issue a proclamation calling upon public officials and the citizens of this State to observe "Overdose Awareness Day" with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved August 31, 2020.

JOINT RESOLUTION NO. 3

A JOINT RESOLUTION creating a commission to study sexual assault, misconduct, and harassment in this State's correctional facilities.

WHEREAS, The Edna Mahan Correctional Facility for Women (Edna Mahan) is the only all-female correctional facility in this State in which more than 600 adult female offenders currently are incarcerated; and

WHEREAS, Eight employees at Edna Mahan were terminated for sexual misconduct between 2010 and 2016; three in 2010 and five in 2016; six employees have been criminally charged with sexual abuse and official misconduct in the last two years; and the Attorney General subsequently has hired legal counsel to analyze the "administrative protocols and investigatory responses" at Edna Mahan; and

WHEREAS, In January 2017, the Hunterdon County Prosecutor's Office announced as part of an "ongoing investigation" that four Edna Mahan corrections officers were indicted for a total of 26 counts involving sexual abuse and official misconduct; and

WHEREAS, At least one corrections officer and a trade instructor employed at Edna Mahan have been convicted of official misconduct; and

WHEREAS, In February 2018, based on allegations that a corrections officer engaged in a sexual relationship with three inmates, the Hunterdon County Prosecutor's Office charged the officer with seven counts of second degree official misconduct, two counts of second degree sexual assault, two counts of second degree conspiracy to commit sexual assault, one count of second degree pattern of official misconduct, and three counts of fourth degree criminal sexual contact; and

WHEREAS, On May 9, 2018, a Hunterdon County jury found a senior corrections officer at Edna Mahan guilty of five counts of sexual assault, criminal sexual contact, and official misconduct; and

WHEREAS, Two male Edna Mahan corrections officers pled guilty to official misconduct charges, one in July 2018 who admitted to sexually abusing three different inmates and one in January 2019 who admitted to sexually abusing two inmates over a several year period; and

WHEREAS, Further, in November 2019, a female Edna Mahan corrections officer pled guilty to criminal sexual contact for engaging in sexual conduct with an inmate; and

WHEREAS, At least five civil lawsuits recently have been filed by Edna Mahan inmates against the Department of Corrections (DOC), corrections officers, and others, claiming sexual assault and sexual harassment: one in November 2017 in the Superior Court of New Jersey-Law Division, Hunterdon County; two in December 2017 in the Superior Court of New Jersey-Law Division, Mercer County, including a class action lawsuit claiming systemic, inappropriate, and illegal treatment of the plaintiff inmates resulting from a long-standing, prison-wide culture

of sexual abuse; one in December 2017 in the United States District Court, District of New Jersey; and one in February 2018 in the Superior Court of New Jersey-Law Division, Hunterdon County; and

WHEREAS, The DOC has adopted a policy of "Zero Tolerance of Prison Sexual Assault" as required under the federal Prison Rape Elimination Act of 2003 (PREA) pursuant to which sexual misconduct reporting and investigatory procedures have been established, unscheduled tours are being conducted by supervisory staff to detect unusual or unwarranted staff behavior, and employees are receiving pre-service and annual in-service training on sexual assault and sexual misconduct; and

WHEREAS, The DOC has installed updated camera systems designed to eliminate "blind spots" where sexual assault and sexual misconduct may go undetected; and

WHEREAS, DOC facilities undergo certain audits to ensure compliance with federal PREA standards and an audit in 2016 determined that Edna Mahan complied with all relevant federal standards and exceeded those standards with respect to employee training; and

WHEREAS, Notwithstanding the audit's findings, the DOC's actions to combat sexual assault and sexual misconduct in State correctional facilities, and the safety and security of inmates in Edna Mahan remains an on-going problem that must be addressed; and

WHEREAS, Sexual violence is recognized by the Federal Bureau of Investigation (FBI) as the second most violent crime, and the systemic abuse and mistreatment of inmates in this State's correctional facilities, as well as its concealment, is unacceptable and prohibited by law; and

WHEREAS, This State recognizes that dominant culture often causes men or gender non-conforming inmates to also be at risk for the systemic abuse and mistreatment as experienced by female inmates in Edna Mahan; and

WHEREAS, In the April 2020 report entitled, the "Investigation of the Edna Mahan Correctional Facility for Women (Union Township, New Jersey), the Civil Rights Division of the United States Department of Justice and the District of New Jersey United States Attorney's Office concluded that the New Jersey Department of Corrections fails to keep inmates in Edna Mahan safe from sexual abuse by facility staff in violation of the Eighth Amendment of the United States Constitution; and

WHEREAS, Based on past and recent criminal convictions, pending criminal charges, and civil lawsuits against Edna Mahan staff and the DOC, it is fitting and proper for the Legislature to establish a commission to identify the causes and consequences of sexual assault in Edna Mahan, as well as in correctional facilities for male inmates in this State, and ana-

lyze current DOC policy and procedures to determine how they can be modified to improve the safety and well-being of these incarcerated inmates; now, therefore,

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

1. There is established the "Commission to Protect New Jersey Inmates from Sexual Assault and Sexual Misconduct." The commission shall consist of the following 17 members:

a. four legislative members, who shall include two members of the Senate, who shall not be of same political party, and two members of the General Assembly, who shall not be of the same political party. The President of the Senate, the Speaker of the General Assembly, the Minority Leader of the Senate, and the Minority Leader of the General Assembly each shall appoint one legislative member.

b. four ex officio members or their designees, who shall include the following: the Commissioner of Corrections, the Attorney General, the Director of the Division on Women in the Department of Children and Families, and the Public Defender.

c. nine public members appointed by the Governor, who shall include the following: a former inmate of the Edna Mahan Correctional Facility for Women, a victims' rights advocate, a representative of an organization that defends civil rights or promotes social justice, a faculty member of a college or university located in this State with expertise in women's issues, a representative of a collective bargaining unit representing correctional police officers, a representative of the New Jersey Coalition Against Sexual Assault, a person with expertise on the PREA, a representative of a Quaker organization promoting lasting peace with justice, and a representative of an organization working for racial, social, and economic justice, and greater unity in the community.

2. a. The commission shall organize within 30 days of the appointment of its members. The commission shall elect a chairperson from among its members, and the chairperson shall select a secretary who need not be a member of the commission.

b. The commission may meet at the call of its chairperson at the times and in the places it may deem appropriate and necessary to fulfill its duties, and may conduct public hearings at any place it shall designate.

c. The commission may request at these hearings the appearance of officials of any State agency or political subdivision of the State and may solicit testimony of interested groups and the general public, including but not limited to officials, employees, contractors, volunteers, and former and current inmates of State correctional facilities.

d. The commission shall be entitled to call to its assistance and avail itself of the services of the employees of any State, county, or municipal department, board, bureau, commission, or agency as it may require and as may be available to it for its purposes, including a State university or college, and to employ stenographic and clerical assistance and incur traveling and other miscellaneous expenses necessary to perform its duties, within the limits of funds appropriated or otherwise made available to it for its purposes.

e. Seven members of the commission shall constitute a quorum for the transaction of business.

f. Members of the commission shall serve without compensation, but shall be reimbursed for necessary expenses actually incurred in the performance of their duties as members of the commission.

3. The commission shall examine issues affecting the safety and rights of inmates in State correctional facilities, including, but not limited to, matters concerning official misconduct convictions, pending criminal charges, and civil allegations by Edna Mahan inmates of sexual assault, sexual misconduct, and sexual harassment against correctional police officers, other staff members, contractors, and volunteers working in the facility. The commission specifically shall:

a. assess the degree of a facility's compliance with the provisions of PREA, including the PREA audit process and whether these audits should be unannounced, and determine how current standards can be strengthened to further protect the inmates from sexual assault and sexual misconduct;

b. ascertain the current policy and procedures for investigating allegations of crimes and offenses by an inmate of sexual assault and sexual misconduct against correctional police officers, other staff members, contractors, and volunteers, including, but not limited to:

(1) the current means of reporting allegations of sexual misconduct, including complaints made via existing hotlines, and whether the allegations should be reported to a neutral third party that is not an employee of the DOC;

(2) the parameters governing the investigation of a complaint and how it is determined if an allegation is substantiated or unsubstantiated and

whether the Special Investigations Division of the DOC can fairly and impartially conduct these investigations;

(3) whether the inmates' due process rights are being protected during the investigation;

(4) how the facility prevents retaliation by a DOC employee against whom there is an allegation of sexual misconduct or other criminal act and whether the employee is or should be suspended, either with or without pay, pending the completion of an investigation; and

(5) whether an inmate is receiving adequate services to deal with the trauma resulting from the sexual misconduct or other criminal act of the staff;

c. explore the feasibility of increasing the female to male staff ratio in Edna Mahan and determine if the current policy governing cross gender searches and surveillance should include further protections for female inmates;

d. consider whether it would be appropriate to establish a citizen oversight board to monitor a facility;

e. research the availability of additional training and technical assistance from the PREA Research Center;

f. consider issues concerning the sexual victimization of inmates by correctional police officers, employees, contractors, and volunteers in this State's correctional facilities for males; and

g. study any other issue it deems relevant to enhance the safety and security of the inmates in State correctional facilities.

4. The commission shall prepare and submit to the Governor and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) a preliminary report of its findings and recommendations no later than six months after the organizational meeting of the commission, and a final report, including legislative proposals, no later than one year after the organizational meeting. The commission shall expire upon submission of the final report, unless it deems further deliberations are necessary, in which case it may be extended for two subsequent periods of six months.

5. This joint resolution shall take effect immediately.

Approved September 14, 2020.

JOINT RESOLUTION NO. 4

A JOINT RESOLUTION designating September of each year as "Sickle Cell Awareness Month" in New Jersey.

WHEREAS, Sickle cell disease is a group of disorders that cause red blood cells to become hard and pointed, rather than soft and round, which can lead to pain, organ damage, low blood count, and anemia; and

WHEREAS, Sickle cell disease is the most common genetic disorder in the United States, affecting between 90,000 and 100,000 Americans; and

WHEREAS, Sickle cell disease primarily affects people of African descent, but is also present in populations of Mediterranean, Middle Eastern, and Asian descent; and

WHEREAS, Sickle cell anemia is the most common, and often the most severe, form of sickle cell disease; and

WHEREAS, The genetic trait for sickle cell disease runs in families, meaning that parents can pass the trait or the disease on to their children; and

WHEREAS, Sickle cell trait is not a disease, and people who have the trait may not be aware of it, but if a mother and father both carry sickle cell trait, each of their children will have a one in four chance of inheriting sickle cell disease; and

WHEREAS, All infants born in New Jersey are screened for sickle cell disease, and in 2015, 40 babies were confirmed to have the classic form of the disease, and an additional 36 babies were confirmed to have a variant of the disease or carrier status; and

WHEREAS, The closest treatment to a cure that is currently available for sickle cell disease is a bone marrow transplant, an intense and risky medical procedure that is only used in the most severe cases of sickle cell disease; and

WHEREAS, Bone marrow transplantation requires a healthy donor who is a genetically matched to the recipient, which can often be difficult to locate, sometimes delaying the possibility of a cure for some individuals with sickle cell disease; and

WHEREAS, Individuals with sickle cell disease often depend on costly medications and blood transfusions to manage their symptoms; and

WHEREAS, New Jersey has enacted legislation in 2011 to require health insurance to cover treatment for sickle cell anemia and require the Department of Health to publish information for the public to learn about sickle cell anemia, which is now available on the department's website

and at health care facilities and social services agencies throughout the State; and

WHEREAS, The United States federal government first officially recognized September as Sickle Cell Awareness Month in 1983, and continues to raise public awareness of the disease in September of each year; and

WHEREAS, There are community-based organizations in this State, such as the Sickle Cell Association of New Jersey, that can make a greater impact in raising awareness about sickle cell disease if there is a designated "Sickle Cell Awareness Month" in New Jersey; and

WHEREAS, There is continued need to raise public awareness in New Jersey about the genetic risk factors associated with, and the symptoms and treatment of, sickle cell disease; now, therefore,

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

C.36:2-396 "Sickle Cell Awareness Month" designated.

1. The month of September of each year is designated as "Sickle Cell Awareness Month" in New Jersey to raise public awareness of the genetic risk factors associated with, and the symptoms and treatment of, sickle cell disease.

C.36:2-397 Annual gubernatorial proclamation.

2. The Governor is requested to issue a proclamation annually calling upon public officials and the citizens of this State to observe "Sickle Cell Awareness Month" with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved September 30, 2020.

JOINT RESOLUTION NO. 5

A JOINT RESOLUTION designating the first week of October of each year as Manufacturing Week.

WHEREAS, Manufacturing comprises approximately 12 percent of the nation's gross domestic product; and

WHEREAS, New Jersey has one of the most educated and skilled workforces in the nation, making New Jersey particularly desirable to manufacturing companies; and

WHEREAS, Four sectors of advanced manufacturing are especially prominent in the State: chemicals, machinery, computer/electronic products, and food, contributing significantly to the State's economy and providing well-paying jobs in a variety of fields; and

WHEREAS, The State supports its manufacturers by providing incentives for manufacturers to grow their businesses, including a tax credit for the acquisition of equipment and for the addition of employees due to equipment investment, the New Jersey Manufacturing Extension Program, and the many programs within the New Jersey Economic Development Authority to provide access to capital for manufacturing companies; and

WHEREAS, The State is home to 21 Fortune 500 companies, is home to 13 of the top 20 biopharmaceutical companies in the world, and is ranked first by the U.S. Bureau of Labor Statistics for employed biochemists and biophysicists; and

WHEREAS, The State's location in the Northeast provides manufacturers with access to some of the most affluent consumers in the country, as well as the infrastructure for wide-scale distribution of manufacturing products and services; and

WHEREAS, It is altogether fitting and appropriate to recognize the important role the manufacturing industry plays in the State by designating the first week of October of each year as Manufacturing Week; now, therefore,

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

C.36:2-398 Manufacturing Week, designated.

1. The first week of October of each year is designated as Manufacturing Week in the State of New Jersey in recognition of the significance the manufacturing industry plays in the State's economy.

C.36:2-399 Gubernatorial proclamation.

2. The Governor is respectfully requested to issue a proclamation annually and call upon public, officials, private organizations, and all citizens of this State to observe this celebration each year with appropriate events and activities.

3. This joint resolution shall take effect immediately.

Approved September 30, 2020.

JOINT RESOLUTION NO. 6

A JOINT RESOLUTION designating September of each year as "Safe Haven Awareness Month" in New Jersey.

WHEREAS, Safe Haven laws have been enacted in several states across the nation in order to prevent unsafe infant abandonments and fatalities as reported in several high profile cases that generated nationwide media attention; and

WHEREAS, New Jersey was one of the first five states to enact a Safe Haven law for infants who are unable to be cared for, with the enactment of the "New Jersey Safe Haven Infant Protection Act" (Safe Haven law) in 2000; and

WHEREAS, The Safe Haven law allows a distressed parent or someone on his or her behalf to safely, legally, and anonymously surrender an unharmed infant to a staff member at one of New Jersey's legally designated Safe Haven sites within 30 days of the child's birth; and

WHEREAS, Legally designated sites in New Jersey include hospital emergency rooms, police and fire stations, and ambulance and first aid squads; and

WHEREAS, Under the Safe Haven law, the Department of Children and Families (DCF) ensures that an infant is placed in a foster or pre-adoptive loving home; and

WHEREAS, The DCF is the State department tasked with promoting the Safe Haven law in New Jersey in partnership with public and private agencies, the Legislature, schools, community organizations, and community leaders; and

WHEREAS, The DCF promotes the Safe Haven law through annual public awareness campaigns, conferences, workshops, community events, and the distribution of educational materials; and

WHEREAS, New Jersey schools will begin teaching high school students about the Safe Haven law in the upcoming school year; and

WHEREAS, Since the enactment of New Jersey's Safe Haven law in 2000, the law has successfully saved the lives of 77 infants in this State; and

WHEREAS, On the 20th anniversary of the enactment of the Safe Haven law, it is altogether fitting, proper, and in the public interest for New Jersey to designate September as "Safe Haven Awareness Month" in order to strengthen the State's efforts in raising awareness and saving infant lives; now, therefore,

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

C.36:2-400 "Safe Haven Awareness Month", designated.

1. September of each year is designated as "Safe Haven Awareness Month."

C.36:2-401 Annual gubernatorial proclamation.

2. The Governor may annually issue a proclamation recognizing September as "Safe Haven Awareness Month" and call upon public officials and the residents of the State of New Jersey to observe the month with appropriate activities and programs.

3. This joint resolution shall take effect immediately.

Approved September 30, 2020.

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 99

WHEREAS, Senator C. Robert Sarcone was a dedicated public servant who tirelessly served his country and the people of New Jersey for many years; and

WHEREAS, Senator Sarcone was born on August 3, 1925, in Newark; and

WHEREAS, Senator Sarcone graduated from Barringer High School in Newark, attended Muhlenberg College and Columbia University, and received his law degree from Rutgers Law School; and

WHEREAS, Senator Sarcone served in the United States Navy from February 1943 to August 1946, and was stationed in the Pacific Theater during World War II; and

WHEREAS, Senator Sarcone was an accomplished trial attorney who served as an Assistant Essex County Prosecutor and as Deputy Attorney General of New Jersey; and

WHEREAS, Senator Sarcone was elected to the New Jersey General Assembly as an at-large Essex County representative in 1959 and again in 1961; and

WHEREAS, Senator Sarcone served as Assembly Minority Leader in 1962; and

WHEREAS, in 1963, at the age of 38, Senator Sarcone was elected as the youngest member of the New Jersey State Senate, and served in the Senate from 1964 to 1966; and

WHEREAS, Senator Sarcone ran for the Republican nomination for Governor in 1977, and then resumed practicing law for the next four decades; and

WHEREAS, Senator Sarcone will be sorely missed by his family, including his wife, Jeanette, his daughter, Yvonne, his three grandchildren, his seven great-grandchildren, his friends, his colleagues, and by the people of New Jersey whom he served tirelessly; and

WHEREAS, it is with great sorrow that we mourn the passing of Senator Sarcone, and extend our deepest sympathy to his family, friends, and colleagues; and

WHEREAS, it is appropriate to honor the exemplary character, outstanding achievements, and cherished memory of Senator Sarcone, and to mark his passing;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Friday, January 24, 2020, in recognition and mourning of a dedicated and tireless public servant, Senator C. Robert Sarcone.

2. This Order shall take effect immediately.

Dated January 23, 2020.

EXECUTIVE ORDER NO. 100

WHEREAS, the international scientific community has reached an overwhelming consensus that the Earth is warming due to increasing atmospheric levels of carbon dioxide and other greenhouse gases; and

WHEREAS, there is also overwhelming consensus that such temperature increases are contributing to rising sea levels, an increase in the frequency and intensity of severe weather events, and numerous other adverse environmental impacts that have threatened and will continue to threaten our communities, economies, and public health; and

WHEREAS, it is also widely accepted that human activity, and in particular society's emissions of greenhouse gases, has driven and continues to drive global climate change and its corresponding impacts on our natural environment; and

WHEREAS, the United Nations Intergovernmental Panel on Climate Change ("IPCC") has found that greenhouse gas emissions are the highest in human history and continued emissions will cause further warming and long-lasting changes in all components of the climate system, increasing the likelihood of severe, pervasive, and irreversible impacts for people and ecosystems; and

WHEREAS, the IPCC has also concluded that the world's oceans and ice sheets are under severe stress due to rapidly increasing temperatures, causing global sea level rise to accelerate; and

WHEREAS, this acceleration has and will continue to result in increases in intensity of winds, rainfall, wave action, and other extreme sea level events and coastal hazards, as well as impacts to coastal ecosystems; and

WHEREAS, New Jersey is especially vulnerable to the impacts of sea level rise, increased flooding and numerous other adverse impacts of climate change, with potentially disastrous consequences for public health and safety, as well as for the social and economic vitality of the State; and

WHEREAS, the 2019 report "New Jersey's Rising Seas and Changing Coastal Storms" that was prepared by Rutgers University for the Department of Environmental Protection ("DEP") shows that sea-level rise projections in New Jersey are more than two times the global average and that the sea level in New Jersey could rise from 2000 levels by up to 1.1 feet by 2030, 2.1 feet by 2050, and 6.3 feet by 2100, underscoring the urgent need for action to protect the State from adverse climate change impacts; and

WHEREAS, according to a study released by the Rhodium Group in October 2019, rising temperatures and sea levels in New Jersey has significantly increased the economic risk to New Jerseyans with an estimated $60 billion worth of homes and buildings facing increased risk of flooding from hurricanes, and the estimated annual potential loss to New Jersey from hurricane-related wind and flooding has increased between $670 million and $1.3 billion; and

WHEREAS, the National Oceanic and Atmospheric Administration estimates that annual damages from climate change could measure in the hundreds of billions of dollars by the end of the century; and

WHEREAS, minority and low-income communities are disproportionately affected by climate change, including by the health effects of higher temperatures and increased air pollution and by the displacement of coastal and low-lying neighborhoods from sea level rise and flooding; and

WHEREAS, the State's ability to reduce the severity of adverse climate change impacts will depend on the collective effort and commitment of our political and community leaders, businesses, industries, and government entities to undertake considerable efforts to reduce greenhouse gas emissions on an economy-wide basis; and

WHEREAS, traditional methods of energy production that rely on the burning of fossil fuels release harmful emissions of greenhouse gases, which in turn contribute to global climate change; and

WHEREAS, the only method to begin mitigation of these effects is through steep and immediate reductions in greenhouse gas emissions; and

WHEREAS, in the absence of action at the federal level, states must take the lead in reducing greenhouse gas emissions to avoid the most catastrophic impacts of climate change; and

WHEREAS, it is the policy of this State that, as a key part of its efforts to curtail the serious impacts of global climate change caused by greenhouse gas emissions, New Jersey must pursue a just and smooth transition away from its reliance on fossil fuels as a primary energy source and build a stronger and fairer economy that relies primarily upon clean and renewable energy sources; and

WHEREAS, on July 6, 2007, the State enacted the Global Warming Response Act, N.J.S.A. 26:2C-37, ("GWRA") which calls for the reduction in greenhouse gas emissions to 1990 levels by 2020 with further reductions to 80% below 2006 levels by 2050; and

WHEREAS, climate pollutants include not only greenhouse gases such as carbon dioxide, methane, hydrofluorocarbons, and perfluorocarbons, but also black carbon and other pollutants determined by DEP to be significant contributors to the problem of global warming; and

WHEREAS, in accordance with the GWRA, N.J.S.A. 26:2C-41, DEP will deliver, by June 30, 2020, a GWRA report that will: (1) identify all significant sources of Statewide greenhouse gas emissions, including short-lived climate pollutants; (2) monitor progress toward the 2020 limit, the 2050 limit and any interim limits; and (3) inform further actions the State must take to reduce greenhouse gas emissions, including short-lived climate pollutants such as black carbon; and

WHEREAS, in one of my earliest actions as Governor, I signed Executive Order No. 7 (2018) authorizing the State to rejoin the Regional Greenhouse Gas Initiative (RGGI), a cooperative program to cap and reduce carbon dioxide emissions from power plants in the participating states, to begin limiting carbon dioxide emissions from New Jersey's power sector, while simultaneously allowing New Jersey to make transformational investments in clean energy to further reduce greenhouse gas emissions; and

WHEREAS, Executive Order Nos. 8 (2018) & 92 (2019) similarly emphasized the vital importance of offshore wind energy to aid in the State's just and smooth transition to a clean energy economy, setting a goal of procuring 7,500 megawatts of the state's energy from offshore wind by 2035, which will further reduce greenhouse gas emissions; and

WHEREAS, on October 29, 2019, I issued Executive Order No. 89 (2019), directing, in part, the creation of an Interagency Council on Climate Resilience to assist DEP in the development of a Statewide Climate Change Resilience Strategy by September 1, 2020; and

WHEREAS, pursuant to Executive Order No. 28 (2018), on January 27, 2020, the New Jersey Board of Public Utilities (BPU) issued a much-needed update to New Jersey's Energy Master Plan ("EMP"), setting forth a strategic vision for the production, distribution, consumption, and conservation of energy in the State that recognizes the need for significant investment in and support for clean energy sources necessary to effect a just and smooth transition away from the State's reliance on fossil fuels that contribute to global climate change; and

WHEREAS, the EMP provides a comprehensive, forward-thinking blueprint for the transition of the State's energy profile to 100% clean energy sources on or before January 1, 2050; and

WHEREAS, during the State's transition to a clean energy economy, the unrestrained development of new fossil fuel energy-generating infrastructure will result in further increases of harmful greenhouse gas emissions that will exacerbate the current climate crisis and may prevent the State from reaching its clean energy goals, contrary to the GWRA; and

WHEREAS, once the State achieves a just and smooth transition to 100% clean energy, fossil fuel infrastructure assets may become stranded throughout the State, making unlimited present day and future investments in expanded fossil fuel infrastructure a potential waste of both private and public resources; and

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The DEP shall, within two years of the date of this Order and consistent with applicable law, adopt Protecting Against Climate Threats ("PACT") regulations. The PACT regulations shall:

a. Establish a greenhouse gas monitoring and reporting program to identify all significant sources of Statewide greenhouse gas emissions, including carbon dioxide and short-lived climate pollutants, and monitor progress towards the limits set forth in the Global Warming Response Act in accordance with N.J.S.A. 26:2C-41;

b. Establish criteria that shall govern and reduce emissions of carbon dioxide and, where necessary, short-lived climate pollutants, including but not limited to, black carbon, hydrofluorocarbons, and methane; and

c. Integrate climate change considerations, such as sea level rise, into its regulatory and permitting programs, including but not limited to, land use permitting, water supply, stormwater and wastewater permitting and planning, air quality, and solid waste and site remediation permitting.

2. Within 30 days of the date of this Order, the DEP Commissioner shall issue an administrative order, to be updated from time to time, that identifies the DEP regulations that the Department plans to update in order to integrate climate change considerations in accordance with Paragraph 1(c) of this Order.

3. Nothing in this Order shall be construed to confer any legal rights upon entities whose activities are regulated by State entities, nothing shall be construed to create a private right of action on behalf of any such regulated entities, and nothing shall be used as a basis for legal challenges to rules, approvals, permits, licenses, or other action or inaction by a State entity. Nothing in this Order shall be construed to supersede any federal, state, or local law.

4. Should any part of this Order be declared to be invalid or unenforceable or should the enforcement of or compliance with any part of this Order be suspended, restrained or barred by the final judgment of a court of competent jurisdiction, the remainder of this Order shall remain in full force and effect.

5. This Order shall take effect immediately.

Dated January 27, 2020.

EXECUTIVE ORDER NO. 101

WHEREAS, Colonel Justin J. Dintino was a dedicated public servant who tirelessly served the people of New Jersey for five decades; and

WHEREAS, Colonel Dintino was born on October 30, 1928, in Philadelphia, Pennsylvania; and

WHEREAS, Colonel Dintino joined the New Jersey State Police in 1952; and

WHEREAS, Colonel Dintino was renowned for his integrity and dedication to law enforcement and was essential in bringing several organized crime syndicates to justice; and

WHEREAS, Colonel Dintino ascended the ranks to become the 10th Colonel of the State Police in 1990, serving in every rank along the way; and

WHEREAS, as Superintendent, Colonel Dintino enacted transformative policies to improve police accountability, promote diversity, and protect the civil rights of all citizens; and

WHEREAS, Colonel Dintino was nationally recognized for combating organized crime, and was appointed to the Commission on Organized Crime by President Ronald Reagan; and

WHEREAS, throughout his career, Colonel Dintino also served on the Organized Crime Committee of the International Chiefs of Police, the Middle Atlantic-Great Lakes State Organized Crime Law Enforcement Network, and the Law Enforcement Intelligence Unit as General Chairman; and

WHEREAS, even in retirement, Colonel Dintino served the people of New Jersey as a Commissioner on the State Commission of Investigation; and

WHEREAS, at 91, Colonel Dintino was the oldest surviving State Police Superintendent when he passed away; and

WHEREAS, Colonel Dintino's extensive writings will contribute to the field of police intelligence well into the future; and

WHEREAS, Colonel Dintino will be sorely missed by his family, including his wife, Doris, siblings, children, grandchildren, and great-grandchildren, his friends, his colleagues, and by the people of New Jersey whom he served for decades; and

WHEREAS, it is with great sorrow that we mourn the passing of Colonel Dintino, and extend our deepest sympathy to his family, friends, and colleagues; and

WHEREAS, it is appropriate to honor the exemplary character, outstanding achievements, and cherished memory of Colonel Dintino, and to mark his passing;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours from Friday, January 31, 2020, through Sunday, February 2, 2020, in recognition and mourning of a dedicated and tireless public servant, Colonel Justin J. Dintino.

2. This Order shall take effect immediately.

Dated January 30, 2020.

EXECUTIVE ORDER NO. 102

WHEREAS, the novel coronavirus identified as "2019-nCoV" ("the virus"), first discovered in the city of Wuhan, Hubei Province, People's Republic of China ("China"), is a severe, potentially fatal respiratory illness that can result in pneumonia, acute respiratory distress syndrome, septic shock, and multi-organ failure; and

WHEREAS, since the discovery of the virus in December 2019, more than 10,000 cases have been confirmed in China, with more than 100 additional cases confirmed across 22 other countries, including the United States; and

WHEREAS, the spread of the virus indicates that is it being transmitted through human-to-human contact; and

WHEREAS, outbreaks of the virus in the United States and in other countries across the world are being addressed through a combination of quarantining, medical monitoring, and community engagement; and

WHEREAS, the World Health Organization declared on January 30, 2020, that 2019-nCoV is a "Public Health Emergency of International Concern;" and

WHEREAS, in response to the outbreak, the Centers for Disease Control and Prevention determined that the virus presents a serious public health threat requiring enhanced entry screening at select airports in the United States, including Newark Liberty International in New Jersey, as well as others including Los Angeles International (California), San Francisco International (California), John F. Kennedy International (New York), Hartsfield-Jackson Atlanta International (Georgia), Honolulu International (Hawai'i), Chicago's O'Hare International (Illinois), Seattle-Tacoma International (Washington), Dulles International Airport (Virginia), Detroit Metropolitan Airport (Michigan), and Dallas-Fort Worth International Airport (Texas), for travelers from China; and

WHEREAS, effective February 2, 2020, the United States Department of Homeland Security is regulating the travel of persons and aircraft to the United States to facilitate the orderly medical screening and, where appropriate, quarantine of individuals entering the United States who may have been exposed to the virus; and

WHEREAS, preparation for public health hazards such as 2019-nCoV must involve a coordinated effort across federal, state, county, and local governments, first responders, private organizations, and the entire healthcare industry in New Jersey; and

WHEREAS, the rapidly evolving outbreak of coronavirus requires State officials to continuously monitor developments in the United States and around the world in order to take necessary and appropriate actions to ensure that residents of New Jersey remain safe and secure; and

WHEREAS, as Governor, it is my duty and responsibility to protect the health and well-being of our residents by taking all necessary preparatory measures in response to the threats posed to the public health by the virus;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created a "Coronavirus Task Force" ("CTF") that will report directly to the Office of the Governor.

2. The CTF shall be chaired by the Commissioner of the New Jersey Department of Health ("DOH").

3. In addition to the DOH, the CTF shall consist of the Commissioners or other agency heads of the following Executive Branch departments and agencies, or their designees:

a. The Department of Human Services;
b. The Department of Law & Public Safety;
c. The New Jersey State Police;
d. The Department of Education; and
e. The Office of Homeland Security and Preparedness.

4. The Governor may, as determined to be appropriate, appoint additional members to the CTF. All members of the Task Force shall serve without compensation and at the pleasure of the Governor.

5. The CTF shall meet on an as-needed basis as determined by the Chairperson.

6. The CTF is charged with coordinating all State efforts to appropriately prepare for and respond to the public health hazard posed by the virus. The Task Force will coordinate with and, where necessary, call upon other departments and agencies, including representatives from the Port Authority of New York & New Jersey, the Department of Children and Families, the Department of Environmental Protection, the Department of Labor and Workforce Development, the Department of Military and Veterans Affairs, the Department of Transportation, and New Jersey Transit, and any other department, office, division, or agency deemed necessary for consultation and advice.

7. The CTF is empowered to create any special advisory panel necessary to develop and deploy the State's preparation and response to the virus, including medical professionals with knowledge and expertise in the areas of public health, medicine, infectious disease, and related areas.

8. The CTF shall coordinate the State's partnership with the Federal government and ensure effective communications and dissemination of information with all relevant State departments and agencies.

9. The CTF shall work with hospitals and other health care facilities to manage preparations for the possible treatment of patients demonstrating coronavirus symptoms or risks.

10. The CTF shall coordinate with local health departments to assess readiness for the management of patients demonstrating symptoms of the virus and to develop consistent protocols for monitoring and treatment.

11. The DOH shall provide staff to support the CTF. The Task Force shall be authorized to call upon any department, office, division, or agency of this State to supply it with any information, personnel, or other assistance necessary to discharge its duties under this Order.

12. Each department, office, division, and agency of this State is hereby required, to the extent not inconsistent with law, to cooperate fully with the CTF within the limits of its statutory authority and to furnish the CTF with such assistance on as timely a basis as is necessary to accomplish the purposes of this Order.

13. The CTF may consult with experts or other knowledgeable individuals in the public or private sector on any aspect of its mission.

14. The CTF shall be purely advisory in nature and shall periodically report to the Governor to provide specific recommendations related to this Order.

15. This Order shall take effect immediately.

Dated February 3, 2020.

EXECUTIVE ORDER NO. 103

WHEREAS, Coronavirus disease 2019 ("COVID-19") is a contagious, and at times fatal, respiratory disease caused by the SARS-CoV-2 virus; and

WHEREAS, COVID-19 is responsible for the 2019 novel coronavirus outbreak, which was first identified in Wuhan, the People's Republic of China in December 2019 and quickly spread to the Hubei Province and multiple other countries; and

WHEREAS, symptoms of the COVID-19 illness include fever, cough, and shortness of breath, which may appear in as few as two or as long as 14 days after exposure, and can spread from person to person via respiratory droplets produced when an infected person coughs or sneezes; and

WHEREAS, on January 30, 2020, the International Health Regulations Emergency Committee of the World Health Organization declared the outbreak a "public health emergency of international concern," which means "an extraordinary event which is determined to constitute a public health risk to other States through the international spread of disease and to potentially require a coordinated international response," and thereafter raised its global risk assessment of COVID-19 from "high" to "very high"; and

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services Secretary declared a public health emergency for the United States to aid the nation's healthcare community in responding to COVID-19; and

WHEREAS, as of March 9, 2020, according to the Centers for Disease Control and Prevention ("CDC"), there were more than 114,000 confirmed cases of COVID-19 worldwide, with over 4,000 of those cases having resulted in death; and

WHEREAS, as of March 9, 2020, there were more than 500 confirmed cases of COVID-19 in the United States, with 22 of those cases having resulted in death; and

WHEREAS, as of March 9, 2020, there were 11 presumed positive cases of COVID-19 in New Jersey, with 24 additional "Persons Under Investigation" spread across the counties of Bergen, Camden, Cumberland, Essex, Hunterdon, Middlesex, Monmouth, Passaic, Union, and Sussex; and

WHEREAS, as of March 9, 2020, there were 142 positive cases of COVID-19 in the State of New York and seven presumptive positive cases in the Commonwealth of Pennsylvania; and

WHEREAS, the CDC expects that additional cases of COVID-19 will be identified in the coming days, including more cases in the United States, and that person-to-person spread is likely to continue to occur; and

WHEREAS, if COVID-19 spreads in New Jersey at a rate comparable to the rate of spread in other affected areas, it will greatly strain the resources and capabilities of county and municipal governments, including public health agencies, that provide essential services for containing and mitigating the spread of contagious diseases, such as COVID-19, and the situation may become too large in scope to be handled in its entirety by the normal county and municipal operating services in

some parts of this State, and this situation may spread to other parts of the State; and

WHEREAS, the spread of COVID-19 may make it difficult or impossible for citizens to obtain consumer goods and other necessities of life due to supply chain disruption and price increases, as well as hamper the delivery of essential services such as police, fire, and first aid; and

WHEREAS, the State's public bidding act, N.J.S.A. 52:34-6 et seq., provides a public exigency exemption, N.J.S.A. 52:34-10(b), that in the event of a threat to the life, health, or safety to the public, advertised bidding is not required to obtain those goods and services necessary to address the public exigency where the Division of Purchase of Property provides preapproval in accordance with Treasury Circular 18-14-DPP; and

WHEREAS, in the event of a declared emergency pursuant to Treasury Circular 19-10-DPP, the threshold for delegated purchasing by individual State Departments is raised to $100,000 such that purchases at or below that amount do not require prior approval or action by DPP; and

WHEREAS, the spread of COVID-19 may disrupt the timely delivery of State contracted goods or services, the immediate delivery and fulfillment of which is necessary for the life, safety, or health of the public; and

WHEREAS, the State of New Jersey has been working closely with the CDC, local health departments, and healthcare facilities to monitor, plan for and mitigate the spread of COVID-19 within the State; and

WHEREAS, through Executive Order No. 102, which I signed on February 3, 2020, I created the State's Coronavirus Task Force, chaired by the Commissioner of the New Jersey Department of Health ("DOH"), in order to coordinate the State's efforts to appropriately prepare for and respond to the public health hazard posed by COVID-19; and

WHEREAS, it is critical to prepare for and respond to suspected or confirmed COVID-19 cases in New Jersey, to implement appropriate measures to mitigate the spread of COVID-19, and to prepare in the event of an increasing number of individuals requiring medical care or hospitalization; and

WHEREAS, the State of New Jersey also acts as an employer with tens of thousands of employees, and the spread of COVID-19 requires preparedness for staffing shortages and flexibility in work rules to ensure that its employees can fully comply with all medically appropriate measures while also ensuring the continuous delivery of State services performed by Executive branch agencies; and

WHEREAS, the continuous delivery of services at the county and municipal level performed by those governments and their employees is also essential; and

WHEREAS, the spread of COVID-19 within New Jersey constitutes an imminent public health hazard that threatens and presently endangers the health, safety, and welfare of the residents of one or more municipalities or counties of the State; and

WHEREAS, it is necessary and appropriate to take action against this public health hazard to protect and maintain the health, safety, and welfare of New Jersey residents and visitors; and

WHEREAS, the facts as set forth above and consultation with the Commissioner of DOH confirms that there exists a public health emergency in the State; and

WHEREAS, New Jersey's Consumer Fraud Act, N.J.S.A. 56:8-107 et seq., prohibits excessive price increases during a declared state of emergency, or for 30 days after the termination of the state of emergency; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, in order to protect the health, safety and welfare of the people of the State of New Jersey, DO DECLARE and PROCLAIM that a Public Health Emergency and State of Emergency exist in the State of New Jersey, and I hereby ORDER and DIRECT the following:

1. I authorize and empower the State Director of Emergency Management, who is the Superintendent of State Police, in conjunction with the Commissioner of DOH, to take any such emergency measures as the State Director may determine necessary, including the implementation of the State Emergency Operations Plan and directing the activation of county and municipal emergency operations plans, in order to fully and adequately protect the health, safety and welfare of the citizens of the State of New Jersey from any actual or potential threat or danger that may exist from the possible exposure to COVID-19. The State Director of Emergency Management, in conjunction with the Commissioner of DOH, is authorized to coordinate the relief effort from this emergency with all governmental agencies, volunteer organizations, and the private sector.

2. The State Director of Emergency Management, in conjunction with the Commissioner of DOH, shall also supervise and coordinate all activities of all State, regional and local political bodies and agencies in order to ensure the most effective and expeditious implementation of this order, and, to this end, may call upon all such agencies and political subdivisions for any assistance necessary.

3. Given the concurrent invocation of both a State of Emergency pursuant to N.J.S.A. App.A.:9-33 et seq. and a Public Health Emergency as contemplated by N.J.S.A. 26:13-1 et seq., I reserve the right as specifically contemplated by N.J.S.A. 26:13-3 to exercise the authority and powers specific to the Emergency Health Powers Act as I deem necessary and appropriate to ensure the public health for New Jersey's residents.

4. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully with the State Director of Emergency Management and the Commissioner of DOH in all matters concerning this state of emergency.

5. The Coronavirus Task Force established under Executive Order No. 102 is continued with the Commissioner of DOH as the chair, and shall provide assistance on the State's efforts preparing for and responding to the public health hazard posed by COVID-19.

6. I authorize and empower the executive head of any agency or instrumentality of the State government with authority to promulgate rules to waive, suspend, or modify any existing rule, where the enforcement of which would be detrimental to the public welfare during this emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary for the duration of this Executive Order, subject to my prior approval and in consultation with the State Director of Emergency Management and the Commissioner of DOH. Any such waiver, modification, or suspension shall be promulgated in accordance with N.J.S.A. App. A:9-45.

7. All State agencies, and specifically the Departments of Banking and Insurance, Health, Human Services, Education, and the Civil Service Commission are authorized to take appropriate steps to address the public health hazard of COVID-19, including increasing access and eliminating barriers to medical care, protecting the health and well-being of students, and protecting the health and well-being of State, county, and municipal employees while ensuring the continuous delivery of State, county, and municipal services.

8. I authorize and empower the State Director of Emergency Management, in conjunction with the Commissioner of DOH, to order the evacuation of all persons, except for those emergency and governmental personnel whose presence the State Director deems necessary, from any area where their continued presence would present a danger to their health, safety, or welfare because of the conditions created by this emergency.

9. I authorize and empower the State Director of Emergency Management, in conjunction with the Commissioner of DOH, to utilize all property, equipment, and facilities owned, rented, operated, and maintained by the State of New Jersey to house and shelter persons who may need to be evacuated from a residence, dwelling, building, structure, or vehicle during the course of this emergency.

10. I authorize and empower the Adjutant General, in accordance with N.J.S.A. 38A:2-4 and N.J.S.A. 38A:3-6.1, to order to active duty such members of the New Jersey National Guard who, in the Adjutant General's judgment, are necessary to provide aid to those localities where there is a threat or danger to the public health, safety, and welfare and to authorize the employment of any supporting vehicles, equipment, communications, or supplies as may be necessary to support the members so ordered.

11. In accordance with the N.J.S.A. App. A:9-34 and N.J.S.A. App. A:9-51, I reserve the right to utilize and employ all available resources of the State government and of each and every political subdivision of the State, whether of persons, properties, or instrumentalities, and to commandeer and utilize any personal services and any privately-owned property necessary to protect against this emergency.

12. In accordance with N.J.S.A. App. A:9 40, no municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will in any way interfere with or impede the achievement of the purposes of this Order.

13. In accordance with N.J.S.A. App. A:9-34, N.J.S.A. App. A:9-40.6, and N.J.S.A. 40A:14-156.4, no municipality or public or semipublic agency shall send public works, fire, police, emergency medical, or other personnel or equipment into any non-contiguous impacted municipality within this State, nor to any impacted municipality outside this State, unless and until such aid has been directed by the county emergency management coordinator or his or her deputies in consultation with the State Director of Emergency Management in conjunction with the Commissioner of DOH.

14. This Order shall take effect immediately and shall remain in effect until such time as it is determined by me that an emergency no longer exists.

Dated March 9, 2021.

EXECUTIVE ORDER NO. 104

WHEREAS, through Executive Order No. 102, which I signed on February 3, 2020, I created the State's Coronavirus Task Force, chaired by the Commissioner of the New Jersey Department of Health ("DOH"), in order to coordinate the State's efforts to appropriately prepare for and respond to the public health hazard posed by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, in light of the dangers posed by COVID-19, I issued Executive Order No. 103 (2020) on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserved the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, in accordance with N.J.S.A App. A:9-40, I declared that, due to the State of Emergency, no municipality, county, or any agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of my Executive Orders, or which will in any way interfere with or impede their achievement; and

WHEREAS, on March 11, 2020, COVID-19 was declared to be a global pandemic by the World Health Organization; and

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency pursuant to his constitutional and statutory powers, including those granted by Sections 201 and 301 of the National Emergencies Act (50

U.S.C. § 1601, et seq.) and consistent with Section 1135 of the Social Security Act, as amended (42 U.S.C. § 1320b-5); and

WHEREAS, my Administration is committed to ensuring that all students will continue to have access to a quality education, in addition to school meals that are provided or subsidized for students from low-income families; and

WHEREAS, casinos, racetracks, gyms, fitness centers, movie theaters, performing arts centers, other concert venues, nightclubs, and other entertainment centers, which are vital to the economic health of the State, are also locations where large numbers of individuals gather in close proximity; and

WHEREAS, many individuals also come into contact with common surfaces at gyms, fitness centers, and other entertainment centers; and

WHEREAS, suspending operations at these businesses is part of the State's mitigation strategy to combat COVID-19 and reduce the rate of community spread; and

WHEREAS, even on casino floors, where slot machines or other casino games may be several feet apart, many individuals come into contact with common surfaces; and

WHEREAS, in contrast to gaming at brick-and-mortar facilities, online gaming provides a safe mode of entertainment during a time when physical proximity to other individuals can be dangerous; and

WHEREAS, the CDC has advised that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another; and

WHEREAS, as a result, the CDC has recommended that individuals practice "social distancing" to prevent community spread of the virus; and

WHEREAS, the CDC has defined social distancing as the practice of "remaining out of congregate settings, avoiding mass gatherings, and maintaining distance (approximately 6 feet or 2 meters) from others when possible"; and

WHEREAS, bars and restaurants are locations where significant numbers of individuals gather in close proximity, making adherence to social distancing protocols impossible or impracticable; and

WHEREAS, to mitigate community spread of COVID-19, it is necessary to limit the unnecessary movement of individuals in and around their communities and person-to-person interactions in accordance with CDC and DOH guidance; and

WHEREAS, on March 15, 2020, the Director of the National Institute of Allergy and Infectious Diseases, Dr. Anthony Fauci, called for "a dramatic diminution of the personal interaction that we see in restaurants and in bars," and recommended pursuing "[w]hatever it takes to do that"; and

WHEREAS, the provision of take-out and delivery services do not pose the same danger of widespread person-to-person contact while still preserving necessary food delivery services for New Jersey residents; and

WHEREAS, narrowing scope of service or hours of operation for restaurants and certain retail establishments permits individuals to access food, clothing, and other essential materials while also limiting unnecessary person-to-person contact; and

WHEREAS, it is critical to ensure that law enforcement resources, particularly those that might otherwise be required to respond to late-night incidents, not be unnecessarily diverted from responding to COVID-19 related issues and maintaining public safety; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. All gatherings of persons in the State of New Jersey shall be limited to 50 persons or fewer, excluding normal operations at airports, bus and train stations, medical facilities, office environments, factories, assemblages for the purpose of industrial or manufacturing work, construction sites, mass transit, or the purchase of groceries or consumer goods.

2. All public, private, and parochial preschool program premises, and elementary and secondary schools, including charter and renaissance schools, shall be closed to students beginning on Wednesday, March 18, 2020, and shall remain closed as long as this Order remains in effect.

3. All institutions of higher education shall cease in-person instruction beginning on Wednesday, March 18, 2020, and shall cease such in-person instruction as long as this Order remains in effect. The Secretary of the Office of Higher Education shall have the authority to grant a waiver to allow in-person instruction to students on a case-by-case basis where a compelling rationale to allow such access exists. The Secretary of the Office of Higher Education shall coordinate with institutions of higher education to determine appropriate student housing conditions for those students who reside in on-campus housing as their primary residence.

4. The Commissioner of the Department of Education ("DOE"), in consultation with the Commissioner of DOH, shall be authorized to permit schools to remain open on a limited basis for the provision of food or other essential, non-educational services, or for educational or child care services if needed in emergency situations after consultation with the Commissioner of DOH. The Commissioner of DOE shall also have the authority to close any other career or training facilities over which he has oversight, after consultation with the Commissioner of DOH.

5. The Commissioner of DOE shall continue working with each public school district, and private and parochial schools as appropriate, to ensure that students are able to continue their educations during this time period through appropriate home instruction. Local school districts, charter schools, and renaissance schools, in consultation with the Commissioner of DOE, shall have the authority and discretion to determine home instruction arrangements as appropriate on a case-by-case

basis to ensure all students are provided with appropriate home instruction, taking into account all relevant constitutional and statutory obligations.

6. The Secretary of the Department of Agriculture, in conjunction with the Commissioner of DOE, shall take all necessary actions to ensure that all students eligible for free or reduced meals shall continue to receive the services or supports necessary to meet nutritional needs during closures.

7. The following facilities are ordered closed to members of the public, effective 8:00 p.m. on Monday, March 16, 2020. These facilities are to remain closed to the public for as long as this Order remains in effect. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to this list:

a. Casino gaming floors, including retail sports wagering lounges, and casino concert and entertainment venues. Online and mobile sports and casino gaming services may continue to be offered notwithstanding the closure of the physical facility.

b. Racetracks, including stabling facilities and retail sports wagering lounges. Mobile sports wagering services may continue to be offered notwithstanding the closure of the physical facility.

c. Gyms and fitness centers and classes.

d. Entertainment centers, including but not limited to, movie theaters, performing arts centers, other concert venues, and nightclubs.

8. Other non-essential retail, recreational, and entertainment businesses must cease daily operations from 8:00 p.m. until 5:00 a.m.. From 5:00 a.m. until 8:00 p.m., these businesses may remain open if they limit their occupancy to no more than 50 persons and adhere to social distancing guidelines. Examples of essential businesses excluded from this directive include: grocery/food stores, pharmacies, medical supply stores, gas stations, healthcare facilities and ancillary stores within healthcare facilities. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the list of essential businesses and to the timelines applicable to operating hours.

9. All restaurants, dining establishments, and food courts, with or without a liquor license, all bars, and all other holders of a liquor license with retail consumption privileges, are permitted to operate their normal business hours, but are limited to offering only food delivery and/or take-out services. If alcoholic beverages are to be sold from a restaurant, dining establishment or bar with a liquor license, such sales shall be limited to original containers sold from the principal public barroom. All retail sales of alcoholic beverages by limited brewery licensees, restricted brewery licensees, plenary and farm winery licensees (and associated salesrooms), craft distillery licensees and cidery and meadery licensees must be in original containers and must be delivered by licensed entities and/or by customer pick up.

10. In accordance with N.J.S.A. App. A:9-33, et seq., as supplemented and amended, the State Director of Emergency Management, who is the Superintendent of State Police, through the police agencies under his control, to determine

and control the direction of the flow of vehicular traffic on any State or interstate highway, municipal or county road, and any access road, including the right to detour, reroute, or divert any or all traffic and to prevent ingress or egress from any area that, in the State Director's discretion, is deemed necessary for the protection of the health, safety, and welfare of the public, and to remove parked or abandoned vehicles from such roadways as conditions warrant.

11. The Attorney General, pursuant to the provisions of N.J.S.A. 39:4-213, shall act through the Superintendent of State Police, to determine and control the direction of the flow of vehicular traffic on any State or interstate highway, municipal or county road, and any access road, including the right to detour, reroute, or divert any or all traffic, to prevent ingress or egress, and to determine the type of vehicle or vehicles to be operated on such roadways. I further authorize all law enforcement officers to enforce any such order of the Attorney General or Superintendent of State Police within their respective municipalities.

12. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Executive Order, or which will in any way interfere with or impede its achievement.

13. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Executive Order.

14. Penalties for violations of this Executive Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

15. This Order shall take effect immediately and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated March 16, 2020.

EXECUTIVE ORDER NO. 105

WHEREAS, in light of the dangers posed by COVID-19, I issued Executive Order No. 103 (2020) on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, to further protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 (2020) on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19 and; and

WHEREAS, as of March 18, 2020, according to the Centers for Disease Control and Prevention ("CDC"), there were more than 191,000 confirmed cases of COVID-19 worldwide, with over 7,800 of those cases having resulted in death; and

WHEREAS, as of March 18, 2020, there were more than 7,000 confirmed cases of COVID-19 in the United States, with at least 97 of those cases having resulted in death; and

WHEREAS, as of March 18, 2020, there were 427 positive cases of COVID-19 in New Jersey, spread across numerous counties; and

WHEREAS, State and Federal public health experts, including officials at CDC, believe that infections will continue to spread at exponential rates unless aggressive action is taken to minimize person-to-person contacts and to reduce any unnecessary interactions; and

WHEREAS, the COVID-19 emergency is unfolding alongside numerous contemporaneous local, State and Federal elections; and

WHEREAS, the New Jersey Secretary of State is legally obligated to ensure that all qualified voters within the State are able to fully exercise their constitutionally protected right to vote; and

WHEREAS, allowing certain upcoming elections to proceed during this unprecedented COVID-19 health crisis as they were originally planned will create hardships and health risks for voters, poll workers and candidates alike; and

WHEREAS, election officials require flexibility and sufficient lead time to adapt the State's voting infrastructure to confront the magnitude of the public health and safety risks of the COVID-19 pandemic; and

WHEREAS, social distancing measures are required for a period of as-yet-undetermined duration, and the COVID-19 outbreak may have significant effects on New Jersey's voting systems as long as social distancing measures are in place and for some time thereafter; and

WHEREAS, the full participation of voters and candidates is critical to a robust democracy; and

WHEREAS, failing to take proactive actions to mitigate the adverse impacts of the current health crisis on certain upcoming elections carries the risk of disenfranchising countless citizens; and

WHEREAS, pursuant to N.J.S.A. 19:23-14, petitions for candidates for the June 2, 2020 primary election are due by 4:00 p.m. on March 30, 2020; and

WHEREAS, allowing candidates to submit their petitions electronically, in addition to by hand delivery, will help limit unnecessary person-to-person contact; and

WHEREAS, allowing voters to fill out and submit petitions electronically, so that candidates and campaigns need not physically gather petitions by going to individual voters in person, will help limit unnecessary person-to-person contact; and

WHEREAS, the COVID-19 emergency will significantly hinder otherwise qualified candidates from meeting the nomination requirements set forth in N.J.S.A. 19:23-7, 19:23-11, 19:23-14, 19:23-15, 19:25-3, 19:34-8, and 19:24-4; and

WHEREAS, temporarily modifying the requirements of N.J.S.A. 19:23-8, 19:23-14, 19:24-4, and 19:25-3 to allow for electronic submission of petitions is needed to keep voters engaged during this unprecedented crisis; and

WHEREAS, States generally have discretion to dictate the time, manner and place of elections in the absence of controlling federal law; and

WHEREAS, requiring voters to report to public polling locations to vote under the current circumstances will hinder public participation in the democratic process, particularly among elderly and immune-compromised voters, and undermine the legislative intent of provisions like N.J.S.A. 19:8-2 and 19:8-3.1, which are designed to ensure that such voters can exercise their right to vote; and

WHEREAS, voting by mail is already an authorized mode of voting in New Jersey pursuant to Title 19, subtitles 62 and 63; and

WHEREAS, at least 34 states and the District of Columbia already allow voters to cast their ballot via mail and five states run entirely vote-by-mail elections; and

WHEREAS, in-person voting has declined over the years, while the total number of voters who voted early, absentee or by mail has steadily increased; and

WHEREAS, New Jersey citizens are presently faced with the choice of exercising their constitutional franchise, or endangering their health and safety; and

WHEREAS, a temporary delay in certain elections that are rapidly approaching will give the county and municipal election officials enough time to send vote-by-mail ballots to all registered voters for these elections, allowing voters to exercise their constitutional franchise without jeopardizing their health and safety; and

WHEREAS, in order to prepare vote-by-mail ballots for all registered voters in the upcoming elections, state, county and municipal election officials need sufficient preparation time; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, in order to protect the health, safety and welfare of the people of the State of New Jersey and in accordance with the authority vested in me by the New Jersey Constitution and statutes of the State of New Jersey, hereby ORDER and DIRECT the following:

1. In addition to accepting hand delivery of candidate and delegate petitions that are due by 4:00 p.m. on March 30, 2020, the Secretary of State, county clerks, and municipal clerks shall allow for these candidate and delegate petitions to be submitted electronically.

2. The Secretary of State, county clerks, and municipal clerks shall also accept petitions with signatures collected via an online form created by the Secretary of State, which shall be available for use by Thursday, March 19, 2020. Following the availability of the online form, the Secretary of State, county clerks, and munic-

ipal clerks shall require that signatures be gathered via the online form. Hand signatures obtained prior to the effective date of this Executive Order shall also be accepted.

3. The online form shall be provided to county clerks and municipal clerks as a means of accepting petitions that are due to them by 4:00 p.m. on March 30, 2020.

4. The verification requirements of N.J.S.A. 19:23-11, insofar as they are not included on the online form created by the Secretary of State, shall be suspended for petitions due by 4:00 p.m. on March 30, 2020.

5. The requirements of N.J.S.A. 19:23-7 and N.J.S.A. 19:23-15 that a candidate provide a notarized oath of allegiance with their petition shall be suspended for petitions due by 4:00 pm on March 30, 2020. Candidates who have not already signed and notarized an oath of allegiance shall attach a signed pledge of allegiance to their petitions containing the same language as prescribed in N.J.S.A. 41:1-1.

6. The special election scheduled for March 21, 2020, in the Fire District 1 for the Township of Old Bridge in the County of Middlesex, the special election scheduled for March 31, 2020, in the Township of West Amwell in the County of Hunterdon, and the special election scheduled for March 31, 2020, in the City of Atlantic City in the County of Atlantic shall be postponed until May 12, 2020, to be held concurrently with the elections currently scheduled for that date.

7. The elections that are scheduled for April 21, 2020, shall be postponed until May 12, 2020, also to be held concurrently with the elections currently scheduled for that date.

8. Any election scheduled for a date between March 19, 2020 and May 12, 2020, not specifically referenced in Paragraph 6 and 7, shall be postponed until May 12, 2020. Further, no other elections may be held or proceed prior to May 12, 2020.

9. All elections that take place on May 12, 2020, including those previously scheduled for that date and those rescheduled as a result of this Order, shall be conducted solely via vote-by-mail ballots, which will automatically be sent to all registered voters without the need for an application to receive a vote-by-mail ballot.

10. The requirements of N.J.S.A. 19:14-25 that sample ballots be sent shall be suspended. All registered voters will be receiving vote-by-mail ballots and there will be no polling places in the May 12, 2020 elections.

11. The time restrictions of N.J.S.A. 19:63-9 shall be suspended, and vote-by-mail ballots shall be mailed in compliance with a schedule to be prepared by the Secretary of State in a manner to ensure the timely receipt and return of ballots for counting in the May 12, 2020 elections.

12. To ensure that all registered voters, whether active or inactive, are provided with the opportunity to exercise their right to vote through the use of vote-by-mail ballots in the May 12, 2020 elections, N.J.S.A. 19:63-3(f), which prohibits the county clerk from sending a vote-by-mail ballot to inactive voters, shall be suspended.

13. Vote-by-mail ballots shall be processed and canvassed in compliance with standards established by the Secretary of State and in accordance with guidelines

provided by the State Department of Health and where necessary, superseding the statutory deadlines established at N.J.S.A. 19:63-17 and 19:63-22, including the allowance of the early counting of vote-by-mail ballots prior to May 12, 2020.

14. All vote-by-mail return envelopes shall have prepaid postage in order to guarantee the proper delivery of all cast vote-by-mail ballots.

15. The Secretary of State shall establish appropriate standards for ensuring that all eligible citizens are able to exercise their right to vote through the use of vote-by-mail ballots in the May 12, 2020 elections.

16. This Order shall take effect immediately.

Dated March 19, 2020.

EXECUTIVE ORDER NO. 106

WHEREAS, in light of the dangers posed by COVID-19, I issued Executive Order No. 103 (2020) on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, to further protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 (2020) on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, as of March 18, 2020, according to the Centers for Disease Control and Prevention ("CDC"), there were more than 191,000 confirmed cases of COVID-19 worldwide, with over 7,800 of those cases having resulted in death; and

WHEREAS, as of March 18, 2020, there were more than 7,000 confirmed cases of COVID-19 in the United States, with at least 97 of those cases having resulted in death; and

WHEREAS, as of March 18, 2020, there were 427 positive cases of COVID-19 in New Jersey, spread across numerous counties; and

WHEREAS, the economic impacts of COVID-19 are significant, and pose a growing threat to the housing security of many New Jerseyans; and

WHEREAS, many New Jerseyans are or will be experiencing substantial loss of income as a result of business closures, reductions in hours, or layoffs related to COVID-19, impeding their ability to keep current on rent and mortgage payments; and

WHEREAS, housing security and stability are important to public health, particularly as homelessness can increase vulnerability to COVID-19; and

WHEREAS, removals of residents pursuant to evictions or foreclosure proceedings can increase the risk to those residents of contracting COVID-19, which in turn increases the risks to the rest of society and endangers public health; and

WHEREAS, in recognition of this danger, the U.S. Department of Housing and Urban Development, Fannie Mae, and Freddie Mac announced the suspension of all evictions and foreclosures for the next 60 days; and

WHEREAS, Assemblymembers Angela McKnight, Holly Schepisi, and Benjie Wimberly and Senators Joseph Cryan and Nellie Pou have rapidly responded to these concerns by sponsoring Assembly Bill No. 3859 and Senate Bill No. 2276, which address this issue by explicitly providing that during a Public Health Emergency or State of Emergency, the Governor shall have the authority to issue an executive order declaring a moratorium on removing individuals from residential property as a result of an eviction or foreclosure proceeding; and

WHEREAS, the Administrative Office of the Courts also provided helpful guidance as the bill moved through the legislative process; and

WHEREAS, the swift action by the Legislature to pass Assembly Bill No. 3859 and Senate Bill No. 2276, working in collaboration with the Administrative Office of the Courts and my Administration, exemplifies the critical importance of effective coordination among all three branches of government in addressing emergency situations; and

WHEREAS, earlier today, I immediately signed the residential eviction and foreclosure moratorium legislation into law as soon as it passed both Houses of the Legislature, to exercise as expeditiously as possible the authority provided by the Legislature to protect our residents in this critical time;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Any lessee, tenant, homeowner or any other person shall not be removed from a residential property as the result of an eviction or foreclosure proceeding.

2. While eviction and foreclosure proceedings may be initiated or continued during the time this Order is in effect, enforcement of all judgments for possession, warrants of removal, and writs of possession shall be stayed while this Order is in effect, unless the court determines on its own motion or motion of the parties that enforcement is necessary in the interest of justice. This Order does not affect any schedule of rent that is due.

3. Sheriffs, court officers, and their agents shall refrain from acting to remove individuals from residential properties through the eviction or foreclosure processes during the time this Order is in effect, unless the court determines on its own motion or motion of the parties that enforcement is necessary in the interest of justice.

4. For the purpose of this Order, "residential property" means any property rented or owned for residential purposes, including, but not limited to, any house, building, mobile home or land in a mobile home park, or tenement leased for residential purposes, but shall not include any hotel, motel, or other guest house, or part thereof, rented to a transient guest or seasonal tenant, or a residential health

care facility. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to these lists.

5. This Order shall take effect immediately and remain in effect for no longer than two months following the end of the Public Health Emergency or State of Emergency established by Executive Order No. 103 (2020), whichever ends later, unless this Order is first revoked or modified by the Governor in a subsequent executive order.

Dated March 19, 2020.

EXECUTIVE ORDER NO. 107

WHEREAS, through Executive Order No. 102 (2020), which I signed on February 3, 2020, I created the State's Coronavirus Task Force, chaired by the Commissioner of the New Jersey Department of Health ("DOH"), in order to coordinate the State's efforts to appropriately prepare for and respond to the public health hazard posed by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, in light of the dangers posed by COVID-19, I issued Executive Order No. 103 (2020) on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserved the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, in accordance with N.J.S.A App. A:9-40, I declared that, due to the State of Emergency, no municipality, county, or any agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of my Executive Orders, or which will in any way interfere with or impede their achievement; and

WHEREAS, to further protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 (2020) on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, Executive Order No. 104 (2020) limited the scope of service and hours of operation for restaurants and certain retail establishments to balance the need to allow individuals to access food and other essential materials with the need to limit unnecessary person-to-person contact; and

WHEREAS, Executive Order No. 104 (2020) deemed a subset of businesses as "essential," including grocery/food stores, pharmacies, medical supply stores, gas stations, healthcare facilities, and ancillary stores within healthcare facilities, and it authorized the State Director of Emergency Management, who is the Superin-

tendent of State Police, to make additions, amendments, clarifications, exceptions, and exclusions to that list; and

WHEREAS, Executive Order No. 104 (2020) made clear that such essential businesses may continue operating without limits on their scope of service or hours of operation, absent further amendments by the State Director of Emergency Management; and

WHEREAS, Executive Order No. 104 (2020) and subsequent Administrative Orders issued by the State Director of Emergency Management also placed restrictions on other businesses' scope of service and hours of operation, and also placed restrictions on the size of gatherings in the State; and

WHEREAS, as of March 20, 2020, according to the Centers for Disease Control and Prevention ("CDC"), there were more than 234,000 confirmed cases of COVID-19 worldwide, with over 9,800 of those cases having resulted in death; and

WHEREAS, as of March 20, 2020, there were more than 15,000 confirmed cases of COVID-19 in the United States, with at least 201 of those cases having resulted in death; and

WHEREAS, as of March 20, 2020, there were at least 890 positive cases of COVID-19 in New Jersey, with at least 11 of those cases having resulted in death; and

WHEREAS, social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease; and

WHEREAS, the CDC has advised that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another; and

WHEREAS, as a result, the CDC has recommended that individuals practice "social distancing" to prevent community spread of the virus; and

WHEREAS, the CDC has defined social distancing as the practice of "remaining out of congregate settings, avoiding mass gatherings, and maintaining distance (approximately 6 feet or 2 meters) from others when possible"; and

WHEREAS, to mitigate community spread of COVID-19, it is necessary to limit the unnecessary movement of individuals in and around their communities and person-to-person interactions in accordance with CDC and DOH guidance; and

WHEREAS, the best way for New Jersey residents to keep themselves, their families, and their communities safe during the COVID-19 outbreak is to stay at home as much as possible; and

WHEREAS, as of March 15, 2020, the CDC recommends that for the next eight weeks, gatherings of 50 or more people be canceled or postponed throughout the United States; and

WHEREAS, as of March 16, 2020, the White House went further than the CDC had and recommended that Americans avoid social gatherings in groups of more than 10 people; and

WHEREAS, restricting the physical presence of individuals in office environments and work sites is critical to preventing future spread of COVID-19; and

WHEREAS, accommodating work-from-home arrangements is an effective means to ensure continuity of operations while also limiting person-to-person contact; and

WHEREAS, the CDC has recommended employers to establish policies and practices to increase the physical distance among employees and between employees; and

WHEREAS, permitting the workforce to work from home may reduce stress on the State's child care system; and

WHEREAS, as of March 19, 2020, I have instructed all State departments and agencies to utilize work-from-home arrangements for both essential and non-essential employees wherever feasible; and

WHEREAS, given the rapidly rising incidence of COVID-19, temporarily closing non-essential retail businesses will strengthen New Jersey's efforts to slow the spread of COVID-19; and

WHEREAS, even as we institute social distancing measures, the number of COVID-19 cases in New Jersey is likely to increase for the immediate future, meaning we must take all possible steps to preserve our health care system's capacity to treat those who require emergency or intensive care; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The operative paragraphs of Executive Order No. 104 (2020) are hereby superseded in full. The factual findings of Executive Order No. 104 (2020) remain applicable except to the extent they are in conflict with the factual findings in this or any intervening Executive Order.

2. All New Jersey residents shall remain home or at their place of residence unless they are 1) obtaining goods or services from essential retail businesses, as described in Paragraph 6; 2) obtaining takeout food or beverages from restaurants, other dining establishments, or food courts, pursuant to Paragraph 8; 3) seeking medical attention, essential social services, or assistance from law enforcement or emergency services; 4) visiting family or other individuals with whom the resident has a close personal relationship, such as those for whom the individual is a caretaker or romantic partner; 5) reporting to, or performing, their job; 6) walking, running, operating a wheelchair, or engaging in outdoor activities with immediate family members, caretakers, household members, or romantic partners while following best social distancing practices with other individuals, including staying six feet apart; 7) leaving the home for an educational, religious, or political reason; 8) leaving because of a reasonable fear for his or her health or safety; or 9) leaving at the direction of law enforcement or other government agency.

3. When in public, individuals must practice social distancing and stay six feet apart whenever practicable, excluding immediate family members, caretakers, household members, or romantic partners.

4. Individuals who have to travel pursuant to Paragraph 2 should only use public transportation only if they have no other feasible choice. Individuals who ride public transportation should abide by best social distancing practices, including making all efforts to stand or sit six feet away from other riders and frequently use sanitizing products.

5. Gatherings of individuals, such as parties, celebrations, or other social events, are cancelled, unless otherwise authorized by any part of this Order. The State Director of Emergency Management, who is the Superintendent of the State Police, shall have the discretion to make clarifications and issue orders related to this provision.

6. The brick-and-mortar premises of all non-essential retail businesses must close to the public as long as this Order remains in effect. Essential retail businesses, listed below, are excluded from this directive and may remain open during their normal business hours. Essential retail businesses must, wherever practicable, provide pickup services outside or adjacent to their stores for goods ordered in advance online or by phone. Additionally, online and telephonic delivery services are permitted to the extent the retail business is authorized to operate an online or telephonic delivery service under existing law. The State Director of Emergency Management, who is the Superintendent of the State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to this list:

a. Grocery stores, farmer's markets and farms that sell directly to customers, and other food stores, including retailers that offer a varied assortment of foods comparable to what exists at a grocery store;

b. Pharmacies and alternative treatment centers that dispense medicinal marijuana;

c. Medical supply stores;

d. Retail functions of gas stations;

e. Convenience stores;

f. Ancillary stores within healthcare facilities;

g. Hardware and home improvement stores;

h. Retail functions of banks and other financial institutions;

i. Retail functions of laundromats and dry-cleaning services;

j. Stores that principally sell supplies for children under five years old;

k. Pet stores;

l. Liquor stores;

m. Car dealerships, but only to provide auto maintenance and repair services, and auto mechanics;

n. Retail functions of printing and office supply shops; and

o. Retail functions of mail and delivery stores.

7. Any essential retail business whose brick-and-mortar premises remain open to the public shall abide by social distancing practices to the extent practicable while providing essential services. These include all reasonable efforts to keep customers six feet apart and frequent use of sanitizing products on common surfaces.

8. All restaurants, cafeterias, dining establishments, and food courts, with or without a liquor license, all bars, and all other holders of a liquor license with retail consumption privileges, are permitted to operate their normal business hours, but are limited to offering only food delivery and/or take-out services in accordance with their existing liquor licenses. If alcoholic beverages are to be sold from a restaurant, dining establishment or bar with a liquor license, such sales shall be limited to original containers sold from the principal public barroom. The on-premises consumption of alcohol is prohibited. All retail sales of alcoholic beverages by limited brewery licensees, restricted brewery licensees, plenary and farm winery licensees (and associated salesrooms), craft distillery licensees and cidery and meadery licensees must be in original containers and must be sold through customer pick up and/or delivered by licensees in accordance with their existing licenses.

9. All recreational and entertainment businesses, including but not limited to the following list, must close to the public as long as this Order remains in effect. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to this list:

a. Casino gaming floors, including retail sports wagering lounges, and casino concert and entertainment venues. Online and mobile sports and casino gaming services may continue to be offered notwithstanding the closure of the physical facility.

b. Racetracks, including stabling facilities and retail sports wagering lounges. Mobile sports wagering services may continue to be offered notwithstanding the closure of the physical facility.

c. Gyms and fitness centers and classes.

d. Entertainment centers, including but not limited to, movie theaters, performing arts centers, other concert venues, and nightclubs.

e. All indoor portions of retail shopping malls. Restaurants and other stores located within shopping malls that have their own external entrances open to the public, separate from the general mall entrance, may remain open pursuant to the terms and directives of this Order for operating hours and takeout or food delivery services. All entrances and exits to the common area portions of retail shopping malls must remain closed.

f. All places of public amusement, whether indoors or outdoors, including but not limited to, locations with amusement parks, water parks, aquariums, zoos, arcades, fairs, children's play centers, funplexes, theme parks, bowling alleys, family and children's attractions.

g. Facilities where personal care services are performed that, by their very nature, result in noncompliance with social distancing guidelines, including but not limited to cosmetology shops; barber shops; beauty salons; hair braiding shops;

nail salons; electrology facilities; spas, including day spas and medical spas, at which solely elective and cosmetic medical procedures are performed; massage parlors, tanning salons, tattoo parlors, and public and private social clubs, whether or not they serve alcohol, including but not limited to facilities owned or operated by the American Legion, Veterans of Foreign Wars, Knights of Columbus, and any other social clubs associated with community service organizations. This excludes any health facilities that provide medically necessary or therapeutic services.

h. All municipal, county, and State public libraries, and all libraries and computer labs at public and private colleges and universities.

10. All businesses or non-profits in the State, whether closed or open to the public, must accommodate their workforce, wherever practicable, for telework or work-from-home arrangements. For purposes of this order, "telework" means the practice of working from home or alternative locations closer to home through the use of technology that equips the individual to access necessary materials.

11. To the extent a business or non-profit has employees that cannot perform their functions via telework or work-from-home arrangements, the business or non-profit should make best efforts to reduce staff on site to the minimal number necessary to ensure that essential operations can continue. Examples of employees who need to be physically present at their work site in order to perform their duties include, but are not limited to, law enforcement officers, fire fighters, and other first responders, cashiers or store clerks, construction workers, utility workers, repair workers, warehouse workers, lab researchers, information technology maintenance workers, janitorial and custodial staff, and certain administrative staff.

12. All public, private, and parochial preschool program premises, and elementary and secondary schools, including charter and renaissance schools, shall remain closed to students as long as this Order remains in effect.

13. All institutions of higher education shall continue to cease such in-person instruction as long as this Order remains in effect. The Secretary of the Office of Higher Education shall have the authority to grant a waiver to allow in-person instruction to students on a case-by-case basis where a compelling rationale to allow such access exists. The Secretary of the Office of Higher Education shall coordinate with institutions of higher education to determine appropriate student housing conditions for those students who reside in on-campus housing as their primary residence.

14. The Commissioner of the Department of Education ("DOE"), in consultation with the Commissioner of DOH, shall be authorized to permit schools to remain open on a limited basis for the provision of food or other essential, non-educational services, or for educational or child care services if needed in emergency situations after consultation with the Commissioner of DOH. The Commissioner of DOE shall also have the authority to close any other career or training facilities over which he has oversight, after consultation with the Commissioner of DOH.

15. The Commissioner of DOE shall continue working with each public school district, and private and parochial schools as appropriate, to ensure that students are able to continue their educations during this time period through appropriate home

instruction. Local school districts, charter schools, and renaissance schools, in consultation with the Commissioner of DOE, shall have the authority and discretion to determine home instruction arrangements as appropriate on a case-by-case basis to ensure all students are provided with appropriate home instruction, taking into account all relevant constitutional and statutory obligations.

16. The Secretary of the Department of Agriculture, in conjunction with the Commissioner of DOE, shall take all necessary actions to ensure that all students eligible for free or reduced meals shall continue to receive the services or supports necessary to meet nutritional needs during closures.

17. Nothing in this Order shall be construed to limit, prohibit, or restrict in any way the provision of health care or medical services to members of the public.

18. Nothing in this Order shall be construed to limit, prohibit, or restrict in any way access to essential services for low-income residents, including but not limited to food banks.

19. Nothing in this Order shall be construed to limit, prohibit, or restrict in any way the operations of newspapers, television, radio, and other media services.

20. Nothing in this Order shall be construed to limit, prohibit, or restrict in any way the operations of law enforcement agencies.

21. Nothing in this Order shall be construed to limit, prohibit, or restrict in any way the operations of the federal government, or the movement of federal officials in New Jersey while acting in their official capacity.

22. In accordance with N.J.S.A. App. A:9-33, et seq., as supplemented and amended, the State Director of Emergency Management, who is the Superintendent of State Police, through the police agencies under his control, to determine and control the direction of the flow of vehicular traffic on any State or interstate highway, municipal or county road, and any access road, including the right to detour, reroute, or divert any or all traffic and to prevent ingress or egress from any area that, in the State Director's discretion, is deemed necessary for the protection of the health, safety, and welfare of the public, and to remove parked or abandoned vehicles from such roadways as conditions warrant.

23. The Attorney General, pursuant to the provisions of N.J.S.A. 39:4-213, shall act through the Superintendent of State Police, to determine and control the direction of the flow of vehicular traffic on any State or interstate highway, municipal or county road, and any access road, including the right to detour, reroute, or divert any or all traffic, to prevent ingress or egress, and to determine the type of vehicle or vehicles to be operated on such roadways. I further authorize all law enforcement officers to enforce any such order of the Attorney General or Superintendent of State Police within their respective municipalities.

24. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Executive Order.

25. Penalties for violations of this Executive Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

26. This Order shall take effect on Saturday, March 21, 2020, at 9:00 p.m., and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated March 21, 2020.

EXECUTIVE ORDER NO. 108

WHEREAS, in light of the dangers posed by COVID-19, I issued Executive Order No. 103 (2020) on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, to further protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 (2020) on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, on March 21, 2020, I issued Executive Order No. 107 (2020), superseding Executive Order No. 104 (2020) and requiring New Jersey residents to remain home or at their place of residence subject to limited exceptions, cancelling social gatherings, and limiting all restaurants and other dining establishments to offering only food delivery and/or take-out services; and

WHEREAS, Executive Order No. 107 (2020) institutes clear parameters on essential retail businesses that are permitted to operate and requires that all businesses or non-profits utilize telework or work-from-home arrangements wherever practicable; and

WHEREAS, under Executive Order No. 107 (2020), all recreational and entertainment businesses are closed to the public, all public, private, and parochial preschool program premises, and elementary and secondary schools, including charter and renaissance schools, are closed to the public, and all institutions of higher education shall continue to cease in-person education; and

WHEREAS, the Civilian Defense and Disaster Control Act ("Act") establishes that the Governor "is authorized to make, amend and rescind orders, rules and regulations ... and it shall be unlawful for any municipality or other subdivision or any other governmental agency of this State to adopt any rule or regulation or to enforce any such rule or regulation that may be at variance with any such order, rule or regulation established by the Governor," N.J.S.A. App. A:9-40; and

WHEREAS, the Act further provides that "[i]n the event of a dispute on the question of whether or not any such rule or regulation is at variance with an order, rule or regulation established by the Governor ... the determination of the Governor shall control," N.J.S.A. App. A:9-40; and

WHEREAS, in accordance with N.J.S.A. App A:9-40, I declared that, due to the State of Emergency, no municipality, county, or any agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of my Executive Orders, or which will in any way interfere with or impede their achievement; and

WHEREAS, during an emergency such as the outbreak of COVID-19, it is of the utmost importance that the responses to the emergency be well coordinated in order to provide consistency of action, to provide clarity of action to the general public, to avoid duplication of efforts, to prevent unnecessary use of critical resources, and to ensure accurate and prompt communications with emergency personnel and the public; and

WHEREAS, unitary management is essential for coordination needed during an emergency, because, among other things:

It allows the efficient gathering and assessment of information, and the formulation of a consistent response to changing circumstances;

It ensures an appropriate balance statewide between actions needed to combat the spread of COVID-19 and avoiding unnecessary hardships to the public;

It ensures that the State's resources are efficiently and adequately deployed;

It eliminates the individual and potential competing interests of the State's hundreds of municipalities and 21 counties; and

WHEREAS, the issuance of mandates and restrictions by municipalities and counties at variance with the Governor's Executive Orders confounds the benefits of a unitary management structure, because, among other things:

a. They risk confusion among members of the public by creating requirements that are different and in places contrary to the Governor's Executive Orders;

b. They may cause the public to conform to mandates that the Governor determined are unnecessary or, in the worst case, counter-productive;

c. They disrupt the balance between the actions necessary to combat the spread of COVID-19 and the other needs of the population as determined by the Governor;

d. They risk inefficient deployment of finite resources in that municipal authorities may use their emergency personnel to implement and enforce local mandates the Governor has deemed inappropriate or unnecessary;

e. By establishing inconsistent hours of operations and scope of services for businesses from municipality to municipality, they direct a disproportionate number of persons those surrounding localities where such facilities remain open, hence defeating the principal objective of social distancing; and

WHEREAS, notwithstanding the overwhelming benefits of a unitary management structure, there exist certain limited circumstances where it may be beneficial for localities to be able to impose additional restrictions; and

WHEREAS, certain municipalities may have legitimate concerns about an influx of new visitors, which may cause public health concerns as we impose social distancing measures and aim to avoid unnecessary increases in density of individuals; and

WHEREAS, parks can vary widely in their nature, with some large parks being suitable locations for outdoor activities that can be practiced using social distancing, while other parks can attract large, crowded groups of people that pose significant public health concerns; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A:9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Any county or municipal restriction imposed in response to COVID-19 that in any way will or might conflict with any of the provisions of Executive Order No. 107 (2020), or which will or might in any way interfere with or impede its achievement, or the achievement of Administrative Orders issued as authorized by my Executive Orders, is hereby invalidated. Examples of such restrictions include, but are not limited to, the following:

a. Any additions to or deletions from the list of retail businesses that I have deemed essential or that have been identified as essential through Administrative Orders authorized by my Executive Orders;

b. Any limitations imposed on any business's scope of service or hours of operation;

c. Any density or social distancing requirements;

d. Any orders relating to the gathering of individuals; and

e. general restrictions on the freedom of movement within that county or municipality, including but not limited to the imposition of curfews.

2. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of Executive Order No. 107 (2020), or which will or might in any way interfere with or impede its achievement, or the achievement of Administrative Orders issued as authorized by my Executive Orders.

3. Paragraphs 1 and 2 do not apply to the following categories of entities, over which municipalities or counties have the ability to impose additional restrictions in response to COVID-19 beyond the applicable provisions of Executive Order No. 107 (2020). The State Director of Emergency Management, who is the Superintendent of the State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to this list:

a. Online marketplaces for arranging or offering lodging; or

b. Municipal or county parks.

4. Penalties for violations of this Executive Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

5. This Order shall take effect on Saturday, March 21, 2020, at 9:00 p.m., and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated March 21, 2020.

EXECUTIVE ORDER NO. 109

WHEREAS, through Executive Order No. 102 (2020), which I signed on February 3, 2020, I created the State's Coronavirus Task Force, chaired by the Commissioner of the New Jersey Department of Health ("DOH"), in order to coordinate the State's efforts to appropriately prepare for and respond to the public health hazard posed by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, in light of the dangers posed by COVID-19, I issued Executive Order No. 103 (2020) on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserved the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as of March 21, 2020, according to the Centers for Disease Control and Prevention ("CDC"), there were more than 292,000 confirmed cases of COVID-19 worldwide, with over 12,000 of those cases having resulted in death; and

WHEREAS, as of March 20, 2020, there were more than 15,000 confirmed cases of COVID-19 in the United States, with at least 201 of those cases having resulted in death; and

WHEREAS, as of March 23, 2020, there were at least 1,914 positive cases of COVID-19 in New Jersey, with at least 20 of those cases having resulted in death; and

WHEREAS, in recognition that the CDC has advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020) on March 21, 2020, the facts and circumstances of which are adopted by reference herein, which ordered steps to mitigate community spread of COVID-19 limiting the unnecessary movement of individuals in and around their communities and person-to-person interactions in accordance with CDC and DOH guidance and requiring all businesses or non-profits, wherever practicable, to accommodate their workforce for telework or work-from-home arrangements and reduce staff on site to the minimal number necessary to ensure that essential operations can continue; and

WHEREAS, Executive Order No. 107 (2020) required the closure of facilities where personal care services are performed that, by their very nature, result in noncompliance with social distancing guidelines, including but not limited to cosmetology shops; barber shops; beauty salons; hair braiding shops; nail salons; electrology facilities; spas, including day spas and medical spas, at which solely elective and cosmetic medical procedures are performed; massage parlors, tanning salons, tattoo parlors, and public and private social clubs, whether or not they serve alcohol; and

WHEREAS, Executive Order No. 107 (2020) did not limit, prohibit, or restrict in any way the provision of health care or medical services to members of the public, and allowed to remain open health facilities that provide medically necessary or therapeutic services; and

WHEREAS, even as we institute social distancing measures, the number of COVID-19 cases in New Jersey is likely to increase for the immediate future, and, consequently, requires the State to take additional steps to preserve our health care system's capacity to treat those who require emergency or intensive care; and

WHEREAS, limiting exposure of healthcare providers, patients, and staff to COVID-19 and conserving critical resources such as ventilators, respirators, anesthesia machines, and Personal Protective Equipment ("PPE") are essential to combatting the spread of the virus; and

WHEREAS, the Centers for Medicare and Medicaid Services have issued guidance to limit non-essential adult elective surgery and medical and surgical procedures, including all dental procedures, to assist in the management of vital healthcare resources (including PPE) during this public health emergency and to limit potential exposure of healthcare providers, patients, and staff to the virus; and

WHEREAS, the United States Surgeon General has encouraged hospitals and healthcare systems to consider stopping elective procedures; and

WHEREAS, limiting non-essential adult elective surgery and invasive procedures, whether medical or dental, will assist in the management of vital healthcare resources during this public health emergency; and

WHEREAS, while certain surgeries and invasive procedures are medically appropriate, they are not time-sensitive and a postponement will not endanger the health of the patient, and at the same time, these procedures, whether undertaken in a hospital, ambulatory surgery center or provider office, necessarily draw upon the skill and time of critical health care professionals and involve the use of equipment and supplies that may be needed to treat those who are critically ill; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Beginning at 5:00 p.m. on Friday, March 27, 2020, all "elective" surgeries performed on adults, whether medical or dental, and all "elective" invasive procedures performed on adults, whether medical or dental, are suspended in the State. An "elective" surgery or invasive procedure, for purposes of this Order, is defined as any surgery or invasive procedure that can be delayed without undue risk to the current or future health of the patient as determined by the patient's treating physician or dentist. An "elective" surgery or invasive procedure does not include the administration of vaccines.

2. Providers planning or determining whether to perform surgery and invasive procedures in their offices must also consider any possible post-operation complications that may place additional stress on local hospitals that do not have the capacity to accept transfers and need to coordinate any possible post-operation admissions with local hospitals prior to performing surgeries or invasive procedures. Ambulatory surgery centers are to coordinate any possible post-surgery admissions with local hospitals prior to performing any surgery or invasive procedure.

3. Each hospital or ambulatory surgery center shall establish written guidelines to ensure adherence to the provisions of this Order, a copy of which shall be provided to DOH. In establishing such guidelines, the hospital or ambulatory surgery center shall include a process for consultation with the treating provider about a designation that the surgery or invasive procedure is elective under the terms of this Order.

4. Nothing in this Order shall be construed to limit access to the full range of family planning services and procedures, including terminations of pregnancies, whether in a hospital, ambulatory surgery center, physician office, or other location.

5. The Commissioner of DOH shall have the authority to issue binding guidance, in consultation with the Director of the Division of Consumer Affairs, on any of the provisions contained in Paragraphs 1 through 4.

6. All elective surgeries or invasive procedures, whether medical or dental, already scheduled for after 5:00 p.m. on Friday, March 27, 2020, are to be cancelled or postponed indefinitely. Facilities are to immediately notify all patients and providers that have scheduled elective surgeries or invasive procedures that these operations cannot proceed as scheduled under the terms of this Order.

7. Any business or non-hospital health care facility, including but not limited to dental facilities, construction facilities, research facilities, office-based healthcare or veterinary practices, and institutions of higher learning, in possession of PPE, ventilators, respirators, or anesthesia machines that are not required for the provision of critical health care services should undertake an inventory of such supplies and send that information to the State by no later than 5:00 p.m. on Friday, March 27, 2020. The Office of Emergency Management shall establish a process by which entities subject to this provision can submit this information.

8. The Director of the Division of Consumer Affairs, which houses over fifty professional licensure bodies, is authorized and empowered in his or her sole discretion, but in consultation with the Commissioner of DOH, to issue orders restricting or expanding the scope of practice for any category of healthcare professional or veterinarian licensed by a board in the Division of Consumer Affairs, including but not limited to, orders restricting elective surgeries, procedures, and examinations, or for further limiting the scope of practice, or the location for the delivery of service of other licensees subject to regulation by any licensing board or committee within the Division of Consumer Affairs. The Director of the Division of Consumer Affairs is also authorized and empowered in his or her sole discretion, but in consultation with the Commissioner of DOH, to waive any restriction on the entry or reentry into practice (or any restriction on the prescription of controlled dangerous substances or on access to the prescription monitoring program) of any person who has received training for employment in a healthcare profession or who has retired from practice.

9. Any actions taken by the Commissioner of DOH or the Director of the Division of Consumer Affairs pursuant to this Order shall not be subject to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

10. Paragraph 17 of Executive Order No. 107 (2020) is hereby superseded to the extent it is inconsistent with this Order.

11. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Executive Order.

12. Penalties for violations of this Executive Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

13. This Order shall take effect immediately.

Dated March 23, 2020.

EXECUTIVE ORDER NO. 110

WHEREAS, through Executive Order No. 102 (2020), which I signed on February 3, 2020, I created the State's Coronavirus Task Force, chaired by the Commissioner of the New Jersey Department of Health ("DOH"), in order to coordinate the State's efforts to appropriately prepare for and respond to the public health hazard posed by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, in light of the dangers posed by COVID-19, I issued Executive Order No. 103 (2020) on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserved the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, in accordance with N.J.S.A. App. A:9-40, I declared that, due to the State of Emergency, no municipality, county, or any agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of my Executive Orders, or which will in any way interfere with or impede their achievement; and

WHEREAS, to further protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 (2020) on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, on March 21, 2020, I issued Executive Order No. 107 (2020), the facts and circumstances of which are also adopted by reference herein, affirming the closure of all public, private, and parochial preschool program premises, and elementary and secondary schools, including charter and renaissance schools to students for as long as that Order remains in effect (the "school closure period"); and

WHEREAS, many, but not all, child care centers throughout the State have also elected to close in the wake of the present emergency; and

WHEREAS, child care settings can present difficulties in adhering to social distancing measures, necessitating closure of facilities during the emergency period that do not certify that they can meet the emergency child care standards created by the Department of Children and Families ("DCF"); and

WHEREAS, in order to address the urgent demands created by the present health emergency, providers of health care, emergency medical services, law enforcement, and other persons providing essential services require alternative child care arrangements during the period of school closures; and

WHEREAS, limiting access to child care facilities to essential persons wherever possible will help ensure that critical personnel can continue to effectively accomplish their jobs; and

WHERAS, these essential persons are a vital part of our response infrastructure and providing safe and accessible care for their children will improve our State's response to this emergency; and

WHEREAS, child care workers play a critical function in supporting the health, well-being and financial security of New Jersey's children and families; and

WHEREAS, the Commissioner of DCF has already executed a waiver to allow for flexible operating standards for child care facilities while maintaining the necessary or required health and safety standards; and

WHEREAS, in Executive Order No. 107 (2020), I authorized the Commissioner of the Department of Education to permit schools to remain open on a limited basis for educational or child care services if needed in emergency situations; and

WHEREAS, lack of available child care options for essential persons in the State has, and will continue to, impact the ability of essential entities and service providers to address the urgencies of the present pandemic; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The Commissioner of DCF, in consultation with the Commissioners of the Departments of Education, Human Services, and Health, shall implement a plan permitting access to emergency child care services for the children of "essential persons." As part of that plan, DCF shall:

a. Create and publish emergency child care standards that an Emergency Child Care Center must follow beginning Wednesday, April 1, 2020. The standards shall detail the appropriate social distancing, hand washing, cleaning, and other public health prevention strategies that must be in place for Emergency Child Care Centers to operate; and

b. Create a certification form for current child care centers or other organizations wishing to stay open or resume operations as an Emergency Child Care Center on or after Wednesday, April 1, 2020, that includes a commitment both to provide child care services exclusively to "essential persons" during the school closure period and to follow all applicable emergency child care standards. The form shall also elicit information concerning the current child care center or organization's capacity to provide those services.

c. Both the standards and forms referenced in subsections (a) and (b) shall be available to the public on the Department of Children and Families' Internet website no later than Wednesday, March 25, 2020, at 5 p.m..

2. In order to be designated as an Emergency Child Care Center, any person or organization, requesting permission to stay open or resume operations on or after April 1, 2020, shall submit the certification form to the Commissioner of DCF for approval by Friday, March 27, 2020. If through the certification form the person or organization demonstrates that it will provide child care services exclusively to "essential persons" during the school closure period, and that it will follow all applicable emergency child care standards, the Commissioner DCF shall authorize it to remain open or resume operations as an Emergency Child Care Center.

3. Any "child care center", including those as defined in this executive order, that fails to timely certify shall be closed to the public as of Wednesday, April 1, 2020, and remain closed through the school closure period. Centers shall receive notice of the certification decision by the Commissioner of DCF by Monday, March 30, 2020.

4. Child care centers, for purposes of this Order, include entities providing care on a regular basis for children aged 0-13, including licensed child care centers. For

the purpose of this Executive Order only, child care centers include those entities normally exempt from licensure under N.J.S.A. 30:5B-3(b)(2)-(5), & (7)-(8) & (11), and similar enterprises, but do not include programs funded or licensed by the DCF, the Department of Health, the Department of Human Services, or the Department of Education to provide specialized day care to youth with physical, intellectual, or developmental disabilities, or family child care homes registered pursuant to the Family Day Care Provider Registration Act, N.J.S.A. 30:5B-16 et seq..

5. For purposes of this Order, "essential persons" shall include, but not be limited to:

a. Health care workers, including staff working in health care facilities and in community-based services including home health and behavioral health;

b. Law enforcement personnel, fire and emergency services personnel, and staff at correctional facilities;

c. Individuals employed at emergency child care centers operating on or after April 1, 2020;

d. Staff working for entities that provide essential social services, including, but not limited to, group home and shelter staff;

e. Essential government employees who are unable to work from home, including child protection services workers, child welfare workers, foster care workers, unemployment compensation processing staff, and public health employees; and

f. Certain critical workers, as defined by the Commissioner of DCF, at essential retail businesses, as defined in Executive Order No. 107 (2020) and subsequent Administrative Orders.

The Commissioner of DCF, in consultation with the State Director of Emergency Management, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to this list taking into account both demonstrated need and the capacity of Emergency Child Care Centers.

6. By Friday, April 3, 2020, the State Director of Emergency Management ("Director"), in consultation with the Commissioners of Education and DCF and local county officials, shall evaluate whether there are sufficient emergency child care centers open in each county to meet the needs of essential persons. For any county where the Emergency Child Care Centers cannot meet the demand for essential persons, the Director shall direct the applicable county office of emergency management, in consultation with the applicable county office of education, to identify schools in the county that are capable of serving as emergency child care sites for children ages 0-13. The Commissioners of Education and DCF shall proffer standards for review of the identified schools. Upon approval by the Commissioner of Education and the Commissioner of DCF, such schools are authorized to provide emergency child care to and/or supplementary educational activities for children enrolled in schools within that county, but may only serve the children of essential persons. Such schools may engage a third-party provider to deliver the emergency child care services. The Director is authorized to establish dates for submission of the above information from county offices and, in consultation with the Commis-

sioners of Education and DCF, establish requirements and guidance for those submissions.

7. The Commissioner of DCF is hereby authorized to issue additional requirements and guidance to provide for the creation, approval, operation, staffing, monitoring, inspection, investigation, oversight, and immediate closure of Emergency Child Care Centers and emergency child care sites.

8. The Commissioner of DCF, in consultation with the Commissioners of Education, Human Services, and Community Affairs and the Director, are hereby authorized to identify sources of funding for such programs.

9. The Commissioner of DCF is hereby further authorized to temporarily suspend or modify any existing regulation applicable to licensed, approved, or exempt child care programs to the extent necessary to provide for the creation, operation, and sufficient availability of emergency child care programs consistent with this Order.

10. Any actions taken by the Commissioner of DCF pursuant to this Order shall not be subject to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq..

11. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Executive Order.

12. Penalties for violations of this Executive Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

13. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of Executive Order No. 110 (2020), or which will or might in any way interfere with or impede its achievement.

14. This Order shall take effect immediately and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated March 25, 2020.

EXECUTIVE ORDER NO. 111

WHEREAS, through Executive Order No. 102 (2020), which I signed on February 3, 2020, I created the State's Coronavirus Task Force, chaired by the Commissioner of the New Jersey Department of Health ("DOH"), in order to coordinate the State's efforts to appropriately prepare for and respond to the public health hazard posed by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS on March 9, 2020, through Executive Order No. 103 (2020), the facts and circumstances of which are adopted by reference herein, I declared both a

Public Health Emergency and a State of Emergency throughout the State due to the public health hazard created by COVID-19; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserved the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as of March 27, 2020, according to the Centers for Disease Control and Prevention ("CDC"), there were more than 509,000 confirmed cases of COVID-19 worldwide, with over 23,000 of those cases having resulted in death; and

WHEREAS, as of March 27, 2020, there were more than 85,000 confirmed cases of COVID-19 in the United States, with over 1,200 of those cases having resulted in death; and

WHEREAS, as of March 27, 2020, there were at least 8,825 positive cases of COVID-19 in New Jersey, with at least 108 of those cases having resulted in death; and

WHEREAS, the State has already taken aggressive steps to expand the capacity of New Jersey's health care system, including the construction of four modular field treatment facilities in partnership with the U.S. Army Corps of Engineers that is already underway and will result in approximately 1,000 new hospital beds; and

WHEREAS, on March 23, 2020, I signed Executive Order No. 109 (2020), suspending elective surgeries and invasive procedures and requiring that all businesses and non-hospital health care facilities submit an inventory to the State of the Personal Protective Equipment ("PPE"), ventilators, respirators, and anesthesia machines they have in their possession that are not required for the provision of critical health care services; and

WHEREAS, a number of businesses have already gone above and beyond these reporting requirements and demonstrated exemplary corporate citizenship by donating large amounts of PPE to the State; and

WHEREAS, the State's capacity-building efforts can be implemented only by having a complete understanding of the health care system's existing capacity and its gaps, which will allow additional resources to be deployed where they are most needed; and

WHEREAS, the New Jersey Office of Emergency Management is the central State repository to receive, allocate, and distribute resources to respond to this public health emergency; and

WHEREAS, the current information reported by hospitals and other health care providers, done on a voluntary basis, is insufficient to meet the State's needs in developing and maintaining situational awareness of the health care system's capacity; and

WHEREAS, pursuant to N.J.S.A. App. A: 9-36, the Governor is authorized to require any public official, citizen, or resident of New Jersey, or any firm, partnership, or corporation incorporated or doing business in this State to furnish information reasonably necessary to respond to and alleviate the current emergency; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Health care facilities designated by the New Jersey Office of Emergency Management shall report data concerning their capacity and supplies on a daily basis by 10:00 a.m., starting on Sunday, March 29, 2020, and continuing for the duration of this Order. The health care facilities that shall be required to report this data include, but are not limited to, the following:

a. Licensed acute care hospitals;

b. Long-term care facilites;

c. Hospital systems, including specialty hospitals; and

d. All emergency modular field treatment and other facilities established during this state of emergency.

The New Jersey Office of Emergency Management, in consultation with the Commissioner of DOH, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to this list, including but not limited to the addition of other entities encompassed by the definitions of "health care facility" under N.J.S.A. 26:2H-2 and --13-2.

2. The New Jersey Office of Emergency Management, in consultation with the Commissioner of DOH, shall specify what data concerning capacity and supplies, including bed capacity, ventilators, and PPE, must be submitted to satisfy the requirements of Paragraph 1.

3. The New Jersey Office of Emergency Management shall be authorized to disseminate the information collected pursuant to Paragraph 1 as needed to allocate resources during this state of emergency

4. The New Jersey Office of Emergency Management shall establish a process by which designated health care facilities can submit this information on a daily basis.

5. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Executive Order.

6. Penalties for violations of this Executive Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

7. This Order shall take effect immediately and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated March 28, 2020.

EXECUTIVE ORDER NO. 112

WHEREAS, on February 3, 2020, through Executive Order No. 102 (2020), I created the State's Coronavirus Task Force, chaired by the Commissioner of the New Jersey Department of Health ("DOH"), in order to coordinate the State's efforts to appropriately prepare for and respond to the public health hazard posed by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, on March 9, 2020, through Executive Order No. 103 (2020), the facts and circumstances of which are adopted by reference herein, I declared both a Public Health Emergency and a State of Emergency throughout the State due to the public health hazard created by COVID-19; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserved the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, on March 16, 2020, through Executive Order No. 104 (2020), the facts and circumstances of which are adopted by reference herein, I established statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, in recognition that the Centers for Disease Control ("CDC") has advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020), on March 21, 2020, the facts and circumstances of which are adopted by reference herein, which ordered steps to mitigate community spread of COVID-19; and

WHEREAS, even as we institute social distancing measures, the number of COVID-19 cases in New Jersey is anticipated to continue to increase for the immediate future, meaning we must take all possible steps to expand our healthcare system's capacity to treat those who require emergency or intensive care; and

WHEREAS, as of March 31, 2020, according to the World Health Organization, there were over 750,000 confirmed cases of COVID-19 worldwide, with over 36,000 of those cases having resulted in death; and

WHEREAS, as of March 31, 2020, according to the CDC, there were over 163,000 confirmed cases of COVID-19 in the United States, with over 2,800 of those cases having resulted in death; and

WHEREAS, as of March 31, 2020, there were over 18,600 positive cases of COVID-19 in New Jersey, with at least 267 of those cases having resulted in death; and

WHEREAS, on March 23, 2020, through Executive Order No. 109 (2020), the facts and circumstances of which are adopted by reference herein, I suspended elective

surgeries and invasive procedures, which necessarily draw upon the skill and time of critical healthcare professionals and involve the use of equipment and supplies that may be needed to treat those who are critically ill; required that all businesses and non-hospital healthcare facilities submit an inventory to the State of the Personal Protective Equipment ("PPE"), ventilators, respirators, and anesthesia machines they have in their possession that are not required for the provision of critical healthcare services; and took other actions to protect and conserve the resources of our healthcare system, and limit unnecessary in-person contacts in healthcare settings, to more effectively combat the spread of COVID-19; and

WHEREAS, on March 28, 2020, through Executive Order No. 111 (2020), the facts and circumstances of which are adopted by reference herein, I ordered healthcare facilities to begin reporting daily data on their capacity and supplies, including bed capacity, ventilators, and PPE; and

WHEREAS, even as we suspend elective surgery and elective invasive procedures, the number of COVID-19 cases in New Jersey will likely require the skills and time of more healthcare professionals across the State, including, but not limited to physicians, physician assistants, advanced practice nurses, registered professional nurses, licensed practical nurses, and respiratory care therapists and others whose training and experience enable them to manage critically ill patients, perform essential invasive procedures, conduct diagnostic testing or render general medical care to patients presenting with non-COVID-19 emergencies, meaning we must take all possible steps to expand our healthcare system's capacity to treat those who require emergency or intensive care, while still meeting the ongoing urgent medical needs of our residents; and

WHEREAS, in addition to steps already taken by my Administration to expand access to telemedicine and telehealth and to facilitate temporarily the licensure of out-of-state healthcare professionals, it is in the public interest to expeditiously expand the supply of available and qualified healthcare professionals permitted to treat New Jersey patients, by temporarily reactivating the licenses of recently retired New Jersey healthcare professionals; by temporarily authorizing the practice in New Jersey of foreign doctors in good standing in other jurisdictions; and by facilitating the ability of appropriately credentialed healthcare professionals to safely prescribe controlled dangerous substances to New Jersey residents, notwithstanding certain existing requirements that would serve to delay or preclude such individuals from supporting the State's response to the COVID-19 outbreak; and

WHEREAS, it is in the public interest to expand the scope of practice of those healthcare professionals who under current law practice with individualized physician oversight, so that they can be deployed to meet the anticipated needs with more autonomy, greater agility and with all necessary tools, including independent authority to prescribe controlled dangerous substances when appropriate; and

WHEREAS, despite the best efforts of our healthcare professionals and healthcare facilities, based on modelling of the spread of the virus and mortality rates elsewhere, we must position our morgues, mortuaries and cemeteries to handle an in-

crease in the need for such services, and facilitate the provision of such services at a time when individuals have limited ability to leave their homes and a decedent's next of kin may themselves be quarantined; and

WHEREAS, pursuant to N.J.S.A. App. A:9-47, the Governor is authorized to, among other things, suspend any regulatory provision of law when its enforcement is detrimental to the public welfare during an emergency; and

WHEREAS, there are presently statutory provisions designed to safeguard the health and safety of the public, including by ensuring that healthcare professionals meet the highest standards before entering or reentering their fields, and that they practice together as members of a skilled team, and these provisions can, in a time of crisis such as this, thwart or delay our efforts to respond rapidly to emerging needs by establishing conditions and barriers that deprive the healthcare system of the agility to best utilize available resources in an effort to stem the spread of COVID-19, and avoid overwhelming the capacity of the system; and

WHEREAS, the Commissioner of Health has determined that the State needs the help of additional qualified health, mental health, and related professionals to supplement our healthcare capacity on a temporary basis; and

WHEREAS, on March 27, 2020, the Commissioner of Health launched a portal for healthcare professionals to identify themselves as willing and able to support New Jersey's response to the COVID-19 outbreak, as well as information that would allow a qualified professional to be connected with opportunities suitable for someone with his or her skillset; and

WHEREAS, the Legislature enacted P.L.2020, c.4, to facilitate temporary licensure by reciprocity for out-of-state healthcare professionals, and the Department of Law and Public Safety, Division of Consumer Affairs ("DCA") has taken action to expedite licensure by reciprocity; and

WHEREAS, in light of the emergent need for the measures adopted herein and adopted previously to supplement the workforce by bringing in healthcare professionals who have not previously maintained liability coverage; by facilitating the deployment of retirees, out-of-state healthcare professionals, and foreign doctors; and by calling upon healthcare professionals to perform acts that they would not perform in the ordinary course of business, it is in the public interest to afford such individuals protection against liability for good faith actions taken in their efforts to offer assistance in response to the call to supplement the healthcare workforce; and

WHEREAS, pursuant to N.J.S.A. App. A:9-52, neither the State nor any political subdivision of the State under any circumstances, nor the agents, officers, employees, servants or representatives of the State or any political subdivision thereof, including all volunteers, in good faith carrying out, complying with, or attempting to comply with, any order, rule or regulation promulgated pursuant to the provisions of the Disaster Control Act or performing any authorized service in connection therewith, shall be liable for any injury or death to persons or damage to property as the result of any such activity; and

WHEREAS, pursuant to N.J.S.A. 26:13-19, public entities and employees of public entities are granted broad immunity for any good faith acts or omissions in connection with a public health emergency, or preparatory activities, performed pursuant to any order, rule or regulation adopted in response to a public health emergency; and

WHEREAS, the immunity granted in N.J.S.A. 26:13-19 extends to private entities, including healthcare providers, for injuries caused by acts or omissions in connection with a public emergency, or preparatory activities, that are exercised in good faith and pursuant to any order, rule or regulation adopted in response to a public health emergency; and

WHEREAS, N.J.S.A. 45:9-27.18a contemplates that physician assistants may respond to a need for medical care created by an emergency or a State or local disaster by rendering care without the physician supervision that is ordinarily required, and provides a degree of immunity from liability for physicians and physician assistants for certain personal injuries resulting from such acts or omissions; and

WHEREAS, healthcare providers and facilities may be called upon to engage in acts or omissions that are critical to State's response to the unprecedented crisis related to the COVID-19 pandemic, but that may not have been contemplated by the Legislature when it enacted existing statutory immunity provisions; and

WHEREAS, the strict enforcement of certain statutory provisions that delay the State's efforts to rapidly respond to the spread of COVID-19 is detrimental to the public welfare; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The DCA is authorized to reactivate, on a temporary basis for the duration of the State of Emergency or Public Health Emergency, whichever is longer, the license of any healthcare professional previously licensed to practice in New Jersey who retired from active practice within the last five years, either by electing to place their license in inactive status or by allowing their license to lapse, provided that such healthcare professional submits an application on a form adopted by the Director of the DCA (the "Director") for such purpose and containing such information and certifications as the Director may require, and the Director or the relevant licensing board determines that such application should be granted. To facilitate the temporary reactivation of such healthcare professionals' licenses, the following statutory provisions are suspended and waived for the duration of the State

of Emergency or Public Health Emergency, whichever is longer: the requirements of N.J.S.A. 45:1-7.4 pertaining to fees, affidavits of employment during the period of retirement, and proof of continuing education credits; and the requirements of N.J.S.A. 45:9-19.17 and N.J.S.A. 45:9-27.13a pertaining to liability insurance for physicians and physician assistants.

2. The DCA is authorized to issue a license to practice medicine and/or surgery, on a temporary basis for the duration of the State of Emergency or Public Health Emergency, whichever is longer, to any physician (including any medical doctor, doctor of osteopathic medicine, or the plenary-licensed equivalent in another country) who is licensed, in good standing, in another country, provided that such physician submits an application on a form adopted by the DCA for such purpose and containing such information and certifications as the Director may require, and the Director or the relevant licensing board determines that such application should be granted. At a minimum, the form shall require the applicant to certify that the applicant has engaged in practice for at least five years and has engaged in clinical practice within the last five years. To facilitate the temporary licensure of such physicians, the following statutory provisions are suspended and waived for the duration of the State of Emergency or Public Health Emergency, whichever is longer: the requirements of N.J.S.A. 45:9-6 pertaining to examination for licensure; the requirements of N.J.S.A. 45:9-7 pertaining to premedical education; the requirements of N.J.S.A. 45:9-8 pertaining to additional education; the requirements of N.J.S.A. 45:9-12 pertaining to examination and other fees; and the requirements of N.J.S.A. 45:9-19.17 pertaining to medical malpractice insurance coverage.

3. For the duration of the State of Emergency or Public Health Emergency, whichever is longer, the following statutory provisions that may serve to limit the scope of practice of advanced practice nurses are suspended and waived, and compliance with such provisions will not be required, for advanced practice nurses acting within the scope of their education, training, experience, and competence, to the extent that such provisions would otherwise require an advanced practice nurse to:

a. Enter into a joint protocol with an individual collaborating physician who is present or readily available through electronic communication (N.J.S.A. 45:11-49);

b. Include the name, address, and telephone number of a collaborating physician on prescriptions or orders (N.J.S.A. 45:11-49);

c. Review patient charts and records with the collaborating physician (N.J.S.A. 45:11-49); and

d. Obtain the authorization or written approval from a collaborating physician in order to dispense narcotic drugs for maintenance treatment or detoxification treatment or to determine the medical necessity for services for treatment of substance use disorder (N.J.S.A. 45:11-49.3).

4. For the duration of the State of Emergency or Public Health Emergency, whichever is longer, the following statutory provisions that may serve to limit the scope of practice of physician assistants are suspended and waived, and compliance with such provisions will not be required, for physician assistants acting with-

in the scope of their education, training, experience, and competence, to the extent that such provisions would otherwise require a physician assistant to:

a. Obtain physician supervision (N.J.S.A. 45:9-27.15, N.J.S.A.45:9-27.16(b), N.J.S.A. 45:9-27.17, and N.J.S.A. 45:9-27.18);

b. Enter into a signed delegation agreement limiting the scope of practice to procedures enumerated in the agreement and customary to the supervising physician's medical specialty, delegated or explicitly authorized (N.J.S.A. 45:9-27.16);

c. Obtain authorization to order or prescribe a controlled dangerous substance (N.J.S.A. 45:9-27.19); and

d. Limit the assistance provided in the operating room (N.J.S.A. 45:9-27.16).

The provisions of N.J.S.A. 45:9-27.17 relating to physicians' supervisory responsibility are suspended and waived as they apply to both physicians and physician assistants, to the extent that they would otherwise apply, for the same duration.

5. For the duration of the State of Emergency or Public Health Emergency, whichever is longer, any requirement to hold a controlled dangerous substance registration as a precondition for registering with the Prescription Monitoring Program (N.J.S.A. 45:1-46) is suspended and waived for any healthcare professional with prescribing authority who is granted an expedited temporary license by the Director of the DCA and who holds a current valid registration with the U.S. Drug Enforcement Administration.

6. For the duration of the State of Emergency or Public Health Emergency, whichever is longer, the written signature requirements of N.J.S.A. 45:7-85 and N.J.S.A. 45:7-95, pertaining to prepaid funeral agreements and authorization to commence funeral services, can be met by the provision of electronic signatures.

7. Any individual granted a temporary license, certificate, registration or certification to practice a healthcare profession or occupation in connection with the State's COVID-19 response, including those granted pursuant to paragraph 1 or 2 of this Order, shall be immune from civil liability for any damages alleged to have been sustained as a result of the individual's acts or omissions undertaken in good faith, whether or not within the scope of the licensee's practice, in the course of providing healthcare services in support of the State's COVID-19 response, whether or not such immunity is otherwise available under current law. Such immunity shall not extend to acts or omissions that constitute a crime, actual fraud, actual malice, gross negligence or willful misconduct.

8. Any individual holding a license, certificate, registration or certification to practice a healthcare profession or occupation in New Jersey, including but not limited to any advanced practice nurse or physician assistant acting outside the scope of their ordinary practice pursuant to paragraph 3 or 4 of this Order, shall be immune from civil liability for any damages alleged to have been sustained as a result of the individual's acts or omissions undertaken in good faith in the course of providing healthcare services in support of the State's COVID-19 response, whether or not within the scope of their practice and whether or not such immunity is otherwise available under current law. Such immunity shall not extend to acts or

omissions that constitute a crime, actual fraud, actual malice, gross negligence or willful misconduct.

9. Any healthcare facility, within the meaning of N.J.S.A. 26:13-2, any modular field treatment facility, and any other site designated by the Commissioner of the Department of Health for temporary use for the purpose of providing essential services in support of the State's COVID-19 response, including hotels and student dormitories, shall be immune from civil liability for any damages alleged to have been sustained as a result of an act or omission undertaken in good faith in the course of providing services in support of the State's COVID-19 response by one or more of its agents, officers, employees, servants, representatives or volunteers, if, and to the extent, such agent, officer, employee, servant, representative or volunteer is immune from liability, whether or not such immunity is otherwise available under current law. Such immunity shall not extend to acts or omissions that constitute a crime, actual fraud, actual malice, gross negligence or willful misconduct.

10. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Executive Order.

11. The immunity conferred by this Order applies to acts or omissions occurring at any time during the State of Emergency or Public Health Emergency, including acts or omissions occurring prior to issuance of this Order.

12. This Order shall take effect immediately.

Dated April 1, 2020.

EXECUTIVE ORDER NO. 113

WHEREAS, through Executive Order No. 102 (2020), which I signed on February 3, 2020, I created the State's Coronavirus Task Force, chaired by the Commissioner of the New Jersey Department of Health ("DOH"), in order to coordinate the State's efforts to appropriately prepare for and respond to the public health hazard posed by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, on March 9, 2020, through Executive Order No. 103 (2020), the facts and circumstances of which are adopted by reference herein, I declared both a Public Health Emergency and a State of Emergency throughout the State due to the public health hazard created by COVID-19; and

WHEREAS, Executive Order No. 103 (2020) authorized and empowered the State Director of Emergency Management, who is the Superintendent of State Police, in conjunction with the Commissioner of DOH, to take any emergency measures as the State Director may determine necessary in order to fully and adequately protect the health, safety, and welfare of the citizens of New Jersey from any ac-

tual or potential threat or danger that may exist from the possible exposure to COVID-19; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserved the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, on March 23, 2020, I signed Executive Order No. 109 (2020), the facts and circumstances of which are adopted by reference herein, requiring that all businesses and non-hospital health care facilities submit an inventory to the State of the Personal Protective Equipment ("PPE"), ventilators, respirators, and anesthesia machines they have in their possession that are not required for the provision of critical health care services; and

WHEREAS, on March 28, 2020, I signed Executive Order No. 111 (2020), the facts and circumstances of which are adopted by reference herein, requiring health care facilities to report data concerning their capacity and supplies on a daily basis, including data relating to bed capacity, ventilators, and PPE; and

WHEREAS, the collection and dissemination of this information allows the State to best allocate medical resources, such as PPE, ventilators, respirators, and anesthesia machines, during this state of emergency and public health emergency; and

WHEREAS, the State has taken aggressive steps to expand the capacity of New Jersey's overall health care system, including the assembly of four Federal Medical Stations in three convention center locations around the State, in partnership with the Federal Emergency Management Agency ("FEMA"), the U.S. Army Corps of Engineers ("USACE"), the New Jersey State Police, and the New Jersey National Guard that will result in approximately 1,000 new hospital beds, as well as working with USACE to create additional capacity at hospitals on an accelerated timeline by augmenting existing space in order to address the increase in overall hospitalizations throughout the State; and

WHEREAS, the State has made and continues to make all reasonable efforts to procure medical resources from the federal Strategic National Stockpile, FEMA, existing State caches of supplies, individual and corporate donations, and through traditional private sector purchasing; and

WHEREAS, despite these efforts, there remains a critical shortage of medical resources in the State, particularly in hospitals, healthcare facilities, and emergency response agencies in the northern region of the State where the spread of COVID-19 is particularly acute and where there has been a particularly high volume of COVID-19 hospitalizations; and

WHEREAS, as of April 2, 2020, there were at least 25,590 positive cases of COVID-19 in New Jersey, with at least 537 of those cases having resulted in death; and

WHEREAS, the number of positive cases of COVID-19 and related hospitalizations is expected to continue to rise, establishing a continuing need to meet the demand for medical resources in hospitals, healthcare facilities, and emergency response agencies throughout the State, especially in those regions where the spread of COVID-19 is particularly acute and where there has been a particularly high volume of hospitalizations; and

WHEREAS, the New Jersey Civilian Defense and Disaster Control Act (the "Disaster Control Act") authorizes the Governor to "utilize and employ all the available resources of the State Government and of each and every political subdivision of this State" and to "commandeer and utilize any personal services and any privately owned property necessary to avoid or protect against any emergency" subject to the future repayment of such takings, N.J.S.A. App. A:9-34; and

WHEREAS, the Disaster Control Act empowers the Governor "to employ, take or use the personal services, or real or personal property, of any citizen or resident of this State, or of any firm, partnership or unincorporated association doing business or domiciled in this State, or of any corporation incorporated in or doing business in this State, or the real property of a nonresident located in this State, for the purpose of securing the defense of the State or of protecting or promoting the public health, safety or welfare," N.J.S.A. App. A:9-51(a)(3); and

WHEREAS, the reallocation of medical resources to the regions and health care facilities particularly affected by COVID-19 will protect and promote the public health, safety, and welfare of the State, including by reducing loss of life; and

WHEREAS, the Disaster Control Act also establishes emergency compensation boards in each county of the State, to be composed of three persons appointed by the Governor who shall serve at the will and pleasure of the Governor and without compensation, which will adjudicate any claims for just compensation whenever property is taken or used pursuant to the Disaster Control Act; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The State Director of Emergency Management, who is the Superintendent of State Police, is hereby authorized and empowered to exercise the full authority afforded to the Governor under the Disaster Control Act to take or use personal services and/or real or personal property, including medical resources, for the purpose of protecting or promoting the public health, safety, or welfare. The State Director of Emergency Management shall exercise this authority in consultation with the Commissioner of DOH.

2. Compensation shall be provided following the procedures established by the Disaster Control Act, N.J.S.A. App. A:9-51.

3. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatso-

ever, to cooperate fully in all matters concerning this Executive Order, and to cooperate fully with Administrative Orders issued pursuant to this Executive Order.

4. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of my Executive Order, or which will or might in any way interfere with or impede its achievement, or the achievement of Administrative Orders issued as authorized by my Executive Order.

5. This Order shall take effect immediately and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated April 2, 2020.

EXECUTIVE ORDER NO. 114

WHEREAS, the COVID-19 pandemic continues to spread around the globe, with some reports indicating that there are now over one million cases of COVID-19 worldwide and over 245,000 cases in the United States; and

WHEREAS, New Jersey has been particularly hard-hit by COVID-19, with 29,895 residents testing positive for COVID-19 and 646 of our fellow New Jerseyans losing their lives; and

WHEREAS, these individuals were family, friends, colleagues, and neighbors, and include healthcare workers, first responders, and others who gave their lives working bravely and tirelessly on the frontlines of the COVID-19 pandemic; and

WHEREAS, each and every life lost to COVID-19 is a profound tragedy for us all; and

WHEREAS, we sadly know that even despite our aggressive efforts, the number of lives lost will continue to rise dramatically in the coming weeks and months, both here in New Jersey, throughout the United States, and around the world; and

WHEREAS, the prohibition of social gatherings, which is necessary to prevent further spread of the virus and loss of life, prevents funerals from going forward in the manner that they would under normal circumstances; and

WHEREAS, as a result, we cannot properly mourn the loss of individuals who pass away during this time, whether from COVID-19 or other causes, and say the goodbye that each and every one of them deserves; and

WHEREAS, while nothing can fully make up for this cruel reality, lowering the flags to half-staff can symbolize our State's collective grief and cause us all to remember the awful human toll that this pandemic has inflicted upon this State, our nation, and the world; and

WHEREAS, it is with great sorrow that we mourn the passing of all those who have lost their lives to COVID-19 and those who may lose their lives in the future, and extend our deepest sympathy to their families, friends, colleagues, and communities; and

WHEREAS, it is appropriate for us all to keep in our thoughts and prayers all of those who have been affected by the COVID-19 pandemic and are suffering;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities indefinitely, starting on Friday, April 3, 2020, in recognition and mourning of all those who have lost their lives and have been affected by COVID-19.

2. This Order shall take effect immediately.

Dated April 3, 2020.

EXECUTIVE ORDER NO. 115

WHEREAS, through Executive Order No. 102 (2020), which I signed on February 3, 2020, I created the State's Coronavirus Task Force, chaired by the Commissioner of the New Jersey Department of Health ("DOH"), in order to coordinate the State's efforts to appropriately prepare for and respond to the public health hazard posed by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, on March 9, 2020, through Executive Order No. 103 (2020), the facts and circumstances of which are adopted by reference herein, I declared both a Public Health Emergency and a State of Emergency (the "Emergency") throughout the State due to the public health hazard created by COVID-19; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserved the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, on March 16, 2020, through Executive Order No. 104 (2020), the facts and circumstances of which are adopted by reference herein, I established statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, in recognition that the Centers for Disease Control ("CDC") has advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020), on March 21, 2020, the facts and circumstances of which are adopted by reference herein, which ordered steps to mitigate community spread of COVID-19; and

WHEREAS, as of April 5, 2020, according to the World Health Organization, there were over 1,133,000 confirmed cases of COVID-19 worldwide, with over 62,000 of those cases having resulted in death; and

WHEREAS, as of April 5, 2020, according to the CDC, there were over 304,000 confirmed cases of COVID-19 in the United States, with over 7,600 of those cases having resulted in death; and

WHEREAS, as of April 5, 2020, there were over 37,500 positive cases of COVID-19 in New Jersey, with at least 917 of those cases having resulted in death; and

WHEREAS, even as we institute social distancing measures, the number of COVID-19 cases in New Jersey is anticipated to continue to increase for the immediate future, meaning that we must take all possible steps to expand our healthcare system's capacity to treat those who require emergency or intensive care; and

WHEREAS, at the same time, the State must take all feasible steps to expand our law enforcement agencies' and first responders' capacity to respond to threats to public health and safety; and

WHEREAS, my Administration has already taken a series of steps to address the need to expand our healthcare system's capacity and to expand the capacity of law enforcement agencies and other first responders to respond to threats to public health and safety; and

WHEREAS, on March 23, 2020, through Executive Order No. 109 (2020), the facts and circumstances of which are adopted by reference herein, I suspended elective surgeries and invasive procedures, which necessarily draw upon the skill and time of critical healthcare professionals and involve the use of equipment and supplies that may be needed to treat those who are critically ill, and took other actions to protect and conserve the resources of our healthcare system; and

WHEREAS, on March 28, 2020, through Executive Order No. 111 (2020), the facts and circumstances of which are adopted by reference herein, I ordered healthcare facilities to begin reporting daily data on their capacity and supplies, including bed capacity, ventilators, and Personal Protective Equipment (PPE); and

WHEREAS, on April 1, 2020, through Executive Order No. 112 (2020), the facts and circumstances of which are adopted by reference herein, I recognized that responding to the high volume of COVID-19 cases in New Jersey will likely require the skills and time of more healthcare professionals across the State; and

WHEREAS, Executive Order No. 112 (2020) included measures to expeditiously expand the supply of available and qualified healthcare professionals permitted to treat New Jersey patients, by temporarily reactivating the licenses of recently retired New Jersey healthcare professionals; by temporarily authorizing the practice in New Jersey of foreign doctors in good standing in other jurisdictions; and by facilitating the ability of appropriately credentialed healthcare professionals to safely prescribe controlled dangerous substances to New Jersey residents; and

WHEREAS, Executive Order No. 112 (2020) included measures to expand the scope of practice of certain healthcare professionals so that they can be deployed to meet the anticipated needs of the State in relation to COVID-19; and

WHEREAS, although the actions taken to date will enable the State to better respond to the COVID-19 pandemic, the Commissioner of DOH has determined that, throughout the duration of the Emergency, the State needs the help of additional

qualified health, mental health, and related professionals to supplement our healthcare capacity on a temporary basis; and

WHEREAS, through a Law Enforcement Guidance issued on March 16, 2020, the facts and circumstances of which are adopted by reference herein, the Attorney General advised law enforcement agencies on strategies for addressing personnel challenges relating to COVID-19, including through expanded reliance upon the Special Law Enforcement Officers' Act, N.J.S.A. 40A:14-146.8, et seq., and mutual aid agreements between municipalities; and

WHEREAS, those personnel challenges have continued to grow, and as of April 5, 2020, there were thousands of law enforcement officers in New Jersey currently unable to report to duty, the vast majority of which because they tested positive for COVID-19 or are currently in quarantine; and

WHEREAS, the Attorney General, who is the State's chief law enforcement officer, has determined that, for the duration of the Emergency, the return of retired officers to bolster the ranks of law enforcement agencies, as well as the expanded retention of Special Law Enforcement Officers on an hourly basis, will supplement law enforcement agencies' ability to provide for public health and safety during the COVID-19 pandemic; and

WHEREAS, certain retirees enrolled in the State's various retirement systems possess the necessary skills and training to immediately assist with New Jersey's COVID-19 emergency, including law enforcement officers who are retired from the New Jersey Police and Firemen's Retirement System ("PFRS"), N.J.S.A. 43:16A-1 et seq., or the New Jersey State Police Retirement System ("SPRS"), N.J.S.A. 53:5A-1 et seq.; health workers at University Hospital who are retired from the Public Employees' Retirement System ("PERS"), N.J.S.A. 43:15A-1 et seq.; and other former State and local government employees who are now retired and have the skills required for the State to respond to the COVID-19 emergency; and

WHEREAS, PFRS, SPRS and PERS are considered qualified governmental plans under the Internal Revenue Code requiring that certain rules be followed including that when a State or local employee retires and returns to employment with the same employer, the person have had a "bona fide" retirement, which means that there was no pre-arrangement between the retiree and the employer regarding their return to employment; and

WHEREAS, the Division of Pensions and Benefits (the "Division of Pensions") in the New Jersey Department of the Treasury has adopted a rule at N.J.A.C. 17:1-17.14 ("Return to Employment Rule") which sets forth the terms upon which a retiree can return to employment with the same employer; and

WHEREAS, the Division of Pensions has administered the Return to Employment Rule to require that there be a six (6) month period between the date of retirement and the return to employment, and also that there has been no pre-arrangement of that return between the employee and the former employer; and

WHEREAS, the Division of Pensions has administered the Return to Employment Rule to require that retirees returning to work with the same employer and wish-

ing to continue to collect their pension while also getting paid for their work cannot work full time, since working full time may require re-enrollment in the applicable retirement system; and

WHEREAS, in order to obtain additional staffing resources, State departments, agencies, boards, commissions and independent authorities and local municipal and county governments ("Government Agencies") may need to enlist the efforts of retirees on a full-time basis and within the six (6) month period specified in the Return to Employment Rule; and

WHEREAS, because these retirees will be returning to their former employment specifically in response to the unprecedented emergency created by the COVID-19 pandemic, there is less reason to fear that they did not have a "bona fide" retirement; and

WHEREAS, in addition to hiring retirees, Government Agencies may also need to hire new employees, who will need and desire to have health insurance coverage under the State Health Benefits Plan ("SHBP") immediately upon hire, and cannot feasibly complete the sixty (60) day waiting period under State law between the date of hire of a new employee and the new employee becoming eligible to participate in the SHBP; and

WHEREAS, while law enforcement agencies can address certain of their personnel challenges through the retention of Special Law Enforcement Officers, N.J.S.A. 40A:14-146.17 limits the number of Class Two special law enforcement officers ("SLEO IIs") in communities other than resort municipalities to 25 percent of the number of regular officers, hindering these agencies' ability to fully grow their capacity to respond to the myriad public health and safety challenges presented by this Emergency; and

WHEREAS, for these reasons, among others, strict enforcement of certain statutory provisions that delay the State's efforts to rapidly respond to the spread of COVID-19 is detrimental to the public welfare; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. For the duration of this Emergency, retirees may return to employment by Government Agencies in any capacity, including but not limited to full-time employee, part-time employee, or special law enforcement officer, without having to re-enroll in any retirement system, if the following conditions are met:

a. The retiree has retired before the date of this Order; and

b. The retiree has completed at least a thirty day separation from their employer, from the date of retirement or the date of Board approval, whichever is later; and

c. The retiree's return to employment is needed because of the COVID-19 pandemic.

2. Where either (i) a retiree has been retired from public employment for less than six months, and that retiree is returning to their most recent Government Agency employer in any capacity, or (ii) a retiree is returning to work as a full-time employee with their most recent Government Agency employer, then that employer must complete a form provided by the Division of Pensions substantiating that the retiree's return to employment is needed because of the COVID-19 pandemic, based on that retiree's skills and/or experience, and detailing the retiree's general duties, before that retiree may return to employment pursuant to Paragraph 1 of this Order.

3. Any retiree returning to employment under Paragraph 1 of the Order shall, for purposes of any retirement system, continue to be a retiree. If such retiree is already enrolled in the SHBP as a retiree, they shall continue to maintain such coverage during their temporary return to employment.

4. To the degree that they are inconsistent with Paragraph 1 of this Order, the provisions of N.J.S.A. 43:15A-7(d), N.J.S.A. 43:15A-57.2, N.J.S.A. 43:15A-65, N.J.S.A. 43:16A-3, N.J.S.A. 43:16A-15.3, N.J.S.A. 53:5A-5, N.J.S.A. 53:5A-28, and N.J.A.C. 17:1-17.14, are suspended for the duration of this Emergency. Any provisions of these statutes and regulations that are not inconsistent with this Order remain in full force and effect. Nothing in Paragraph 1 of this Order suspends any other statute or regulation governing employees of Government Agencies, including but not limited to job qualifications and age limits.

5. For the duration of this Emergency, any person who is hired by a Government Agency in response to the COVID-19 pandemic, and who is hired on or after the date of issuance of Executive Order No. 103 (2020), may immediately enroll in the SHBP. The Government Agency employer shall complete a form provided by the Division of Pensions substantiating that the new hire was employed in response to the COVID-19 pandemic. To the degree that they are inconsistent with this Order, the provisions of N.J.S.A. 52:14-17.26, N.J.S.A. 52:14-17.31 and N.J.A.C. 17:9-2.6 (for State employees), and N.J.A.C. 17:9-2.7 (for local government employees), requiring a sixty (60) day waiting period to become eligible for participation in the SHBP, are suspended for the duration of this Emergency. Any provisions of these statutes and regulations that are not inconsistent with this Order remain in full force and effect.

6. The Division of Pensions shall publish a form by April 7, 2020, that employers can fill out to satisfy their obligations relating to retirees under Paragraph 2 of this Order. The Division of Pensions shall publish a separate form by April 7, 2020, that employers can fill out to satisfy their obligations relating to new hires under Paragraph 5 of this Order. Both forms shall be published on the Division of Pensions' Internet website.

7. For the duration of this Emergency, municipalities may employ the number of SLEO IIs as are necessary in the judgment of that law enforcement agency to address public health and safety. The provisions of N.J.S.A. 40A:14-146.17 stating that the number of SLEO IIs in communities other than resort municipalities shall not exceed 25 percent of the total number of regular officers are suspended for the duration of this Emergency.

8. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Executive Order, and to cooperate fully with Administrative Orders issued pursuant to this Executive Order.

9. Penalties for violations of this Executive Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

10. This Order shall take effect immediately and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated April 6, 2020.

EXECUTIVE ORDER NO. 116

WHEREAS, in light of the dangers posed by COVID-19, I issued Executive Order No. 103 (2020) on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, to further protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 (2020) on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, on March 21, 2020, I issued Executive Order No. 107 (2020), superseding Executive Order No. 104 (2020) and requiring New Jersey residents to remain home or at their place of residence subject to limited exceptions, cancelling social gatherings, and limiting all restaurants and other dining establishments to offering only food delivery and/or take-out services; and

WHEREAS, as of April 6, 2020, according to the World Health Organization, there were more than 1,210,000 confirmed cases of COVID-19 worldwide, with over 67,000 of those cases having resulted in death; and

WHEREAS, as of April 6, 2020, according to the Centers for Disease Control, there were more than 330,000 confirmed cases of COVID-19 in the United States, with over 8,900 of those cases having resulted in death; and

WHEREAS, as of April 6, 2020, there were over 41,000 positive cases of COVID-19 in New Jersey, with at least 1,003 of those cases having resulted in death; and

WHEREAS, because allowing certain upcoming elections to proceed during this unprecedented COVID-19 health crisis as they were originally planned would have created hardships and health risks for voters, poll workers, and candidates alike, I issued Executive Order No. 105 (2020), which declared that certain elections set to take place in March and April were postponed until May 12, 2020; and

WHEREAS, pursuant to N.J.S.A. 19:60-1, annual elections for school boards of education in those Type II school districts that have not moved their elections to November pursuant to N.J.S.A. 19:60-1.1 that were scheduled to be held on April 21, 2020 ("April districts"), were postponed by Executive Order No. 105 (2020); and

WHEREAS, pursuant to N.J.S.A. 18A:22-33, within two days following the certification of school board election results, April districts must certify to the county board of taxation the amount of money that voters approved to raise by taxation for the next school year; and

WHEREAS, pursuant to N.J.S.A. 18A:22-37 and N.J.S.A. 18A:13-19, for April districts where the voters reject a proposed budget, May 19, 2020, is the last date for the governing body of each municipality, after consultation with the school board of education, to determine and certify to the county board of taxation the amount of money necessary for school purposes to be raised by taxation for the ensuing year; and

WHEREAS, pursuant to N.J.S.A. 18A:27-10, by May 15, 2020, nontenured teaching staff members must receive either a written offer of a contract for employment for the next school year or a written notice that such employment will not be offered; and

WHEREAS, pursuant to N.J.S.A. 18A:27-11, April districts that are unable to timely provide such notice to nontenured teaching staff members will be deemed to have offered to that teaching staff member continued employment for the next school year with any required salary increases; and

WHEREAS, pursuant to N.J.S.A. 18A:27-12, any nontenured teaching staff member wishing to accept an offer of employment would have to give written notice to the board of education on or before June 1, 2020; and

WHEREAS, in the event of a rejected budget, the original schedule for the April school board elections gave the school boards of April districts ample time to consult with the governing body of each municipality, to develop and present a new budget to the county board of taxation, and to assess the new budget's impact on the ability to retain non-tenured teachers; and

WHEREAS, the postponement of April school board elections to May 12, 2020, may impair the ability of the governing bodies of municipalities and the school boards of April districts to develop and present budgets to county boards of taxation and to make informed decisions regarding the retention of non-tenured teaching staff members; and

WHEREAS, ensuring that all April districts have ample time to develop and present budgets to the county boards of taxation and notify nontenured teaching staff

members of employment decisions is necessary for the proper, effective, and responsible administration of school districts; and

WHEREAS, pursuant to N.J.S.A. 18A:10-3, school boards of April districts must hold an organizational meeting on any day of the first or second week following the election, at which time new members shall take office; and

WHEREAS, pursuant to N.J.S.A. 18A:12-11, school board of education members shall be elected for terms of three years; and

WHEREAS, the terms of school boards of education members who took office at the first organizational meeting following the April election in 2017 are scheduled to expire prior to the May 12, 2020 election; and

WHEREAS, postponing the April 21, 2020 election to May 12, 2020, delays the effective date of the terms of the school board members duly elected until the middle or end of May; and

WHEREAS, without action to lengthen the terms of school board members that are set to expire prior to May 12, 2020, the postponement of the April 21, 2020 election until May 12, 2020 would cause a gap in the effective terms of some school board of education members, creating an adverse disruption to the continuity of the administration of the schools; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. If a proposed budget is rejected by the voters during the school board elections that will take place on May 12, 2020, as a result of Executive Order No. 105 (2020), the May 19 deadline established by N.J.S.A. 18A:22-37 and N.J.S.A. 18A:13-19 for the governing body of each municipality, after consultation with the school board of education, to present and to certify a tax levy to the county board of taxation shall be extended to June 9, 2020.

2. Notwithstanding N.J.S.A. 18A:27-10 and N.J.S.A. 18A:27-11, the requirement to give notice to nontenured teaching staff members as to whether they will be employed for the next succeeding year shall be satisfied by April districts if such notice is provided by June 5, 2020.

3. Notwithstanding the requirements of N.J.S.A. 18A:27-12, any nontenured teaching staff member that desires to accept such employment offered by the board of education of an April district, shall notify the board of education of such acceptance, in writing, on or before June 22, 2020.

4. The terms of April district school board of education members whose terms are due to expire at the first organizational meeting following the April 21, 2020

election shall be extended to the first organizational meeting following the May 12, 2020 election, at which time the terms of the April district school board of education members elected at the May 12, 2020 election shall begin.

5. The terms of the April district school board of education members elected at the May 12, 2020 election shall run as though they had taken office at the first organizational meeting following the originally scheduled April 21, 2020 election.

6. This Order shall take effect immediately.

Dated April 7, 2020.

EXECUTIVE ORDER NO. 117

WHEREAS, in light of the dangers posed by COVID-19, I issued Executive Order No. 103 (2020) on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, to further protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 (2020) on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19, including the closure of all public, private, and parochial preschool program premises, and elementary and secondary schools, including charter and renaissance schools; and

WHEREAS, on March 21, 2020, I issued Executive Order No. 107 (2020), the facts and circumstances of which are also adopted by reference herein, affirming the closure of all public and private schools to students for as long as that Order remains in effect (the "school closure period"); and

WHEREAS, pursuant to Executive Order No. 107 (2020), the Commissioner of Education and the New Jersey Department of Education ("NJDOE") are working closely with school districts and educational agencies to ensure that New Jersey students are able to continue their education during the school closure period through appropriate home instruction methods; and

WHEREAS, as of April 6, 2020, according to the World Health Organization, there were more than 1,210,000 confirmed cases of COVID-19 worldwide, with over 67,000 of those cases having resulted in death; and

WHEREAS, as of April 6, 2020, according to the Centers for Disease Control, there were more than 330,000 confirmed cases of COVID-19 in the United States, with over 8,900 of those cases having resulted in death; and

WHEREAS, as of April 6, 2020, there were over 41,000 positive cases of COVID-19 in New Jersey, with at least 1,003 of those cases having resulted in death; and

WHEREAS, the rapidly-evolving circumstances resulting from COVID-19 demand that the NJDOE operate as efficiently and effectively as possible to ensure that the students of New Jersey continue to receive high-quality education; and

WHEREAS, the ability of the NJDOE to so operate is dependent upon its ability to quickly adapt applicable rules and regulations to fit the unique circumstances presented by COVID-19; and

WHEREAS, on March 24, 2020, due to the mandatory closure of schools throughout the State, the NJDOE submitted a request to the United States Department of Education seeking a waiver of the federal requirement to administer all assessments required under section 1111(b)(2) of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015 ("ESSA"), for school year 2019-2020; and

WHEREAS, on March 24, 2020, the United States Department of Education waived the federal requirement mandating that New Jersey administer annual statewide assessments required pursuant to section 1111(b)(2) of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015, for school year 2019-2020; and

WHEREAS, on March 24, 2020, I announced that statewide assessments would be cancelled for the Spring 2020 testing window, as it is not feasible to move forward with statewide assessments while students are unable to physically attend school due to necessary COVID-19-related closures; and

WHEREAS, the waiver of the federal requirement for statewide assessments does not automatically waive New Jersey statutory and regulatory requirements associated with the administration of annual statewide assessments; and

WHEREAS, pursuant to N.J.S.A. 18A:7C-6.2, a statewide assessment must be administered to all eighth-grade students to assess progress toward mastery of State graduation proficiency standards and this assessment is a part of the statewide assessment system administered in accordance with ESSA accountability requirements; and

WHEREAS, in light of my March 24, 2020 decision to cancel all statewide assessments, the statutory mandate for a statewide eighth-grade assessment must be similarly addressed; and

WHEREAS, pursuant to N.J.S.A. 18A:7C-6, all students must demonstrate proficiency on a state assessment as a condition of graduation from high school; and

WHEREAS, pursuant to N.J.S.A. 18A:7C-3, any twelfth-grade student who has not met the graduation assessment requirement but who has met all the credit, curriculum, and attendance requirements shall be eligible for graduation by way of a portfolio appeal submitted by the school district to the NJDOE; and

WHEREAS, the NJDOE projects that approximately 13,000 students in the class of 2020 will utilize the portfolio appeal process to satisfy the statutory graduation assessment requirement; and

WHEREAS, as of March 27, 2020, approximately 650 portfolio appeals had been received and approved by the NJDOE, leaving approximately 95% of all anticipated portfolio appeals still in need of completion and/or approval; and

WHEREAS, the closure of all schools pursuant to Executive Order No. 107 (2020) presents substantive and procedural difficulties for districts in the compiling of complete portfolio appeals; and

WHEREAS, pursuant to N.J.S.A. 18A:6-123(b)(2) and (4), student performance on statewide assessments must serve as a measure of student progress in overall educator evaluations; and

WHEREAS, the cancellation of statewide assessments for the Spring 2020 testing window will necessarily result in the absence of data regarding student achievement and performance for the 2019-2020 school year and thus prohibit the inclusion of such data as a measure of overall educator performance and evaluation; and

WHEREAS, pursuant to N.J.S.A. 18A:6-123(b)(3), student growth towards locally-determined academic goals must serve as a measure of educator effectiveness in overall educator evaluation; and

WHEREAS, the closure of elementary and secondary schools to students prevents school and district administrators from setting and measuring student performance against locally-determined academic goals; and

WHEREAS, pursuant to N.J.S.A. 18A:6-123(b)(6), educator performance must be linked to student achievement, which involves student performance on statewide assessments and student growth towards locally-determined academic goals; and

WHEREAS, N.J.S.A. 18A:6-121 requires school district superintendents to conduct evaluations of each principal employed by the school district, including an annual summative evaluation, and requires the principal, in conjunction with the superintendent or his or her designee, to conduct evaluations of each assistant principal and vice principal employed in the principal's school, including an annual summative evaluation; and

WHEREAS, given the interference of the present circumstances with the ability of school district administrators to engage in observation and evaluation of principals, assistant principals, and vice principals, the statutory requirements pursuant to N.J.S.A. 18A:6-121 to conduct administrator evaluations are no longer reasonable or appropriate for certain staff members under the circumstances; and

WHEREAS, pursuant to N.J.S.A. 18A:27-3.1, all non-tenured teaching staff must be observed and evaluated in the performance of their duties a minimum of three times prior to April 30 of each school year; and

WHEREAS, Executive Order No. 104 (2020) closed all schools to students effective March 18, 2020, approximately six weeks prior to the April 30 observation and evaluation deadline; and

WHEREAS, given the interference of the present circumstances with the ability of school district administrators to engage in observation and evaluation of non-tenured teaching staff since March 18, 2020, the requirement of three observations and evaluations prior to April 30, 2020, if not already satisfied, is no longer reasonable or appropriate under the circumstances; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Notwithstanding the provisions of any law to the contrary, the Commissioner of Education is authorized and empowered to waive, suspend, or modify any existing rules within Title 6A of the New Jersey Administrative Code, where the enforcement of which would be detrimental to the public welfare during this emergency, for the duration of this Executive Order, subject to my prior approval and in consultation with the State Director of Emergency Management and the Commissioner of the Department of Health. Any such waiver, modification, or suspension shall be promulgated in accordance with N.J.S.A. App. A:9-45.

2. The statutory requirement for a statewide assessment of all eighth-grade students pursuant to N.J.S.A. 18A:7C-6.2 is waived and such assessment is cancelled for the 2019-2020 school year.

3. The statutory graduation assessment requirement mandated by N.J.S.A. 18A:7C-1 et seq. is waived for any twelfth-grade student who is expected to graduate in the class of 2020 but, as of March 18, 2020, had not met said graduation assessment requirement.

4. For the 2019-2020 school year, N.J.S.A. 18A:6-121 and N.J.S.A. 18A:6-123(b)(2), (3), (4), and (6) shall be waived and student growth data shall not be used as a measure of educator effectiveness in the overall evaluation of any educator.

5. The statutory requirement of three observations and evaluations for all non-tenured teaching staff as outlined in N.J.S.A. 18A:27-3.1 is waived for the 2019-2020 school year.

6. This Order shall take effect immediately.

Dated April 7, 2020.

EXECUTIVE ORDER NO. 118

WHEREAS, through Executive Order No. 102 (2020), which I signed on February 3, 2020, I created the State's Coronavirus Task Force, chaired by the Commissioner of the New Jersey Department of Health ("DOH"), in order to coordinate the State's efforts to appropriately prepare for and respond to the public health hazard posed by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, on March 9, 2020, through Executive Order No. 103 (2020), the facts and circumstances of which are adopted by reference herein, I declared both a Public Health Emergency and State of Emergency due to the public health hazard created by COVID-19; and

WHEREAS, on March 16, 2020, through Executive Order No. 104 (2020), the facts and circumstances of which are adopted by reference herein, I adopted statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, in recognition that the Centers for Disease Control ("CDC") has advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020) on March 21, 2020, the facts and circumstances of which are adopted by reference herein, which ordered additional steps to mitigate community spread of COVID-19 and superseded Executive Order No. 104 (2020); and

WHEREAS, Executive Order No. 107 (2020) clarified that it is necessary to limit the unnecessary movement of individuals in and around their communities and person-to-person interactions in accordance with CDC and DOH guidance; and

WHEREAS, to further limit community spread from person-to-person contact through social distancing, Executive Order No. 107 (2020) required, with limited exceptions, New Jersey residents to remain in their place of residence and cancelled all public and social gatherings; and

WHEREAS, Executive Order No. 108 (2020) invalidated any county or municipal restrictions imposed in response to COVID-19 that in any way conflict with Executive Order No. 107 (2020), but contained an exception allowing municipalities and counties to, among other things, impose additional restrictions at municipal or county parks; and

WHEREAS, since the issuance of Executive Order No. 107 (2020), public interaction and gatherings at county and state parks throughout the State, including lands under the Department of Environmental Protection's ("DEP") jurisdiction, have been observed in a manner that is inconsistent with and threatens to undermine the social mitigation strategies necessary to limit the spread of COVID-19, creating risks to public health; and

WHEREAS, lands under DEP's jurisdiction include all State parks, forests, recreation areas, historic sites, marinas, golf courses, botanical gardens, and other lands, waters, and facilities assigned to the State Park Service in DEP's Division of Parks and Forestry ("State Parks and Forests"); and

WHEREAS, recent instances of non-compliance with Executive Order No. 107 have continued in the State Parks and Forests despite verbal warnings and orders to disperse gatherings, ejections from the parks, and the issuance of citations by law enforcement; and

WHEREAS, public usage of State Parks and Forests, as well as county parks, is anticipated to increase during the upcoming spring holiday season and beyond as the weather continually improves outdoors; and

WHEREAS, such increased public usage is likely to encourage additional public interactions and gatherings at State Parks and Forests, as well as county parks, that are inconsistent with and threaten to undermine the State's current social mitigation strategies required by Executive Order No. 107 (2020); and

WHEREAS, it is in the public interest to take decisive action to protect public health by further discouraging uses of public lands that are inconsistent with Executive Order No. 107 (2020); and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Paragraph 3 of Executive Order No. 108 (2020) is hereby superseded to the extent that it allows counties to impose additional restrictions at county parks in response to COVID-19.

2. All State Parks and Forests and county parks must close to the public as long as this Order remains in effect. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions and exclusions to the categories of parks subject to this Order.

3. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Executive Order.

4. Penalties for violations of this Executive Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

5. This Order shall take effect on Tuesday, April 7, 2020, at 8:00 p.m., and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated April 7, 2020.

EXECUTIVE ORDER NO. 119

WHEREAS, on March 9, 2020, through Executive Order No. 103 (2020), the facts and circumstances of which are adopted by reference herein, I declared both a Public Health Emergency and a State of Emergency throughout the State due to the public health hazard created by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, Executive Order No. 103 (2020) described both the symptoms and dangers presented by COVID-19 and the likelihood of community spread across the State, and it recognized the need to use all available statewide authorities to prepare for and respond to COVID-19 cases in New Jersey, to implement appropriate measures to mitigate the spread of COVID-19, and to prepare in the event of an increasing number of individuals requiring medical care or hospitalization; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act (the "Disaster Control Act") and the Emergency Health Powers Act ("EHPA"), to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-118 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, N.J.S.A. 26:13-3(b) establishes that a Public Health Emergency declared by the Governor shall automatically terminate after 30 days, which means the Public Health Emergency declared in Executive Order No. 103 (2020) on March 9, 2020, shall terminate on April 8, 2020, unless renewed for an additional 30 days through a declaration of the Governor; and

WHEREAS, since the Public Health Emergency was declared on March 9, 2020 — at which time there were 11 presumed positive cases of COVID-19 in New Jersey — the public health hazard presented by the COVID-19 outbreak has only grown in scope in New Jersey, in the region, and across the United States; and

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services ("HHS") Secretary declared a public health emergency for the United States to aid the nation's healthcare community in responding to COVID-19; and

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency pursuant to his constitutional and statutory powers, including those granted by Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, et seq., and consistent with Section 1135 of the Social Security Act, as amended, 42 U.S.C. § 1320b-5; and

WHEREAS, the emergency declarations by the President and the HHS Secretary remain in effect today; and

WHEREAS, also on March 13, 2020, the President determined that the COVID-19 pandemic was of sufficient severity and magnitude to warrant an emergency declaration under Section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("Stafford Act"), 42 U.S.C. § 5121-5207, which remains in effect today; and

WHEREAS, on March 25, 2020, the President determined that the COVID-19 pandemic was of sufficient severity and magnitude to warrant a major disaster declaration under Section 401 of the Stafford Act, 42 U.S.C. § 5121-5207, which remains in effect today; and

WHEREAS, as of April 7, 2020, the governments of 41 states, the District of Columbia, and Puerto Rico have ordered residents to stay at home in order to reduce the transmission of COVID-19 in their states and across the United States; and

WHEREAS, as of April 6, 2020, according to the World Health Organization, there were more than 1,210,000 confirmed cases of COVID-19 worldwide, with over 67,000 of those cases having resulted in death; and

WHEREAS, as of April 6, 2020, according to the Centers for Disease Control, there were more than 330,000 confirmed cases of COVID-19 in the United States, with over 8,900 of those cases having resulted in death; and

WHEREAS, as of April 6, 2020, there were over 41,000 positive cases of COVID-19 in New Jersey, with at least 1,003 of those cases having resulted in death; and

WHEREAS, as of April 6, 2020, there were positive cases of COVID-19 in every county in New Jersey, and there have been deaths relating to COVID-19 in every county in New Jersey; and

WHEREAS, even as we institute social distancing measures, the number of COVID-19 cases in New Jersey is anticipated to continue to increase for the immediate future; and

WHEREAS, although the State has made all reasonable efforts to procure medical resources from the federal government, existing State supplies, donations, and private sector purchasing, there is a critical shortage of medical resources in the State, particularly in hospitals, healthcare facilities, and emergency response agencies in the northern region of the State where the spread of COVID-19 is particularly acute and where there has been a particularly high volume of COVID-19 hospitalizations; and

WHEREAS, the Commissioner of the Department of Health ("DOH") has also determined that the State needs the help of additional qualified health, mental health, and related professionals to supplement our healthcare capacity on a temporary basis to address the health care needs relating to the COVID-19 outbreak; and

WHEREAS, there are also thousands of law enforcement officers in New Jersey currently unable to report to duty, the vast majority of which because they tested positive for COVID-19 or are currently in quarantine; and

WHEREAS, the spread of COVID-19 has greatly strained the resources and capabilities of county and municipal governments, including public health agencies, that provide essential services for containing and mitigating the spread of contagious diseases, and the situation is too large in scope to be handled entirely by the normal county and municipal operating services; and

WHEREAS, the facts as set forth above and consultation with the Commissioner of DOH confirm that the spread of COVID-19 in New Jersey constitutes an ongoing public health hazard that threatens and presently endangers the health, safety, and welfare of the residents of one or more municipalities or counties of the State, and it is necessary and appropriate to take action against this public health hazard to protect and maintain the health, safety, and welfare of New Jersey residents and visitors; and

WHEREAS, the facts as set forth above and consultation with the Commissioner of DOH confirms that there exists a public health emergency in the State; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto,

confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby DECLARE and PROCLAIM that the Public Health Emergency declared in Executive Order No. 103 (2020) pursuant to the EHPA, N.J.S.A. 26:13-1, et seq., continues to exist throughout the State of New Jersey, and I hereby ORDER and DIRECT:

1. All Executive Orders adopted in whole or in part based on the authority under the EHPA to respond to the Public Health Emergency presented by the COVID-19 outbreak remain in full force and effect.

2. All actions taken by any Executive Branch departments and agencies in whole or in part based on the authority under the EHPA to respond to the Public Health Emergency presented by the COVID-19 outbreak, or in whole or in part based on authority delegated by any Executive Orders described in Paragraph 1 of this Order, including but not limited to any Administrative Orders, remain in full force and effect.

3. For purposes of this Order, "Executive Branch departments and agencies" shall mean any of the principal departments in the Executive Branch of State government and any agency, authority, board, bureau, commission, division, institution, office, or other instrumentality within or created by any such department, and any independent State authority, commission, instrumentality, or agency over which the Governor exercises executive authority, as determined by the Attorney General.

4. This Order shall take effect immediately.

Dated April 7, 2020.

EXECUTIVE ORDER NO. 120

WHEREAS, in light of the dangers posed by COVID-19, I issued Executive Order No. 103 (2020) on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, to further protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 (2020) on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, on March 21, 2020, I issued Executive Order No. 107 (2020), superseding Executive Order No. 104 (2020) and requiring New Jersey residents to remain home or at their place of residence subject to limited exceptions, cancelling

social gatherings, and limiting all restaurants and other dining establishments to offering only food delivery and/or take-out services; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119 (2020), which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, as of April 7, 2020, according to the World Health Organization, there were more than 1,279,000 confirmed cases of COVID-19 worldwide, with over 72,000 of those cases having resulted in death; and

WHEREAS, as of April 7, 2020, according to the Centers for Disease Control, there were more than 374,000 confirmed cases of COVID-19 in the United States, with over 12,000 of those cases having resulted in death; and

WHEREAS, as of April 7, 2020, there were over 44,400 positive cases of COVID-19 in New Jersey, with at least 1,232 of those cases having resulted in death; and

WHEREAS, on March 19, 2020, I issued Executive Order No. 105 (2020), which declared that certain elections set to take place in March and April were postponed until May 12, 2020, because allowing those elections to proceed as they were originally planned during this unprecedented COVID-19 health crisis would create hardships and health risks for voters, poll workers and candidates alike; and

WHEREAS, pursuant to Executive Order No. 105 (2020), there will be no polling places in the elections now scheduled for May 12, 2020, and all registered voters will instead be receiving vote-by-mail ballots; and

WHEREAS, pursuant to N.J.S.A. 19:2-1 and N.J.S.A. 19:23-40, the primary elections for the November general election are scheduled to be held on June 2, 2020, the Tuesday after the first Monday in June; and

WHEREAS, pursuant to N.J.S.A. 19:2-1, the primary elections for delegates and alternates to the national conventions of political parties are scheduled to be held on June 2, 2020, the Tuesday after the first Monday in June; and

WHEREAS, preparations for the June primary elections begin in earnest in April with, among other steps, the submission of the certified list of suggested polling places pursuant to N.J.S.A. 19:8-2 and the mailing of vote-by-mail ballots for the June primary elections pursuant to N.J.S.A. 19:63-9; and

WHEREAS, public health officials have predicted that the peak of COVID-19 cases in New Jersey will occur in April; and

WHEREAS, preparing for the June primary elections during the potential height of the COVID-19 emergency will negatively impact election officials' preparation efforts; and

WHEREAS, the COVID-19 emergency and its impact are likely to extend for an as-yet-undetermined period of time beyond the estimated peak; and

WHEREAS, the uncertain timeline of the COVID-19 emergency makes it difficult for election officials and voters to properly plan and prepare for and fully participate in the June primary elections; and

WHEREAS, in recognition of the severity of and uncertainty surrounding the COVID-19 emergency, the Democratic National Convention has been postponed

from July 13-16, 2020, to August 17-20, 2020 - close in time to the Republican National Convention, which is scheduled for August 24-27, 2020; and

WHEREAS, both national party conventions are now being held in August, which mitigates the need for the presidential primary elections and the primary elections for delegates and alternates to the national conventions to be held in June; and

WHEREAS, the June primary elections for the United States Senate, the United States House of the Representatives, and the 25th Legislative District of the New Jersey Legislature, as well as upcoming county and municipal primary elections and county committee elections, are not tied to national or state party conventions, providing flexibility on when they can occur; and

WHEREAS, the June primary elections do not implicate budget deadlines, employment decisions, or forms of government like certain elections that were changed to exclusively vote-by-mail in Executive Order No. 105 (2020), and therefore can be postponed without impacting federal, state, or local government functions; and

WHEREAS, States generally have discretion to dictate the time, manner, and place of elections in the absence of controlling federal law; and

WHEREAS, allowing the June primary elections to proceed as they were originally planned during this unprecedented COVID-19 health crisis will create hardships and health risks for voters, poll workers, and candidates alike; and

WHEREAS, election officials require flexibility and sufficient lead time to adapt the State's voting infrastructure to confront the magnitude of the public health and safety risks of the COVID-19 pandemic; and

WHEREAS, social distancing measures are required for a period of as-yet-undetermined duration, and the COVID-19 outbreak may have significant effects on New Jersey's voting systems as long as social distancing measures are in place and for some time thereafter; and

WHEREAS, the full participation of voters and candidates is critical to a robust democracy; and

WHEREAS, failing to take proactive actions to mitigate the adverse impacts of the current health crisis on the upcoming primary and other scheduled elections carries the risk of disenfranchising countless citizens; and

WHEREAS, expecting voters to report to public polling locations to vote in June in the midst of the COVID-19 crisis will hinder public participation in the democratic process, particularly among elderly and immune-compromised voters, and undermine the legislative intent of provisions like N.J.S.A. 19:8-2 and 19:8-3.1, which are designed to ensure that such voters can exercise their right to vote; and

WHEREAS, postponing the June primary elections will give New Jersey election officials enough time to take the necessary steps to address the negative impacts of the present health crisis on the upcoming primary elections, allowing voters to exercise their constitutional franchise without jeopardizing their health and safety, and increase the likelihood that the elections will include in-person voting; and

WHEREAS, in lieu of a primary election, Independent candidates must submit petitions for direct nomination for the November general election, N.J.S.A. 19:13-3 through -9; and

WHEREAS, pursuant to N.J.S.A. 19:13-9, petitions for direct nomination for the November general election are due by 4:00 p.m. on the day of the primary election for the general election, which currently is June 2, 2020; and

WHEREAS, to ensure that Independent candidates are not disadvantaged relative to political party candidates, postponing the June primary elections should also result in the postponement of the deadline for petitions for direct nomination for the general election; and

WHEREAS, to limit unnecessary person-to-person contact during the COVID-19 emergency, Executive Order No. 105 (2020) also required the electronic collection and submission of political party candidate and delegate petitions through an online form created by the Secretary of State; and

WHEREAS, allowing Independent candidates to submit their petitions electronically, in addition to hand delivery, will help limit unnecessary person-to-person contact; and

WHEREAS, allowing voters to fill out and submit petitions electronically, so that candidates and campaigns need not physically gather petitions by going to individual voters in person, will help limit unnecessary person-to-person contact; and

WHEREAS, New Jersey citizens are presently faced with the choice of exercising their constitutional franchise, or endangering their health and safety; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The federal and State primary elections scheduled for June 2, 2020, shall be postponed and rescheduled for Tuesday, July 7, 2020.

2. Any other election scheduled for a date on or between May 13, 2020, and July 7, 2020, shall be postponed and rescheduled for Tuesday, July 7, 2020.

3. With the primary elections being postponed and rescheduled for July 7, 2020, all deadlines for meeting statutory requirements for a primary election shall be calculated using the July 7, 2020 primary election date, except for any deadlines that occur prior to April 11, 2020 when calculated using the June 2, 2020 date, including but not limited to the filing deadline for candidate petitions for the primary election. Notwithstanding the preceding sentence, the party affiliation deadline under N.J.S.A. 19:23-45 shall be calculated based on the July 7, 2020 primary election date.

4. Petitions for direct nomination for the general election filed under N.J.S.A. 19:13-3 through -9 shall be due by 4:00 p.m. on July 7, 2020.

5. The electronic signature and submission requirements that are set forth in Paragraphs 1, 2, 3, 4, and 5 of Executive Order No. 105 (2020) shall be extended to the petitions for direct nomination for the general election filed under N.J.S.A. 19:13-3 through -9 that are due by 4:00 p.m. on July 7, 2020.

6. This Order shall take effect immediately.

Dated April 8, 2020.

EXECUTIVE ORDER NO. 121

WHEREAS, on March 9, 2020, through Executive Order No. 103 (2020), the facts and circumstances of which are adopted by reference herein, I declared both a Public Health Emergency and a State of Emergency throughout the State due to the public health hazard posed by Coronavirus disease 2019 (COVID-19); and

WHEREAS, on April 7, 2020, through Executive Order No. 119 (2020), the facts and circumstances of which are adopted by reference herein, I declared that the Public Health Emergency that was declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on March 13, 2020, the Federal Motor Safety Carrier Administration issued Emergency Declaration 2020-02, pursuant to 49 C.F.R. 390.23, waiving Parts 90 to 99 of Title 49 of the C.F.R. to allow motor carriers to more efficiently and swiftly deliver emergency relief, as that term is defined in 49 C.F.R. 390.05T, needed to prevent or treat COVID-19 or to address shortages caused by the COVID-19 pandemic, but not varying highway weight requirements for federal motor carriers; and

WHEREAS, on March 25, 2020, the President of the United States determined that the COVID-19 pandemic was of sufficient severity and magnitude to warrant a major disaster declaration under Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("Stafford Act"), 42 U.S.C. 5121-5207, which remains in effect today; and

WHEREAS, 23 U.S.C. 127 provides that a State may issue special permits during an emergency to overweight vehicles and loads that can easily be dismantled or divided if the President has declared the emergency to be a major disaster under the Stafford Act, the permits are issued in accordance with state law, and the permits are issued exclusively to vehicles and loads that are delivering relief supplies; and

WHEREAS, the Commissioner of the New Jersey Department of Transportation ("NJDOT") has authority to regulate traffic on State highways and transportation systems; and

WHEREAS, the New Jersey Turnpike Authority and South Jersey Transportation Authority have authority to regulate traffic on roadways within their respective jurisdictions; and

WHEREAS, the Commissioner of NJDOT has recognized that a specific transportation emergency exists throughout the State in that some deliveries of relief supplies may be delayed or deterred due to the existing regulations concerning Gross

Vehicle Weights ("GVW") on Interstate Highways, which delay or deterrence would negatively impact the public health, safety, and welfare; and

WHEREAS, motor vehicles with a GVW of 80,000 pounds are the current maximum limit within Interstate Highway System, and given the urgent need to transport relief supplies and essential materials quickly and efficiently, there may be circumstances when that maximum weight needs to be temporarily exceeded; and

WHEREAS, the continued and uninterrupted delivery of relief supplies throughout the State during this State of Emergency and Public Health Emergency is vital to the preservation of the health, safety, and welfare of the residents of New Jersey; and

WHEREAS, the Commissioner of NJDOT, the New Jersey Turnpike Authority, and South Jersey Transportation Authority have determined that the operation of overweight vehicles pursuant to the terms of this Order is consistent with roadway safety; and

WHEREAS, issuing special permits to what would otherwise be overweight vehicles for the delivery of relief supplies will facilitate recovery efforts while not compromising roadway safety; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Motor vehicles transporting relief supplies necessary for the response to the COVID-19 State of Emergency and Public Health Emergency shall be eligible to receive a special permit issued by NJDOT allowing up to a 15% tolerance, for a maximum of 92,000 pounds, on a vehicle with a minimum of five axles, above any weight limit imposed by statute or regulations at N.J.A.C. 13:18-1 et seq., on the Highways or portions thereof set forth in paragraph 4. This increased tolerance shall be the only increased tolerance applicable to the vehicle and includes gross weight and axle weight.

2. For purposes of this Order, relief supplies relating to the COVID-19 State of Emergency and Public Health Emergency include but are not limited to, medicine, medical equipment, food supplies including feed for livestock, water, and materials for construction of temporary housing and healthcare facilities.

3. Motor vehicles exceeding 80,000 pounds and carrying a divisible load of relief supplies shall obtain a permit through a web-based portal maintained at https://www.state.nj.us/transportation/freight/trucking/oversize.shtm

4. The additional 15% increased weight tolerance only applies to the following roadways:

a. the Interstates within the State;

b. the New Jersey Turnpike;

c. the Garden State Parkway from Exit 105 Southbound; and

d. the Atlantic City Expressway.

5. Notwithstanding the provisions of this Order, the additional 15% increased weight tolerance permitted by this Order shall not apply to the following, and instead the current weight restrictions as determined by the Commissioner of NJDOT, New Jersey Turnpike Authority, and South Jersey Transportation Authority shall apply:

a. I-78 Eastbound and Westbound bridges at Milepost 8.71 over Norfolk Southern Railroad in Hunterdon County;

b. I-80 Ramp D (Landing Rd SB to I-80 EB) at Milepost 28.91 over Landing Road Northbound in Morris County, upon which the Commissioner determines the weight restrictions shall remain; and

c. North of Exit 105 on the Garden State Parkway.

6. Notwithstanding the provisions of this Order, motor vehicles shall not exceed any tire manufacturer's maximum load capacity rating.

7. Other than for reasonable access to terminals, as set forth in N.J.A.C. 16:32-1.5, existing weight restrictions remain on all other State, county and local roads.

8. Nothing in this Executive Order relieves the motor carrier or driver of the responsibility for safe operation of the vehicle.

9. This Order is not intended to modify or supersede the existing authorities of the New Jersey Attorney General or State Director of Emergency Management, who is the Superintendent of the State Police, regarding roadways within the State.

10. In accordance with N.J.S.A. App. A:9-40, no municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Executive Order, or which will in any way interfere with or impede its achievement.

11. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Executive Order, and to cooperate fully with Administrative Orders issued pursuant to this Executive Order.

12. This Order shall take effect at 9:00 p.m. on April 8, 2020, and shall remain in effect for 120 days following March 25, 2020, which is the date of the President's major disaster declaration under the Stafford Act, unless otherwise rescinded, superseded or revised by me.

Dated April 8, 2020.

EXECUTIVE ORDER NO. 122

WHEREAS, through Executive Order No. 102 (2020), which I signed on February 3, 2020, I created the State's Coronavirus Task Force, chaired by the Commissioner of the New Jersey Department of Health ("DOH"), in order to coordinate the State's efforts to appropriately prepare for and respond to the public health hazard posed by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, on March 9, 2020, through Executive Order No. 103 (2020), the facts and circumstances of which are adopted by reference herein, I declared both a Public Health Emergency and a State of Emergency throughout the State due to the public health hazard created by COVID-19; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119 (2020), which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserved the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, on March 16, 2020, through Executive Order No. 104 (2020), the facts and circumstances of which are adopted by reference herein, I established statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, in recognition that the Centers for Disease Control and Prevention ("CDC") has advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020), on March 21, 2020, the facts and circumstances of which are adopted by reference herein, which ordered steps to mitigate community spread of COVID-19; and

WHEREAS, Executive Order No. 107 (2020) closed non-essential retail businesses to the public, but permitted essential retail businesses and other businesses that require an in-person workforce to continue to operate; and

WHEREAS, Executive Order No. 107 (2020) institutes clear parameters on essential retail businesses that are permitted to operate and requires that all businesses or non-profits utilize telework or work-from-home arrangements wherever practicable; and

WHEREAS, Executive Order No. 107 (2020) stated that businesses or non-profits who have employees who cannot perform their functions via telework or work-from-home arrangements should make best efforts to reduce staff on site to the minimal number necessary to ensure that essential operations can continue; and

WHEREAS, Executive Order No. 107 (2020) noted that examples of such workers who need to be physically present at their work site include construction workers; and

WHEREAS, construction sites are inherently difficult environments for social distancing to occur, as they frequently require large numbers of individuals to touch

the same surfaces, gather closely together in areas such as service elevators, and use common facilities such as portable restrooms; and

WHEREAS, while some construction is needed to expand our health care system's capacity, address immediate infrastructure deficiencies, and prevent future disruptions in various areas such as education, housing, and transportation, which are themselves tied to the public health and safety, other construction projects do not need to proceed immediately and should be postponed in light of public health considerations; and

WHEREAS, essential retail businesses continue to deliver critical goods like food and medical supplies to the State's residents; and

WHEREAS, the State's manufacturing and warehousing businesses, where essential goods are made and/or stored before delivery to the retail business or consumer, continue to provide a vital service to the public by fueling our supply chain and continue to contribute to New Jersey's response to the present pandemic; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119 (2020), which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, as of April 7, 2020, according to the World Health Organization, there were more than 1,279,000 confirmed cases of COVID-19 worldwide, with over 72,000 of those cases having resulted in death; and

WHEREAS, as of April 7, 2020, according to the Centers for Disease Control, there were more than 374,000 confirmed cases of COVID-19 in the United States, with over 12,000 of those cases having resulted in death; and

WHEREAS, as of April 7, 2020, there were over 44,400 positive cases of COVID-19 in New Jersey, with at least 1,232 of those cases having resulted in death; and

WHEREAS, workers at essential retail businesses are continually exposed to members of the public, increasing their risk of exposure to COVID-19; and

WHEREAS, workers in the manufacturing, warehousing, and construction industries are typically forced to work in close contact with other individuals and regularly come into contact with goods, materials, and equipment that is delivered or accessible to members of the public; and

WHEREAS, even as we have limited essential business operations, the number of COVID-19 cases in New Jersey is anticipated to continue to increase for the immediate future, meaning we must take additional steps to ensure that businesses are following public health guidelines regarding social distancing, cleaning, sanitizing, and hygiene practices; and

WHEREAS, imposing specific mitigation requirements on these industries will permit members of the public to access essential goods and services while also preventing increased spread of COVID-19; and

WHEREAS, the CDC has stated that such cloth face coverings must fit snugly but comfortably against the side of the face, be secured with ties or ear loops, include multiple layers of fabric, allow for breathing without restriction, and be able to be laundered and machine dried without damage or change to shape; and

WHEREAS, the CDC has also stated that cloth face coverings should not be placed on young children under age 2, anyone who has trouble breathing, or is unconscious, incapacitated or otherwise unable to remove the mask without assistance; and

WHEREAS, the CDC has stated that older adults and people of any age who have serious underlying medical conditions might be at higher risk for severe illness from COVID-19; and

WHEREAS, the CDC has now recommended that all residents wear cloth face coverings in public settings where other social distancing measures are difficult to maintain, such as grocery stores and pharmacies, particularly in areas of significant community-based transmission; and

WHEREAS, the CDC has also recommended certain cleaning and disinfecting procedures for businesses to reduce potential spread of COVID-19 to staff and members of the public; and

WHEREAS, the CDC has stated that older adults and people of any age who have serious underlying medical conditions might be at higher risk for severe illness from COVID-19; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Where an essential retail business is permitted to maintain in-person operations pursuant to Executive Order No. 107 (2020) and any subsequent Administrative Orders, such business must adopt policies that include, at minimum, the following requirements:

a. Limit occupancy at 50% of the stated maximum store capacity, if applicable, at one time;

b. Establish hours of operation, wherever possible, that permit access solely to high-risk individuals, as defined by the CDC;

c. Install a physical barrier, such as a shield guard, between customers and cashiers/baggers wherever feasible or otherwise ensure six feet of distance between those individuals, except at the moment of payment and/or exchange of goods;

d. Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;

e. Provide employees break time for repeated handwashing throughout the workday;

f. Arrange for contactless pay options, pickup, and/or delivery of goods wherever feasible. Such policies shall, wherever possible, consider populations that do not have access to internet service;

g. Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to staff and customers;

h. Require frequent sanitization of high-touch areas like restrooms, credit card machines, keypads, counters and shopping carts;

i. Place conspicuous signage at entrances and throughout the store, if applicable, alerting staff and customers to the required six feet of physical distance;

j. Demarcate six feet of spacing in check-out lines to demonstrate appropriate spacing for social distancing; and

k. Require workers and customers to wear cloth face coverings while on the premises, except where doing so would inhibit that individual's health or where the individual is under two years of age, and require workers to wear gloves when in contact with customers or goods. Businesses must provide, at their expense, such face coverings and gloves for their employees. If a customer refuses to wear a cloth face covering for non-medical reasons and if such covering cannot be provided to the individual by the business at the point of entry, then the business must decline entry to the individual, unless the business is providing medication, medical supplies, or food, in which case the business policy should provide alternate methods of pickup and/or delivery of such goods. Nothing in the stated policy should prevent workers or customers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if the business is otherwise required to provide such worker with more protective equipment due to the nature of the work involved. Where an individual declines to wear a face covering on store premises due to a medical condition that inhibits such usage, neither the essential retail business nor its staff shall require the individual to produce medical documentation verifying the stated condition.

2. The physical operations of all non-essential construction projects shall cease when this Order takes effect. "Essential construction projects" shall be defined as the following:

a. Projects necessary for the delivery of health care services, including but not limited to hospitals, other health care facilities, and pharmaceutical manufacturing facilities;

b. Transportation projects, including roads, bridges, and mass transit facilities or physical infrastructure, including work done at airports or seaports;

c. Utility projects, including those necessary for energy and electricity production and transmission, and any decommissioning of facilities used for electricity generation;

d. Residential projects that are exclusively designated as affordable housing;

e. Projects involving pre-K-12 schools, including but not limited to projects in Schools Development Authority districts, and projects involving higher education facilities;

f. Projects already underway involving individual single-family homes, or an individual apartment unit where an individual already resides, with a construction crew of 5 or fewer individuals. This includes additions to single-family homes such as solar panels;

g. Projects already underway involving a residential unit for which a tenant or buyer has already entered into a legally binding agreement to occupy the unit by a certain date, and construction is necessary to ensure the unit's availability by that date;

h. Projects involving facilities at which any one or more of the following takes place: the manufacture, distribution, storage, or servicing of goods or products that are sold by online retail businesses or essential retail businesses, as defined by Executive Order No. 107 (2020) and subsequent Administrative Orders adopted pursuant to that Order;

i. Projects involving data centers or facilities that are critical to a business's ability to function;

j. Projects necessary for the delivery of essential social services, including homeless shelters;

k. Any project necessary to support law enforcement agencies or first responder units in their response to the COVID-19 emergency;

l. Any project that is ordered or contracted for by Federal, State, county, or municipal government, or any project that must be completed to meet a deadline established by the Federal government;

m. Any work on a non-essential construction project that is required to physically secure the site of the project, ensure the structural integrity of any buildings on the site, abate any hazards that would exist on the site if the construction were to remain in its current condition, remediate a site, or otherwise ensure that the site and any buildings therein are appropriately protected and safe during the suspension of the project; and

n. Any emergency repairs necessary to ensure the health and safety of residents.

3. Manufacturing businesses, warehousing businesses, and businesses engaged in essential construction projects must adopt policies that include, at minimum, the following requirements:

a. Prohibit non-essential visitors from entering the worksite;

b. Limit worksite meetings, inductions, and workgroups to groups of fewer than ten individuals;

c. Require individuals to maintain six feet or more distance between them wherever possible;

d. Stagger work start and stop times where practicable to limit the number of individuals entering and leaving the worksite concurrently;

e. Stagger lunch breaks and work times where practicable to enable operations to safely continue while utilizing the least number of individuals possible at the site;

f. Restrict the number of individuals who can access common areas, such as restrooms and breakrooms, concurrently;

g. Require workers and visitors to wear cloth face coverings, in accordance with CDC recommendations, while on the premises, except where doing so would inhibit the individual's health or the individual is under two years of age, and require workers to wear gloves while on the premises. Businesses must provide, at their expense, such face coverings and gloves for their employees. If a visitor refuses to wear a cloth face covering for non-medical reasons and if such covering cannot be provided to the individual by the business at the point of entry, then the business must decline entry to the individual. Nothing in the stated policy should prevent workers or visitors from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if the businesses is otherwise required to provide such worker with more protective equipment due to the nature of the work involved. Where an individual declines to wear a face covering on the premises due to a medical condition that inhibits such usage, neither the business nor its staff shall require the individual to produce medical documentation verifying the stated condition;

h. Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;

i. Limit sharing of tools, equipment, and machinery;

j. Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to workers and visitors; and

k. Require frequent sanitization of high-touch areas like restrooms, breakrooms, equipment, and machinery.

4. All essential retail businesses, warehousing businesses, manufacturing businesses, and businesses performing essential construction projects must also adopt policies that include, at minimum, the following requirements:

a. Immediately separate and send home workers who appear to have symptoms consistent with COVID-19 illness upon arrival at work or who become sick during the day;

b. Promptly notify workers of any known exposure to COVID-19 at the worksite, consistent with the confidentiality requirements of the Americans with Disabilities Act and any other applicable laws;

c. Clean and disinfect the worksite in accordance with CDC guidelines when a worker at the site has been diagnosed with COVID-19 illness; and

d. Continue to follow guidelines and directives issued by the New Jersey Department of Health, the CDC and the Occupational Health and Safety Administration, as applicable, for maintaining a clean, safe and healthy work environment.

5. Where a business is authorized to maintain in-person operations pursuant to Executive Order No. 107 (2020) and subsequent Administrative Orders, owners of buildings used for commercial, industrial or other enterprises, including but not limited to facilities for warehousing, manufacturing, commercial offices, airports, grocery stores, universities, colleges, government, hotels, and residential buildings with at least 50 units, shall adopt policies that, at minimum, implement the following cleaning protocols in areas where operations are conducted:

a. Clean and disinfect high-touch areas routinely in accordance with CDC guidelines, particularly in spaces that are accessible to staff, customers, tenants, or other individuals, and ensure cleaning procedures following a known or potential exposure in a facility are in compliance with CDC recommendations;

b. Otherwise maintain cleaning procedures in all other areas of the facility; and

c. Ensure that the facility has a sufficient number of workers to perform the above protocols effectively and in a manner that ensures the safety of occupants, visitors, and workers.

6. The State Director of Emergency Management ("State Director"), who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

7. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Executive Order, and to cooperate fully with Administrative Orders issued pursuant to this Executive Order.

8. Penalties for violations of this Executive Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

9. This Order shall take effect beginning at 8:00 p.m. on Friday, April 10, 2020, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated April 8, 2020.

EXECUTIVE ORDER NO. 123

WHEREAS, through Executive Order No. 102 (2020), which I signed on February 3, 2020, I created the State's Coronavirus Task Force, chaired by the Commissioner of the New Jersey Department of Health ("DOH"), in order to coordinate the State's efforts to appropriately prepare for and respond to the public health hazard posed by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, on March 9, 2020, through Executive Order No. 103 (2020), the facts and circumstances of which are adopted by reference herein, I declared both a Public Health Emergency and a State of Emergency throughout the State due to the public health hazard created by COVID-19; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserved the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, on March 16, 2020, through Executive Order No. 104 (2020), the facts and circumstances of which are adopted by reference herein, I established statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, in recognition that the Centers for Disease Control and Prevention ("CDC") has advised that social mitigation strategies for combatting COVID-19

require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020), on March 21, 2020, the facts and circumstances of which are adopted by reference herein, which ordered steps to mitigate community spread of COVID-19; and

WHEREAS, through Executive Order No. 119 (2020), which I signed on April 7, 2020, all Executive Orders, Administrative Orders, and actions taken by any Executive Branch departments and agencies in whole or in part based on the authority under the Emergency Health Powers Act to respond to the Public Health Emergency presented by the COVID-19 outbreak remain in full force and effect; and

WHEREAS, as of April 8, 2020, according to the World Health Organization, there were more than 1,350,000 confirmed cases of COVID-19 worldwide, with over 79,000 of those cases having resulted in death; and

WHEREAS, as of April 8, 2020, according to the CDC, there were more than 395,000 confirmed cases of COVID-19 in the United States, with over 12,700 of those cases having resulted in death; and

WHEREAS, as of April 8, 2020, there were over 47,000 positive cases of COVID-19 in New Jersey, with at least 1,504 of those cases having resulted in death; and

WHEREAS, as of April 8, 2020, there were positive cases of COVID-19 in every county in New Jersey, and there have been deaths relating to COVID-19 in every county in New Jersey; and

WHEREAS, the emergency public health measures implemented to combat COVID-19 are contributing to widespread interruptions and loss of income for many New Jersey consumers and businesses; and

WHEREAS, according to the New Jersey Department of Labor and Workforce Development, nearly 215,000 new unemployment claims were filed with the department for the week ending April 4, 2020 bringing the two-week total of new claims to almost 577,000; and

WHEREAS, on March 19, 2020, the Commissioner of Banking and Insurance issued Bulletin 20-04, which encouraged entities regulated by the Division of Insurance to assist policyholders affected by the COVID-19 outbreak by relaxing due dates, and allowing deferments and forbearances in a manner "consistent with prudent insurance practices"; and

WHEREAS, Bulletin 20-04 also encouraged entities regulated by the Division of Banking to assist persons affected by the COVID-19 outbreak by relaxing due dates, extending grace periods, and waiving late fees in a manner "consistent with safe-and-sound banking practices"; and

WHEREAS, an insurer may cancel an insured's coverage for failure to pay a health insurance premium following a "grace period," which periods are established by Titles 17 and 17B of the Revised Statutes, including but not limited to, a period of not less than 10 days for hospital service corporations (N.J.S.A. 17:48-6), medical service corporations (N.J.S.A. 17:48A-6), dental service corporations (N.J.S.A.

17:48C-8), and health service corporations (N.J.S.A. 17:48E-19); not less than 31 days for individual health insurance policies (N.J.S.A. 17B:26-6); and for the time specified in a group policy (N.J.S.A. 17B:27-37); and

WHEREAS, an insurer may cancel an insured's coverage for failure to pay a life insurance premium following a "grace period," which periods are established by Title 17B of the Revised Statutes, including but not limited to, a period of not less than 30 days for traditional life insurance (N.J.S.A. 17B:25-3), and in certain circumstances for account value life insurance policies not less than 60 days (N.J.A.C. 11:4-41.3); and

WHEREAS, an insurer may cancel an insured's coverage for failure to pay premium for property and casualty insurance following a "grace period," which periods are established by Title 17 of the Revised Statutes, including but not limited to, for other than personal automobile and workers' compensation, upon not less than 10 days' written notice to the insured (N.J.A.C. 11:1-20.2); for personal automobile insurance, upon not less than 15 days written notice to the insured (N.J.S.A. 17:29C-8, N.J.A.C. 11:3-7.6, and 11:3-8.11); and for workers' compensation insurance, upon not less than 30 days' written notice to the insured (N.J.S.A. 17:29C-1); and

WHEREAS, an insurance premium finance company may cancel an insurance contract upon default, upon not less than 10 days written notice under N.J.S.A. 17:16D-13; and

WHEREAS, while currently health benefits plans generally include a grace period during which period the policy shall continue in force, in certain policies an extended grace period is available during which period claims may be pended and, if premium is not paid, become the policyholder's responsibility; and

WHEREAS, the statutory scheme described herein could result in the cancellation of health benefits, life insurance, or other types of insurance for New Jersey residents, at a time when many residents will require access to health care relating to COVID-19 and at a time when the health care system is extended; and

WHEREAS, it is necessary to replace these grace periods with extended "emergency grace periods" to prevent the loss of access to benefits and insurance during a Public Health Emergency; and

WHEREAS, for these reasons, among others, the strict enforcement of certain statutory provisions relating to insurance grace periods is detrimental to the public welfare; and

WHEREAS, pursuant to N.J.S.A. App. A:9-47, the Governor is authorized to, among other things, suspend any regulatory provision of law when its enforcement is detrimental to the public welfare during an emergency; and

WHEREAS, pursuant to N.J.S.A. App. A:7-1, the Commissioner of the Department of Banking and Insurance has the power to make, alter, amend, and rescind rules and regulations imposing any condition upon the conduct of the business of any insurance company that may be necessary or desirable to maintain sound methods of insurance and to safeguard the interests of policyholders, beneficiaries, and the public generally, during the period of an emergency; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2- 4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. All property and casualty insurance companies, life insurance companies, insurance premium finance companies, health insurance companies, health maintenance organizations, health service corporations and other entities issuing health or dental benefits plans in this State (collectively, "subject entities") shall not cancel during the emergency grace period any policy or contract as a result of nonpayment as defined as follows:

a. In the case of property and casualty insurance companies, life insurance companies, and insurance premium finance companies, for a period of at least 90 days, during which period claims shall be paid without regard to prior nonpayment of premium by the policyholder; and

b. In the case of health insurance companies, health maintenance organizations, health service corporations and other entities issuing health or dental benefits plans in this State, for a period of at least 60 days, during which period claims shall be paid without regard to prior nonpayment of premium by the policyholder and the cost of which claim may not be recouped during or after the emergency grace period from the policyholder based upon the nonpayment of the premium.

2. The Commissioner of the Department of Banking and Insurance may extend these emergency grace periods further as necessary to protect the interests of policyholders, beneficiaries, and the public. Subject entities shall notify policyholders of this emergency grace period in a manner prescribed by the Commissioner. Subject entities shall further exercise any forbearances on collection documentation and other regulatory requirements as are prescribed by the Commissioner, including with respect to late fees, interest, or other charges associated with delays in premium payments.

3. At the conclusion of the emergency grace period, the policyholder's unpaid premium shall be amortized over a period of time as directed by the Commissioner.

4. To the degree that they are inconsistent with this Order, the provisions of N.J.S.A. 17:16D-13, N.J.S.A. 17:29C-1, N.J.S.A. 17:29C-8, N.J.S.A. 17:48-6, N.J.S.A. 17:48A-6, N.J.S.A. 17:48C-8, N.J.S.A. 17:48E-19, N.J.S.A. 17:48E-24, N.J.S.A. 17B:25-3, N.J.S.A. 17B:25-18.2, N.J.S.A. 17B:26-6, N.J.S.A. 17B:27-37, N.J.S.A. 17B:27A-17, N.J.S.A. 17B:27A-24, N.J.A.C. 11:20 Appendices A and B, N.J.A.C. 11:21 Appendices F and G, N.J.A.C. 11:24-17.4, N.J.A.C. 11:4-41.3, N.J.A.C. 11:1-20.2, N.J.A.C. 11:3-7.6, N.J.A.C. 11:3-8.11, N.J.A.C. 11:21-7.8, N.J.A.C. 11:21-1.2, N.J.A.C. 11:21-7.3, N.J.A.C. 11:21-7.5, and N.J.A.C. 11:21-

7.6, are suspended for the duration of this Public Health Emergency. Any provisions of these statutes and regulations that are not inconsistent with this Order remain in full force and effect.

5. The Commissioner of Banking and Insurance is directed to take all appropriate steps to effectuate this Order.

6. This Order shall take effect immediately.

Dated April 9, 2020.

EXECUTIVE ORDER NO. 124

WHEREAS, on March 9, 2020, through Executive Order No. 103 (2020), the facts and circumstances of which are adopted by reference herein, I declared both a Public Health Emergency and a State of Emergency throughout the State due to the public health hazard created by COVID-19; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119 (2020), which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserved the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, the Centers for Disease Control and Prevention ("CDC") has advised that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, and as a result, the CDC has recommended that individuals practice "social distancing" to prevent community spread of the virus; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act (the "Disaster Control Act") and the Emergency Health Powers Act ("EHPA"), to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-123 (2020), the facts and circumstances of which are all adopted by reference herein, many of which focused on requiring increased social distancing in the State; and

WHEREAS, the CDC has called for "remaining out of congregate settings, avoiding mass gatherings, and maintaining distance (approximately 6 feet or 2 meters) from others when possible"; and

WHEREAS, as both the Federal Government and other states have recognized, maintaining typical social distancing practices in correctional settings may be challenging; and

WHEREAS, there may be individuals currently in the custody of the Department of Corrections ("DOC"), who are serving sentences of more than 364 days, who by

virtue of their age and/or underlying medical conditions, face a heightened risk of death or serious injury if they contract COVID-19; and

WHEREAS, DOC has finite capacity within its facilities to provide medical care to inmates who contract COVID-19; and

WHEREAS, because there are challenges associated with maintaining traditional social distancing in correctional settings, in order to protect these particularly vulnerable individuals from a heightened risk of death and serious injury, it may be necessary to take certain emergency steps in order to temporarily remove these individuals from congregate custody; and

WHEREAS, some of these individuals may be eligible for parole and, due to the Public Health Emergency, warrant the quickest feasible review of their parole applications to protect their health, notwithstanding any Future Eligibility Date; and

WHEREAS, the parole process includes established safeguards to ensure that granting parole will not undermine public safety, and that the inmate, if released, will have access to appropriate medical and social services; and

WHEREAS, even if an inmate is ineligible for parole or has not received parole, the Commissioner of DOC (the "Commissioner") has the authority and discretion to issue furloughs under N.J.S.A. 30:4-91.3 for inmates, but the Commissioner may not grant furloughs for inmates convicted of a crime pursuant to N.J.S.A. 2C:11-3, N.J.S.A. 2C:11-4, N.J.S.A. 2C:14-2, N.J.S.A. 2C:15-1, N.J.S.A. 2C:13-1, or subsection b. of N.J.S.A. 2C:12-1; and

WHEREAS, pursuant to the terms of N.J.S.A. 30:4-91.3, such furloughs extend the limits of the place of confinement for inmates as to whom there is reasonable cause to believe they will honor the trust placed in them and return to the place of confinement at the conclusion of the furlough period, and can include restricting an inmate to home confinement; and

WHEREAS, the Commissioner may exercise his authority under N.J.S.A. 30:4-91.3 for any compelling reason consistent with the public interest, which necessarily includes emergency medical home confinement designed to mitigate a high-risk inmate's chance of exposure to COVID-19; and

WHEREAS, it would only be appropriate to grant an inmate such emergency medical home confinement where such inmate does not present a threat to public safety, including to a victim, especially at a time when law enforcement agencies across the State are dedicating time and resources to addressing the Public Health Emergency; and

WHEREAS, it would only be appropriate to grant an inmate such emergency medical home confinement where doing so will indeed improve the prospects for that inmate's health and safety, which means that such home confinement is only appropriate for an inmate if there is an established plan in place to ensure the inmate has access to a place of residence, and to social services and medical care as DOC deems necessary; and

WHEREAS, given the scope and scale of the numbers of inmates who may warrant emergency medical home confinement in light of the Public Health Emergency, it will promote the public health, safety, and welfare to constitute an Emergency

Medical Review Committee (the "Committee") to more efficiently and thoroughly advise the Commissioner regarding which inmates should be temporarily placed in home confinement to protect their health consistent with public safety, and to allow that the Committee to call on DOC employees and any other Executive Branch departments and agencies to provide assistance in fulfilling that important mission; and

WHEREAS, for these reasons, among others, the strict enforcement of certain statutory provisions that would inhibit the ability of DOC and the State Parole Board to expeditiously review such parole applications and to expeditiously temporarily place inmates in home confinement to protect their health consistent with public safety is detrimental to the public welfare; and

WHEREAS, even where an individual does not warrant parole or emergency medical home confinement, DOC has available tools to reduce the threat to inmates posted by COVID-19; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. DOC shall expeditiously identify inmates for referral to the State Parole Board and the Committee described in Paragraph 5 of this Order as follows:

a. DOC shall generate a list of inmates who are both 60 years or older and possess underlying medical conditions that increase the risk of death or serious injury from COVID-19 (the "First Emergency Medical Referral List");

b. DOC shall generate a list of remaining inmates who are either 60 years or older or possess underlying medical conditions that increase the risk of death or serious injury from COVID-19 (the "Second Emergency Medical Referral List");

c. DOC shall generate a list of inmates who were denied parole in the past year and who do not already appear on the First or Second Emergency Medical Referral List (the "Third Emergency Medical Referral List");

d. DOC shall generate a list of inmates who are serving a prison sentence with either a maximum release date within 90 days of the date the list is generated, or a parole eligibility date within 90 days of the date the list is generated, and who do not already appear on the First, Second, or Third Emergency Medical Referral List (the "Fourth Emergency Medical Referral List"); and

e. After the Fourth Emergency Medical Referral List is generated, and on a periodic basis of at least once a week, DOC shall submit Supplemental Emergency Medical Referral Lists that include any additional inmates that DOC subsequently

concludes face a heightened risk of death or serious injury from COVID-19 based on their age and/or underlying medical conditions.

2. In preparing the lists described in Paragraph 1 of this Order (the "Emergency Medical Referral Lists"), DOC shall:

a. Consult with the Department of Health to determine which underlying medical conditions heighten the risk of death or serious injury associated with COVID-19;

b. Only include inmates on the Emergency Medical Referral Lists who are not prohibited by N.J.S.A. 30:4-91.3b from participating in a furlough program administered by DOC and who are not currently serving a sentence for an offense subject to the provisions of the No Early Release Act, N.J.S.A. 2C:43-7.2; and

c. Indicate, for each inmate on an Emergency Medical Referral List, the prosecuting agency and whether the inmate is currently eligible for parole.

3. Upon completion of each Emergency Medical Referral List, DOC shall immediately produce the list to the Director of the Division of Criminal Justice and to the County Prosecutors, who shall within five days take the following actions with regards to any inmates prosecuted by their agency:

a. Notify the victim or next of kin about the possibility of the inmate's parole or emergency medical home confinement; and

b. Submit to the Parole Board and the Committee described in Paragraph 5 of this Order the views of the prosecuting agency and, if applicable, the victim or next of kin, regarding the possibility of the inmate's parole or emergency medical home confinement.

4. Upon completion of each Emergency Medical Referral List, DOC shall immediately produce to the State Parole Board the names of any parole-eligible inmates who appear on the list and promptly notify those inmates of such action. Upon receipt of the names, the State Parole Board shall expedite consideration of those inmates for parole. The State Parole Board may conduct hearings telephonically or by videoconference for any individuals on any Emergency Medical Referral List, for the purpose of expediting review and avoiding person-to-person contact. The State Parole Board shall prioritize consideration of parole-eligible inmates who appear on the First Emergency Medical Referral List; followed by inmates who appear on the Second Emergency Medical Referral List; followed by inmates who appear on the Third Emergency Medical Referral List; followed by inmates who appear on the Fourth Emergency Medical Referral List and any Supplemental Emergency Medical Referral List; and it shall consider inmates for parole regardless of whether the State Parole Board previously denied parole or issued a Future Eligibility Term. To the degree that they are inconsistent with this Order, the provisions of N.J.S.A. 30:4-123.48g; N.J.S.A. 30:4-123.53a(d); N.J.A.C. 10A:71-3.14e-f; N.J.A.C. 10A:71–3.7a-d, f; and N.J.A.C. 10A:71-3.9c are suspended for the duration of this Public Health Emergency. Any provisions of these statutes and regulations that are not inconsistent with this Order remain in full force and effect.

5. There is hereby established an Emergency Medical Review Committee, which shall be jointly chaired by a designee of the DOC Commissioner and a designee of the Chairman of the State Parole Board. All members shall serve at the pleasure of

the appointing department and without compensation. Upon completion of each Emergency Medical Referral List, DOC shall immediately produce the list to the Committee. Within seven days of receiving any Emergency Medical Referral List, the Committee shall prepare a recommendation regarding each inmate on the list as to whether the Commissioner should authorize a period of emergency medical temporary home confinement pursuant to N.J.S.A. 30:4-91.3, which shall include:

a. Describing the views of the prosecuting agency and, if applicable, the victim or next of kin;

b. Identifying a community sponsor for the inmate;

c. Developing a proposed supervision plan, including, where appropriate, the use of telephonic check-ins and electronic monitoring devices;

d. Proposing any conditions on the inmate's temporary home confinement, including the scope of the inmate's restrictions on travel outside the home;

e. Verifying the availability of appropriate medical and social services sufficient to address the heightened risk of death or serious injury if exposed to COVID-19;

f. Verifying the availability of appropriate housing, which may include, but need not be limited to, a hospital or other housing accommodation suitable to the inmate's medical condition, which shall be located in the State of New Jersey;

g. Verifying that DOC has produced or will produce photo identification for the inmate prior to the inmate's transfer to temporary home confinement; and

h. Verifying that the conditions under which the inmate would be placed in temporary home confinement would present a lower risk of contracting COVID-19 than the inmate would face if housed in a DOC facility.

6. When preparing recommendations, the Committee is authorized to call upon any department, office, division or agency of this State to supply it with data and any other information or assistance available to such agency as the Committee deems necessary to execute its duties under this Order. Each department, office, division or agency of this State is hereby required, to the extent not inconsistent with law, to cooperate fully with the Committee within the limits of its statutory authority and to furnish it with such assistance on as timely a basis as is necessary to accomplish the purpose of this Order.

7. When preparing recommendations, the Committee is authorized to call upon, and should consult with, medical experts, the Department of Human Services, county social service organizations, and non-profit organizations to identify resources that would ensure the health and safety of inmates serving in emergency medical home confinement.

8. Within three days of receiving a recommendation from the Committee, the Commissioner shall decide whether to grant an emergency medical home confinement pursuant to his authority under N.J.S.A. 30:4-91.3. The Commissioner shall not authorize temporary home confinement for an inmate unless the Commissioner is satisfied that the proposed conditions of confinement appropriately safeguard the health and safety of the inmate, the general public, and any victims of the inmate's offense.

9. Prior to releasing an inmate on parole or transferring an inmate to temporary home confinement, DOC shall:

a. Issue the inmate a temporary photo identification card, which shall include at a minimum the inmate's name, date of birth, and State Bureau of Identification (SBI) number;

b. Assist an eligible inmate in completing and submitting applications to the relevant county board of social service for benefits through the Supplemental Nutrition Assistance Program and WorkFirst NJ program; and

c. Assist an eligible inmate in completing and submitting an application for Medicaid to the Department of Human Services, and provide the inmate with a copy of the completed application.

10. For all inmates who do not receive parole or an emergency medical home confinement, DOC shall take all appropriate actions to mitigate inmates' health risks while remaining in DOC's custody.

11. For purposes of this Order, "Executive Branch departments and agencies" shall mean any of the principal departments in the Executive Branch of State government and any agency, authority, board, bureau, commission, division, institution, office, or other instrumentality within or created by any such department, and any independent State authority, commission, instrumentality, or agency over which the Governor exercises executive authority, as determined by the Attorney General.

12. This Order shall take effect immediately and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated April 10, 2020.

EXECUTIVE ORDER NO. 125

WHEREAS, through Executive Order No. 102 (2020), which I signed on February 3, 2020, I created the State's Coronavirus Task Force, chaired by the Commissioner of the New Jersey Department of Health ("DOH"), in order to coordinate the State's efforts to appropriately prepare for and respond to the public health hazard posed by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, on March 9, 2020, through Executive Order No. 103 (2020), the facts and circumstances of which are adopted by reference herein, I declared both a Public Health Emergency and a State of Emergency throughout the State due to the public health hazard created by COVID-19; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119 (2020), the facts and circumstances of which are adopted by reference herein, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserved the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, on March 16, 2020, through Executive Order No. 104 (2020), the facts and circumstances of which are adopted by reference herein, I established statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, in recognition that the Centers for Disease Control and Prevention ("CDC") has advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020), on March 21, 2020, the facts and circumstances of which are adopted by reference herein, which ordered steps to mitigate community spread of COVID-19; and

WHEREAS, Executive Order No. 107 (2020) closed non-essential retail businesses to the public, but permitted essential retail businesses and other businesses that require an in-person workforce to continue to operate; and

WHEREAS, Executive Order No. 107 (2020) permitted restaurants, cafeterias, dining establishments, food courts, bars, and all other holders of a liquor license with retail consumption privileges, to operate food delivery and/or take-out services during their normal business hours; and

WHEREAS, Executive Order No. 107 (2020) stated that businesses or non-profits who have employees who cannot perform their functions via telework or work-from-home arrangements should make best efforts to reduce staff on site to the minimal number necessary to ensure that essential operations can continue; and

WHEREAS, Executive Order No. 107 (2020) held that all New Jersey residents shall remain at home or at their place of residence, unless they qualified under certain defined categories, including reporting to, or performing, their job; and

WHEREAS, Executive Order No. 107 (2020) stated that individuals who have to travel pursuant to the terms of the Order should only use public transportation only if they have no other feasible choice; and

WHEREAS, Executive Order No. 107 (2020) also directed individuals who ride public transportation to abide by best social distancing practices, including making all efforts to stand or sit six feet away from other riders and frequently use sanitizing products; and

WHEREAS, as of April 11, 2020, according to the World Health Organization, there were more than 1,521,252 confirmed cases of COVID-19 worldwide, with over 92,798 of those cases having resulted in death; and

WHEREAS, as of April 11, 2020, according to the Centers for Disease Control, there were more than 425,889 confirmed cases of COVID-19 in the United States, with over 14,665 of those cases having resulted in death; and

WHEREAS, as of April 11, 2020, there were over 54,588 positive cases of COVID-19 in New Jersey, with at least 1,932 of those cases having resulted in death; and

WHEREAS, in response to the current emergency NJ TRANSIT (defined collectively as New Jersey Transit Corporation, NJ TRANSIT Rail Operations, Inc., NJ TRANSIT Bus Operations, Inc., NJ TRANSIT Mercer, Inc., and NJ TRANSIT Morris, Inc.), the private carriers that NJ TRANSIT has entered into contracts with for the provision of bus and light rail service (hereinafter referred to collectively as "Private Carriers"), the private carriers that NJ TRANSIT has not entered into contracts with and run their own individual lines of intrastate service in New Jersey as well as interstate service to New York and Pennsylvania (hereinafter referred to collectively as "Unaffiliated Private Carriers"), and the private carriers that NJ TRANSIT has entered into contracts with for the provision of Access Link paratransit services (hereinafter referred to as "Paratransit Private Carriers") have instituted enhanced cleaning efforts for vehicles across all its modes of transportation, including disinfecting vehicles every 24 hours, hard surface cleaning and disinfecting including handholds, arm rests, seating areas and restrooms; and

WHEREAS, in response to the current emergency, NJ TRANSIT has instituted enhanced cleaning regimens in stations including additional disinfecting of frequent customer touchpoints like ticket vending machines, handrails, and door handles; and

WHEREAS, as an added precautionary measure to protect bus operators and customers, NJ TRANSIT and Private Carriers have implemented rear-door boarding on all bus routes where rear-boarding is available, and seats near the bus operator have also been taken out of service to allow for proper social distancing for the operator; and

WHEREAS, NJ TRANSIT and Paratransit Private Carriers that operate the Access Link service have identified concerns with transporting passengers in minibuses, vans and sedans (hereinafter referred to as "Access Link vehicles") given risks to both the drivers and passengers, and in response have avoided the use of sedans; and

WHEREAS, NJ TRANSIT now encourages customers to use the NJ TRANSIT mobile ticketing app or to purchase paper tickets via ticket vending machines prior to boarding to limit cash transactions with the rail conductors and bus operators, and NJ TRANSIT has closed ticket windows at stations to avoid person to person contact; and

WHEREAS, in response to the current emergency, NJ TRANSIT has continually issued customer advisories noting that travel across all of its modes of transportation should be limited to essential personnel who do not have any other feasible means of transportation; and

WHEREAS, NJ TRANSIT, Private Carriers and Unaffiliated Private Carriers have been forced to adjust the weekday rail, bus and light rail service to special schedules to continue to accommodate essential travel while also accounting for the decline in available workforce and ridership related to COVID-19; and

WHEREAS, in those situations where NJ TRANSIT and Private Carriers have observed certain rail, bus and light rail lines that continue to experience more cus-

tomers than would be ideal for social distancing protocols, NJ TRANSIT and Private Carriers have added select trips particularly on certain intra-city bus lines, and have instituted cross-honoring for NJ TRANSIT bus tickets and passes on all NJ TRANSIT rail lines to increase travel options for bus customers; and

WHEREAS, NJ TRANSIT workers, Private Carrier workers, Unaffiliated Private Carrier workers and Paratransit Private Carrier workers are regularly interacting with members of the public during the COVID-19 pandemic, and the nature of their jobs often requires close contact with the public; and

WHEREAS, members of the public that must continue to report to work due to the essential nature of their jobs, as well as members of the public seeking to access essential services and obtain critical goods like food and medicine, and have no feasible choice other than to take public transportation, may be forced to come in close contact with other individuals on train cars, buses, light rail vehicles and Access Link vehicles, given their size and layout; and

WHEREAS, given the nature of public transportation, members of the public that have no feasible choice other than to take public transportation will necessarily come into contact with multiple common surfaces; and

WHEREAS, residents continue to require access to restaurants and other food establishments during the present crisis; and

WHEREAS, even as we have limited essential business operations, the number of COVID-19 cases in New Jersey is anticipated to continue to increase for the immediate future, meaning we must take additional steps to ensure that NJ TRANSIT, Private Carriers, Unaffiliated Private Carriers, Paratransit Private Carriers and passengers on public transportation, as well as restaurants, bars, food establishments and their patrons, are following public health guidelines regarding social distancing, cleaning, sanitizing, and hygiene practices, in addition to those aforementioned efforts NJ TRANSIT, Private Carriers, Unaffiliated Private Carriers and Paratransit Private Carriers have already undertaken; and

WHEREAS, imposing specific mitigation requirements on NJ TRANSIT, Private Carriers, Unaffiliated Private Carriers and Paratransit Private Carriers will further protect their workers and will permit members of the public to continue to report to work due to the essential nature of their jobs when they have no feasible choice other than to take public transportation, while also preventing increased spread of COVID-19; and

WHEREAS, imposing similar mitigation requirements on restaurants, bars, and other such retailers providing food for takeout and/or delivery, will allow residents to access a critical resource while still taking necessary precautions to stop further spread of COVID-19; and

WHEREAS, the CDC has now recommended that all residents wear cloth face coverings in public settings where other social distancing measures are difficult to maintain, particularly in areas of significant community-based transmission; and

WHEREAS, the CDC has stated that such cloth face coverings must fit snugly but comfortably against the side of the face, be secured with ties or ear loops, include

multiple layers of fabric, allow for breathing without restriction, and be able to be laundered and machine dried without damage or change to shape; and

WHEREAS, the CDC has also stated that cloth face coverings should not be placed on young children under age 2, anyone who has trouble breathing, or is unconscious, incapacitated or otherwise unable to remove the mask without assistance; and

WHEREAS, the CDC has also recommended certain cleaning and disinfecting procedures for businesses to reduce potential spread of COVID-19 to staff and members of the public; and

WHEREAS, on April 8, 2020, I issued Executive Order No. 122 (2020), the facts and circumstances of which are adopted by reference herein, which instituted a series of requirements to ensure that the CDC's recommendations and other public health and safety related measures would be properly implemented in essential retail contexts, among others, that remain open to the public during this Public Health Emergency; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Where NJ TRANSIT has continued to operate utilizing an in-person workforce under the terms of Executive Order No. 107 (2020), NJ TRANSIT must adopt policies that include, at minimum, the following requirements:

a. NJ TRANSIT workers may limit occupancy at 50% of the stated maximum capacity, on all trains, buses and light rail lines in accordance with any guidelines instituted by NJ TRANSIT operational divisions;

b. Require infection control practices, such as coughing and sneezing etiquette and proper tissue usage and disposal;

c. Arrange for contactless pay options across all modes of transportation wherever feasible. Such policies shall, wherever possible, consider populations that do not have access to internet service;

d. Arrange for back door entry on buses wherever feasible, and take seats out of service near the bus operator to allow for proper social distancing from the bus operator wherever feasible;

e. Require frequent sanitization of high-touch areas in stations, like restrooms, waiting areas, credit card machines, and keypads;

f. Place conspicuous signage at stations and throughout train cars, buses and light rail vehicles, if applicable, alerting workers and customers to the required six feet of physical distance; and

g. Require workers and customers to wear cloth face coverings while on trains, buses and light rail vehicles except where doing so would inhibit that individual's health or where the individual is under two years of age, and require workers to wear gloves when in contact with customers. NJ TRANSIT must provide, at its expense, such face coverings and gloves for their workers, to the extent supplies are available. If a customer refuses to wear a cloth face covering for non-medical reasons, then NJ TRANSIT workers may decline entry to the individual, in accordance with any guidelines instituted by NJ TRANSIT operational divisions. Nothing in the stated policy should prevent workers or customers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if NJ TRANSIT is otherwise required to provide such worker with more protective equipment due to the nature of the work involved. Where an individual declines to wear a face covering on a train, bus or light rail vehicle due to a medical condition that inhibits such usage, neither NJ TRANSIT nor its workers shall require the individual to produce medical documentation verifying the stated condition.

2. Where Private Carriers have continued to operate utilizing an in-person workforce under the terms of Executive Order No. 107 (2020), and the terms of their contracts with NJ TRANSIT, Private Carriers must adopt policies that include, at minimum, the following requirements:

a. Private Carrier workers may limit occupancy at 50% of the stated maximum capacity, on all buses and light rail lines in accordance with any guidelines instituted by the Private Carriers in consultation with NJ TRANSIT operational divisions;

b. Require infection control practices, such as coughing and sneezing etiquette and proper tissue usage and disposal;

c. Arrange for contactless pay options across all modes of transportation that the Private Carriers operate wherever feasible. Such policies shall, wherever possible, consider populations that do not have access to internet service;

d. Arrange for back door entry on buses wherever feasible, and take seats out of service near the bus operator wherever feasible to allow for proper social distancing from the bus operator;

e. Place conspicuous signage throughout buses and light rail vehicles, if applicable, alerting workers and customers to the required six feet of physical distance; and

f. Require workers and customers to wear cloth face coverings while on buses and light rail vehicles except where doing so would inhibit that individual's health or where the individual is under two years of age, and require workers to wear gloves when in contact with customers. Private Carriers must provide, at their own expense, such face coverings and gloves for their workers, to the extent supplies are available. If a customer refuses to wear a cloth face covering for non-medical reasons, then Private Carrier workers may decline entry to the individual, in accordance with any guidelines instituted by the Private Carriers in consultation with NJ TRANSIT operational divisions. Nothing in the stated policy should prevent workers or customers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if the Private Carriers are

otherwise required to provide such worker with more protective equipment due to the nature of the work involved. Where an individual declines to wear a face covering on a bus or light rail vehicle due to a medical condition that inhibits such usage, neither Private Carriers nor any of their workers shall require the individual to produce medical documentation verifying the stated condition.

3. Where Unaffiliated Private Carriers have continued to operate utilizing an in-person workforce under the terms of Executive Order No. 107 (2020), Unaffiliated Private Carriers must adopt policies that include, at minimum, the following requirements:

a. Unaffiliated Private Carrier workers may limit occupancy at 50% of the stated maximum capacity, on all bus lines in accordance with any guidelines instituted by the Unaffiliated Private Carriers;

b. Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;

c. Arrange for contactless pay options across all modes of transportation that the Unaffiliated Private Carriers operate wherever feasible. Such policies shall, wherever possible, consider populations that do not have access to internet service;

d. Arrange for back door entry on buses wherever feasible, and take seats out of service near the bus operator wherever feasible to allow for proper social distancing from the bus operator;

e. Place conspicuous signage throughout buses, if applicable, alerting workers and customers to the required six feet of physical distance; and

f. Require workers and customers to wear cloth face coverings while on buses except where doing so would inhibit that individual's health or where the individual is under two years of age, and require workers to wear gloves when in contact with customers. Unaffiliated Private Carriers must provide, at their own expense, such face coverings and gloves for their workers, to the extent supplies are available. If a customer refuses to wear a cloth face covering for non-medical reasons, then Unaffiliated Private Carrier workers may decline entry to the individual, in accordance with any guidelines instituted by the Unaffiliated Private Carriers. Nothing in the stated policy should prevent workers or customers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if the Unaffiliated Private Carriers are otherwise required to provide such worker with more protective equipment due to the nature of the work involved. Where an individual declines to wear a face covering on a bus due to a medical condition that inhibits such usage, neither Unaffiliated Private Carriers nor any of their workers shall require the individual to produce medical documentation verifying the stated condition.

4. Where Paratransit Private Carriers have continued to operate utilizing an in-person workforce under the terms of Executive Order No. 107 (2020), and the terms of their contracts with NJ TRANSIT, Paratransit Private Carriers must adopt policies that include, at minimum, the following requirements:

a. Paratransit Private Carrier workers may limit occupancy at 50% of the stated maximum capacity of the vehicle on all Access Link vehicles in accordance with

any guidelines instituted by the Paratransit Private Carriers in consultation with NJ TRANSIT operational divisions;

b. Require infection control practices, such as coughing and sneezing etiquette and proper tissue usage and disposal;

c. Arrange for contactless pay options, including EZ Wallet, across all modes of transportation that the Paratransit Private Carriers operate wherever feasible. Such policies shall, wherever possible, consider populations that do not have access to internet service;

d. Place conspicuous signage throughout Access Link vehicles, if applicable, alerting workers and customers to the required six feet of physical distance; and

e. Require workers and customers to wear cloth face coverings while on all Access Link vehicles except where doing so would inhibit that individual's health or where the individual is under two years of age, and require workers to wear gloves when in contact with customers. Paratransit Private Carriers must provide, at their own expense, such face coverings and gloves for their workers, to the extent supplies are available. If a customer refuses to wear a cloth face covering for non-medical reasons, then Paratransit Private Carriers may decline entry to the individual, in accordance with any guidelines instituted by the Paratransit Private Carriers in consultation with NJ TRANSIT operational divisions. Nothing in the stated policy should prevent workers or customers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if the Paratransit Private Carriers are otherwise required to provide such worker with more protective equipment due to the nature of the work involved. Where an individual declines to wear a face covering on an Access Link vehicle due to a medical condition that inhibits such usage, neither Paratransit Private Carriers nor any of their workers shall require the individual to produce medical documentation verifying the stated condition.

5. All restaurants, cafeterias, dining establishments, and food courts, with or without a liquor license, all bars, and all other holders of a liquor license with retail consumption privileges that are continuing to offer food delivery and/or take-out services pursuant to Executive Order No. 107 (2020) ("food business"), must adopt policies that include, at minimum, the following requirements:

a. Limit occupancy at 10% of the stated maximum capacity, wherever feasible;

b. Ensure six feet of distance between workers and customers, except at the moment of payment and/or exchange of goods;

c. Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;

d. Provide employees break time for repeated handwashing throughout the workday;

e. Arrange for contactless pay and pickup/delivery options wherever feasible. Such policies shall, wherever possible, consider populations that do not have access to internet service;

f. Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to staff;

g. Require frequent sanitization of high-touch areas like credit card machines, keypads, and counters to which the public and workers have access;

h. Place conspicuous signage at entrances and throughout the food business, if applicable, alerting staff and customers to the required six feet of physical distance; and

i. Require workers to wear cloth face coverings and gloves while on the premises, except where doing so would inhibit that worker's health, and require workers to wear gloves when in contact with customers or goods. Businesses must provide, at their expense, such face coverings and gloves for their employees. Customers that enter the food business will similarly be required to wear cloth face coverings, except where doing so would inhibit that individual's health or where the individual is under the age of two, but will not be required to wear such covering when receiving a delivery or when picking up goods outside of the physical premises of the food business. If a worker or customer refuses to wear a cloth face covering for non-medical reasons and if such covering cannot be provided to the individual by the food business at the point of entry, then the food business must decline entry to the individual. Such food business should, however, arrange for delivery, curbside pick-up or alternative arrangements wherever possible. Nothing in the stated policy should prevent workers or customers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if the business is otherwise required to provide such worker with more protective equipment due to the nature of the work involved. Where an individual declines to wear a face covering inside the food business due to a medical condition that inhibits such usage, neither the food business nor its staff shall require the individual to produce medical documentation verifying the stated condition.

6. The State Director of Emergency Management ("State Director"), who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

7. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Executive Order, and to cooperate fully with Administrative Orders issued pursuant to this Executive Order.

8. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, with any of the provisions of Executive Order No. 122 (2020), or with any of the provisions of any subsequent Administrative Orders adopted pursuant to either this Order or Executive Order No. 122 (2020), or which will or might in any way interfere with or impede the achievement of any or all of these Orders.

9. Penalties for violations of this Executive Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

10. This Order shall take effect beginning at 8:00 p.m. on Monday, April 13, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated April 11, 2020.

EXECUTIVE ORDER NO. 126

WHEREAS, through Executive Order No. 102 (2020), which I signed on February 3, 2020, I created the State's Coronavirus Task Force, chaired by the Commissioner of the New Jersey Department of Health ("DOH"), in order to coordinate the State's efforts to appropriately prepare for and respond to the public health hazard posed by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, on March 9, 2020, through Executive Order No. 103 (2020), the facts and circumstances of which are adopted by reference herein, I declared both a Public Health Emergency and State of Emergency due to the public health hazard created by COVID-19; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119 (2020), the facts and circumstances of which are adopted by reference herein, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserved the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, in response to the COVID-19 pandemic, on March 13, 2020, the Federal Communications Commission ("FCC") issued a request for the nation's telephone companies and internet providers to pledge to "Keep America Connected" and, among other things, provide 60 days of service and not terminate service due to inability to pay because of disruptions caused by COVID-19; and

WHEREAS, on March 16, 2020, through Executive Order No. 104 (2020), the facts and circumstances of which are adopted by reference herein, I adopted statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, as of March 19, 2020, I instructed all State departments and agencies to utilize work-from-home arrangements for both essential and non-essential employees wherever feasible; and

WHEREAS, on March 19, 2020, the New Jersey Board of Public Utilities issued an order, Dkt. No. EO20030254, requiring that all public utilities and regulated entities immediately cease any in-home or business visits unless there is an immediate risk to health and safety in order to effectuate proper social distancing required by Executive Order No. 104 (2020); and

WHEREAS, emphasizing the critical need to maintain essential services for New Jersey residents, the Board of Public Utilities' order permitted broadband internet providers to continue to connect new customers and repair existing service for

homes with school-aged children and those in need of internet access to meet job requirements or other priority customers; and

WHEREAS, in recognition that the Centers for Disease Control (CDC) has advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020) on March 21, 2020, the facts and circumstances of which are adopted by reference herein, which ordered steps to mitigate community spread of COVID-19; and

WHEREAS, Executive Order No. 107 (2020) closed all preschool, elementary and secondary schools except on a limited basis for the provision of food or other essential and emergency situations; and

WHEREAS, Executive Order No. 107 (2020) instructed the Commissioner of the Department of Education to work with the school districts and schools to ensure that students are able to continue their educations through appropriate home instruction; and

WHEREAS, Executive Order No. 107 (2020) required all institutions of higher education to cease in-person instruction unless specifically authorized by the Secretary of the Office of Higher Education; and

WHEREAS, Executive Order No. 107 (2020) mandated that all businesses or nonprofits in the State accommodate their workforce, wherever practicable, for telework or work-from-home arrangements because restricting the physical presence of individuals in office environments and work sites is critical to preventing future spread of COVID-19; and

WHEREAS, although many of the companies that serve New Jersey residents agreed to the FCC's Keep America Connected pledge, it is being implemented inconsistently among companies and causing uncertainty regarding the provision of residential internet and voice services; and

WHEREAS, many New Jerseyans are or will be experiencing substantial loss of income as a result of business closures, reductions in hours, or layoffs related to COVID-19, impeding their ability to keep current on payments for residential internet and voice services; and

WHEREAS, eliminating the uncertainty of how shut-off discontinuances are implemented throughout the State is paramount to ensuring that residents maintain sufficient residential internet and voice services; and

WHEREAS, during this Public Health Emergency, consistent access to residential internet and voice services are essential services that supply the necessary support to enable New Jersey residents to work and further their education in a home environment as required by Executive Order No. 107 (2020); and

WHEREAS, disconnecting residential internet and voice services may impede New Jersey residents' ability to maintain their livelihood or education while complying with Executive Order No. 107 (2020); and

WHEREAS, all cable and telecommunications providers that provide residential internet and voice services to New Jersey residents are encouraged to work with

their customers, to the extent practicable, to implement a staggered repayment plan to prevent a continued financial hardship resulting from a large sum being immediately due and owing at the end of the Public Health Emergency; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. No cable or telecommunications provider that provides residential internet and voice services to New Jersey residents shall terminate such internet and voice service due to nonpayment as long as this Order remains in effect.

2. A cable or telecommunications provider that provides residential internet and voice services to New Jersey residents may downgrade or otherwise reduce the quality of residential internet or voice services provided due to nonpayment only if acting pursuant to a policy approved in writing by the Board of Public Utilities as long as this Order remains in effect.

3. A cable or telecommunications provider that provides residential internet and voice services to New Jersey residents may collect 1) a fee or charge imposed for late or otherwise untimely payments that become due from the date of this Order for residential internet or 2) a fee or charge imposed for voice service reconnections, other than what is described in Paragraph 4, only if acting pursuant to a policy approved in writing by the Board of Public Utilities as long as this Order remains in effect.

4. Any cable or telecommunications provider that provides residential internet and voice services to New Jersey residents shall, upon request of the customer, and at no cost to the customer beyond any actual costs incurred by the provider in reconnecting the service, reconnect any residential internet or voice service that was discontinued due to nonpayment after March 16, 2020, the date Executive Order No. 104 (2020) took effect, including where the disconnection was for unpaid bills incurred prior to March 16, 2020. This Paragraph does not otherwise affect payments that are due for those residential internet and voice services.

5. To the degree that they are inconsistent with this Order, the provisions of N.J.A.C. 14:3-3A.1a(3)-(4) are suspended for the duration of this Public Health Emergency. Any provisions of these regulations that are not inconsistent with this Order remain in full force and effect.

6. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Executive Order.

7. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of Executive Order No. 126 (2020), or which will or might in any way interfere with or impede its achievement.

8. Penalties for violations of this Executive Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

9. This Order shall take effect immediately and remain in effect until 30 days following the end of the Public Health Emergency established by Executive Order No. 103 (2020), which was extended by Executive Order No. 119 (2020), and subject to future extensions. Nothing shall prevent the Governor from revoking or modifying this Order before it expires as described above.

Dated April 13, 2020.

EXECUTIVE ORDER NO. 127

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 (2020) on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, to further protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 (2020) on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, on March 19, 2020, I instructed all Executive Branch departments and agencies to utilize work-from-home arrangements for both essential and non-essential employees wherever feasible; and

WHEREAS, on March 21, 2020, I issued Executive Order No. 107 (2020), the facts and circumstances of which are adopted by reference herein, which superseded Executive Order No. 104 (2020) and recognized that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread through person-to-person contact, and ordered greater social distancing throughout New Jersey by limiting the unnecessary movement of individuals in and around their communities, reducing person-to-person interactions in accordance with Centers for Disease Control (CDC) and Department of Health (DOH) guidance, and requiring all businesses or non-profits, wherever practicable, to accommodate telework or work-from-home arrangements and reduce staff on site to the minimal number necessary to continue essential operations; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119 (2020), the facts and circumstances of which are adopted by reference herein, recognizing that the public health hazard presented by the COVID-19 outbreak had continued to grow

in scope in New Jersey, in the region, and across the United States, and I thus declared that the Public Health Emergency continues to exist in the State; and

WHEREAS, restricting the physical presence of individuals in office environments and work sites is critical to preventing future community spread of COVID-19; and

WHEREAS, not all State residents have equal access to or experience with technology needed to remotely conduct business operations, including the filing of documents, and other online interactions with business professionals or State government from home; and

WHEREAS, all State offices and Executive Branch departments and agencies have been directed to prioritize addressing immediate public needs and safety, while still trying as much as is practicable to maintain the basic functions of State government, and its many duties, missions, and initiatives; and

WHEREAS, many processes within government require due process in the form of one or more of the following – public notice, opportunity to be heard, and public hearing – which may require extra time due to the interruptions related to the COVID-19 pandemic and the restrictions on movement imposed because of it; and

WHEREAS, in paragraph 6 of Executive Order No. 103 (2020), I authorized and empowered the executive head of any agency or instrumentality of the State government with authority to promulgate rules to waive, suspend, or modify any existing rule in accordance with the terms set forth therein; and

WHEREAS, certain Executive Branch departments and agencies remain subject to statutory deadlines imposed by the Administrative Procedure Act that require issuance, rejection, approval or modification of initial decisions, and action taken on rule-making during established statutory deadlines that the Executive Branch departments and agencies may be unable to meet due to workforce changes necessitated by the COVID-19 pandemic; and

WHEREAS, due to the emergency conditions presented by the COVID-19 pandemic, and especially given my direction to strictly observe social distancing practices, including avoiding all non-essential travel and directing most public and private employees to work remotely, Executive Branch departments and agencies may be unable to comply with deadlines under the Administrative Procedure Act for rendering, rejecting, approving or modifying initial decisions or taking rule-making actions; and

WHEREAS, Executive Branch departments and agencies' strict adherence to the Administrative Procedure Act's timelines would result in actions by Executive Branch departments and agencies that require responses by members of the public, including by triggering deadlines and by requiring compliance with newly adopted rules; and

WHEREAS, the strict enforcement of above-referenced timeframes could deprive Executive Branch departments and agencies of adequate time to ensure that its findings of fact, conclusions of law and decisions are based upon sufficient, competent and credible evidence, and comply with statutory requirements, which

would be detrimental to the public welfare during the period in which a Public Health Emergency exists; and

WHEREAS, pursuant to N.J.S.A. App. A:9-47, the Governor is authorized to, among other things, suspend any regulatory provision of law when its enforcement is detrimental to the public welfare during an emergency; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. In any contested case, any pending deadline for production and certification of a permitting record pursuant to N.J.S.A. 52:14B-10(a)(2); any pending deadline for filing of a recommended report and decision pursuant to N.J.S.A. 52:14B-10(c); and any pending deadline for adopting, rejecting or modifying a recommended report and decision, shall be extended by the number of days of the Public Health Emergency declared in Executive Order No. 103 (2020) plus an additional 90 days. For purposes of this Executive Order, "pending deadline" refers to any deadline falling during the Public Health Emergency declared in Executive Order No. 103 (2020) or within 30 days after the last day of the Public Health Emergency declared in Executive Order No. 103 (2020). This extension shall not apply to cases proceeding as emergent under applicable rules. This Paragraph does not apply to appeals to the Civil Service Commission from adverse actions specified in N.J.S.A. 11A:2-13 or N.J.S.A. 11A:2-6(a)(4), which are governed by N.J.S.A. 11A:2-15.

2. The one-year expiration date set forth in N.J.A.C. 1:30-6.2(c) for notices of rule proposal shall be extended until 90 days after the last day of the Public Health Emergency declared in Executive Order No. 103 (2020), if the notice of proposal was published in the New Jersey Register on or after April 15, 2019, and the notice of rule proposal would otherwise expire without the benefit of such an extension.

3. The 18-month expiration date set forth in N.J.S.A. 52:14B-4.10(e), N.J.A.C. 1:30-6.2(c) and N.J.A.C. 1:30-6.3(e) for notices of rule proposal shall be extended until 90 days after the last day of the Public Health Emergency declared in Executive Order No. 103 (2020) if the notice of proposal was published in the New Jersey Register before April 15, 2019, and shall be extended until 270 days after the last day of the Public Health Emergency declared in Executive Order No. 103 (2020) if the notice of proposal was published in the New Jersey Register on or after April 15, 2019, and the notice of rule proposal would otherwise expire without the benefit of such an extension.

4. The deadlines pursuant to N.J.S.A. 52:14B-4(f), N.J.A.C. 1:30-4.1 to -4.3 for any Executive Branch department or agency to act on any currently pending peti-

tion for rulemaking or on any petition for rulemaking filed during the Public Health Emergency declared in Executive Order No. 103 (2020), or any Executive Branch department or agency rule prescribing procedures for the consideration and disposition of petitions for rulemaking, is hereby extended until 90 days after the last day of the Public Health Emergency declared in Executive Order No. 103 (2020), if the deadline would otherwise occur sooner.

5. The expiration date pursuant to N.J.S.A. 52:14B-5.1 and N.J.A.C. 1:30-6.4, of any rule scheduled to expire during the Public Health Emergency declared in Executive Order No. 103 (2020) or within 90 days thereafter, is hereby extended until 90 days after the last day of the Public Health Emergency declared in Executive Order No. 103 (2020), if the deadline would otherwise occur sooner.

6. The expiration date pursuant to N.J.S.A. 52:14B-4(c) and N.J.A.C. 1:30-6.5, of any emergency rule scheduled to expire during the Public Health Emergency declared in Executive Order No. 103 (2020) or within 90 days thereafter, is hereby extended until 90 days after the last day of the Public Health Emergency declared in Executive Order No. 103 (2020), if the deadline would otherwise occur sooner.

7. Any deadline or expiration date extended by Paragraph 2, 3, 4, 5, or 6 of this Order may be extended by an additional 30 days with the written approval of the Governor upon the request of the Executive Branch department or agency.

8. The deadline by which any State officer or employee is required to file a Financial Disclosure Statement pursuant to Executive Order No. 2 (2018) (Murphy) or a conflict of interest form pursuant to Executive Order No. 14 (2006) (Corzine) is hereby extended to July 31, 2020.

9. For purposes of this Order, "Executive Branch departments and agencies" shall mean any of the principal departments in the Executive Branch of State government and any agency, authority, board, bureau, commission, division, institution, office, or other instrumentality within or created by any such department, and any independent State authority, commission, instrumentality, or agency over which the Governor exercises executive authority, as determined by the Attorney General.

10. This Order shall take effect immediately and shall remain in effect until revoked or modified by the Governor.

Dated April 14, 2020.

EXECUTIVE ORDER NO. 128

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 (2020) on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, to further protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 (2020) on March 16, 2020, the facts and circum-

stances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119 (2020), the facts and circumstances of which are adopted by reference herein, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserved the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, on March 21, 2020, I issued Executive Order No. 107 (2020), the facts and circumstances of which are adopted by reference herein, which recognized that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread through person-to-person contact, and ordered greater social distancing throughout New Jersey by limiting the unnecessary movement of individuals in and around their communities, reducing person-to-person interactions in accordance with Centers for Disease Control (CDC) and Department of Health (DOH) guidance; and

WHEREAS, tenants may be suffering from one or more financial hardships that are caused by or related to the COVID-19 pandemic, including but not limited to a substantial loss of or drop in income, and additional expenses such as those relating to necessary health care; and

WHEREAS, as of April 13, 2020, there were 856,528 unemployment claims filed by New Jerseyans over the previous five weeks; and

WHEREAS, on March 19, 2020, in anticipation of many New Jersyans experiencing substantial loss of income as a result of business closures, reductions in hours, or layoffs related to COVID-19, impeding their ability to keep current on rent and mortgage payments, and pursuant to Assembly Bill No. 3859 and Senate Bill No. 2276, I issued Executive Order No. 106 (2020), the facts and circumstances of which are also adopted by reference herein, which recognized the importance to public health of housing security and stability and enacted a moratorium on the removal of individuals from residential properties pursuant to evictions or foreclosure proceedings; and

WHEREAS, Executive Order No. 106 (2020) stays enforcement of all judgments for possession, warrants of removal, and writs of possession while in effect, unless the court determines on its own motion or motion of the parties that enforcement is necessary in the interest of justice, but does not stop foreclosure or eviction proceedings from being initiated or continued; and

WHEREAS, such families struggling to pay rent due to financial hardship during the ongoing Public Health Emergency and the State of Emergency may also remain at increased risk for eviction upon the termination of Executive Order No. 106 (2020), which under the terms of the Order must happen no later than two months after the end of the Public Health Emergency or State of Emergency established by Executive Order No. 103 (2020); and

WHEREAS, in addition to eviction proceedings being initiated and the continued risk of eviction upon termination of the Order, individuals may face other consequences from a late payment of rent, including interest and late fees, which they may be unable to satisfy in light of their substantial loss of income, as well as negative credit reports that may affect their ability to find housing options in the future; and

WHEREAS, pursuant to N.J.S.A. 46:8-19, a security deposit and the accumulated interest and earnings on the investment of such deposit remain the property of the tenant; and

WHEREAS, enabling individuals to pay portions of their rent with the security deposit they own will allow those individuals to mitigate the consequences regarding evictions and accumulation of interest and late fees upon termination of Executive Order No. 106 (2020), and thus is plainly in the public interest; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Upon written request from a tenant, including electronic communication, a security deposit governed by the provisions of N.J.S.A. 46:8-19 et seq., as well as the tenant's portion of the interest and/or earnings accumulated thereon, shall be applied to or credited towards rent payments due or to become due from the tenant during the Public Health Emergency established in Executive Order No. 103 (2020) or up to 60 days after the Public Health Emergency terminates.

2. When a tenant applies or credits such deposit, interest, or earnings to pay rent pursuant to Paragraph 1 of this Order, the following additional provisions shall apply for the duration of the tenant's current contract, lease, or license agreement:

a. The landlord may recoup from the tenant any monies the landlord expended that would have been reimbursable by the security deposit and interest or earnings thereon, at the time that such reimbursement from the deposit and interest or earnings thereon would have taken place; and

b. The tenant shall otherwise be without obligation to make any further security deposit relating to the current contract, lease, or license agreement. If, however, the tenant and landlord extend or renew their contract, lease, or license agreement following the date of this Order, then the tenant shall be obligated to replenish the security deposit in full either on the date six months following the end of the Public Health Emergency established by Executive Order No. 103 (2020), which was extended by Executive Order No. 119 (2020), or on the date on which the current contract, lease, or license agreement is extended or renewed, whichever is later.

3. Use of a security deposit for the purposes outlined in this Order shall not be considered a violation of N.J.S.A. 46:8-19 et seq. Any provisions of N.J.S.A. 46:8-19 et seq. that are not inconsistent with this Order remain in full force and effect.

4. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

5. This Order shall take effect immediately and remain in effect until 60 days following the end of the Public Health Emergency established by Executive Order No. 103 (2020), which was extended by Executive Order No. 119 (2020). Nothing shall prevent the Governor from revoking or modifying this Order before it expires as described above.

Dated April 24, 2020.

EXECUTIVE ORDER NO. 129

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 (2020) on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119 (2020), the facts and circumstances of which are adopted by reference herein, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act (EHPA), to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-128 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, in recognition that the Centers for Disease Control (CDC) has advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020) on March 21, 2020, which instituted certain social mitigation strategies for combatting COVID-19, including closure of non-essential retail businesses to the public; and

WHEREAS, such closures may bear on certain residents' ability to obtain permits to carry firearms otherwise available under New Jersey law, including retired law enforcement officers, security officers, and individuals who have been found by the Superior Court to have a justifiable need to carry; and

WHEREAS, the statutes authorizing individuals in these groups to carry – where such individuals have passed robust background checks and satisfied the appropriate statutory criteria – reflect the Legislature's judgment that doing so protects such persons' safety and promotes public safety; and

WHEREAS, under N.J.S.A. 2C:39-6(l), law enforcement officers who were employed on a full time basis with a law enforcement agency and who retired in good standing can apply yearly to the Superintendent of the State Police ("Superintendent") for a permit to carry a hand gun ("Retired Officer Carry Permit"); and

WHEREAS, prior to issuing a Retired Officer Carry Permit, the Superintendent undertakes a thorough investigation, including verification of the retired officer's service in good standing prior to retirement and confirmation that the retired officer does not suffer from statutory disqualifications; and

WHEREAS, the scheme for renewals of Retired Officer Carry Permits, which requires retired officers to make an application in the same manner as the initial application, will unduly delay the re-issuance of existing permits to carry during the ongoing Public Health Emergency; and

WHEREAS, pursuant to N.J.S.A. 2C:58-4, other individuals who demonstrate to the chief police officer of the municipality in which they reside or the Superintendent, and the applicable Superior Court, that they are persons of good character who are not subject to statutory disqualifications, have a justifiable need to carry a handgun, and are thoroughly familiar with the safe handling and use of handguns, may also obtain permits to carry firearms ("Carry Permit"); and

WHEREAS, in order to renew Carry Permits, law enforcement again must complete the same thorough review as was both necessary and appropriate for the initial Carry Permit application, including a determination that the renewal applicant is thoroughly familiar with the safe handling and use of handguns; and

WHEREAS, to demonstrate a thorough familiarity with the safe handling and use of handguns, N.J.A.C. 13:54-2.4 and N.J.A.C. 13:54-2.9 require that the applicant submit proof of completion of a training course, passage of a test administered by a certified instructor, or handgun qualification scores; and

WHEREAS, it may be more challenging to show that an individual is thoroughly familiar with the safe handling and use of handguns based on in-person instruction and/or in-person training during the ongoing Public Health Emergency, which will make it harder for those individuals to obtain the permits that the Legislature found promote their individual safety and public safety; and

WHEREAS, under the Security Officer Registration Act (SORA), N.J.S.A. 45:19A-1, et seq., certain security officers registered and licensed under State law may permissibly carry a firearm only if they have a Retired Officer Carry Permit under N.J.S.A. 2C:39-6(l) or a Carry Permit under N.J.S.A. 2C:58-4; and

WHEREAS, if security guards are not able to obtain or to renew their permits to carry firearms, they may not be able to be hired for or continue in their employment, which would lead to turnover in security roles during an emergency, and which could undermine public welfare and safety at this time; and

WHEREAS, for these reasons, among others, the strict enforcement of the statutes and regulations governing the issuance and renewal of Retired Officer Carry Permits and Carry Permits under N.J.S.A. 2C:39-6(l) and N.J.S.A. 2C:58-4, respectively, is detrimental to the public welfare; and

WHEREAS, pursuant to N.J.S.A. App. A:9-47, the Governor is authorized to, among other things, suspend any regulatory provision of law when its enforcement is detrimental to the public welfare during an emergency; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq. and N.J.S.A. App. A:9-33 et seq., and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and the Statutes of this State, do hereby ORDER and DIRECT:

1. All Retired Officer Carry Permits that expire during the term of the Public Health Emergency declared in Executive Order No. 103 (2020), including those that expired after the issuance of Executive Order No. 103 (2020) but before issuance of this Order, are hereby extended until 90 days after the end of the Public Health Emergency, but only for any holder of a Retired Officer Carry Permit that has satisfied the following requirements:

a. The permit holder submits a renewal application pursuant to N.J.S.A. 2C:39-6(l) prior to the expiration of their existing permit or prior to May 4, 2020, whichever is later; and

b. As part of that renewal application, the permit holder submits proof of qualification on the use of their weapons from the first qualification period of the current 12-month permit cycle as required by the Attorney General's Semi-Annual Firearms Qualification and Requalification Standards for New Jersey Law Enforcement.

2. Any permit holder who has their Retired Officer Carry Permit extended under Paragraph 1 of this Order shall submit proof of their semi-annual firearms requalification within ninety days of the expiration of the Public Health Emergency declared in Executive Order No. 103 (2020). Should such permit holder fail to do so, their renewal application submitted under Paragraph 1(a) of this Order shall be denied.

3. For the duration of the Public Health Emergency declared in Executive Order No. 103 (2020), the following rules apply where an individual seeks to obtain or renew a Carry Permit:

a. Where the chief police officer, the Superintendent, and/or the Superior Court receive an application to obtain or renew a Carry Permit pursuant to N.J.S.A. 2C:58-4, and where the chief police officer, the Superintendent, and/or the Superior Court find that the applicant would qualify for such permit except that the applicant cannot show the requisite familiarity with the safe handling and use of hand-

guns under N.J.S.A. 2C:58-4, N.J.A.C. 13:54-2.4, and/or N.J.A.C. 13:54-2.9 due to the restrictions imposed in response to the Public Health Emergency declared in Executive Order No. 103 (2020), the chief police officer, the Superintendent, and/or the Superior Court may authorize such individual to complete such training, practice, or testing as would allow them to satisfy N.J.A.C. 13:54-2.4 or N.J.A.C. 13:54-2.9;

b. The Superintendent shall prescribe and publish a form that the chief police officer, the Superintendent, and/or the Superior Court may complete authorizing such individual to complete the training, practice, or testing described in Paragraph 3(a) of this Order; and

c. Where the individual is authorized to complete the training, practice, or testing described in Paragraph 3(a) of this Order, a shooting range that is otherwise closed to the public pursuant to the terms of Executive Order No. 107 (2020) may offer such individual and their single instructor access to that range, until such individual subsequently receives or is denied the Carry Permit. Shooting ranges who offer such access must comply with social distancing practices wherever practicable.

4. The State Director of Emergency Management, who is the Superintendent, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order. The Superintendent is also directed to take all appropriate steps to effectuate this Order.

5. To the degree that they are inconsistent with this Order, the provisions of N.J.S.A. 2C:39-6, N.J.S.A. 2C:58-4, N.J.A.C. 13:54-2.4, and N.J.A.C. 13:54-2.9 are suspended for the duration of this Public Health Emergency. Any provisions of these statutes and regulations that are not inconsistent with this Order remain in full force and effect.

6. This Order shall take effect immediately and shall remain in effect until revoked or modified by the Governor.

Dated April 27, 2020.

EXECUTIVE ORDER NO. 130

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 (2020) on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119 (2020), the facts and circumstances of which are adopted by reference herein, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-129 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, under N.J.S.A. 54:4-66(a), second-quarter property taxes are due May 1, 2020 for municipalities on a calendar year budget cycle; and

WHEREAS, under N.J.S.A. 54:4-66.1(a), fourth-quarter property taxes are due May 1, 2020 for municipalities on a State Fiscal Year budget cycle; and

WHEREAS, property taxpayers throughout the State may be suffering from one or more financial hardships caused by or related to the COVID-19 pandemic, including but not limited to a substantial loss of or drop in income and additional expenses such as those relating to necessary healthcare; and

WHEREAS, as of April 13, 2020, there were 856,528 unemployment claims filed by New Jerseyans over the previous five weeks; and

WHEREAS, the COVID-19 outbreak has caused substantial economic disruption for many property taxpayers throughout the State, making it difficult for many residents to meet the May 1, 2020 due date for timely payment of real property taxes; and

WHEREAS, under N.J.S.A. 54:4-67(a), local governments may fix the rate of interest to be charged for the nonpayment of taxes, assessments, or other municipal liens or charges, on or before the date when they would become delinquent, and may provide that no interest shall be charged if payment of any installment is made within the tenth calendar day following the date upon which the same became delinquent, thereby establishing a grace period running through May 11, 2020 for second-quarter property taxes in the case of municipalities on a calendar year budget cycle, or, in the case of municipalities on a State Fiscal Year budget cycle, a grace period running through May 11, 2020 for fourth-quarter property taxes; and

WHEREAS, it is necessary to take action to minimize and mitigate additional hardships, losses, or suffering by individuals and local government units as the State and its political subdivisions respond to the spread of COVID-19; and

WHEREAS, for these reasons, among others, the strict enforcement of certain statutory provisions relating to property tax grace periods is detrimental to the public welfare; and

WHEREAS, pursuant to N.J.S.A. App. A:9-47, the Governor is authorized to, among other things, suspend any regulatory provision of law when its enforcement is detrimental to the public welfare during an emergency; and

WHEREAS, in an attempt to alleviate some of the financial burden on property taxpayers, local governments have unilaterally undertaken a variety of actions absent statutory authorization to do so, including extending the statutory property tax payment installment date and grace period, as well as attempting to establish an

effective grace period extension through temporary alteration of the interest rate; and

WHEREAS, however well-intentioned, the extraordinary measures by municipalities create inconsistency throughout the State, which may generate individual confusion regarding property tax payment obligations and may also create or exacerbate local fiscal challenges, including but not limited to, threatening the ability to fulfill obligations; and

WHEREAS, in accordance with N.J.S.A App. A:9-40, I declared that, due to the State of Emergency, no municipality, county, or any agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of my Executive Orders, or which will in any way interfere with or impede their achievement; and

WHEREAS, the Constitution and statutes of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A:9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Any governing body of a municipality with a calendar year budget cycle may adopt a resolution instituting a grace period concluding on a date no later than June 1, 2020 for the payment of second-quarter property taxes.

2. Any governing body of a municipality with a State Fiscal Year budget cycle may adopt a resolution instituting a grace period concluding on a date no later than June 1, 2020 for the payment of fourth-quarter property taxes. If a municipality with a State Fiscal Year budget cycle institutes an extended grace period pursuant to this Order, the municipality shall not conduct an accelerated tax sale with respect to the installment for payment of fourth-quarter property taxes.

3. The municipal clerk shall notify the Director of the Division of Local Government Services in the Department of Community Affairs of any resolution instituting an extended grace period adopted under authority of this Order not later than the third business day next following the municipal governing body's adoption of the resolution.

4. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution that will or might in any way conflict with any of the provisions of this Order, or that will in any way interfere with or impede its achievement, which shall include, but not be limited to, any attempt to provide an additional extension of the installment date or grace period for the payment of property taxes, and any attempt to other-

wise temporarily fix, reduce, or retroactively modify the rate of interest charged for failure to make timely payment to achieve this effect.

5. To the degree that they are inconsistent with this Order, the provisions of N.J.S.A. 54:4-66(a), N.J.S.A. 54:4-66.1(a) and N.J.S.A. 54:4-67(a) are suspended for the duration of this Public Health Emergency. Any provisions of these statutes that are not inconsistent with this Order remain in full force and effect.

6. This Order shall take effect immediately and shall remain in effect until revoked or modified by the Governor.

Dated April 28, 2020.

EXECUTIVE ORDER NO. 131

WHEREAS, through Executive Order No. 102 (2020), which I signed on February 3, 2020, I created the State's Coronavirus Task Force, chaired by the Commissioner of the New Jersey Department of Health, in order to coordinate the State's efforts to appropriately prepare for and respond to the public health hazard posed by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, on March 9, 2020, through Executive Order No. 103 (2020), the facts and circumstances of which are adopted by reference herein, I declared both a Public Health Emergency and a State of Emergency throughout the State due to the public health hazard created by COVID-19; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119 (2020), the facts and circumstances of which are adopted by reference herein, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserved the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-130 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, among these actions, and in recognition that the Centers for Disease Control and Prevention ("CDC") has advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020) to order steps to mitigate community spread of COVID-19; and

WHEREAS, Executive Order No. 107 (2020) closed non-essential retail businesses to the public, but permitted essential retail businesses and other businesses that require an in-person workforce to continue to operate; and

WHEREAS, Executive Order No. 107 (2020) permitted restaurants, cafeterias, dining establishments, food courts, bars, and all other holders of a liquor license with retail consumption privileges, to operate only food delivery and/or take-out services during their normal business hours; and

WHEREAS, Executive Order No. 107 (2020) stated that businesses or non-profits who have employees who cannot perform their functions via telework or work-from-home arrangements should make best efforts to reduce staff on site to the minimal number necessary to ensure that essential operations can continue; and

WHEREAS, Executive Order No. 107 (2020) directed all New Jersey residents to remain at home or at their place of residence, unless they qualified under certain defined categories, including reporting to, or performing, their job; and

WHEREAS, as of April 27, 2020, according to the World Health Organization, there were more than 2,878,000 confirmed cases of COVID-19 worldwide, with over 198,000 of those cases having resulted in death; and

WHEREAS, as of April 27, 2020, according to the CDC, there were more than 957,000 confirmed cases of COVID-19 in the United States, with over 53,000 of those cases having resulted in death; and

WHEREAS, as of April 27, 2020, there were over 111,000 positive cases of COVID-19 in New Jersey, with at least 6,044 of those cases having resulted in death; and

WHEREAS, because of the aggressive social distancing measures we have instituted, we have begun to see a slowdown in the spread of COVID-19 and a decrease in the number of hospitalizations; and

WHEREAS, public health experts have consistently warned that rescinding social distancing restrictions and allowing society to operate as it did before the COVID-19 outbreak would result in a new spike of cases, hospitalizations, and deaths that would overwhelm our health care system and impose massive economic damage; and

WHEREAS, any effort to loosen the restrictions in place must therefore be done thoughtfully, responsibly, and in a manner that does not unnecessarily jeopardize public health; and

WHEREAS, the development of a plan for loosening the restrictions and gradually reopening the economy will benefit from expertise in various sectors, including public health, business, infrastructure, mass transit, and academia; and

WHEREAS, this expertise will assist officials in government as they face difficult choices involving the appropriate levels of economic and other activity that can be allowed in light of the ongoing COVID-19 outbreak;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby established the Governor's Restart and Recovery Commission ("Commission").

2. The Commission will provide guidance to the Governor for reopening the New Jersey economy in a way that is consistent with the State's public health efforts to slow the spread of COVID-19. The Commission's objectives shall include, but not be limited to:

a. Providing guidance for a phased-in reopening of the State's economy, including assessing the economic impact on the State from such a reopening as well as the impact of any applicable social distancing guidelines on certain economic sectors;

b. Developing strategies for how State and Federal government can support the economic recovery of the private sector, including consideration of any related workforce and transportation issues;

c. Suggesting priorities for investments that will allow the State's economy to both rebound and be positioned for long-term success, while accounting for the immediate and longer-term fiscal challenges resulting from the spread of COVID-19;

d. Identifying critical needs for Federal support and intervention;

e. Identifying opportunities for various sectors of the economy to be rebuilt in a manner that is well-positioned for the economy of today and the economy of the future, while prioritizing the needs of the State's middle and working classes;

f. Ensuring that any economic recovery proposals consider equity for disadvantaged communities; and

g. Assessing how policy choices will affect the simultaneous goals of short-term economic recovery and long-term fiscal health.

3. The Commission shall consist of at least 16 public members, who shall be appointed by and serve at the pleasure of the Governor. The Governor shall select two co-Chairpersons from among the members of the Commission, who shall also serve at the pleasure of the Governor. All public members of the Commission shall serve without compensation.

4. The Lieutenant Governor, Commissioner of the Department of Health, Chief of Staff to the Governor, Chief Counsel to the Governor, and Chief Policy Advisor to the Governor shall serve on the Commission as ex officio members.

5. The Commission shall organize as soon as practicable after the appointment of its members, and shall convene as soon and as often as practicable and as requested by the Governor and Chairpersons.

6. The Commission is authorized to call upon any department, office, division, or agency of this State to supply it with data and any other information, personnel, or other assistance available to such agency as the Commission determines to be necessary to discharge its duties under this Order. Each Executive Branch department, office, division, or agency of this State is hereby required, to the extent not inconsistent with law, to cooperate fully with the Commission and to furnish the Commission with such assistance on as timely a basis as is necessary to accomplish the purposes of this Order.

7. The Commission shall be purely advisory in nature, and shall provide advice to the Governor and other Executive Branch departments and agencies as requested.

8. Nothing in this Order shall be construed to supersede any Federal, State, or local law.

9. For purposes of this Order, "Executive Branch departments and agencies" shall mean any of the principal departments in the Executive Branch of State government and any agency, authority, board, bureau, commission, division, institution, office, or other instrumentality within or created by any such department, and any independent State authority, commission, instrumentality, or agency over which the Governor exercises executive authority, as determined by the Attorney General.

10. This Order shall take effect immediately.

Dated April 29, 2020.

EXECUTIVE ORDER NO. 132

WHEREAS, in light of the dangers posed by COVID-19, I issued Executive Order No. 103 (2020) on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, to further protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 (2020) on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, on March 21, 2020, I issued Executive Order No. 107 (2020), superseding Executive Order No. 104 (2020) and requiring New Jersey residents to remain home or at their place of residence subject to limited exceptions, cancelling social gatherings, and limiting all restaurants and other dining establishments to offering only food delivery and/or take-out services; and

WHEREAS, as of April 28, 2020, according to the Centers for Disease Control and Prevention (CDC), there were more than 2,954,000 confirmed cases of COVID-19 worldwide, with over 202,000 of those cases having resulted in death; and

WHEREAS, as of April 28, 2020, there were more than 981,000 confirmed cases of COVID-19 in the United States, with over 55,000 of those cases having resulted in death; and

WHEREAS, as of April 28, 2020, there were over 113,000 positive cases of COVID-19 in New Jersey, with at least 6,442 of those cases having resulted in death; and

WHEREAS, on March 19, 2020, I issued Executive Order No. 105 (2020), which required the electronic collection and submission of political party candidate and delegate petitions through an online form created by the Secretary of State in or-

der to limit unnecessary person-to-person contact during the COVID-19 emergency; and

WHEREAS, Executive Order No. 120 (2020) extended the required electronic collection and submission of petitions through an online form to Independent candidates seeking direct nomination for the general election; and

WHEREAS, the New Jersey Statutes authorize voters to submit initiative and referendum petitions for a variety of purposes, including but not limited to, effectuating a change in or replacement of government, reducing or increasing a levy cap, or proposing local ordinances; and

WHEREAS, social distancing measures are required for a period of as-yet-undetermined duration, meaning unnecessary person-to-person contact must be limited; and

WHEREAS, New Jersey citizens are presently faced with the reality that exercising their statutory right to engage in direct democracy through collecting or filling out petitions may endanger their health and safety; and

WHEREAS, unless action is taken, the COVID-19 emergency will significantly hinder initiatives and referenda from meeting the petition requirements set forth in statutes, including but not limited to N.J.S.A. 40:69A-184, 40:69A-185, 40:69A-186, 40:74-10, 40:74-11, 40:41A-104, 40:41A-105 and 40:41A-106; and

WHEREAS, the full participation of voters is critical to a robust democracy; and

WHEREAS, allowing initiative and referendum campaigns to submit their petitions electronically, in addition to hand delivery, will help limit unnecessary person-to-person contact; and

WHEREAS, allowing voters to fill out and submit initiative and referendum petitions electronically, so that initiative or referendum campaigns need not physically gather petitions by going to individual voters in person, will help limit unnecessary person-to-person contact; and

WHEREAS, temporarily modifying the requirements of statutory provisions, including but not limited to N.J.S.A. 40:69A-186, 40:74-11, and 40:41A-106, to allow for electronic submission of petitions is needed to ensure voters can safely exercise their democratic rights during this unprecedented public health crisis; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. In addition to accepting hand delivery of initiative and referendum petitions, county clerks and municipal clerks shall allow for these petitions to be submitted electronically.

2. The county clerks and municipal clerks shall also accept petitions with signatures collected via an online form. A generic template of this form shall be created by the Secretary of State, in consultation with the Department of Law and Public Safety. This form shall be available for use by May 1, 2020.

3. Following the availability of the online template form, the county clerks and municipal clerks shall require that signatures be gathered via the online template form. Hand signatures obtained prior to the effective date of this Order shall also be accepted.

4. The requirements of statutory provisions, including but not limited to N.J.S.A. 40:69A-186, 40:74-11, and 40:41A-106, that a petition circulator provide a notarized affidavit attesting to the validity of the signatures on the petition and the process by which the signatures were collected shall be suspended for initiative and referendum petitions submitted during the pendency of the public health emergency. Petition circulators who have not already notarized an affidavit shall attach a signed statement verifying the information required in statutes, including but not limited to N.J.S.A. 40:69A-186, 40:74-11, and 40:41A-106.

5. This Order shall take effect immediately. The use of the online form to gather signatures for petitions shall cease upon termination of this Order.

Dated April 29, 2020.

EXECUTIVE ORDER NO. 133

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119 (2020), the facts and circumstances of which are adopted by reference herein, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-132 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, among these actions, and in recognition that the Centers for Disease Control and Prevention ("CDC") has advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community

spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020) to order steps to mitigate community spread of COVID-19; and

WHEREAS, to further limit community spread from person-to-person contact through social distancing, Executive Order No. 107 (2020) required, with limited exceptions, New Jersey residents to remain in their place of residence, cancelled all gatherings, and closed non-essential recreational businesses, including golf courses; and

WHEREAS, Executive Order No. 108 (2020) ordered that no municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of Executive Order No. 107 (2020), or which will or might in any way interfere with or impede its achievement, or the achievement of Administrative Orders issued as authorized by Executive Order No. 107 (2020); and

WHEREAS, Executive Order No. 108 (2020) contained an exception allowing municipalities and counties to, among other things, impose additional restrictions at municipal or county parks; and

WHEREAS, due to increased public interaction and gatherings at county and State parks throughout the State, I issued Executive Order No. 118 (2020) on April 7, 2020, which closed State Parks and Forests, as well as county parks, to the public in order to further social distancing requirements; and

WHEREAS, Executive Order No. 118 (2020) defined "State Parks and Forests" as all State parks, forests, recreation areas, historic sites, marinas, golf courses, botanical gardens, and other lands, waters, and facilities assigned to the State Park Service in the Division of Parks and Forestry of the Department of Environmental Protection (DEP); and

WHEREAS, Executive Order No. 118 (2020) superseded Executive Order No. 108 (2020) to the extent that Executive Order No. 108 (2020) had allowed counties to impose additional restrictions at county parks in response to COVID-19; and

WHEREAS, on April 8, 2020, and April 11, 2020, I issued Executive Order Nos. 122 and 125 (2020), respectively, which imposed additional mitigation requirements on essential businesses and transportation carriers to ensure that they are following public health guidelines regarding social distancing, cleaning, sanitizing, and hygiene practices; and

WHEREAS, after the issuance of Executive Order No. 118 (2020), the CDC issued guidance for visiting parks and recreational facilities, recognizing that parks and open spaces provide people a vital way to keep the mind and body healthy; and

WHEREAS, the CDC guidance regarding the safe access of parks advises individuals to stay six feet away from other visitors, avoid use of playgrounds, decline participation in organized sports and recreational activities, and visit parks close to home to limit travel distances; and

WHEREAS, New Jersey is no longer seeing an increase in the number of new cases of COVID-19 that are being reported on a daily basis, and the State is experiencing a decrease in the number of individuals visiting emergency departments and being admitted to hospitals for COVID-19; and

WHEREAS, as New Jersey makes continued progress in its fight against COVID-19, it is appropriate to ensure that New Jerseyans can safely enjoy outdoor recreation, with reasonable restrictions that limit the spread of COVID-19, as a way to enhance physical and mental health, while maintaining the overall social distancing and mitigation requirements in place to protect the health, safety, and welfare of New Jersey residents; and

WHEREAS, Executive Order No. 118 (2020) balanced the need to respond to the increasing new cases and hospitalizations with the need to provide people with outdoor recreation opportunities for the physical and mental well-being, and the progress in the State's fight against COVID-19 shifts the balance to allow for such additional outdoor recreation opportunities; and

WHEREAS, as public health experts have observed, even as the State is able to allow passive recreation outdoors with reasonable restriction, the ongoing pandemic means that other brick and mortar retail and recreation businesses, and other businesses in which it is more challenging to comply with social distancing measures, are not ready to be reopened at this time; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. All State Parks and Forests shall open to the public to engage in the following passive recreational activities in which social distancing can be readily achieved:
   a. Fishing;
   b. Hunting;
   c. Boating;
   d. Canoeing;
   e. Hiking;
   f. Walking;
   g. Running or jogging;
   h. Biking;
   i. Birding; and
   j. Horseback riding.
2. The following shall remain closed to the public at all State Parks and Forests:

a. Picnic areas;
b. Playgrounds;
c. Exercise stations and equipment;
d. Chartered watercraft services and rentals;
e. Swimming;
f. Pavilions;
g. Restrooms; and
h. Other buildings or facilities, including, but not limited to, visitor centers, interpretive centers, and interior historical sites.

3. The following recommendations and policies shall apply to all State Parks and Forests:

a. Employees and visitors should wear cloth face coverings while in the State Park or Forest in all settings where other social distancing measures are difficult to maintain, except where doing so would inhibit that individual's health or where the individual is under two years of age;

b. Available parking must be limited at all State Parks and Forests at 50% of the maximum capacity at one time, and visitors shall be prohibited from parking in undesignated areas, including in roadways and other undesignated areas;

c. No picnicking shall be allowed, including on picnic blankets in signed picnic areas, and no picnic blankets, chairs, coolers, and other such personal property shall be carried into any State Parks and Forests;

d. Consistent with Paragraph 3 of Executive Order No. 107 (2020), visitors must practice social distancing and stay six feet apart whenever practicable, excluding immediate family members, caretakers, household members, or romantic partners;

e. No organized or contact activities or sports shall be allowed; and

f. Consistent with Paragraph 5 of Executive Order No. 107 (2020), gatherings of individuals, including in parks, are prohibited.

4. The operative paragraphs of Executive Order No. 118 (2020) are hereby superseded in full. Paragraph 9 of Executive Order No. 107 (2020), as clarified by paragraph 4 of New Jersey Office of Emergency Management (NJOEM) Administrative Order No. 2020-6, is hereby superseded to the extent it closes golf courses as a non-essential recreational business, but otherwise remains in full force and effect.

5. County parks shall open to the public with the exception of those parks closed to the public by county order prior to the effective date of Executive Order No. 118 (2020). Such parks may be reopened by order of the county of jurisdiction.

6. All recreational campgrounds and transient camp sites at campgrounds shall remain closed to the public. Residential campgrounds, which includes mobile home parks, condo sites, and existing/renewing 2020 yearly seasonal contract sites, may remain open.

7. All Counties and Municipalities shall apply, at minimum, the restrictions, policies, and recommendations provided in paragraphs two and three of this Order at any county and municipal parks that are open to the public; however, consistent with Executive Order No. 108 (2020), Counties and Municipalities may impose

additional restrictions at county and municipal parks in response to COVID-19. Counties and Municipalities may also impose additional restrictions on the ability of residential campgrounds, including mobile home parks, to accept new transient guests or seasonal tenants, as that term is defined by NJEOM Administrative Order Nos. 2020-08 and 2020-09.

8. Golf courses shall be allowed to reopen to the public and to members associated with private golf clubs, but such businesses must adopt policies that include, at minimum, the following requirements:

a. Require that reservations, cancellations and pre-payments be made via electronic or telephone reservation systems to limit physical interactions. Such policies shall, wherever possible, consider populations that do not have access to internet service or credit cards;

b. Stagger tee times so that they are 16 minutes apart to limit the amount of people on the golf course;

c. Limit use of golf carts to single occupant only, excluding an individual's immediate family members, caretakers, household members, or romantic partners;

d. Require frequent sanitization of high-touch areas including, at minimum, the following cleaning protocols:

i. Clean and disinfect high-touch areas routinely, and after each use, in accordance with CDC guidelines, particularly in spaces that are accessible to staff, players, or other individuals, including, but not limited to, restroom facilities, counter tops, door knobs, other common surfaces, range buckets, golf carts, push carts, and other frequently touched surfaces including employee used equipment, and ensure cleaning procedures following a known or potential exposure at the golf course in compliance with CDC recommendations; and

ii. Ensure that the golf course has a sufficient number of workers to perform the above protocols effectively and in a manner that ensures the safety of players and staff;

e. Restrict players' ability to touch common surfaces when retrieving golf balls by installing pins, placing cups upside down or partly above ground, or utilizing a shallow cup;

f. Close all golf center buildings, pro shops, and other buildings and amenities to the public;

g. Remove bunker rakes and other on-course furniture like benches, water coolers, and ball washers;

h. Ensure that the flagstick remains in the golf hole at all times, and instruct players to avoid touching the flagstick or hole;

i. Discontinue club and equipment rentals;

j. Prohibit the use of caddies;

k. Limit tee times to two players, except for immediate family members, caretakers, household members, or romantic partners;

l. Place additional restrictions on areas of the golf course, as necessary, to limit person-to-person interactions and facilitate appropriate social distancing, including

but not limited to, specific holes, putting greens, FootGolf courses, and short game areas;

m. Employees, players, and other individuals should wear cloth face coverings in all settings on the golf course where other social distancing measures are difficult to maintain, except where doing so would inhibit that individual's health, or where the individual is under two years of age; and

n. Require players to always maintain appropriate social distancing by remaining six feet apart from others.

9. Miniature golf courses and driving ranges, as well as other places of public amusement, shall remain closed pursuant to Executive Order No. 107 (2020).

10. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions and exclusions to the terms of this Order.

11. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order, and to cooperate fully with Administrative Orders issued pursuant to this Order.

12. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

13. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

14. This Order shall take effect beginning at 6:00 a.m. on Saturday, May 2, 2020, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of the Department of Health as appropriate.

Dated April 29, 2020.

EXECUTIVE ORDER NO. 134

WHEREAS, Deborah "Debby" Bye Kean was born in Wilmington, Delaware in 1943 and graduated from Tower High School in Wilmington and Bennett College in Millbrook, New York; and

WHEREAS, Debby Kean married Thomas H. Kean Sr. in June 1967, months before he would begin his political career by being elected to the New Jersey General Assembly, and the two shared fifty-two years together until her passing; and

WHEREAS, Debby Kean was a staunch campaigner for her husband as he was elected Governor of New Jersey in 1981, and she served as New Jersey's First Lady from 1982 to 1990; and

WHEREAS, Debby Kean was a fierce advocate for individuals in need, using her platform as First Lady to secure funding for and establish day care centers for

State employees across the State, and her efforts resulted in the Deborah B. Kean Childcare Center in Trenton bearing her name; and

WHEREAS, Debby Kean also advocated for research on and the prevention of developmental disabilities, and served as the honorary chair of the governing commission to study developmental disabilities; and

WHEREAS, Debby Kean led the renovation of the Governor's Mansion at Drumthwacket in Princeton, raising funds and executing a vision to turn Drumthwacket into a home that New Jersey remains proud of to this day; and

WHEREAS, Debby Kean will be remembered as a dignified and humble First Lady of New Jersey; and

WHEREAS, Debby Kean will also be remembered for her dedication to her family as a wife and proud mother of Reed Kean, Alexandra Kean Strong, and Senate Minority Leader Thomas Kean, Jr., who has represented the 21st Legislative District in the New Jersey Senate since 2003; and

WHEREAS, Debby Kean's presence will be greatly missed by her husband, children, grandchildren, many friends, and the people of the State of New Jersey; and

WHEREAS, it is with immense sadness that we mourn Debby Kean's passing, and extend our deepest sympathy to her family and friends; and

WHEREAS, it is appropriate to celebrate the outstanding achievements and cherished memory of Debby Kean and to mark her passing;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Friday, May 1, 2020, in recognition and mourning of Former First Lady Debby Kean.

2. This Order shall take effect immediately.

Dated April 30, 2020.

EXECUTIVE ORDER NO. 135

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 (2020) on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119 (2020), the facts and circumstances of which are adopted by reference herein, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, in recognition that the Centers for Disease Control and Prevention ("CDC") has advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, Executive Order No. 107 (2020) ordered steps to mitigate community spread of COVID-19; and

WHEREAS, Executive Order No. 107 (2020) directed all New Jersey residents to remain at home or at their place of residence, unless they qualified under certain defined categories, including reporting to, or performing, their job; and

WHEREAS, Executive Order No. 107 (2020) directed all businesses or non-profits in the State, whether closed or open to the public, to accommodate their workforce, wherever practicable, for telework or work-from-home arrangements; and

WHEREAS, Executive Order No. 107 (2020) stated that businesses or non-profits who have employees who cannot perform their functions via telework or work-from-home arrangements should make best efforts to reduce staff on site to the minimal number necessary to ensure that essential operations can continue; and

WHEREAS, Executive Order No. 104 (2020) directed that all public, private and parochial schools, including charter and renaissance schools, close to the public beginning on March 18, 2020, and Executive Order No. 107 (2020) directed those schools to remain closed; and

WHEREAS, compliance with the social distancing strategies and travel restrictions required by Executive Orders No. 104 and 107 (2020) impact the ability of the residents of this State to comply with certain statutory requirements to appear in person before certain public officials when seeking to obtain certain licenses, certificates, and other benefits; and

WHEREAS, under N.J.S.A. 37:1-2, persons intending to be married or to enter into a civil union must obtain a marriage or civil union license from a licensing officer and deliver it to the person who is to officiate; and

WHEREAS, under N.J.S.A. 37:1-7 and -8, individuals seeking to obtain a marriage or civil union license must appear personally or through an attorney-in-fact before the licensing officer and, in the presence of the licensing officer, subscribe and swear to an oath attesting to certain facts respecting the legality of the proposed marriage or civil union, which must also be verified by a witness of legal age; and

WHEREAS, under N.J.S.A. 37:1-4, a marriage or civil union license shall not be issued sooner than 72 hours after an application has been made, and a license so issued shall be good and valid only for 30 days after the date of issuance; and

WHEREAS, under N.J.S.A. 37:1-17, the certificate of marriage or civil union must be signed by the officiant by or before whom the marriage or civil union was solemnized, who must also indicate the date and place of the marriage or civil union; and

WHEREAS, under N.J.S.A. 37:1-17, the certificate of marriage or civil union must also be signed by at least two witnesses who were present at the marriage or civil union ceremony; and

WHEREAS, to comply with my directives to implement social distancing strategies and to limit person-to-person interactions in accordance with CDC and New Jersey Department of Health ("DOH") guidance, certain municipal and State offices have implemented telework or work-from-home arrangements, thus reducing staff on site to the minimal number necessary to continue essential operations; and

WHEREAS, given my direction to strictly observe social distancing practices, including my direction that employees work remotely, individuals seeking to marry or enter into a civil union may be unable to appear in person before a licensing official and/or to solemnize the marriage or civil union as required in the presence of an officiant and two witnesses within 30 days of issuance of the license; and

WHEREAS, the requirements that individuals seeking to marry or enter into a civil union must appear in person to effectuate the arrangement may be accomplished for a limited time period through the use of audio-visual technology, also referred to as video conferencing, while nevertheless providing confidence that marriages and civil unions are entered into legitimately and free of duress; and

WHEREAS, for these reasons, among others, strict enforcement of the various statutory requirements to appear in person relating to marriage or civil union licenses is detrimental to the public welfare; and

WHEREAS, in light of the current crisis, individuals may need to expedite their marriage or civil union, so that the 72-hour waiting period between application and issuance of license should be suspended; and

WHEREAS, N.J.S.A. 34:2-21.7(a) generally prohibits the employment of minors under the age of 18 years of age unless the employer procures and keeps on file an employment certificate or special permit for the minor that is issued by the issuing officer of the school district in which the child resides or, if the child is a nonresident of the State, of the district in which the child has obtained a promise of employment; and

WHEREAS, N.J.S.A. 34:2-21.8 provides that a school district issuing officer shall issue an employment certificate or special permit only upon the application in person of the minor desiring employment; and

WHEREAS, N.J.S.A. 34:2-21.10 provides that, upon issuance of such certificate, it must be signed by the child in whose name it is issued in the presence of the issuing officer; and

WHEREAS, given the closure of all public schools, minors are unable to appear personally before school district issuing officers in order to apply for or sign the employment certificate as required by applicable statutes; and

WHEREAS, the inability of minors to obtain employment certificates as required by law will render them unable to obtain gainful employment; and

WHEREAS, the requirements that minors appear personally before school district issuing officers in order to apply for or sign the employment certificate may be accomplished for a limited time period through the use of audio-visual technology, while nevertheless providing confidence that such arrangements are entered into legitimately; and

WHEREAS, for these reasons, among others, strict enforcement of the various statutory requirements to appear in person relating to employment certificates for such minors is detrimental to the public welfare; and

WHEREAS, while it is critical to ensure that individuals are able to use audio-visual technology in order to obtain marriage or civil union licenses or necessary employment certificates during the Public Health Emergency declared for COVID-19, it is important to recognize that not all such individuals have equal access to or experience with such technology, and thus it is important to ensure that such individuals can still obtain the applicable licenses or employment certificates without audio-visual technology; and

WHEREAS, pursuant to N.J.S.A. App. A:9-47, the Governor is authorized to, among other things, suspend any regulatory provision of law when its enforcement is detrimental to the public welfare during an emergency; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq. and N.J.S.A. App. A:9-33 et seq., and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. For the duration of the Public Health Emergency declared in Executive Order No. 103 (2020), the provisions of N.J.S.A. 37:1-7 and N.J.S.A. 37:1-8 requiring that individuals who wish to marry or enter into a civil union appear personally before a licensing official may be satisfied through the use of audio-visual technology under the following conditions:

a. The video conference shall be live and must allow for interaction between the couple, the licensing official, and a witness;

b. During the video conference, the following steps must occur in a way that is visible and audible to the couple, the licensing official, and a witness:

i. Both members of the couple and the witness present valid photo identification and any other documents necessary to allow the licensing official to fulfill their statutory duty;

ii. The licensing official administers the oath;

iii. Each member of the couple and the witness shall sign the license application. To the extent that the members of the couple and/or witness are physically located in the same place, they shall sign the document in the physical presence of the other(s). If one or more of the individuals is located in a different physical location, once signatures are obtained in one location, the member of the couple or witness shall transmit, a legible copy of the document, to the next signatory, until all signatures are obtained; and

iv. The final signatory shall transmit a legible copy of the signed license application directly to the licensing official, who shall confirm receipt of the document on the day of transmission.

2. For the duration of the Public Health Emergency declared in Executive Order No. 103 (2020), the provisions of N.J.S.A. 37:1-17 requiring that the marriage or civil union be solemnized in the physical presence of an officiant and two witnesses, who will then sign the certificate, may be satisfied through the use of audio-visual technology under the following conditions:

a. The video conference shall be live and must allow for interaction between the couple, the officiant, and the two witnesses;

b. During the video conference, the following steps must occur in a way that is visible and audible to the couple, the officiant, and the two witnesses:

i. The couple shall present their marriage or civil union license to the officiant;

ii. The officiant, each witness, and both members of the couple shall affirm that they are physically situated in the State, though they are not required to be situated in the same municipality. The officiant shall identify the municipality and address where he or she is physically situated and denote that municipality and address as the place of marriage or civil union on the certificate;

iii. Each member of the couple and each witness shall sign the marriage or civil union certificate. To the extent that the members of the couple and/or witnesses are physically located in the same place, they shall sign the document in the physical presence of the other(s). If one or more of the individuals is located in a different physical location, once signatures are obtained in one location, the couple or each witness shall transmit a legible copy of the document, to the next signatory, until all signatures are obtained; and

iv. Once the certificate has been signed by both members of the couple and both witnesses, the last signatory shall transmit a legible copy of the signed certificate to the officiant at the conclusion of the conference, who shall sign the document on the date of transmission.

c. Following the video conference, the officiant shall make copies of the license and certificate and shall distribute the original and copies in the manner and within the time period required by N.J.S.A. 26:8-41 and N.J.S.A. 37:1-17.1; and

d. In effectuating the transmission contemplated in this section, local registrars shall use a means that is secure and maintains the confidentiality of the documents.

3. For the duration of the Public Health Emergency, the provisions of N.J.S.A. 37:1-4 requiring a 72-hour waiting period between the license application and issuance shall be waived.

4. Notwithstanding N.J.S.A. 37:1-4, any marriage or civil union license issued during the Public Health Emergency shall be valid for 90 days.

5. For the duration of the Public Health Emergency declared in Executive Order No. 103 (2020), the fees imposed by N.J.S.A. 37:1-12 and N.J.S.A. 37:1-12.1 for the issuance of a marriage or civil union license shall be waived if the couple seeks a second license, mirroring the original license, due to the expiration of the original.

6. The New Jersey Office of Emergency Management, in consultation with the Commissioner of DOH, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the above-outlined process and requirements.

7. For the duration of the Public Health Emergency declared in Executive Order No. 103 (2020), the provisions of N.J.S.A. 34:2-21.8 and N.J.S.A. 34:2-21.10, requiring the personal appearance of the minor, and, under certain circumstances, the minor's parent or guardian, before school district issuing officers in order to apply for or sign employment certificates may be satisfied through the use of audio-visual technology. Each public school district shall develop and implement procedures to satisfy the statutory requirements without requiring in-person contact between the school district issuing official and the minor, under the following conditions:

a. During the application process, the child and the school district licensing officer may transmit a single copy of all required documentation by way of electronic transmission, fax, or any other means of transfer of documents developed by the school district that avoids in-person contact, is secure, and maintains the confidentiality of the documents;

b. The video conference shall be live and must allow for interaction between the child and the school district issuing officer, and when applicable, the parent or guardian. During the video conference, the child shall verify his or her identity, authenticate the documents submitted, and sign the application, in a way that is visible and audible to the school district issuing officer; and

c. Following the video conference, the child shall transmit the signed certificate, by electronic or other means as determined by the school district, to the issuing officer, who shall make the requisite copies and distribute the original and copies as required by N.J.S.A. 34:2-21.7.

8. Nothing in this Order shall be construed to require that the marriage or civil union licensing process or ceremony, or the minor employment certification process, occur through the use of audio-visual technology. Applicable public officials should make all reasonable efforts, consistent with the enhanced social distancing and mitigation practices detailed in this State's Executive Orders, including but not limited to Executive Order No. 107 (2020), to accommodate applicants who may lack the technological resources necessary to engage in these processes through audio-visual means. Where in-person services are offered, public officials must

similarly require participants and staff to wear cloth face coverings and must implement sanitization protocols, consistent with Executive Order No. 122 (2020).

9. To the degree that that they are inconsistent with this Order, the provisions of N.J.S.A. 37:1-2, N.J.S.A. 37:1-4, N.J.S.A. 37:1-7 and -8, N.J.S.A. 37:1-12, N.J.S.A. 37:1-12.1, N.J.S.A. 37:1-17, N.J.S.A. 34:2-21.8, and N.J.S.A. 34:2-21.10 are suspended for the duration of the Public Health Emergency. Any provisions of these statutes that are not inconsistent with this Order remain in full force and effect.

10. This Order shall take effect on Monday, May 4, 2020 and shall remain in effect until revoked or modified by the Governor.

Dated May 1, 2020.

EXECUTIVE ORDER NO. 136

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119 (2020), the facts and circumstances of which are adopted by reference herein, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133 and No. 135 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, among these actions, and in recognition that the Centers for Disease Control and Prevention ("CDC") has advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020) to order steps to mitigate community spread of COVID-19; and

WHEREAS, Executive Order No. 107 (2020) mandated that all businesses and nonprofits in the State accommodate their workforce, wherever practicable, for telework or work-from-home arrangements, and reduce staff on site to the minimal number necessary to continue essential operations because restricting the physical

presence of individuals in office environments and work sites is critical to preventing future spread of COVID-19; and

WHEREAS, as of March 19, 2020, I also instructed all Executive Branch departments and agencies to utilize work-from-home arrangements for both essential and non-essential employees wherever feasible; and

WHEREAS, on April 8, 2020, I issued Executive Order No. 122 (2020), which, among other things, ordered non-essential construction projects to cease; and

WHEREAS, restricting the physical presence of individuals in office environments and work sites is critical to preventing future community spread of COVID-19; and

WHEREAS, all State offices and Executive Branch departments and agencies have been directed to prioritize addressing immediate public needs, including protecting public health, safety and the environment, while still trying as much as is practicable to maintain the basic functions of State government, and its many duties, missions, and initiatives; and

WHEREAS, notwithstanding the extraordinary circumstances of the COVID-19 pandemic, certain Executive Branch departments and agencies remain subject to statutory provisions that require agencies to review and act upon certain applications or requests for permits or other authorizations before a specified deadline lest the matter under review be deemed approved without conditions; and

WHEREAS, the Department of Environmental Protection ("DEP") is charged with ensuring the protection and preservation of the environment and natural resources that could be adversely impacted by certain development and construction projects, and pursuant to N.J.S.A. 13:1D-32, must act on an application for a construction permit within 90 days or the application is deemed approved without conditions deemed necessary by DEP to ensure protection of natural resources; and

WHEREAS, under Executive Order No. 122 (2020), construction projects that are essential have been permitted to proceed during this ongoing Public Health Emergency; and

WHEREAS, pursuant to N.J.S.A. 13:1D-29, a "construction permit" includes approvals that may be issued by DEP pending environmental review pursuant to the Waterfront Development Act, R.S. 12:5-3, the Wetlands Act of 1970, N.J.S.A. 13:9A-1, the Coastal Area Facility Review Act, N.J.S.A. 13:19-1, and the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50, as well as the regulations promulgated pursuant to these statutes, which help to ensure the protection of valuable natural resources; and

WHEREAS, DEP is charged with ensuring the protection and preservation of coastal areas that could be impacted by development under the Coastal Area Facility Review Act, and pursuant to N.J.S.A. 13:19-8, must issue a notification to a permit applicant in writing regarding the completeness of its application within 20 days of receipt and present the application for public comment within 15 days and no more than 60 days after the application is declared complete; and

WHEREAS, DEP is charged with oversight of solid waste utilities to ensure the appropriate handling of solid waste throughout New Jersey, and pursuant to N.J.S.A. 48:3-7, must act on solid waste utility applications for certain economic transactions within either 30 or 60 days or the application is deemed approved without conditions by DEP; and

WHEREAS, DEP is charged with the control of stream encroachments, the delegation of certain administrative and enforcement functions to county governing bodies, and the integration of flood control activities of the municipal, county, State, and Federal governments, and pursuant to N.J.S.A. 58:16A-67, must act on an application from a municipality or designated agency for proposed stream cleaning, clearing, or desnagging within either 15 or 60 days of receipt or the application is deemed approved without conditions; and

WHEREAS, automatic approval of applications in the absence of a thorough environmental review may result in permits that contravene applicable regulations and may be otherwise detrimental to public health, safety or the environment; and

WHEREAS, DEP is charged with the oversight of public and private sector recycling activities to decrease the flow of solid waste to sanitary landfill facilities, aid in the conservation and recovery of valuable resources, conserve energy in the manufacturing process, and increase the supply of reusable raw materials for the State's industries, and pursuant to N.J.S.A. 13:1E-99.16.e, the governing body of each municipality must on or before July 1 of each year submit a recycling tonnage report to DEP; and

WHEREAS, DEP is charged with oversight of electronic waste management, and pursuant to N.J.S.A. 13:1E-99.105c, every authorized recycler, each manufacturer or group plan administrator on behalf of a manufacturer, the operator of every collection location identified in each manufacturer's plan, and any local government unit that collects covered electronic devices must submit to DEP a semiannual report for the period ending July 1 by August 1 of each year; and

WHEREAS, the preparation of recycling and electronic waste reporting requires significant effort by local government units, recyclers and manufacturers and collection of information from other entities, all of whom may be impacted by COVID-19, thus impeding their ability to comply with statutory reporting deadlines; and

WHEREAS, under N.J.S.A. 13:1E-127.1 ("Dirty Dirt law"), which I signed on January 21, 2020, DEP is charged with ensuring that soil and fill recycling services are properly administered throughout New Jersey; and

WHEREAS, the Dirty Dirt law required that any business wishing to engage in soil and fill recycling services submit a registration form to DEP no later than April 20, 2020, and DEP must issue such registration 90 days from submission of the registration form; and

WHEREAS, the Dirty Dirt law further provides that no business without a valid registration may engage in soil and fill recycling services after July 20, 2020 and a registrant must submit a valid and administratively complete application for a soil and fill recycling license to the Attorney General no later than October 20, 2020,

which may only be extended for an additional 90 days upon a showing of good cause; and

WHEREAS, under usual circumstances, the statutory timeframes are sufficient to enable regulated entities to submit, and DEP to evaluate and act upon, the required reporting information and subject applications; and

WHEREAS, a public health emergency such as the COVID-19 pandemic, and especially my direction to strictly observe social distancing practices, including avoiding all non-essential travel, working remotely, and prioritizing addressing immediate public needs, including protecting public health, safety and the environment, is an impediment to compliance with the statutory timeframes; and

WHEREAS, members of the public may similarly be limited in their ability to provide necessary information and comment related to applications or requests for permits or authorizations within statutory or regulatory timeframes and may require additional time due to the interruptions related to the Public Health Emergency and the social distancing and mitigation restrictions imposed; and

WHEREAS, the strict enforcement of these timeframes during the ongoing Public Health Emergency and State of Emergency could prevent DEP from conducting a full and complete environmental review, which would be detrimental to the public welfare; and

WHEREAS, pursuant to N.J.S.A. App. A:9-47, the Governor is authorized to, among other things, suspend any regulatory provision of law when its enforcement is detrimental to the public welfare during an emergency; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A.

38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. All timeframes governing public notice, review, or final action on applications for, or renewals of permits, registrations, plans, petitions, licenses, rates, and other approvals under the following statutes administered by DEP are tolled, beginning on March 9, 2020, by each day during the Public Health Emergency declared by Executive Order No. 103 (2020), and no request submitted pursuant to any of these statutes shall be deemed complete or approved for failure to act within the prescribed timeframe: N.J.S.A. 13:1D-32, N.J.S.A. 13:19-8, N.J.S.A. 48:3-7, and N.J.S.A. 58:16A-67.

2. The timeframe for businesses to submit a registration form to DEP to engage in soil and fill recycling services pursuant to N.J.S.A. 13:1E-127.1, DEP's time to review and issue such registration, the deadline after which a business may not engage in soil and fill recycling services without a valid registration, and the

timeframe for a registrant to submit an administratively complete license application to the Attorney General shall each be extended by the number of days of the Public Health Emergency declared in Executive Order No. 103 (2020) plus an additional 60 days.

3. The deadline for the governing body of each municipality to submit its yearly recycling tonnage report to DEP by July 1, 2020, under N.J.S.A. 13:1E-99.16.e, is extended by 60 days.

4. The deadline for recyclers, manufacturers, collection locations and local government units who collect electronic devices to submit their semiannual report to DEP by August 1, 2020, as required by N.J.S.A. 13:1E-99.105c, is extended by 60 days.

5. Within five days of the effective date of this Order, the Commissioner of DEP shall issue an Administrative Order that extends the regulatory timeframes to accept public comment on applications for, or renewals of permits, registrations, plans or other approvals where necessary to ensure adequate public participation.

6. Notwithstanding the provisions of this Order, DEP is authorized to establish earlier timeframes for review and decisions on specific permit applications, with appropriate public notice, if DEP determines that an earlier decision is in the public interest or after consideration of the need to maintain appropriate sequencing with federal timeframes.

7. DEP shall continue to review all applications within applicable timeframes to the maximum extent practicable and as necessary to satisfy its obligations of State implementation of a federal program pursuant to Federal law.

8. DEP shall expedite to the extent practicable and in accordance with the CDC guidelines the review of any applications it deems necessary for the protection of public health, safety, and environment, or that are otherwise related to the Federal or State response to the COVID-19 pandemic.

9. To the degree that they are inconsistent with this Order, the provisions of N.J.S.A. 13:1D-32, N.J.S.A. 13:1E-99.16.e, N.J.S.A. 13:1E-99.105c, N.J.S.A. 13:1E-127.1, N.J.S.A. 13:19-8, N.J.S.A. 48:3-7, and N.J.S.A. 58:16A-67 are suspended for the duration of this Public Health Emergency. Any provisions of these statutes that are not inconsistent with this Order remain in full force and effect.

10. This Order shall take effect immediately and shall remain in effect until revoked or modified by the Governor.

Dated May 2, 2020.

EXECUTIVE ORDER NO. 137

WHEREAS, on June 30, 2019, at the time I enacted the Fiscal Year 2020 Appropriations Act, P.L.2019, c.151, into law, I also signed Executive Order No. 73 (2019), which, among other things, lamented the State of New Jersey's "inexcusably inadequate" fiscal reserves and highlighted the urgent need to continue to build an undesignated fund balance (commonly referred to as a "surplus") that is sufficient

to withstand a "national economic downturn, a natural disaster, or other unexpected occurrence negatively affecting revenue collections during the fiscal year"; and

WHEREAS, to this end, Executive Order No. 73 (2019) directed the Director of the Division of Budget and Accounting in the Department of the Treasury to identify and place into reserve items of appropriation in an amount sufficient to ensure that the State budget remains in balance while maintaining a responsible anticipated Fiscal Year 2020 closing undesignated fund balance of at least $875 million, in addition to making a $401 million deposit into the Surplus Revenue Fund (commonly referred to as the "Rainy Day Fund") attributable to Fiscal Year 2019; and

WHEREAS, Executive Order No. 73 (2019) further required the State Treasurer to monitor the achievement of budget savings, monthly revenue collections, and other factors including usage and enrollment trends, legislative activity, and other developments directly affecting fund balances throughout Fiscal Year 2020 and to take any necessary actions to ensure that the estimated closing undesignated fund balance plus the balance in the Rainy Day Fund, when added together, total at least $1.276 billion; and

WHEREAS, pursuant to that Order, various items of appropriation totaling approximately $235 million dollars were placed into reserve and subsequently released based primarily on strong revenue performance experienced during the first half of Fiscal Year 2020; and

WHEREAS, thereafter, in light of the imminent dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 (2020) on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119 (2020), the facts and circumstances of which are adopted by reference herein, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, since March 9, 2020, I have issued numerous Executive Orders addressing various aspects of the Public Health Emergency and State of Emergency declared in Executive Order No. 103 (2020), including Executive Order Nos. 104-133 and Nos. 135-136 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, beginning on March 20, 2020, the Director of the Division of Budget and Accounting has placed approximately $1 billion of items of appropriation into reserve, including, with certain exceptions, 50 percent of all uncommitted non-salary operating funds (other than funding needed to provide full-time care at State institutions), 50 percent of all uncommitted revolving and dedicated funding, and 100 percent of all non-entitlement, discretionary grants-in-aid and state aid funding, and 100 percent of unexpended capital balances; and

WHEREAS, on March 23, 2020, the State Treasurer disseminated a voluntary disclosure ("COVID-19 Disclosure #1") regarding the severe impacts that the COVID-

19 pandemic is expected to have on the State's economy and financial condition, including potentially precipitous declines in revenues in gross income taxes, corporate business taxes, sales taxes, motor fuels taxes, casino-related taxes, and lottery sales, among other sources of revenue in both Fiscal Year 2020 and Fiscal Year 2021, as well as negative impacts on liquidity due to the extension of the State tax filing deadline from April 15, 2020 until July 15, 2020; and

WHEREAS, in early April, in response to the unprecedented fiscal effects of the COVID-19 pandemic, including the decision of the federal government to defer its tax filing deadline from April 15, 2020 until July 15, 2020, the Legislature and I agreed to extend by law the end of Fiscal Year 2020 by three months from June 30, 2020 until September 30, 2020; and

WHEREAS, on April 17, 2020, the State Treasurer publicly disseminated COVID-19 Disclosure #2, updating and supplementing the financial disclosures set forth in COVID-19 Disclosure #1; and

WHEREAS, the facts and circumstances described above, particularly the severe fiscal challenges caused by the COVID-19 pandemic and the significant ongoing fiscal disruption and uncertainties associated with the COVID-19 pandemic, make it unrealistic for the State to continue to target and plan for a total surplus of at least $1.276 billion at this time; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:24 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Executive Order No. 73 (2019) is hereby rescinded.

2. The State Treasurer and the Director of the Division of Budget and Accounting are authorized and directed to continue, update, and expand, as necessary, their ongoing actions and activities in response to the COVID-19 pandemic.

3. This Order shall take effect immediately.

Dated May 4, 2020.

EXECUTIVE ORDER NO. 138

WHEREAS, on March 9, 2020, through Executive Order No. 103 (2020), the facts and circumstances of which are adopted by reference herein, I declared both a Public Health Emergency and a State of Emergency throughout the State due to the public health hazard created by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, Executive Order No. 103 (2020) described both the symptoms and dangers presented by COVID-19 and the likelihood of community spread across the State, and it recognized the need to use all available statewide authorities to prepare for and respond to COVID-19 cases in New Jersey, to implement appropriate measures to mitigate the spread of COVID-19, and to prepare in the event of an increasing number of individuals requiring medical care or hospitalization; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act ("EHPA"), to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133 and 135-137 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, N.J.S.A. 26:13-3(b) establishes that a Public Health Emergency declared by the Governor shall automatically terminate after 30 days, unless renewed for an additional 30 days through a declaration of the Governor; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119 (2020), which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, since the Public Health Emergency was renewed on April 7, 2020, at which time there were 41,000 positive cases of COVID-19 in New Jersey, the COVID-19 outbreak has continued to present a public health hazard in New Jersey, in the region, and across the United States; and

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services ("HHS") Secretary declared a public health emergency for the United States to aid the nation's healthcare community in responding to COVID-19; and

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency pursuant to his constitutional and statutory powers, including those granted by Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, et seq., and consistent with Section 1135 of the Social Security Act, as amended, 42 U.S.C. § 1320b-5; and

WHEREAS, the emergency declarations by the President and the HHS Secretary remain in effect today; and

WHEREAS, also on March 13, 2020, the President determined that the COVID-19 pandemic was of sufficient severity and magnitude to warrant an emergency declaration under Section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("Stafford Act"), 42 U.S.C. § 5121-5207, which remains in effect today; and

WHEREAS, on March 25, 2020, the President determined that the COVID-19 pandemic was of sufficient severity and magnitude to warrant a major disaster declaration under Section 401 of the Stafford Act, 42 U.S.C. § 5121-5207, which remains in effect today; and

WHEREAS, as of May 5, 2020, according to the World Health Organization, there were over 3,517,000 confirmed cases of COVID-19 worldwide, with over 243,000 of those cases having resulted in death; and

WHEREAS, as of May 5, 2020, according to the Centers for Disease Control and Prevention (CDC), there were over 1,171,000 confirmed cases of COVID-19 in the United States, with over 68,000 of those cases having resulted in death; and

WHEREAS, as of May 5, 2020, there were over 130,000 positive cases of COVID-19 in New Jersey, with at least 8,244 of those cases having resulted in death; and

WHEREAS, as of May 5, 2020, there were positive cases of COVID-19 in every county in New Jersey, and there have been deaths relating to COVID-19 in every county in New Jersey; and

WHEREAS, although the State's social distancing measures have helped to slow the increase of COVID-19 cases and deaths in New Jersey, the total number of COVID-19 cases and deaths in New Jersey has continued to rise, and would rise at an even more precipitous rate absent these important measures; and

WHEREAS, although the State has made all reasonable efforts to procure medical resources from the federal government, existing State supplies, donations, and private sector purchasing, the availability of medical resources in the State remains a serious concern, and the emergency measures the State has taken to address these needs must continue at this time; and

WHEREAS, the Commissioner of the Department of Health ("DOH") has also determined that the State needs the help of additional qualified health, mental health, and related professionals to supplement our healthcare capacity on a temporary basis to address the health care needs relating to the COVID-19 outbreak, and the emergency measures the State has taken to address these needs must continue at this time; and

WHEREAS, there are hundreds of law enforcement officers in New Jersey currently unable to report to duty because they tested positive for COVID-19 or are currently in quarantine, and the emergency measures the State has taken to address these needs must continue at this time; and

WHEREAS, the spread of COVID-19 has greatly strained the resources and capabilities of county and municipal governments, including public health agencies, that provide essential services for containing and mitigating the spread of contagious diseases, and the situation is too large in scope to be handled entirely by the normal county and municipal operating services; and

WHEREAS, the facts as set forth above and consultation with the Commissioner of DOH confirm that the spread of COVID-19 in New Jersey constitutes an ongoing public health hazard that threatens and presently endangers the health, safety, and welfare of the residents of one or more municipalities or counties of the State, and it is necessary and appropriate to take action against this public health hazard to protect and maintain the health, safety, and welfare of New Jersey residents and visitors; and

WHEREAS, the facts as set forth above and consultation with the Commissioner of DOH confirm that there exists a public health emergency in the State; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby DECLARE and PROCLAIM that the Public Health Emergency declared in Executive Order No. 103 (2020) pursuant to the EHPA, N.J.S.A. 26:13-1, et seq., continues to exist throughout the State of New Jersey, and I hereby ORDER and DIRECT:

1. All Executive Orders adopted in whole or in part based on the authority under the EHPA to respond to the Public Health Emergency presented by the COVID-19 outbreak remain in full force and effect.

2. All actions taken by any Executive Branch departments and agencies in whole or in part based on the authority under the EHPA to respond to the Public Health Emergency presented by the COVID-19 outbreak, or in whole or in part based on authority delegated by any Executive Orders described in Paragraph 1 of this Order, including but not limited to any Administrative Orders, remain in full force and effect.

3. For purposes of this Order, "Executive Branch departments and agencies" shall mean any of the principal departments in the Executive Branch of State government and any agency, authority, board, bureau, commission, division, institution, office, or other instrumentality within or created by any such department, and any independent State authority, commission, instrumentality, or agency over which the Governor exercises executive authority, as determined by the Attorney General.

4. This Order shall take effect immediately.

Dated May 6, 2020.

EXECUTIVE ORDER NO. 139

WHEREAS, May 8 is observed every year as "Victory in Europe Day," or "V-E Day," throughout the United States and Western Europe; and

WHEREAS, on May 8, 1945, World War II in Europe came to an end, following the German surrender to the Allied forces; and

WHEREAS, this day not only signified the end of the most brutal conflict in Europe's history, but also marked the end of the horrific and murderous Nazi Germany regime that plunged the continent into war; and

WHEREAS, the evil of Nazism reached its peak in the horrors of the Holocaust, where six million Jews and millions of other individuals, including Slavs, those with disabilities, political and religious dissidents, and gay men, were systematically murdered; and

WHEREAS, these acts are among the greatest atrocities ever committed by mankind, and have forever shocked the conscience of humanity; and

WHEREAS, as the U.S. Ambassador to the Federal Republic of Germany, I saw firsthand the enduring scar left by the Nazi regime, and witnessed the German people's constant struggle to both reckon with this painful history and to move beyond it; and

WHEREAS, the world will always owe a tremendous debt of gratitude to all those who served in the Allied forces and ended the scourge of Nazism; and

WHEREAS, millions of individuals serving in the Allied forces, including 407,316 American servicemembers, made the ultimate sacrifice and gave their lives in this conflict; and

WHEREAS, May 8, 2020, marks the 75th anniversary of V-E Day; and

WHEREAS, while these events can seem like they occurred in the distant past, there are 80,000 Holocaust survivors and over 380,000 veterans of World War II who live in the United States today, and their examples of bravery and courage continue to inspire millions of Americans; and

WHEREAS, on this 75th anniversary of V-E Day, it is appropriate to recognize these survivors and veterans, to remember those servicemembers and civilians who perished in Europe during World War II, and to recommit ourselves to the ideals of democracy, freedom, and human rights that represent the firmest and most lasting rebuke to the Nazi regime;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies, instrumentalities, and all public buildings during appropriate hours on Friday, May 8, 2020, in recognition of the 75th anniversary of Victory in Europe Day.

2. This Order shall take effect immediately.

Dated May 8, 2020.

EXECUTIVE ORDER NO. 140

WHEREAS, through Executive Order No. 102 (2020), which I signed on February 3, 2020, I created the State's Coronavirus Task Force, chaired by the Commissioner of the New Jersey Department of Health (DOH), in order to coordinate the State's

efforts to appropriately prepare for and respond to the public health hazard posed by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, on March 9, 2020, through Executive Order No. 103 (2020), the facts and circumstances of which are adopted by reference herein, I declared both a Public Health Emergency and a State of Emergency throughout the State due to the public health hazard created by COVID-19; and

WHEREAS, the Public Health Emergency declared in Executive Order No. 103 (2020) has been twice extended, through Executive Order No. 119 (2020), which I signed on April 7, 2020, and through Executive Order No. 138 (2020), which I signed on May 6, 2020, and continues to exist today; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserved the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133 and Nos. 135-138 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, among these actions, and in recognition that the Centers for Disease Control and Prevention ("CDC") has advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020) to order steps to mitigate community spread of COVID-19; and

WHEREAS, Executive Order No. 107 (2020) closed non-essential retail businesses to the public, but permitted essential retail businesses and other businesses that require an in-person workforce to continue to operate; and

WHEREAS, Executive Order No. 107 (2020) permitted restaurants, cafeterias, dining establishments, food courts, bars, and all other holders of a liquor license with retail consumption privileges, to operate only food delivery and/or take-out services during their normal business hours; and

WHEREAS, Executive Order No. 107 (2020) stated that businesses or non-profits who have employees who cannot perform their functions via telework or work-from-home arrangements should make best efforts to reduce staff on site to the minimal number necessary to ensure that essential operations can continue; and

WHEREAS, Executive Order No. 107 (2020) directed all New Jersey residents to remain at home or at their place of residence, unless they qualified under certain defined categories, including reporting to, or performing, their job; and

WHEREAS, as of May 7, 2020, according to the World Health Organization, there were more than 3,672,000 confirmed cases of COVID-19 worldwide, with over 254,000 of those cases having resulted in death; and

WHEREAS, as of May 7, 2020, according to the CDC, there were more than 1,219,000 confirmed cases of COVID-19 in the United States, with over 73,000 of those cases having resulted in death; and

WHEREAS, as of May 7, 2020, there were over 133,000 positive cases of COVID-19 in New Jersey, with at least 8,801 of those cases having resulted in death; and

WHEREAS, because of the aggressive social distancing measures we have instituted, we have begun to see a slowdown in the spread of COVID-19 and a decrease in the number of hospitalizations; and

WHEREAS, public health experts have consistently warned that rescinding social distancing restrictions and allowing society to operate as it did before the COVID-19 outbreak would result in a new spike of cases, hospitalizations, and deaths that would overwhelm our health care system and impose massive economic damage; and

WHEREAS, any effort to loosen the restrictions in place must therefore be done thoughtfully, responsibly, and in a manner that does not unnecessarily jeopardize public health; and

WHEREAS, on April 28, 2020, I signed Executive Order No. 131 (2020) to establish the Governor's Restart and Recovery Commission, which is charged with providing guidance to the Governor for reopening the New Jersey economy in a manner consistent with the State's public health efforts to slow the spread of COVID-19; and

WHEREAS, the individuals I have appointed to that Commission represent a wide breadth of expertise in various sectors, including public health, business, infrastructure, mass transit, and academia; and

WHEREAS, this expertise can be complemented by the establishment of a second advisory body that will represent diverse stakeholders across a number of economic sectors, and provide additional insight into the unique facets of New Jersey's economy and society; and

WHEREAS, the combination of these perspectives will assist officials in government as they face difficult choices involving the appropriate levels of economic and other activity that can be allowed in light of the ongoing COVID-19 outbreak;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby established the Governor's Restart and Recovery Advisory Council ("Advisory Council").

2. The Advisory Council will provide guidance to the Governor on the reopening and recovery of New Jersey's economy, taking into account the unique facets of New Jersey's economy and society.

3. The Advisory Council will have three co-chairs: 1) the Chief Executive Officer of the New Jersey Economic Development Authority; 2) the Secretary of

Higher Education; and 3) the President and Chief Executive Officer of Choose New Jersey.

4. With the exception of the co-chairs, the members of the Advisory Council shall be appointed by and serve at the pleasure of the Chief Executive Officer of the New Jersey Economic Development Authority. The members will represent a variety of sectors of New Jersey's economy and society, including but not limited to small business, tourism and entertainment, county and local government, transportation and infrastructure, health care, professional services, manufacturing, construction, logistics, social services, and communities of faith. All public members of the Advisory Council shall serve without compensation.

5. The Advisory Council shall organize as soon as practicable after the appointment of its members, and shall convene as requested and in the manner requested by the co-chairs. The co-chairs shall have the authority to create subcommittees or subgroups of the full Advisory Council.

6. The co-chairs of the Advisory Council are authorized to call upon any department, office, division, or agency of this State to supply it with public data and information, as well as any personnel or other assistance available to such agency as the Advisory Council determines to be necessary to discharge its duties under this Order. Each Executive Branch department, office, division, or agency of this State is hereby required, to the extent not inconsistent with law, to cooperate fully with the co-chairs of the Advisory Council and to furnish the co-chairs of the Advisory Council with such assistance on as timely a basis as is necessary to accomplish the purposes of this Order.

7. The Advisory Council shall be purely advisory in nature, and shall provide advice to the Governor and other Executive Branch departments and agencies as requested.

8. Nothing in this Order shall be construed to supersede any Federal, State, or local law.

9. For purposes of this Order, "Executive Branch departments and agencies" shall mean any of the principal departments in the Executive Branch of State government and any agency, authority, board, bureau, commission, division, institution, office, or other instrumentality within or created by any such department, and any independent State authority, commission, instrumentality, or agency over which the Governor exercises executive authority, as determined by the Attorney General.

10. This Order shall take effect immediately.

Dated May 8, 2020.

EXECUTIVE ORDER NO. 141

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 (2020) on March 9, 2020, the facts and

circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, the Public Health Emergency declared in Executive Order No. 103 (2020) has been twice extended, through Executive Order No. 119 (2020), which I signed on April 7, 2020, and through Executive Order No. 138 (2020), which I signed on May 6, 2020, and continues to exist today; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Executive Order Nos. 135-138, and Executive Order No. 140 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, the Commissioner of Health ("Commissioner") is authorized by N.J.S.A. 26:13-12 to take all reasonable and necessary measures to prevent the transmission of infectious disease; and

WHEREAS, during a declaration of a Public Health Emergency, the Department of Health is responsible for overseeing the uniform prevention of the spread of disease in accordance with N.J.S.A. 26:4-2; and

WHEREAS, the Commissioner has the authority to coordinate the activities of all local health agencies with regard to public health protection related to preparing for and responding to public health emergencies, in accordance with N.J.S.A. 26:13-21; and

WHEREAS, contact tracing is a critical disease control measure that has been employed by local, county, regional and State health department personnel for decades; and

WHEREAS, the Centers for Disease Control and Prevention ("CDC") has emphasized that contact tracing is a key strategy, together with testing, social distancing, quarantining, and treatment, for preventing further spread of COVID-19 and reopening the economy; and

WHEREAS, effective contact tracing requires engaging individuals with specialized training and access to social and medical support for patients and contacts; and

WHEREAS, New Jersey must scale up and train a case investigation and contact tracer workforce to stop the continued transmission of COVID-19, which will in turn require significant coordination between the State and local health departments; and

WHEREAS, county, regional, and local health departments play a critical role in performing case investigation and contact tracing functions; and

WHEREAS, as per the CDC, case investigation, contact tracing, and contact follow-up and monitoring must be linked with testing, clinical services, and timely, com-

prehensive and accurate reporting of data to facilitate immediate electronic transmission of laboratory and case data for public health action; and

WHEREAS, in scaling a statewide, data-driven contact tracing initiative to meet critical need, use of a single centralized contact tracing platform to track patients and their contacts will ensure that the State's overall effort is operationally efficient; and

WHEREAS, robust and consistent contact tracing state-wide is critical to both New Jersey's current COVID-19 response and to long-term efforts to combat the virus and re-open the economy; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq. and N.J.S.A. App. A:9-33 et seq., and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The Commissioner shall take all necessary and appropriate actions within her authority to ensure an effective statewide contact tracing system, including to establish a secure centralized contact tracing platform within the State, to issue operating procedures for tracking and recording cases using the centralized platform, to identify or establish a training curriculum on system operations and contract tracing procedures, and to address staffing needs.

2. In exercising her authority to establish an effective statewide contact tracing system, the Commissioner shall consider how best to ensure that the secure centralized contact tracing platform connects to the existing Communicable Disease Reporting and Surveillance System operated by the Department of Health.

3. In exercising her authority to establish an effective statewide contact tracing system, the Commissioner shall consider how best to ensure that the operating procedures for tracking and recording cases using the centralized platform include, at minimum, standards for maintaining privacy and safe handling of personally identifiable information by contact tracers, and for review of positive cases within specified time frames.

4. In exercising her authority to establish an effective statewide contact tracing system, the Commissioner shall consider how best to ensure that the training curriculum on system operations and contact tracing procedures include, at minimum, training regarding:

a. Technology operations;

b. Security and privacy issues;

c. Case/contact investigations; and

d. Social assistance supports.

5. All State, county, regional, and local health departments performing COVID-19 contact tracing shall adhere to the Commissioner's orders relating to the

statewide contact tracing system, including using the secure centralized contact tracing platform, complying with all operating procedures, and ensuring all individuals performing contact tracing participate in the training program, under any conditions and on any timelines that the Commissioner establishes.

6. This Order shall take effect immediately and shall remain in effect until revoked or modified by the Governor.

Dated May 12, 2020.

EXECUTIVE ORDER NO. 142

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 (2020) on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, the Public Health Emergency declared in Executive Order No. 103 (2020) has been twice extended, through Executive Order No. 119 (2020), which I signed on April 7, 2020, and through Executive Order No. 138 (2020), which I signed on May 6, 2020, and continues to exist today; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Executive Order Nos. 135-138, and Executive Order Nos. 140-141 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, among other measures to protect the health, safety, and welfare of New Jersey residents, Executive Order No. 122 (2020) prohibited non-essential construction projects from continuing in the State, given the risk of transmission at such construction sites among the workers; and

WHEREAS, to further limit the spread of COVID-19 through person-to-person contact, I issued Executive Order No. 107 (2020), which canceled all gatherings of individuals, and which thereby prohibited everything from informal events such as parties and celebrations to organized events of any kind, unless otherwise authorized; and

WHEREAS, the State Director of Emergency Management, who is the Superintendent of the State Police, issued Administrative Order No. 2020-4 to establish that gatherings of 10 persons or fewer are presumed to be in compliance with Executive Order No. 107 (2020); and

WHEREAS, while Administrative Order No. 2020-4 acknowledged there may be circumstances in which clear evidence showed an impermissible gathering was happening even if 10 persons or fewer were in attendance, law enforcement has not identified any such situations in practice, and instead is consistently enforcing violations of the prohibition on gatherings only where there have been more than 10 people in attendance; and

WHEREAS, in addition to limiting person-to-person contact at construction sites and gatherings, I also established statewide social mitigation strategies in Executive Order No. 107 (2020) that included closing the brick-and-mortar premises of non-essential retail businesses to the public; and

WHEREAS, the Centers for Disease Control and Prevention ("CDC") has now recommended that all residents wear cloth face coverings in public settings where other social distancing measures are difficult to maintain, particularly in areas of significant community-based transmission; and

WHEREAS, the CDC has also recommended certain cleaning and disinfecting procedures for businesses to reduce potential spread of COVID-19 to staff and members of the public; and

WHEREAS, as the rate of reported new cases of COVID-19 in New Jersey decreases, including a reduction in the total number of individuals being admitted to hospitals for COVID-19, the State can begin to take certain steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that a considerable number of the State's current measures must remain in place, both to reduce additional new infections and to save lives, until additional metrics – such as expanded testing and use of contact tracing – have been satisfied; and

WHEREAS, given the decrease in the rate of reported new cases of COVID-19, permitting non-essential construction projects to resume subject to strict social distancing measures, allowing for gatherings at which individuals remain in their closed vehicles, and authorizing curbside pickup at non-essential retail businesses are each measures that are appropriately tailored to the current risk to public health and safety; and

WHEREAS, construction sites are generally limited to workers, rather than customers and other members of the public, and so involve less risk of significant transmission of COVID-19 in the community; and

WHEREAS, although gatherings generally present a significant risk of person-to-person transmission, attendees at gatherings who remain in their vehicles and therefore do not come into significant in-person contact during the gathering pose a lower threat to public health and safety, but permitting individuals to leave their vehicle or open their windows or roofs when in proximity with other individuals could result in significant person-to-person contact, meaning that there must be careful limits whenever individuals gather while remaining in their vehicles; and

WHEREAS, permitting curbside pickup at non-essential retail businesses is reasonable in that it avoids unnecessary contact between customers and staff in enclosed

spaces, and instead only allows for the similar amount of limited contact that might happen when products are being delivered to a residence; and

WHEREAS, by contrast, the extensive interactions that would happen at in-person gatherings and that would happen from in-store retail operations continue to present a significant risk, and so the general ban on gatherings and the restrictions on in-store operations for non-essential retail businesses cannot be lifted at this time; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq. and N.J.S.A. App. A:9-33 et seq., and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The physical operations of all construction projects that were not designated as essential in Executive Order No. 122 (2020) are permitted to resume, subject to the conditions in paragraph 2 of this Order.

2. All businesses engaged in construction projects in the State, whether or not the projects were designated as essential under Executive Order No. 122 (2020), must adopt policies that include, at minimum, the following requirements:

a. Prohibit non-essential visitors from entering the worksite;

b. Engage in appropriate social distancing measures when picking up or delivering equipment or materials;

c. Limit worksite meetings, inductions, and workgroups to groups of fewer than 10 individuals;

d. Require individuals to maintain six feet or more distance between them wherever possible;

e. Stagger work start and stop times where practicable to limit the number of individuals entering and leaving the worksite concurrently;

f. Identify congested and "high-risk areas," including but not limited to lunchrooms, breakrooms, portable rest rooms, and elevators, and limit the number of individuals at those sites concurrently where practicable;

g. Stagger lunch breaks and work times where practicable to enable operations to safely continue while utilizing the least number of individuals possible at the site;

h. Require workers and visitors to wear cloth face coverings, in accordance with CDC recommendations, while on the premises, except where doing so would inhibit the individual's health or the individual is under two years of age, and require workers to wear gloves while on the premises. Businesses must provide, at their expense, such face coverings and gloves for their employees. If a visitor refuses to wear a cloth face covering for non-medical reasons and if such covering cannot be provided to the individual by the business at the point of entry, then the business must decline entry to the individual. Nothing in the stated policy should prevent

workers or visitors from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if the businesses is otherwise required to provide such worker with more protective equipment due to the nature of the work involved. Where an individual declines to wear a face covering on the premises due to a medical condition that inhibits such usage, neither the business nor its staff shall require the individual to produce medical documentation verifying the stated condition;

i. Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;

j. Limit sharing of tools, equipment, and machinery;

k. Where running water is not available, provide portable washing stations with soap and/or alcohol-based hand sanitizers that have greater than 60% ethanol or 70% isopropanol;

l. Require frequent sanitization of high-touch areas like restrooms, breakrooms, equipment, and machinery;

m. When the worksite is an occupied residence, require workers to sanitize work areas and keep a distance of at least six feet from the occupants; and

n. Place conspicuous signage at entrances and throughout the worksite detailing the above mandates.

3. Paragraph 2 of Executive Order No. 122 (2020) is hereby superseded in full. Paragraph 3 of that Order is hereby superseded to the extent that it applied to businesses engaged in essential construction projects. New Jersey Office of Emergency Management (NJOEM) Administrative Order No. 2020-11 is hereby superseded in full.

4. Any gathering that adheres to all of the following rules does not violate Paragraph 5 of Executive Order No. 107 (2020):

a. Attendees participating in the gathering must arrive in a vehicle and they must remain in that same vehicle during the entire gathering;

b. Each attendee's vehicle must remain entirely closed at all times, meaning that the windows, doors, sunroofs, and tops of the vehicle must be closed at all times, unless:

i. The vehicle is more than six feet from any other vehicle or individual, except for, as applicable, the limited number of individuals organizing or maintaining the gathering; or

ii. A law enforcement officer, appropriate public official, or private security guard asks any attendee to open the vehicle's windows, doors, sunroofs, and/or tops.

c. If there are individuals organizing or maintaining the gathering, and who are not in closed vehicles, such individuals must follow all applicable Executive Orders and Administrative Orders, and must wear cloth face coverings or more protective face coverings in any settings where other social distancing measures are difficult to maintain, except where doing so would inhibit that individual's health; and

d. To the degree that a gathering requires pre-payment, or seeks donations of any kind, contactless options for pre-payment or donation, such as online or by telephone, must be offered wherever feasible.

5. If an individual leaves their home to participate in any gathering in accordance with Paragraph 4 of this Order, it shall not be a violation of Paragraph 2 of Executive Order No. 107 (2020).

6. If a recreational and entertainment event adheres to the rules laid out in Paragraph 4 of this Order, it will also not be a violation of Paragraph 9 of Executive Order No. 107 (2020). Paragraph 9 of Executive Order No. 107 (2020) is hereby superseded to the extent that it prohibited recreational and entertainment events where customers do not leave their vehicles.

7. Nothing in Paragraph 4 of this Order shall prevent an individual from leaving a vehicle, opening a vehicle's windows, sunroofs, doors, and/or tops, and/or approaching a vehicle, if done to protect their health or safety or the health or safety of another individual, or to access a restroom.

8. Where a gathering does not adhere to Paragraph 4 of this Order, gatherings of 10 persons or fewer are in compliance with the terms of Section 5 of Executive Order No. 107 (2020), while gatherings of more than 10 persons are in violation of that Executive Order.

9. Non-essential retail businesses are permitted to reopen to the public, but only where they adopt policies that include, at minimum, the following requirements:

a. Customers shall not be permitted to enter the brick-and-mortar premises, but shall be permitted to pick up goods outside of the establishment that they have already ordered ("curbside pickup");

b. In-store operations shall be limited, wherever feasible, to those employees who are responsible for the operations required for curbside pickup;

c. Customer transactions shall be handled in advance by phone, email, facsimile, or other means that avoid person-to-person contact, wherever feasible;

d. Customers shall notify the retailer by text message, email, or phone once they arrive, whenever feasible, or make best efforts to schedule their arrival time in advance. The customer shall be asked to remain in their vehicle, if arriving by car, until store staff delivers the purchase;

e. Designated employees shall bring goods outside of the retail establishment and place the goods directly in a customer's vehicle whenever feasible; and

f. Retail businesses operating in shopping malls are permitted to operate by curbside pickup, in accordance with the other requirements of this paragraph, but employees must bring the goods to customers at the exterior of the mall and shall place them directly in a customer's vehicle whenever feasible. The indoor portions of shopping malls shall remain closed to the public, consistent with Executive Order No. 107 (2020). Additionally, the policies described in this paragraph should also ensure that non-essential retail business employers do the following, at a minimum:

g. Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;

h. Provide employees break time for repeated handwashing throughout the workday;

i. Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to staff;

j. Require frequent sanitization of high-touch areas to which workers have access; and

k. Require workers to wear cloth face coverings and gloves when interacting with other workers or customers and require workers to wear gloves when in contact with customers or goods. Businesses must provide, at their expense, such face coverings and gloves for their employees. Nothing in the stated policy should prevent workers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if the business is otherwise required to provide such worker with more protective equipment due to the nature of the work involved.

10. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

11. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Executive Order, and to cooperate fully with Administrative Orders issued pursuant to this Executive Order.

12. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order or which will or might in any way interfere with or impede the achievement of this Order.

13. Penalties for violations of this Executive Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

14. Paragraphs 4-8 shall take effect immediately and Paragraphs 1-3 and 9 shall take effect at 6:00 a.m. on Monday, May 18, 2020. This Order shall remain in effect until revoked or modified by the Governor.

Dated May 13, 2020.

EXECUTIVE ORDER NO. 143

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, on May 6, 2020, I issued Executive Order No. 138 (2020), the facts and circumstances of which are adopted by reference herein, which declared that the

Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, and Nos. 140-142 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, among these actions, and in recognition that the Centers for Disease Control and Prevention ("CDC") has advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020) to order steps to mitigate community spread of COVID-19; and

WHEREAS, to further limit community spread from person-to-person contact through use of social mitigation measures, Executive Order No. 107 (2020) required, with limited exceptions, New Jersey residents to remain in their place of residence, cancelled all gatherings, and closed all recreational and entertainment businesses; and

WHEREAS, Executive Order No. 108 (2020) ordered that no municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of Executive Order No. 107 (2020), or which will or might in any way interfere with or impede its achievement, or the achievement of Administrative Orders issued as authorized by Executive Order No. 107 (2020); and

WHEREAS, Executive Order No. 108 (2020) contained an exception allowing municipalities and counties to, among other things, impose additional restrictions at municipal or county parks; and

WHEREAS, the New Jersey Office of Emergency Management ("NJOEM") Administrative Order No. 2020-5, clarified that municipalities may impose additional restrictions at beaches and boardwalks in response to COVID-19 pursuant to Executive Order No. 108 (2020); and

WHEREAS, due to increased public interaction and gatherings at county and State parks throughout the State, I issued Executive Order No. 118 (2020) on April 7, 2020, which closed State Parks and Forests, as well as county parks, to the public in order to further social distancing requirements; and

WHEREAS, Executive Order No. 118 (2020) defined "State Parks and Forests" as all State parks, forests, recreation areas, historic sites, marinas, golf courses, botanical gardens, and other lands, waters, and facilities assigned to the State Park Service in the Division of Parks and Forestry of the Department of Environmental Protection ("DEP"); and

WHEREAS, Executive Order No. 118 (2020) superseded Executive Order No. 108 (2020) to the extent that Executive Order No. 108 (2020) had allowed counties to impose additional restrictions at county parks in response to COVID-19; and

WHEREAS, on April 8, 2020, and April 11, 2020, I issued Executive Order Nos. 122 and 125 (2020), respectively, which imposed additional mitigation requirements on essential businesses and transportation carriers to ensure that they are following CDC and other public health guidelines regarding social distancing, cleaning, sanitizing, and hygiene practices; and

WHEREAS, on April 29, 2020, I issued Executive Order No. 133 (2020), superseding Executive Order No. 118 (2020), which reopened State Parks and Forests and provided counties the discretion to reopen their parks; and

WHEREAS, Executive Order No. 133 (2020) imposed certain mitigation requirements to be followed at State Parks and Forests, as well as county and municipal parks, to ensure that visitors follow CDC and other public health guidelines regarding social distancing, cleaning, sanitizing, and hygiene practices while visiting parks; and

WHEREAS, New Jersey is no longer seeing an increase in the number of new cases of COVID-19 that are being reported on a daily basis, and the State is experiencing a decrease in the number of individuals visiting emergency departments and being admitted to hospitals for COVID-19; and

WHEREAS, the CDC has issued guidance for visiting parks and recreational facilities, recognizing that parks and open spaces, which includes beaches and lakeshores, provide people a vital way to keep the mind and body healthy; and

WHEREAS, the CDC guidance regarding the safe access of parks and recreational facilities advises individuals to stay six feet away from other visitors, avoid use of playgrounds, decline participation in organized sports and recreational activities, and visit parks close to home to limit travel distances; and

WHEREAS, the Jersey Shore, made up of approximately 140 miles of beaches on the ocean, rivers and bays, is a popular outdoor recreation destination for the public beginning on Memorial Day through the summer months; and

WHEREAS, under the common law and statutes of New Jersey, including the Public Trust Doctrine, codified at N.J.S.A. 13:1D-150, the natural resources, including certain lands, waters, air, and living resources, are held in trust by the State for the benefit of the public, who have the right to access and enjoy these resources, including the State's tidal waters and adjacent shorelines, and those of the lakes, rivers, and bays throughout the State; and

WHEREAS, municipalities that have property rights in lands bordering the ocean, tidal water, bays, or rivers utilized as a place of resort for public recreation and for other purposes, have the authority to make and enforce rules and regulations

for the management and care of the beaches and any boardwalk, bathing, recreational, or related facilities pursuant to N.J.S.A. 40:61-22.20, subject to the Public Trust Doctrine, N.J.S.A. 13:1D-150, any easement, permit, agreement, or encumbrance held or issued by the State, and any applicable State law or regulation; and

WHEREAS, municipalities may impose reasonable restrictions on public access to beaches to protect public safety and welfare, such as limiting the number of persons allowed on the beach at any one time, provided such restrictions are applied in a non-discriminatory manner; and

WHEREAS, municipalities may not impose restrictions to public access of New Jersey's beaches that overtly or implicitly discriminate against persons based on residency, income-level, or any protected class; and

WHEREAS, New Jersey's abundant rivers, bays, lakes, and adjacent shores likewise provide popular outdoor recreation destinations for the public, including during the summer months; and

WHEREAS, as New Jersey makes continued progress in its fight against COVID-19, it is appropriate to ensure that New Jerseyans can safely enjoy outdoor recreation, including access to beaches, boardwalks, lakes, and lakeshores throughout the State as a way to enhance physical and mental health, while maintaining reasonable restrictions to help limit the spread and prevent future outbreaks of COVID-19 and protect the health, safety, and welfare of New Jersey residents; and

WHEREAS, notwithstanding public access rights and any individual, municipal, or private rights to control one's property, it is imperative that reasonable restrictions to protect public health are implemented consistently throughout the State, including in our coastal and lakeshore communities pursuant to a Statewide policy; and

WHEREAS, as public health experts have observed, even as the State is able to allow outdoor recreation with reasonable restrictions, due to the ongoing risk of community spread of COVID-19, the extensive interactions that would happen from in-store retail operations and within recreational and other businesses continue to present a significant risk, and so the restrictions on in-store operations for non-essential retail businesses, and inside recreational and other businesses cannot be lifted at this time; and

WHEREAS, in light of the above, the traditional Memorial Day openings of New Jersey's shore and lake communities that provide recreation and enjoyment of beaches, boardwalks, lakes, and lakeshores must be balanced with our continued need to implement the social mitigation measures that remain necessary in our ongoing fight against the spread of COVID-19 and to prevent future outbreaks; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. All public and private beaches, boardwalks, lakes, and lakeshores in the State may be open to the public as long as these spaces are used and maintained consistent with the restrictions and recommendations herein.

2. The following shall be closed to the public at all public and private beaches, boardwalks, lakes, and lakeshores:

a. Water Fountains;

b. Picnic Areas;

c. Playgrounds;

d. Pavilions;

e. Indoor recreational areas;

f. Water play areas, such as splash parks;

g. Water play equipment, including but not limited to goggles, snorkels, fins, kick boards, pool noodles and toys; and

h. Other ancillary buildings or facilities, including, but not limited to visitor centers, but excluding bathrooms, showering or changing areas.

3. Notwithstanding the requirements of the common law Public Trust Doctrine, N.J.S.A. 13:1D-150, N.J.S.A. 40:61-22.20, and other applicable laws, municipalities, lake commissions, and private club associations or entities shall implement the following restrictions at all public and private beaches, boardwalks, lakes, and lakeshores:

a. Impose non-discriminatory capacity restrictions including, but not limited to:

i. Limiting the number of available seasonal and daily beach tags; or

ii. Otherwise limiting beach or lakeshore access;

b. Require that members of the public practice social distancing while present at all public and private beaches, boardwalks, lakes, and lakeshores, including staying six feet apart whenever practicable, excluding immediate family members, caretakers, household members, or romantic partners. Such measures may include, but are not limited to:

i. Controlling density at entrance points and gates and limiting points of ingress or egress to single directional flows of pedestrian traffic provided such restrictions are consistent with requirements and obligations under State and federal law, including but not limited to State Aid Agreements, permits and Green Acres restrictions;

ii. Demarcating six feet of spacing in any area where the public may form a line;

iii. Demarcating six feet of spacing along the beach or lakeshore to demonstrate appropriate spacing for social distancing through the placement of cones, flags, or other markings;

iv. Installing a physical barrier, such as a shield guard, between the public and employees, in any ticket or beach badge sales booths, or otherwise ensuring six feet of distance between those individuals, except at the moment of payment;

v. Limiting occupancy of ticket or beach badge sales booths to one person at a time;

vi. Installing foot pedals or motion sensors for each shower pedestal and requiring foot coverings during use; and

vii. Relocating bicycle racks or other objects that may impede the flow of pedestrian traffic or facilitate congregating that is contrary to social mitigation measures;

c. Develop and implement lifeguard training and beach operation plans, which can include limiting the number of lifeguards at a given time on any stand or tower while adding lifeguard towers, as necessary, to maintain social distance between lifeguards while providing the same coverage and protection necessary to ensure public safety, after consideration of guidance provided by the United States Lifesaving Association, the New Jersey Department of Health ("DOH"), and county health departments that address COVID-19 considerations;

d. Remove, tape-off, or otherwise block access to all benches and tables to discourage gatherings;

e. Prohibit the tying together or "rafting up" of boats to discourage group gatherings;

f. Develop and implement a continuous public outreach campaign to communicate restrictions, set expectations, and emphasize the importance of social distancing and hygiene. Examples of appropriate public outreach include, but are not limited to, highly visible signage, social media, town and county websites, radio, mobile device applications, and banner-plane advertising;

g. Prohibit impermissible gatherings of individuals, including special events such as festivals, concerts, fireworks, and movies, consistent with paragraph 5 of Executive Order No. 107 (2020) and paragraph 8 of Executive Order No. 142 (2020);

h. Prohibit all organized or contact activities or sports;

i. Limit occupancy in public restrooms that remain open to avoid over-crowding and maintain social distancing through signage and, where practicable, the utilization of attendants to monitor capacity; and

j. Require frequent sanitization of any areas opened to the public, including, at minimum, the following cleaning protocols:

i. Routinely clean and disinfect high-touch areas at appropriate intervals in accordance with CDC and DOH guidelines, particularly in spaces that are accessible to staff, the public, or other individuals, including, but not limited to, restroom facilities, lifeguard stands or towers, gates, ticket or sales booths, shower pedestals, counter tops, sinks, door knobs, other common surfaces, and other frequently touched surfaces; and

ii. Train and equip workers to perform the above protocols effectively and in a manner that promotes the safety of public and staff.

4. All employees and visitors are strongly encouraged to wear face coverings when present on the public and private beaches, boardwalks, lakes, and lakeshores in any settings where other social distancing measures are difficult to maintain, except where doing so would inhibit that individual's health or where the individual is under two years of age, and all operators of public and private beaches,

boardwalks, lakes, and lakeshores shall post signage indicating that face coverings are strongly encouraged.

5. Except as otherwise provided herein, access to public beaches, lakes, and lakeshores shall be consistent with State law and regulations, and shall not be restricted in any discriminatory manner, including by offering only seasonal beach tags without a daily beach tag option, by restricting municipal or street parking, or in any other manner that expressly or implicitly discriminates based on residency, race, income, ability, or any legally protected status or class of persons.

6. All restaurants, cafeterias, dining establishments, and food courts, with or without a liquor license, all bars, and all other holders of a liquor license with retail consumption privileges located on the public and private beaches, boardwalks, and lakeshores, including concessions, snack bars, and food trucks, shall remain limited to offering only food delivery and/or take-out services pursuant to Executive Order No. 107 (2020).

7. Amusement parks and arcades, as well as other places of public amusement located on the public and private beaches, boardwalks, and lakeshores, shall remain closed pursuant to Executive Order No. 107 (2020).

8. The restrictions set forth in paragraphs 2 through 7 of this Order shall also apply to all public piers, docks, wharfs, boat ramps, and boat landings throughout the State, including along waterways managed or controlled by any commission, association, or unit of county or local government.

9. Consistent with Paragraph 3 of Executive Order No. 108 (2020), as clarified by paragraph 3 of NJOEM Administrative Order No. 2020-5, any responsible commission, association, or unit of county or local government may impose additional restrictions not inconsistent with this Order, or may close any public beaches, boardwalks, lakes, and lakeshores within their jurisdiction in response to COVID-19. Private beach club associations or entities may also impose additional restrictions upon private property in response to COVID-19 that are not inconsistent with this Order.

10. Nothing in this Order shall limit, or otherwise modify, existing regulatory requirements set forth in the New Jersey State Sanitary Code regulations, N.J.A.C. 8:26, adopted pursuant to N.J.S.A. 26:1A-7 and N.J.S.A. 26:4A-7, including but not limited to:

11. Requirements to post advisories or restrict access to beaches or lakes in accordance with water quality standards and protocols established by DEP or the Department of Health in connection with the New Jersey Cooperative Coastal Monitoring Program or Cyanobacterial Harmful Algal Bloom (HABs) Freshwater Recreational Response Strategy; and

b. b. Sanitation and safety regulations for recreational bathing facilities to preserve public health.

12. The following shall be allowed at State Parks and Forests, as well as county and municipal parks that remain open pursuant to Executive Order No. 133 (2020):

a. Swimming in designated areas consistent with the restrictions herein; and

b. Picnicking provided that social distancing requirements are observed, except that picnic areas shall remain closed.

13. Restrooms located at any State Park and Forest, as well as county and municipal parks subject to Executive Order No. 133 (2020), shall be opened to the public and subject to frequent sanitization pursuant to, at minimum, the following cleaning protocols:

a. Routinely clean and disinfect high-touch areas at appropriate intervals in accordance with CDC and DOH guidelines, particularly in spaces that are accessible to staff, the public, or other individuals, including, but not limited to, restroom facilities, counter tops, sinks, door knobs, other common surfaces, and other frequently touched surfaces;

b. Limit occupancy in public restrooms that remain open to avoid over-crowding and maintain social distancing through signage and, where practicable, the utilization of attendants to monitor capacity; and

c. Train and equip workers to perform the above protocols effectively and in a manner that promotes the safety of public and staff.

14. Paragraph 9 of Executive Order No. 107 (2020) is hereby superseded to the extent it closes private beach clubs, but otherwise remains in full force and effect. Paragraphs 2 and 3 of Executive Order No. 133 (2020) are hereby superseded to the extent they prohibit swimming and picnicking and close restrooms at State Parks and Forests, as well as county and municipal parks.

15. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions and exclusions to the terms of this Order.

16. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Executive Order, and to cooperate fully with Administrative Orders issued pursuant to this Executive Order.

17. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

18. Penalties for violations of this Executive Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

19. This Order shall take effect beginning at 6:00 a.m. on Friday, May 22, 2020, except that paragraph 13 shall be effective at 6:00 a.m. on Saturday, May 16, 2020, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated May 14, 2020.

EXECUTIVE ORDER NO. 144

WHEREAS, in light of the dangers posed by COVID-19, I issued Executive Order No. 103 (2020) on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, to further protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 (2020) on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, on March 21, 2020, I issued Executive Order No. 107 (2020), superseding Executive Order No. 104 (2020) and requiring New Jersey residents to remain home or at their place of residence subject to limited exceptions, cancelling social gatherings, and limiting all restaurants and other dining establishments to offering only food delivery and/or take-out services; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119 (2020), which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on May 6, 2020, I issued Executive Order No. 138 (2020), which again declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, as of May 14, 2020, according to the Centers for Disease Control and Prevention ("CDC"), there were more than 4,248,000 confirmed cases of COVID-19 worldwide, with over 292,000 of those cases having resulted in death; and

WHEREAS, as of May 14, 2020, there were more than 1,384,000 confirmed cases of COVID-19 in the United States, with over 83,000 of those cases having resulted in death; and

WHEREAS, as of May 14, 2020, there were over 142,000 positive cases of COVID-19 in New Jersey, with at least 9,946 of those cases having resulted in death; and

WHEREAS, on March 19, 2020, I issued Executive Order No. 105 (2020), which declared that certain elections set to take place in March and April were postponed until May 12, 2020 and that all registered voters would receive vote-by-mail ballots because allowing those elections to proceed as they were originally planned during this unprecedented COVID-19 health crisis would have created hardships and health risks for voters, poll workers and candidates alike; and

WHEREAS, pursuant to Executive Order No. 120 (2020), the primary elections set to take place on June 2, 2020, were postponed until July 7, 2020 ("July primary elections"), because preparing for elections to take place in June during the potential height of the COVID-19 emergency would have negatively impacted election officials' preparation efforts; and

WHEREAS, the COVID-19 emergency and its impact are likely to extend for an as-yet-undetermined period of time; and

WHEREAS, the COVID-19 emergency makes it difficult for election officials, candidates, and voters to properly plan and prepare for and fully participate in the July primary elections if they were to proceed as they would under normal circumstances; and

WHEREAS, States generally have discretion to dictate the time, manner, and place of elections in the absence of controlling federal law; and

WHEREAS, allowing the July primary elections to proceed as they would under normal circumstances during this unprecedented COVID-19 health crisis will create hardships and health risks for voters, poll workers and candidates alike; and

WHEREAS, election officials require flexibility and sufficient lead time to adapt the State's voting infrastructure to confront the magnitude of the public health and safety risks of the COVID-19 pandemic; and

WHEREAS, the full participation of voters and candidates is critical to a robust democracy; and

WHEREAS, as of May 1, 2020, there are over 6.1 million registered voters in New Jersey – over 2.4 million are Unaffiliated voters, over 2.3 million are registered Democrats, and over 1.3 million are registered Republicans; and

WHEREAS, failing to take proactive actions to mitigate the adverse impacts of the current health crisis on the upcoming primary carries the risk of disenfranchising countless citizens; and

WHEREAS, social distancing measures are required for a period of as-yet-undetermined duration, and the COVID-19 outbreak may have significant effects on New Jersey's voting systems as long as social distancing measures are in place and for some time thereafter; and

WHEREAS, failing to offer voters a ready alternative to reporting to public polling places to vote in July in the midst of the COVID-19 crisis will hinder public participation in the democratic process, particularly among elderly and immune-compromised voters, and undermine the legislative intent of provisions like N.J.S.A. 19:8-2 and 19:8-3.1, which are designed to ensure that such voters can exercise their right to vote; and

WHEREAS, voting by mail is already an authorized mode of voting in New Jersey pursuant to Title 19, subtitles 62 and 63; and

WHEREAS, at least 34 states and the District of Columbia already allow voters to cast their ballot via mail and five states run entirely vote-by-mail elections; and

WHEREAS, in-person voting has declined over the years, while the total number of voters who voted by mail has steadily increased; and

WHEREAS, voting-by-mail may have a disproportionate impact on historically disenfranchised voters such as disabled voters, low-income voters, voters with unstable housing, limited-English-speaking voters, and voters of color; and

WHEREAS, election officials can address this potential inequity by providing historically disenfranchised voters with an alternative to voting by mail; and

WHEREAS, pursuant N.J.S.A. 19:63-20(b), an individual who receives a vote-by-mail ballot but has not voted and returned that ballot, may show up to their polling place and vote a provisional ballot; and

WHEREAS, opening a limited number of public polling places that meet public health standards to mitigate the spread of COVID-19 will support historically disenfranchised citizens' ability to vote; and

WHEREAS, New Jersey citizens are presently faced with the choice of exercising their constitutional franchise, or endangering their health and safety; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. All elections that take place on July 7, 2020, shall be conducted primarily via vote-by-mail ballots, which will automatically be sent to all "Active" registered Democratic and Republican voters without the need for an application to receive a vote-by-mail ballot. The County Clerk shall send vote-by-mail applications to "Active" voters who are registered as "Unaffiliated," and to all "Inactive" registered Democrats, Republicans, and "Unaffiliated" voters.

2. To provide "Unaffiliated" voters, "Inactive" registered Democrats, and "Inactive" registered Republicans every opportunity to return a vote-by-mail application and receive a vote-by-mail ballot for the July 7, 2020 Primary Election, the deadline for returning a vote-by-mail application in person in N.J.S.A. 19:63-3(d) shall be suspended.

3. All vote-by-mail return envelopes and vote-by-mail applications shall have prepaid postage in order to guarantee the proper delivery of all cast vote-by-mail ballots and completed applications.

4. The Secretary of State shall prepare a vote-by-mail application form specific to the July 7, 2020 Primary Election to address issues created by sending applications and vote-by-mail ballots in accordance with this Order.

5. The requirements of N.J.S.A. 19:23-30 that sample ballots be sent shall be suspended. In lieu of sending a sample ballot, the appropriate county official, as identified in N.J.S.A. 19:23-30, shall send notice of the voter's polling place, information on where to obtain a sample ballot prior to the election, a statement indicating that a sample ballot will be available at the polling place on the day of the election, and, if applicable, information on a county website where a sample ballot may be viewed.

6. To the extent possible, each county shall procure at least 5 secure ballot drop boxes and place them in locations that are readily accessible to the registered voters

within the county. The security of the ballot drop boxes and schedule of ballot pickup shall conform with standards set forth by the Secretary of State.

7. Each county shall open a minimum of at least 1 polling place in each municipality. Provided that sufficient poll workers are available, each county shall open a minimum of 50 percent of its polling places, and may open more than the minimum number of polling places. To the best of their ability, the County Boards of Elections shall select polling places based on geographic location and population density to best serve the voters of each municipality. County Boards of Elections must ensure that polling places and poll workers implement, at a minimum, the following requirements:

a. Limit occupancy within a polling place to a number that permits voters to maintain a distance of six feet between each other and poll workers at any time;

b. Ensure six feet of distance between voters and ensure six feet of distance between voters and poll workers through the demarcation of six feet of spacing in voter lines and poll worker stations to demonstrate appropriate spacing for social distancing;

c. Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;

d. Provide poll workers break time for repeated handwashing throughout their shifts;

e. Require frequent sanitization of high-touch areas in polling places consistent with CDC guidelines as of the date of the election;

f. Place conspicuous signage at entrances and throughout the polling place alerting poll workers and voters to the required six feet of physical distance;

g. Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to poll workers, voters, and those accompanying voters;

h. Require poll workers to adhere to CDC guidelines as of the date of the election regarding face coverings while in the polling place, except where doing so would inhibit that individual's health, and require poll workers to wear gloves when in contact with voters and those accompanying voters. County boards of elections must provide any required face coverings and gloves for poll workers, without charge to the poll workers. If a poll worker refuses to wear a required cloth face covering for non-medical reasons, then a county board of elections may decline entry to the individual. Nothing in the stated policy should prevent poll workers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment. Where a poll worker declines to wear a required face covering at a polling place due to a medical condition that inhibits such usage, they shall not be required to produce medical documentation verifying the stated condition; and

i. Strongly encourage voters and those accompanying voters to adhere to any CDC guidelines as of the date of the election regarding face coverings while inside polling places except where doing so would inhibit that individual's health. County boards of elections may provide such face coverings for voters and those accompanying voters, without charge to them. If a voter or person accompanying a

voter refuses to comply with the CDC guidelines, a poll worker shall not deny entry to the voter or person. Nothing in the stated policy should prevent voters from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment.

8. In accordance with Executive Order No. 120 (2020), the deadline to certify a list of polling places for the July 7, 2020 Primary Election is June 15, 2020. That certification need only include those polling places to be used in the July 7, 2020 Primary Election. The deadline for certification of polling places for the remainder of the year, pursuant to N.J.S.A. 19:8-4, is hereby extended to September 15, 2020.

9. The Secretary of State may modify the requirements of N.J.S.A. 19:31-21 concerning the use of poll books and the information contained therein as necessary to address the procedure by which the July 7, 2020 Primary Election will be conducted under this Order, and the needs resulting therefrom.

10. Any voter who appears at a polling place on the day of the July primary shall vote via a provisional ballot, except that a voter with disabilities may vote on an ADA-accessible voting machine.

11. Voted mail-in ballots may not be returned to a polling place established pursuant to paragraph 5 of this Order.

12. The time restrictions of N.J.S.A. 19:63-9 shall be suspended, and vote-by-mail ballots shall be mailed in compliance with a schedule to be prepared by the Secretary of State in a manner to ensure the timely receipt and return of ballots for counting in the July 7, 2020 elections.

13. Vote-by-mail ballots shall be processed and canvassed in accordance with guidelines provided by the Centers for Disease Control and Prevention, the State Department of Health, and the respective county departments of health.

14. To account for the increase in vote-by-mail ballots and to ensure that registered voters' efforts to vote are not impacted by delays in the postal service, the ballot-return deadline in N.J.S.A. 19:63-22 shall be suspended. Every vote-by-mail ballot that is postmarked on or before July 7, 2020, and that is received by July 14, 2020, at 8:00 p.m. shall be considered valid and shall be canvassed.

15. To account for the increase in vote-by-mail ballots and to provide the county Boards of Elections sufficient time to canvass the returned ballots, N.J.S.A. 19:63-18 is hereby suspended. The county Boards of Elections may continue the counting of ballots beyond the close of polls on July 7, 2020, and adjourn counting to the following day, and any day thereafter, within the limits of this Order, until the counting is completed.

16. To allow for greater flexibility in obtaining poll workers, the county-resident requirement for poll workers set forth in N.J.S.A. 19:6-2 is hereby suspended.

17. Due to the limited number of polling places that will be open for July 7, 2020 Primary Election, the 1,000 foot limitation on the location of polling places set forth in N.J.S.A. 19:8-2 shall be suspended.

18. Due to the suspension of N.J.S.A. 19:63-22 and N.J.S.A. 19:63-18, the deadlines in the following statutes are all hereby extended by five (5) days: the impoundment period for voting machines in N.J.S.A. 19:52-6; the filing of selection

of column and designation, pursuant to N.J.S.A. 19:14-9; the certification of the election results in N.J.S.A. 19:23-54; the filing of an election contest petition, pursuant to N.J.S.A. 19:29-3; the certification of results, pursuant to N.J.S.A. 19:23-55; the filing of a recount petition, pursuant to N.J.S.A. 19:28-1; the application for voting machine recheck, pursuant to N.J.S.A. 19:52-6; and the time to prepare reports pursuant to N.J.S.A. 19:53B-21 and 19:53C-21.

19. The Secretary of State shall establish other appropriate standards for ensuring that all eligible voters, including but not limited to those voters with disabilities, are able to exercise their right to vote in the July 7, 2020 elections.

20. The Secretary of State and county election officials, as appropriate, shall coordinate with the United States Postal Service to facilitate proper delivery of ballots by the United States Postal Service.

21. The Secretary of State and county election officials, as appropriate, shall act to facilitate the public's understanding of the rules governing the July 7, 2020 elections.

22. The Secretary of State shall establish a hotline number for reports of violations of the election laws and this Order in connection with the July 7, 2020 elections.

23. Any actions taken by the Secretary of State pursuant to this Order shall not be subject to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

24. This Order shall take effect immediately.

Dated May 15, 2020.

EXECUTIVE ORDER NO. 145

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 (2020) on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119 and 138 (2020), issued on April 7, 2020, and May 6, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as of May 14, 2020, according to the Centers for Disease Control and Prevention (CDC), there were more than 4,248,000 confirmed cases of COVID-19 worldwide, with over 292,000 of those cases having resulted in death; and

WHEREAS, as of May 14, 2020, there were more than 1,384,000 confirmed cases of COVID-19 in the United States, with over 83,000 of those cases having resulted in death; and

WHEREAS, as of May 14, 2020, there were over 142,000 positive cases of COVID-19 in New Jersey, with at least 9,946 of those cases having resulted in death; and

WHEREAS, on March 23, 2020, I issued Executive Order No. 109 (2020) which ordered that as of 5:00 p.m. on Friday, March 27, 2020, all "elective" surgeries performed on adults, whether medical or dental, and all "elective" invasive procedures performed on adults, whether medical or dental, would be suspended in New Jersey; and

WHEREAS, an "elective" surgery or invasive procedure was defined as any surgery or invasive procedure that can be delayed without undue risk to the current or future health of the patient as determined by the patient's treating physician or dentist; and

WHEREAS, this step was necessary at the time because hospitalizations, intensive care unit admissions, and ventilator usage were rapidly spiking, and these surgeries and procedures, whether undertaken in a hospital, ambulatory surgery center or provider office, necessarily draw upon the skill and time of critical health care professionals and involve the use of equipment and supplies that may be needed to treat those who are critically ill; and

WHEREAS, the suspension of these surgeries and procedures preserved the capacity of our health care system to deal with the surge of COVID-19 cases, which reached its maximum impact on the health care system in the middle of April; and

WHEREAS, over the last month, because of the social distancing measures that have been put in place, the rates of confirmed COVID-19 spread have decreased drastically; and

WHEREAS, on April 4, the three-day average of new confirmed positive COVID-19 cases peaked at 4,064 cases, while by May 11, this three-day average had fallen to 1,572 new cases – a 61 percent decrease; and

WHEREAS, the decreased rates of confirmed spread of COVID-19 resulted in fewer individuals seeking COVID-19-related emergency medical care; and

WHEREAS, on April 10, the three-day average of new COVID-19 hospitalizations peaked at 869 new patient hospitalizations, while by May 11, this three-day average had fallen to 250 new patient hospitalizations – a 71 percent decrease; and

WHEREAS, the decrease in new admissions to hospitals and the number of patients who have recoveries enabling them to leave the hospital has resulted in an overall decrease in the number of COVID-19 patients in hospitals; and

WHEREAS, on April 15, the three-day average of patients in hospitals confirmed or suspected to have COVID-19 peaked at 8,226 patients, while by May 11, this three-day average had fallen to 4,277 patients – a 48 percent decrease; and

WHEREAS, on April 15, the three-day average of patients confirmed or suspected to have COVID-19 receiving intensive or critical care peaked at 2,015 patients,

while by May 11, this three-day average had fallen to 1,300 patients – a 36 percent decrease; and

WHEREAS, on April 15, the three-day average of patients confirmed or suspected to have COVID-19 on a ventilator peaked at 1,659 patients, while by May 11, this three-day average had fallen to 982 patients – a 41 percent decrease; and

WHEREAS, elective surgeries or invasive procedures, which by definition do not have to happen immediately, may still be necessary for patients' health; and

WHEREAS, the decreasing burden on our health care system from COVID-19 means that elective surgeries or invasive procedures can be reasonably resumed, subject to limitations and precautions that would not be necessary but for the continued effects of the COVID-19 pandemic; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Beginning at 5:00 a.m. on Tuesday, May 26, 2020, the suspension on elective surgeries and invasive procedures instituted in Executive Order No. 109 (2020) is rescinded.

2. Elective surgeries and invasive procedures, as defined by Executive Order No. 109 (2020), may proceed at health care facilities, subject to limitations and precautions set forth in policies, which may include but are not limited to Executive Directives, to be issued by the Department of Health, in consultation with the Division of Consumer Affairs, by Monday, May 18, 2020. The policies to be issued by the Department of Health will address relevant considerations, such as the following:

a. Which types of facilities can resume these procedures;

b. Which specific facilities are eligible to resume these procedures, based upon their current or potential capacity;

c. Whether facilities will be required to prioritize certain procedures, and if so, what considerations should guide these decisions;

d. Personal Protective Equipment requirements for facilities that resume these procedures;

e. Staffing requirements for facilities that resume these procedures;

f. Whether facilities should cohort COVID-19 and non-COVID-19 patients;

g. Requirements for patients seeking these procedures to undergo testing, self-quarantine, or other preventive measures, as applicable;

h. Policies surrounding visitors;

i. Policies surrounding discharge of patients after the procedures are completed; and

j. Reporting metrics regarding the resumption of these procedures.

3. Elective surgeries and invasive procedures, as defined by Executive Order No. 109 (2020), performed by licensed health care providers practicing in outpatient settings not licensed by the Department of Health (e.g., health care professional offices, clinics, and urgent care centers) may proceed, subject to limitations and precautions set forth in policies, which may include but are not limited to rules and administrative orders, to be issued by the Division of Consumer Affairs, in consultation with the Department of Health, by Monday, May 18, 2020. The policies to be issued by the Division of Consumer Affairs will address relevant considerations, such as the following:

a. The categories of licensed health care providers who may resume these procedures;

b. Whether licensed health care providers in outpatient settings will be required to prioritize certain procedures, and if so, what considerations should guide these decisions;

c. Personal Protective Equipment requirements for outpatient settings where such procedures are resumed;

d. Staffing requirements for outpatient settings where such procedures are resumed;

e. How licensed health care providers and outpatient settings can minimize person-to-person contact and facilitate social distancing;

f. Requirements for patients seeking these procedures to undergo testing, self-quarantine, or other preventive measures, as applicable;

g. Policies surrounding companions;

h. Policies surrounding patient follow-up after the procedures are completed; and

i. Recordkeeping and reporting requirements.

4. The Department of Health and/or the Division of Consumer Affairs may issue supplemental or amended policies concerning elective surgeries and elective invasive procedures on or after Monday, May 18, 2020, which shall be similarly enforceable, or rescind such policies at a later date.

5. Any actions taken by the Commissioner of the Department of Health and/or the Director of the Division of Consumer Affairs pursuant to this Order shall not be subject to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

6. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order.

7. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

8. This Order shall take effect immediately.
Dated May 15, 2020.

EXECUTIVE ORDER NO. 146

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119 and 138 (2020), issued on April 7, 2020, and May 6, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, and Nos. 140-145 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, among these actions, and in recognition that the Centers for Disease Control and Prevention ("CDC") has advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020) to order steps to mitigate community spread of COVID-19; and

WHEREAS, to further limit community spread from person-to-person contact through use of social mitigation measures, Executive Order No. 107 (2020) required, with limited exceptions, New Jersey residents to remain in their place of residence, cancelled all gatherings, and closed all recreational and entertainment businesses; and

WHEREAS, the CDC has recommended certain cleaning and disinfecting procedures for businesses to reduce potential spread of COVID-19 to staff and members of the public; and

WHEREAS, on April 8, 2020, and April 11, 2020, I issued Executive Order Nos. 122 and 125 (2020), respectively, which imposed additional mitigation requirements

on essential businesses and transportation carriers to ensure that they are following CDC and other public health guidelines regarding social distancing, cleaning, sanitizing, and hygiene practices; and

WHEREAS, due to increased public interaction and gatherings at county and State parks throughout the State, I issued Executive Order No. 118 (2020) on April 7, 2020, which closed State Parks and Forests, as well as county parks, to the public in order to further social distancing requirements; and

WHEREAS, as the rate of reported new cases of COVID-19 in New Jersey decreases, including a reduction in the total number of individuals being admitted to hospitals for COVID-19, the State can begin to take certain steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that a considerable number of the State's current measures must remain in place, both to reduce additional new infections and to save lives, until additional metrics – such as expanded testing and use of contact tracing – have been satisfied; and

WHEREAS, the CDC has issued guidance for visiting parks and recreational facilities, recognizing that outdoor recreation provides people a vital way to keep the mind and body healthy; and

WHEREAS, on April 29, 2020, I issued Executive Order No. 133 (2020), superseding Executive Order No. 118 (2020), which reopened State Parks and Forests and provided counties the discretion to reopen their parks; and

WHEREAS, Executive Order No. 133 (2020) imposed certain mitigation requirements to be followed at State Parks and Forests, as well as county and municipal parks, to ensure that visitors follow CDC and other public health guidelines regarding social distancing, cleaning, sanitizing, and hygiene practices while visiting parks; and

WHEREAS, Executive Order No. 143 (2020) allowed for all public and private beaches, boardwalks, lakes, and lakeshores in the State to open to the public as long as they are maintained consistent with a series of social distancing restrictions, including rules that ensure visitors follow CDC and other public health guidelines regarding social distancing, cleaning, sanitizing, and hygiene practices while visiting such spaces; and

WHEREAS, charter fishing services and for-hire vessel activities provide an opportunity for the public to access the State's natural resources and waterways in a manner not otherwise available; and

WHEREAS, the charter fishing and for-hire vessel industry is generally composed of two different types of vessels, private charter boats and larger vessels typically referred to as "head boats" that require a Coast Guard inspection and are generally larger than 50 feet in length; and

WHEREAS, watercraft rental services likewise provide popular outdoor recreation opportunities for the public during the summer months; and

WHEREAS, as New Jersey makes continued progress in its fight against COVID-19, it is appropriate to ensure that New Jerseyans can safely enjoy additional outdoor

recreation activities, while maintaining reasonable restrictions to help limit the spread and prevent future outbreaks of COVID-19 and protect the health, safety, and welfare of New Jersey residents; and

WHEREAS, as public health experts have observed, even as the State allows outdoor recreation with reasonable restrictions, due to the ongoing risk of community spread of COVID-19, recreation in such outdoor spaces must currently continue to include adherence to the same restrictions on gatherings that apply in any other context; and

WHEREAS, as public health experts have observed, even as the State allows outdoor recreation with reasonable restrictions, due to the ongoing risk of community spread of COVID-19, the extensive interactions that would happen from indoor retail and recreation operations continue to present a significant risk, and so the restrictions on in-store operations for retail businesses and indoor operations for recreational and entertainment businesses cannot be lifted at this time; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Charter fishing services and for-hire vessels, including charter and head boat activities, shall be allowed to reopen to the public, but such businesses must adopt policies that include, at minimum, the following requirements:

a. Require that reservations, cancellations and pre-payments be made via electronic or telephone reservation systems to limit physical interactions. Such policies shall, wherever possible, consider populations that do not have access to internet service or credit cards;

b. Limit capacity on board the vessel to no more than 10 people at the same time consistent with the restrictions contained within paragraph 5 of Executive Order No. 107 (2020) and paragraph 8 of Executive Order No. 142 (2020);

c. "Make-up" or "open boat" trips that combine groups to fill a vessel are not permitted;

d. Set up and maintain waiting areas, wherever feasible, large enough for passengers seeking to board vessels to ensure appropriate social distancing;

e. Demarcate and post signs that denote six feet of spacing in commonly used and other applicable areas at boarding site or where people may form a line;

f. Demarcate six feet of spacing in all areas of the vessel to demonstrate appropriate spacing for social distancing;

g. Prohibit the sharing of fishing equipment, bait, and gear;

h. Nets or gaffs shall be handled only by crew members;

i. Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal by passengers and crew;

j. Require additional infection control practices, as necessary, to address sea sickness and injuries, consistent with CDC and the Department of Health ("DOH") guidelines;

k. Close all enclosed spaces on the vessel to passengers, except restrooms;

l. Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to the crew and passengers, especially where hand washing may not be available;

m. Require frequent sanitization of high-touch areas including, at minimum, the following cleaning protocols:

i. Routinely, and at the beginning and end of each trip, clean and disinfect all high-touch areas in accordance with CDC and DOH guidelines, particularly in spaces that are accessible to crew members, passengers, or other individuals, including, but not limited to, restroom facilities, door knobs, other common surfaces, handrails, life jackets, safety gear, fishing equipment and gear, tools, and other frequently touched surfaces, and ensure cleaning procedures; and

ii. Train and equip crew members to perform the above protocols effectively and in a manner that promotes the safety of the passengers and crew;

n. Prohibit any food and beverage service;

o. Provide mandatory captain and crew briefing to the passengers prior to embarking on the social distancing, capacity limits, and hygiene requirements provided herein by the crew to all passengers prior to leaving dock;

p. Conspicuously post signage with the social distancing and hygiene requirements throughout the vessel;

q. Require workers and passengers to wear cloth face coverings, in accordance with CDC recommendations, while on the vessel, except where doing so would inhibit the individual's health or the individual is under two years of age, and require workers to wear gloves while on the premises. Businesses must provide, at their expense, such face coverings and gloves for their employees. If a passenger refuses to wear a cloth face covering for non-medical reasons and if such covering cannot be provided to the individual by the business at the point of entry, then the business must decline entry to the individual. Nothing in the stated policy should prevent workers or passengers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if the businesses is otherwise required to provide such worker with more protective equipment due to the nature of the work involved. Where an individual declines to wear a face covering on the premises due to a medical condition that inhibits such usage, neither the business nor its staff shall require the individual to produce medical documentation verifying the stated condition;

r. Immediately separate and send home crew members who appear to have symptoms consistent with COVID-19 set forth in CDC guidelines upon arrival at work or who become sick during the day;

s. Survey passengers prior to boarding for symptoms consistent with COVID-19. Any person with symptoms consistent with shall not be allowed to board the vessel;

t. Promptly notify crew members of any known exposure to COVID-19 on the vessel, consistent with the confidentiality requirements of the Americans with Disabilities Act and any other applicable laws;

u. Clean and disinfect the vessel in accordance with CDC guidelines if a crew member has been diagnosed with COVID-19 illness, or when directed by a public health official consistent with a contact tracing program;

v. Provide employees break time for handwashing throughout the day; and

w.Continue to follow guidelines and directives issued by the DOH, the CDC and the Occupational Health and Safety Administration, as applicable, for maintaining a clean, safe and healthy work environment.

2. The brick-and-mortar premises of watercraft rental businesses, including but not limited to boats, jet skis, and surfboards, must remain closed pursuant to Executive Order No. 107 (2020), but, consistent with Executive Order No. 142 (2020), such businesses are permitted to reopen to the public. Such businesses must abide by the terms of paragraph 9 of Executive Order No. 142 (2020), which require the adoption of policies that include, at minimum, requirements for "curbside pickup." For the businesses subject to this paragraph, such policies shall also include protocols for cleaning and disinfecting equipment that is rented, in accordance with CDC and DOH guidelines.

3. Employees, customers, and other individuals should wear face coverings in any setting on charter fishing and for-hire vessels and at watercraft rental businesses, except where doing so would inhibit that individual's health, or where the individual is under two years of age.

4. Nothing in this Order shall be construed to replace, limit, or otherwise modify any existing applicable local, State, and federal laws, regulations, and standards that apply to charter fishing and for-hire vessels.

5. If New Jersey resident leaves their home or place of residence to participate in any activity otherwise authorized by any executive order issued after March 21, 2020, it shall not be a violation of Paragraph 2 of Executive Order No. 107 (2020).

6. Paragraph 9 of Executive Order No. 107 (2020) is hereby superseded to the extent it closes charter fishing services and for-hire vessel activities, as well as watercraft rental businesses, but otherwise remains in full force and effect.

7. Paragraph 2 of Executive Order No. 133 (2020) is hereby superseded to the extent it closes chartered watercraft services and rentals at State Parks and Forests, as well as county and municipal parks, but otherwise remains in full force and effect.

8. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

9. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee,

or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order, and to cooperate fully with Administrative Orders issued pursuant to this Order.

10. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

11. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

12. This Order shall take effect at 6:00 a.m. on Sunday, May 17, 2020, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated May 16, 2020.

EXECUTIVE ORDER NO. 147

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119 and 138 (2020), issued on April 7, 2020, and May 6, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, and Nos. 140-146 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, among these actions, and in recognition that the Centers for Disease Control and Prevention ("CDC") has advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I

issued Executive Order No. 107 (2020) to order steps to mitigate community spread of COVID-19; and

WHEREAS, to further limit community spread from person-to-person contact through use of social mitigation measures, Executive Order No. 107 (2020) required, with limited exceptions, New Jersey residents to remain in their place of residence, cancelled all gatherings, and closed all recreational and entertainment businesses; and

WHEREAS, the CDC has recommended certain cleaning and disinfecting procedures for businesses to reduce potential spread of COVID-19 to staff and members of the public; and

WHEREAS, on April 8, 2020, and April 11, 2020, I issued Executive Order Nos. 122 and 125 (2020), respectively, which imposed additional mitigation requirements on essential businesses and transportation carriers to ensure that they are following CDC and other public health guidelines regarding social distancing, cleaning, sanitizing, and hygiene practices; and

WHEREAS, due to increased public interaction and gatherings at county and State parks throughout the State, I issued Executive Order No. 118 (2020) on April 7, 2020, which closed State Parks and Forests, as well as county parks, to the public in order to further social distancing requirements; and

WHEREAS, as the rate of reported new cases of COVID-19 in New Jersey decreases, including a reduction in the total number of individuals being admitted to hospitals for COVID-19, the State can begin to take certain steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that a considerable number of the State's current measures must remain in place, both to reduce additional new infections and to save lives, until additional metrics – such as expanded testing and use of contact tracing – have been satisfied; and

WHEREAS, the CDC has issued guidance for visiting parks and recreational facilities, recognizing that outdoor recreation provides people a vital way to keep the mind and body healthy; and

WHEREAS, on April 29, 2020, I issued Executive Order No. 133 (2020), superseding Executive Order No. 118 (2020), which reopened State Parks and Forests and provided counties the discretion to reopen their parks; and

WHEREAS, Executive Order No. 133 (2020) imposed certain mitigation requirements to be followed at State Parks and Forests, as well as county and municipal parks, to ensure that visitors follow CDC and other public health guidelines regarding social distancing, cleaning, sanitizing, and hygiene practices while visiting parks; and

WHEREAS, Executive Order No. 143 (2020) allowed for all public and private beaches, boardwalks, lakes, and lakeshores in the State to open to the public as long as they are maintained consistent with a series of social distancing restrictions, including rules that ensure visitors follow CDC and other public health

guidelines regarding social distancing, cleaning, sanitizing, and hygiene practices while visiting such spaces; and

WHEREAS, Executive Order No. 146 (2020) allowed chartered for-hire vessels and watercraft rentals to open to the public with social distancing, cleaning, sanitizing, and hygiene practices in place; and

WHEREAS, outdoor archery ranges, batting cages, golf driving ranges, shooting ranges, and tennis clubs, as well as all-terrain vehicle and dirt bike rentals, provide additional outdoor recreation opportunities for the public during the summer months where appropriate social distancing, cleaning, sanitizing, and hygiene practices can be implemented; and

WHEREAS, community gardens not only provide outdoor recreational opportunities to a diverse community of individuals, but they also provide people an opportunity to grow food when they may not otherwise have available space to do so; and

WHEREAS, as New Jersey makes continued progress in its fight against COVID-19, it is appropriate to ensure that New Jerseyans can safely enjoy additional outdoor recreation activities, while maintaining reasonable restrictions to help limit the spread and prevent future outbreaks of COVID-19 and protect the health, safety, and welfare of New Jersey residents; and

WHEREAS, as public health experts have observed, even as the State allows outdoor recreation with reasonable restrictions, due to the ongoing risk of community spread of COVID-19, recreation in such outdoor spaces must currently continue to include adherence to the same gatherings restrictions that apply in any other context; and

WHEREAS, as public health experts have observed, even as the State allows outdoor recreation with reasonable restrictions, due to the ongoing risk of community spread of COVID-19, the extensive interactions that would happen from indoor retail and recreation operations continue to present a significant risk, and so the restrictions on in-store operations for retail businesses and indoor operations for recreational and entertainment businesses cannot be lifted at this time; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The following outdoor recreational businesses or activities that were closed by paragraph 9 of Executive Order No. 107 (2020) are permitted to reopen to the public or their members:

a. Archery ranges;

b. Batting cages;

c. Golf driving ranges;
d. Horseback riding;
e. Shooting ranges; and
f. Tennis clubs.

2. The following shall remain closed at outdoor recreational businesses or activities permitted to open pursuant to paragraph 1 of this Order:

a. Picnic areas;
b. Playgrounds;
c. Pavilions;
d. Fitness centers;
e. Locker rooms; and
f. Other buildings, amenities, or facilities, except for restrooms and facilities providing access to an outdoor facility where no other means of access is available.

3. Outdoor recreational businesses or activities permitted to reopen pursuant to paragraph 1 of this Order shall adopt policies that include, at minimum, the following requirements:

a. Require that reservations, cancellations and pre-payments be made via electronic or telephone reservation systems to limit physical interactions. Such policies shall, wherever possible, consider populations that do not have access to internet service or credit cards;

b. Limit capacity to no more than 10 people at the same time consistent with the restrictions contained within paragraph 5 of Executive Order No. 107 (2020) and paragraph 8 of Executive Order No. 142 (2020);

c. Install a physical barrier, such as a shield guard, between visitors and employees wherever feasible or otherwise ensuring six feet of distance between those individuals, except at the moment of payment;

d. Limit the use of equipment rented or otherwise provided by the recreational business to one person, excluding immediate family members, caretakers, household members, or romantic partners;

e. Demarcate and post signs that denote six feet of spacing in all commonly used and other applicable areas or where people may form a line;

f. Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;

g. Provide employees break time for repeated handwashing throughout the workday;

h. Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to staff and customers;

i. Limit occupancy in restrooms that remain open to avoid over-crowding and maintain social distancing through signage and, where practicable, the utilization of attendants to monitor capacity; and

j. Require frequent sanitization of high-touch areas including, at minimum, the following cleaning protocols:

i. Routinely clean and disinfect all high-touch areas in accordance with the Department of Health ("DOH") and CDC guidelines, particularly in spaces that are

accessible to staff, customers, or members, or other individuals, including, but not limited to, restroom and locker facilities, counter tops, hand rails, door knobs, other common surfaces, safety equipment, and other frequently touched surfaces including employee used equipment, and ensure cleaning procedures following a known or potential exposure in compliance with CDC recommendations;

ii. Clean and disinfect equipment that is rented, including but not limited to, firearms, helmets, bats, mitts, gloves, balls, bows, arrows, clubs, and tennis rackets, in accordance with CDC and DOH guidelines; and

iii. Train and equip employees to perform the above protocols effectively and in a manner that promotes the safety of the visitors and staff;

k. Place additional restrictions on areas of the business, as necessary, to limit person-to-person interactions and facilitate appropriate social distancing;

l. Immediately separate and send home workers who appear to have symptoms consistent with COVID-19 illness upon arrival at work or who become sick during the day;

m. Promptly notify workers of any known exposure to COVID-19 at the worksite, consistent with the confidentiality requirements of the Americans with Disabilities Act and any other applicable laws;

n. Clean and disinfect the worksite in accordance with CDC guidelines when a worker at the site has been diagnosed with COVID-19 illness; and

o. Continue to follow guidelines and directives issued by the New Jersey Department of Health, the CDC and the Occupational Health and Safety Administration, as applicable, for maintaining a clean, safe and healthy work environment.

4. The brick-and-mortar premises of all-terrain vehicle and dirt bike rental businesses must remain closed pursuant to Executive Order No. 107 (2020), but, consistent with Executive Order No. 142 (2020), such businesses are permitted to reopen to the public. Such businesses must abide by the terms of paragraph 9 of Executive Order No. 142 (2020), which require the adoption of policies that include, at minimum, requirements for "curbside pickup." For the businesses subject to this paragraph, such policies shall also include protocols for cleaning and disinfecting equipment that is rented, in accordance with CDC and DOH guidelines.

5. Community Gardens shall be allowed to reopen provided they comply with the recommendations and policies set forth in paragraph 3 of Executive Order No. 133 (2020).

6. Golf courses may adopt a policy that allows:

a. Tee-times available to four players;

b. Forecaddies;

c. Club and equipment rentals, provided that such policy requires:

i. Rental equipment be limited to one person, excluding immediate family members, caretakers, household members, or romantic partners; and

ii. Protocols for cleaning and disinfecting equipment that is rented, in accordance with CDC and DOH guidelines.

d. Restrooms to remain open, subject to frequent sanitization pursuant to, at minimum, the following cleaning protocols:

i. Routinely clean and disinfect high-touch areas at appropriate intervals in accordance with CDC and DOH guidelines, particularly in spaces that are accessible to staff, players, or other individuals, including, but not limited to, restroom facilities, counter tops, sinks, door knobs, other common surfaces, and other frequently touched surfaces;

ii. Limit occupancy in restrooms that remain open to avoid over-crowding and maintain social distancing through signage and, where practicable, the utilization of attendants to monitor capacity; and

iii. Train and equip workers to perform the above protocols effectively and in a manner that promotes the safety of public and staff.

7. Employees, visitors, members, and other individuals should wear face coverings in any setting at outdoor recreational businesses or activities permitted to reopen pursuant to paragraph 1 and community gardens where other social distancing measures are difficult to maintain, except where doing so would inhibit that individual's health, or where the individual is under two years of age.

8. Amusement parks, arcades, and other places of public amusement located at outdoor recreational businesses or activities permitted to reopen pursuant to paragraph 1 of this Order, shall remain closed pursuant to Executive Order No. 107 (2020). Amusement parks, arcades, and other places of public amusement are required to be closed even when located at a place otherwise authorized to be open by any Executive Order issued after March 21, 2020, such as a boardwalk.

9. Paragraph 9 of Executive Order No. 107 (2020) is hereby superseded to the extent it closes outdoor recreational businesses or activities permitted to reopen pursuant to paragraph 1 of this Order and community gardens as non-essential recreational businesses, but otherwise remains in full force and effect.

10. Paragraph 9 of Executive Order No. 133 (2020) is hereby superseded to the extent it closes golf driving ranges, limits golf tee-times to two players, forecaddies, and restrooms, and prohibits club and equipment rentals, but otherwise remains in full force and effect.

11. Nothing in the terms of any Executive Order issued after March 21, 2020 shall be construed to limit, prohibit, or restrict access to benches and other resting places in parks, beaches, lakes, businesses, and recreational areas open to the public for individuals with medical conditions or mobility impairments.

12. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

13. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Executive Order, and to cooperate fully with Administrative Orders issued pursuant to this Executive Order.

14. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution

which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

15. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

16. Paragraph 6 of this Order shall take effect beginning at 6:00 a.m. on Tuesday, May 19, 2020, and Paragraphs 1-5 shall take effect at 6:00 a.m. on Friday, May 22, 2020. This Order shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated May 18, 2020.

EXECUTIVE ORDER NO. 148

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119 and 138 (2020), issued on April 7, 2020, and May 6, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, and Nos. 140-147 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, among these actions, and in recognition that the Centers for Disease Control and Prevention ("CDC") has advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020) to order steps to mitigate community spread of COVID-19; and

WHEREAS, to further limit community spread from person-to-person contact through use of social mitigation measures, Executive Order No. 107 (2020) required, with limited exceptions, New Jersey residents to remain in their place of

residence, cancelled all gatherings, and closed all recreational and entertainment businesses; and

WHEREAS, as the rate of reported new cases of COVID-19 in New Jersey decreases, including a reduction in the total number of individuals being admitted to hospitals for COVID-19, the State can begin to take certain steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that a considerable number of the State's current measures must remain in place, both to reduce additional new infections and to save lives, until additional metrics – such as expanded testing and use of contact tracing – have been satisfied; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, the State is in the first stage of the reopening process and has begun to relax restrictions on low-risk activities where appropriately safeguarded, including the resumption of certain work activities at physical locations that can meet safeguarding and modification guidelines, as well as certain outdoor activities; and

WHEREAS, consistent with this Plan, I have issued a number of Executive Orders, including Executive Order Nos. 133, 142, 143, 146 and 147, which lifted closures and/or prohibitions of parks, beaches, lakefronts, and several outdoor recreational facilities and activities, with social distancing, cleaning, sanitizing, and hygiene practices in place, given repeated observations from public health experts, including but not limited to the CDC, that outdoor environments present reduced risks of COVID-19 transmission as compared to indoor environments; and

WHEREAS, the CDC has issued guidance for mass gatherings or large community events, such as conferences, festivals, parades, concerts, sporting events, weddings, and other potentially super-spreading events, recognizing that such gatherings significantly contribute to the spread of COVID-19 and introduce the virus to new communities through increased transmission to a large number of people in a short period of time, and states throughout the region have canceled such events; and

WHEREAS, because public health experts have identified that outdoor environments present reduced risks of transmission as compared to indoor environments, it is appropriate to also adjust restrictions relative to gatherings that happen outdoors, meaning that certain gatherings in open-air spaces outdoors can be allowed while still maintaining reasonable restrictions to help limit the spread and prevent future outbreaks of COVID-19 and protect the health, safety, and welfare of New Jersey residents; and

WHEREAS, maintaining the overall social distancing and mitigation requirements in place while gathering in open-air outdoor spaces, particularly by maintaining a

six-foot distance from other individuals, is imperative to continuing to reduce the ongoing risk of community spread of COVID-19; and

WHEREAS, as public health experts have observed, the higher the number of people an individual interacts with at a gathering contribute to a greater risk of COVID-19 spread, and so large in-person gatherings where it is difficult for individuals to remain spaced six feet apart or more pose an increased risk, which also means that outdoor activities should be prioritized where social distancing can be maintained as much as possible; and

WHEREAS, in order to reduce the continued risk of widespread transmission of COVID-19 at large gatherings, a number of other states that have begun to relax restrictions on gatherings of 10 people or more have imposed a limit on outdoor gatherings up to 25 people, including Pennsylvania, even as states still maintain more stringent requirements for gatherings indoors; and

WHEREAS, it is likewise appropriate to limit outdoor gatherings in our State to no more than 25 people to prevent increased transmission through super-spreading events and large community gatherings; and

WHEREAS, even as the State allows outdoor gatherings in open-air spaces and recreational campgrounds, due to the ongoing risk of community spread of COVID-19, the extensive interactions that occur at gatherings in indoor places and certain indoor retail, recreational, and entertainment operations continue to present a significant risk, and so the prohibition of indoor gatherings of more than 10 individuals, and the restrictions on the indoor operations of certain retail, recreational, and entertainment businesses, have not been lifted at this time; and

WHEREAS, the State's restrictions on gatherings are tailored to the harms they present, regardless of the purpose of any such gathering, meaning that indoor in-person gatherings are limited to 10 persons, outdoor in-person gatherings are limited to 25 persons so long as all persons remain six feet apart at all times, and any number of individuals may participate in a gathering where all participants remain in their vehicles, given the relative risks of COVID-19 transmission presented by each scenario; and

WHEREAS, recreational campgrounds in the State provide popular outdoor lodging and recreation options during the summer months that allow for limited person-to-person contact and involve appropriate social distancing measures, and thus can also resume consistent with the State's framework on outdoor recreation and the relative risks of COVID-19 transmission; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Any gathering that adheres to all of the following rules does not violate Paragraph 5 of Executive Order No. 107 (2020):

a. The gathering takes place outdoors, whether on public or private property, and all attendees remain outdoors at all times during the gathering, with the sole exception of restroom use;

b. Open-air rain tarps, tents, and other outdoor structures shall be allowed solely for the purpose of protecting against foul weather or for shade;

c. The capacity of the gathering must be limited to no more than 25 people at the same time;

d. All attendees at the gathering are required to be six feet apart from other attendees at all times, excluding immediate family members, caretakers, household members, or romantic partners;

e. There may be no contact between attendees, excluding immediate family members, caretakers, household members, or romantic partners, and no organized or contact sports shall be allowed;

f. All individuals at the gathering should wear face coverings at all times where other social distancing measures are difficult to maintain, in accordance with CDC recommendations, except where doing so would inhibit the individual's health or where the individual is under two years of age, and they must wear such face coverings where required by another Executive Order;

g. If there are individuals organizing or maintaining the gathering, they should, where applicable, demarcate six feet of spacing in the area of the gathering to demonstrate appropriate spacing for social distancing, such as through the placement of cones, flags, or other markings;

h. If seating is provided, such as chairs or mats, all seating must be limited to single individuals, except for immediate family members, caretakers, household members, or romantic partners, and must be placed six feet apart at all times, and such seating must be sanitized before and after that individual's use in accordance with CDC guidelines;

i. If any physical items, including equipment, are provided, such items may not be shared by anyone except for immediate family members, caretakers, household members, or romantic partners, and such physical items must be sanitized before and after use; and

j. To the degree the gathering requires pre-payment, or seeks donations of any kind, contactless options for pre-payment or donation, such as online or by telephone, must be offered wherever feasible.

2. Any outdoor recreational business or activity permitted to reopen to the public or their members under Paragraph 1 of Executive Order No. 147 (2020), and any charter fishing services and for-hire vessels permitted to reopen to the public under Paragraph 1 of Executive Order No. 146 (2020), must adopt policies that limit capacity to, at most, the number that ensures all individuals remain six feet apart at all times, but at no times shall that limit exceed 25 people. Any capacity limits imposed on them by Executive Order Nos. 146 and 147 (2020) are hereby super-

seded, but all remaining requirements in those Orders remain in full force and effect.

3. Where a recreational or entertainment business organizes and/or maintains a gathering that adheres to the requirements of Paragraph 1 of this Order, it shall not be a violation of Paragraph 9 of Executive Order No. 107 (2020).

4. Gatherings authorized by Paragraph 1 of this Order are permitted at State Parks and Forests, county and municipal parks, public and private beaches, boardwalks, lakes, and lakeshores; however, consistent with Executive Order Nos. 108 and 133 (2020), counties and municipalities may impose additional restrictions at county and municipal parks in response to COVID-19. Paragraphs 3 and 7 of Executive Order No. 133 (2020) and Paragraph 3 of Executive Order No. 143 (2020) are hereby superseded to the extent that they prohibit outdoor gatherings of no more than 25 people. All remaining requirements in those Orders, including the prohibition of special events at public and private beaches, boardwalks, lakes, and lakeshores such as festivals, concerts, fireworks, and movies, remain in full force and effect.

5. Where a gathering takes place indoors, or otherwise does not adhere to either the requirements of Paragraph 1 of this Order or to the requirements of Executive Order No. 142 (2020) relating to car gatherings, then gatherings of 10 persons or fewer remain in compliance with Paragraph 5 of Executive Order No. 107 (2020), while gatherings of more than 10 persons remain in violation of that Executive Order.

6. Nothing in this Order shall prevent an individual at a gathering from coming within six feet of another person, or going indoors, if done to protect their health or safety or the health or safety of another individual.

7. Nothing in this Order shall prevent professional athletes from fulfilling their job duties, including when those job duties may require person-to-person contact, consistent with Paragraph 10 of Executive Order No. 107 (2020).

8. Notwithstanding Paragraph 12 of Executive Order No. 107 (2020), schools may allow individuals, including students, on to their premises, but only to engage in the passive recreational activities authorized by Paragraph 1 of Executive Order No. 133 (2020) or to participate in a gathering authorized by Executive Order No. 142 (2020) or by this Order.

9. All private recreational campgrounds are permitted to reopen to the public, but shall adopt policies that include, at a minimum, the following requirements:

a. Require that individuals maintain a six-foot distance from other individuals that are not immediate family members, caretakers, household members, or romantic partners;

b. Establish appropriate site-specific physical distancing between occupied fixed camping units, including but not limited to all cottages, cabins, and tent and RV camping sites;

c. Require that reservations, cancellations and pre-payments be made via electronic or telephone reservation systems to limit physical interactions. Such policies shall, wherever possible, consider populations that do not have access to internet service or credit cards;

d. Install a physical barrier, such as a shield guard, between visitors and employees wherever feasible or otherwise ensuring six feet of distance between those individuals;

e. Limit the use of equipment rented or otherwise provided by the campground to one person at a time, excluding immediate family members, caretakers, household members, or romantic partners;

f. Demarcate and post signs that denote six feet of spacing in all public spaces, communal areas, and other applicable areas, whenever possible;

g. Employees, visitors, and other individuals should wear face coverings in any setting at recreational campgrounds where other social distancing measures are difficult to maintain, except where doing so would inhibit that individual's health, or where the individual is under two years of age;

h. Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;

i. Provide employees break time for repeated handwashing throughout the workday;

j. Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to employees and visitors;

k. Limit occupancy in restrooms and shower facilities that remain open to avoid over-crowding and maintain social distancing through signage and, where practicable, the utilization of attendants to monitor capacity;

l. Require frequent sanitization of high-touch areas including, at minimum, the following cleaning protocols:

i. Routinely clean and disinfect all high-touch areas in accordance with the DOH and CDC guidelines, particularly in spaces that are accessible to employees, visitors, or other individuals, including, but not limited to, restroom and shower facilities, counter tops, hand rails, door knobs, other common surfaces, safety equipment, and other frequently touched surfaces including employee used equipment, and ensure cleaning procedures following a known or potential exposure in compliance with CDC recommendations;

ii. Clean and disinfect equipment that is rented, or otherwise provided to visitors in accordance with CDC and DOH guidelines after each use; and

iii. Train and equip employees to perform the above protocols effectively and in a manner that promotes the safety of the visitors and staff;

m. Place additional restrictions on areas of the campground, as necessary, to limit person-to-person interactions and facilitate appropriate social distancing;

n. Immediately separate and send home workers who appear to have symptoms consistent with COVID-19 illness upon arrival at work or who become sick during the day;

o. Promptly notify workers of any known exposure to COVID-19 at the worksite, consistent with the confidentiality requirements of the Americans with Disabilities Act and any other applicable laws;

p. Clean and disinfect the worksite in accordance with CDC guidelines when a worker at the site has been diagnosed with COVID-19 illness; and

q. Continue to follow guidelines and directives issued by the DOH, the CDC and the Occupational Health and Safety Administration, as applicable, for maintaining a clean, safe and healthy work environment.

10. The following shall remain closed to the public at recreational campgrounds:

a. Picnic areas;

b. Playgrounds;

c. Pavilions; and

d. Other buildings, amenities, or facilities, except for restrooms and shower facilities.

11. The Department of Environmental Protection shall prepare and publish within 15 days of the effective date of this Order a plan for the phased reopening of all recreational campgrounds located in any State Park and Forest in a manner that is protective of public health, safety, and the environment, and shall apply, at minimum, the policies provided in paragraphs 9 and 10 of this Order.

12. County and municipally-owned recreational campgrounds are permitted to reopen, but the counties and municipalities shall apply, at minimum, the policies provided in paragraphs 9 and 10 of this Order at any county and municipally-owned recreational campground that are open to the public; however, consistent with Executive Order Nos. 108 and 133 (2020), counties and municipalities may impose additional restrictions at county and municipally-owned recreational campgrounds in response to COVID-19.

13. Paragraph 6 of Executive Order No. 133 (2020) is hereby superseded to the extent it closes recreational campgrounds, but all remaining requirements in that Order remain in full force and effect.

14. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions and exclusions to the terms of this Order.

15. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order, and to cooperate fully with Administrative Orders issued pursuant to this Order.

16. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

17. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

18. This Order shall take effect immediately, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated May 22, 2020.

EXECUTIVE ORDER NO. 149

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119 and 138 (2020), issued on April 7, 2020, and May 6, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act ("EHPA"), to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, and Nos. 140-148 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, in an effort to reduce exposure of children, staff, and parents to COVID-19, I issued Executive Order No. 110 (2020), which required child care centers to close unless they could comply with heightened health and safety standards and would agree to solely service the children of essential workers; and

WHEREAS, emergency child care centers have operated since that time to service those individuals, and continue to operate; and

WHEREAS, given the decrease in the rate of reported new cases of COVID-19 in New Jersey, including a reduction in the total number of individuals being admitted to hospitals for COVID-19, the State can begin to take certain steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan (the "Plan") for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, in order to support the expanded reopening of business operations in the State, we must ensure that our workforce has, in turn, expanded access to child care services with appropriate safeguards for children and staff; and

WHEREAS, the health and safety standards currently in effect for emergency child care centers helped to prevent significant spread of COVID-19 throughout the child care community, and must remain in place, subject to certain updates and revisions, as additional centers become operational; and

WHEREAS, the State is implementing its reopening process and has begun to relax restrictions on certain businesses, including the authorization of curbside pickup at retail establishments deemed non-essential, the resumption of non-essential construction, and the allowance of a number of lower-risk outdoor activities; and

WHEREAS, consistent with this Plan, I have issued a number of Executive Orders, including Executive Order Nos. 133, 142, 143, 146, and 147 (2020), which authorized the openings of parks, beaches, lakefronts, and several outdoor recreational facilities and activities, with social distancing, cleaning, sanitizing, and hygiene practices in place, given repeated observations from public health experts, including but not limited to the Centers for Disease Control and Prevention (CDC), that outdoor environments present reduced risks of COVID-19 transmission as compared to indoor environments; and

WHEREAS, consistent with this Plan, I issued Executive Order No. 148 (2020) to allow for additional numbers of individuals to gather outdoors, consistent with the same repeated observations from public health experts; and

WHEREAS, youth summer camps provide our workforce with necessary alternatives to child care; and

WHEREAS, as with child care centers, heightened health and safety protocols can be instituted for summer camps to ensure an environment that would limit spread of COVID-19; and

WHEREAS, overnight camps would have immense difficulty in enforcing social distancing protocols, particularly with regards to sleeping arrangements, meaning that they cannot be permitted to operate at this time; and

WHEREAS, while Executive Order No. 148 (2020) prohibited organized or contact sports in outdoor gatherings, organized sporting activities that do not involve contact or individuals routinely interacting in close proximity can safely proceed in outdoor settings; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Executive Order No. 110 (2020) is hereby rescinded effective at 6:00 a.m. on June 15, 2020.

2. The Commissioner of the Department of Health, pursuant to her authority under the Emergency Health Powers Act, N.J.S.A. 26:13-1 et seq., and in consultation with the Commissioners of the Departments of Children and Families ("DCF") and Human Services (DHS), shall impose Standards for COVID-19 Related Health and Safety Applicable in New Jersey Child Care and Youth Summer Camp Settings ("COVID-19 Child Care and Youth Summer Camp Standards"). These Standards shall supersede previous guidelines applicable to emergency child care centers, and shall detail the appropriate social distancing, hygiene, cleaning, and other public health prevention strategies applicable in child care centers and other child care facilities and youth summer camps. The Standards imposed by the DOH may be informed by or incorporate guidelines issued by the Commissioner of DCF for child care centers.

3. "Child care centers," for purposes of this Order, shall mean any facility defined as a child care center pursuant to N.J.S.A. 30:5B-3. Nothing in this Order shall affect such child care centers' obligations under N.J.S.A. 30:B-1, et seq.

4. "Other child care facilities," for purposes of this Order, are defined as those facilities described in N.J.S.A. 30:5B-3(b)(2), (3), (7), (8), and (11).

5. "Youth summer camps," for purposes of this Order, shall include youth day camps required to be licensed pursuant to N.J.S.A. 26:12-1 et seq., facilities operating programs as described in N.J.S.A. 30:5B-3(b)(4), and other entities that provide daily multi-hour programming for youths, without regard to whether the program is subject to the certification requirements pursuant to N.J.S.A. 26:12-1 et seq., including youth programs operated by municipal agencies.

6. Effective 6:00 a.m. on June 15, 2020, child care centers and other child care facilities are permitted to resume operations for all clients, provided that they comply with the COVID-19 Child Care and Youth Summer Camp Standards and other applicable statutes, regulations, and Executive Orders. Each child care center and other child care facility must submit an attestation to the DCF no later than 24 hours prior to the anticipated opening date, or in the case of currently operating emergency child care centers, within fourteen days of the effective date of this Order, attesting that it will follow all applicable health and safety standards, as detailed in the COVID-19 Child Care and Youth Summer Camp Standards. Those child care centers and other child care facilities that were authorized to remain open pursuant to Executive Order No. 110 (2020) as emergency child care centers are not exempt from this requirement and must also submit an attestation to the DCF.

7. Nothing in this Order shall prevent child care centers and other child care facilities from engaging in pre-operational activities prior to June 15, 2020.

8. Youth summer camps shall be permitted to operate on or after Monday, July 6, 2020, provided that they comply with the COVID-19 Child Care and Youth Summer Camp Standards and other applicable statutes, regulations, and Executive Orders. Youth summer camps that wish to operate on or after July 6, 2020, must

submit an attestation to the Department of Health no later than 24 hours prior to the anticipated opening date, attesting that they will follow all applicable health and safety standards, as detailed in the COVID-19 Child Care and Youth Summer Camp Standards, and subject to other restrictions imposed by Executive Order.

9. Youth camp operators, as defined by N.J.S.A. 26:12-3, wishing to operate a youth camp on July 6, 2020, may do so only if they have submitted an application for a certificate of approval, or renewal thereof, to operate the camp, as required by N.J.S.A. 26:12-6 and -7, by June 15, 2020. Those youth camp operators wishing to commence operations of a youth camp after July 6, 2020, may do so only if they have submitted such an application at least fourteen days prior to the start date.

10. Residential and overnight camps are prohibited from operating, although nothing in this Order shall be construed to prevent youth from staying overnight at recreational campgrounds operating in accordance with Executive Order No. 148 (2020), to the extent such overnight stays are otherwise permitted.

11. Nothing in this Order shall prevent youth summer camps from engaging in pre-operational activities prior to July 6, 2020.

12. Any child care center, child care facility or youth summer camp that fails to adhere to the COVID-19 Child Care and Youth Summer Camp Standards is subject to closure by the Commissioner of the Department of Health pursuant to N.J.S.A. 26:13-8.

13. The provision in Paragraph 1(e) of Executive Order No. 148 (2020) prohibiting organized or contact sports is hereby rescinded effective June 22, 2020, insofar as it applies to sporting activities in outdoor settings that do not involve person-to-person contact or routinely entail individuals interacting within six feet of one another. At that time, sporting activities, including organized sporting activities, are permitted in outdoor settings only, provided that they do not involve person-to-person contact or routinely entail individuals interacting within six feet of one another. Any sporting activities that involve person-to-person contact or individuals routinely interacting in close proximity (within six feet of one another) will remain prohibited in any setting. The Commissioner of the Department of Health, pursuant to her authority under the EHPA, N.J.S.A. 26:13-1 et seq., shall impose health and safety standards regarding sporting activities before that date, and such activities must comply with all applicable laws, regulations, and Executive Orders, including restrictions on gatherings in place at the time the sporting activities occur. No part of this Paragraph shall be construed to restrict the ability of professional athletes to fulfill their job duties, pursuant to Paragraph 7 of Executive Order No. 148 (2020), and no part of this Paragraph shall be construed to restrict the ability of United States national team athletes or athletes training at United States National Team Training Centers to conduct their training activities.

14. High school sporting activities under the jurisdiction of the New Jersey State Interscholastic Athletic Association ("NJSIAA") may resume in accordance with reopening protocols issued by NJSIAA, which shall consider DOH guidance in issuing these protocols. However, these high school sporting activities cannot resume any earlier than June 30, 2020.

15. The provision in Paragraph 9 of Executive Order No. 107 (2020) closing recreational and entertainment businesses to the public, is hereby superseded to the extent that it would prevent youth summer camps or sporting activities from operating in accordance with Paragraphs 13 or 14 of this Order.

16. The provisions in Paragraphs 3(e) of Executive Order No. 133 (2020), 3(h) of Executive Order No. 143 (2020), and 1(e) of Executive Order No. 148 (2020) are hereby superseded to the extent that they would prevent organized sporting activities from occurring.

17. The provisions in paragraphs 12 and 13 of Executive Order No. 107 (2020), paragraph 8 of Executive Order No. 148 (2020), and paragraph 1 of Administrative Order No. 2020-12 are hereby superseded to the extent that they prohibit youth summer camps and sporting activities from taking place in or on the premises of public or private schools.

18. Any actions taken by the Commissioner of the Department of Health pursuant to this Order shall not be subject to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

19. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Executive Order.

20. Penalties for violations of this Executive Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

21. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of Executive Order No. 149 (2020), or which will or might in any way interfere with or impede its achievement.

22. This Order shall take effect immediately and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of the Department of Health as appropriate.

Dated May 29, 2020.

EXECUTIVE ORDER NO. 150

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119 and 138 (2020), issued on April 7, 2020, and May 6, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emer-

gency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, and Nos. 140-149 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, on March 16, 2020, I signed Executive Order No. 104, which limited all restaurants, dining establishments, and food courts, with or without a liquor license, all bars, and all other holders of a liquor license with retail consumption privileges, to offering food delivery and/or take-out services only, meaning that they could not allow the on-premises consumption of food or beverages; and

WHEREAS, on March 21, 2020, I signed Executive Order No. 107, which superseded Executive Order No. 104 (2020) in full but continued the prohibition of on-premises consumption of food or beverages; and

WHEREAS, given the decrease in the rate of reported new cases of COVID-19 in New Jersey, in the total number of individuals being admitted to hospitals for COVID-19, and in the rate of reproduction for COVID-19 infections in New Jersey, the State can begin to take certain steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan ("Plan") for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, the State is implementing its reopening process and has begun to relax restrictions on certain businesses, including the authorization of curbside pickup at retail establishments, the resumption of non-essential construction, and the allowance of a number of lower-risk outdoor activities; and

WHEREAS, consistent with this Plan, I have issued a number of Executive Orders, including Executive Order Nos. 133, 142, 143, 146, and 147 (2020), which authorized the openings of parks, beaches, lakefronts, and several outdoor recreational facilities and activities, with social distancing, cleaning, sanitizing, and hy-

giene practices in place, given repeated observations from public health experts, including but not limited to the Centers for Disease Control and Prevention ("CDC"), that outdoor environments present reduced risks of COVID-19 transmission as compared to indoor environments; and

WHEREAS, consistent with this Plan, I issued Executive Order No. 148 (2020), which allowed additional numbers of individuals to gather outdoors, consistent with the same repeated observations from public health experts, and Executive Order No. 149 (2020), which authorized the gradual restart of ordinary child care services, certain youth sporting activities, and summer camps, with social distancing requirements; and

WHEREAS, consistent with this Plan, non-essential retail businesses can begin to open their brick-and-mortar premises to the public, but should be held to the same minimum requirements that have applied to essential retail businesses since Executive Order No. 122 (2020) was signed in early April; and

WHEREAS, given the reduced risks of COVID-19 transmission outdoors, the State can begin to allow restaurants, bars, and other food or beverage establishments to provide in-person service at areas designated for food and/or beverage consumption ("outdoor dining") in accordance with CDC and DOH safeguards, but indoor dining still poses a higher risk of transmission at this time than outdoor dining; and

WHEREAS, indoor dining also entails a higher risk than indoor retail operations, as indoor dining typically involves individuals sitting together in one location for a prolonged period of time, while in indoor retail settings, individuals neither congregate in large groups nor remain in close proximity for extended periods and so the risk of COVID-19 spread is reduced; and

WHEREAS, to limit the spread of COVID-19 and thus to protect public health, establishments can only open to the public to offer outdoor dining where such food and/or beverage consumption is conducted in a way that ensures groups of individuals will be appropriately spaced apart, and there must be strict limits in place governing when individuals may enter the premises; and

WHEREAS, to limit the spread of COVID-19 and thus to protect public health, establishments can only open to the public to offer outdoor dining where such food and/or beverage consumption is conducted in a way that ensures critical Statewide health standards are met, which are being issued simultaneously by DOH; and

WHEREAS, because this Order establishes options for outdoor food and/or beverage consumption that accommodate the lack of indoor dining options as a result of COVID-19, individuals must have access to the same smoke-free options that they would have had under State law at the indoor premises of a food or beverage establishment, and which will continue to ensure that individuals can access in-person dining options without exposure to second-hand smoke during the Public Health Emergency; and

WHEREAS, many restaurants or bars will not have sufficient outdoor space to serve their patrons, and thus may seek to use additional space for outdoor food and/or

beverage consumption, including other areas of their property, such as parking lots, and shared spaces, such as sidewalks, streets, and parks; and

WHEREAS, municipalities are in the best position to make decisions on allowing restaurants or bars to expand their service footprint on their property and potentially into shared spaces in a way that comports with public safety; and

WHEREAS, if municipalities choose to make shared spaces available to restaurants or bars, it is incumbent upon them to distribute these spaces equitably among restaurants or bars who may feasibly seek to use them; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Effective at 6:00 a.m. on Monday, June 15, 2020, restaurants, cafeterias, dining establishments, and food courts, with or without a liquor license, bars, and all other holders of a liquor license with retail consumption privileges, collectively referred to as "food or beverage establishments," are permitted to offer in-person service at outdoor areas, provided that the establishment complies with the following requirements:

a. Ensure all areas designated for food and/or beverage consumption are in conformance with applicable local, State, and Federal regulations;

b. Limit capacity to a number that ensures all patrons can remain six feet apart from all other patrons at all times, except for those patrons with whom they are sharing a table;

c. Satisfy all standards issued by DOH pursuant to Paragraph 3 of this Order;

d. Ensure that tables seating individual groups are six feet apart in all directions and that individual seats in any shared area that is not reserved for individual groups, such as an outdoor bar area, are also six feet apart in all directions;

e. Prohibit patrons from entering the indoor premises of the food or beverage establishment, except to walk through such premises when entering or exiting the food or beverage establishment in order to access the outdoor area, or to use the restroom;

f. Require patrons to wear a face covering while inside the indoor premises of the food or beverage establishment, unless the patron has a medical reason for not doing so or is a child under two years of age; and

g. Prohibit smoking in any outdoor areas designated for the consumption of food and/or beverages. The requirement that food or beverage establishments impose this prohibition shall automatically sunset once food or beverage establishments are permitted to offer in-person service in indoor areas.

2. Nothing in this Order shall prevent a food or beverage establishment that offers take-out options from allowing an individual who is seeking take-out rather than table service to enter the indoor premises of the establishment to place an order, make payment, and pick up food or beverages, including in situations where a food or beverage establishment makes outdoor areas without table service available. As noted in Paragraph 1(f), such individuals shall wear a face covering while inside the indoor premises of the food or beverage establishment, unless the individual has a medical reason for not doing so or is a child under two years of age.

3. The Commissioner of the DOH is directed, consistent with her authority under the Emergency Health Powers Act, to issue health and safety standards for use by food or beverage establishments in order to serve patrons consistent with this Order.

4. Picnic Areas and Pavilions may be open to the public. Picnic Areas and Pavilions shall be open to the public at all State Parks and Forests.

5. Municipalities are permitted to use their existing authority to allow food or beverage establishments to expand their footprint to outdoor areas, both within their property and among municipally-governed areas, including but not limited to sidewalks, streets, or parks. Any additional density and social distancing requirements imposed by municipalities on food or beverage establishments offering in-person service at outdoor areas are not inconsistent with Executive Order No. 108 (2020). If a municipality seeks to close off a roadway for which it would need county or State approval, it still must obtain that approval.

6. Municipalities that make outdoor shared spaces such as sidewalks, streets, or parks, available for use by food or beverage establishments should equitably divide these spaces among food or beverage establishments that can feasibly use it.

7. Paragraph 8 of Executive Order No. 107 (2020), Paragraph 2 of Executive Order No. 133 (2020), Paragraph 2 of Executive Order No. 143 (2020), Paragraph 2 of Executive Order No. 147 (2020), and Paragraph 10 of Executive Order No. 148 (2020) are superseded to the extent inconsistent with this Order.

8. Effective at 6:00 a.m. on Monday, June 15, 2020, the brick-and-mortar premises of non-essential retail businesses that were closed to the public by Executive Order No. 107 (2020) can reopen to the public, provided that such businesses adopt policies that include, at minimum, the requirements that were applied to essential retail businesses in Paragraph 1 of Executive Order No. 122 (2020).

9. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order.

10. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

11. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions and exclusions to the terms of this Order.

12. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of Executive Order No. 150 (2020), or which will or might in any way interfere with or impede its achievement.

13. This Order shall take effect immediately.

Dated June 3, 2020.

EXECUTIVE ORDER NO. 151

WHEREAS, on March 9, 2020, through Executive Order No. 103, the facts and circumstances of which are adopted by reference herein, I declared both a Public Health Emergency and a State of Emergency throughout the State due to the public health hazard created by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, Executive Order No. 103 (2020) described both the symptoms and dangers presented by COVID-19 and the likelihood of community spread across the State, and it recognized the need to use all available statewide authorities to prepare for and respond to COVID-19 cases in New Jersey, to implement appropriate measures to mitigate the spread of COVID-19, and to prepare in the event of an increasing number of individuals requiring medical care or hospitalization; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act ("EHPA"), to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, 135-138, and 140-150 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, N.J.S.A. 26:13-3(b) establishes that a Public Health Emergency declared by the Governor shall automatically terminate after 30 days, unless renewed for an additional 30 days through a declaration of the Governor; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on May 6, 2020, I issued Executive Order No. 138, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, through Executive Order Nos. 119 and 138 (2020), I declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, since the Public Health Emergency was renewed on May 6, 2020, at which time there were over 130,000 positive cases of COVID-19 in New Jersey,

the COVID-19 outbreak has continued to present a public health hazard in New Jersey, in the region, and across the United States; and

WHEREAS, as of June 4, 2020, according to the World Health Organization, there were over 6,416,000 confirmed cases of COVID-19 worldwide, with over 382,000 of those cases having resulted in death; and

WHEREAS, as of June 4, 2020, according to the Centers for Disease Control and Prevention (CDC), there were over 1,842,000 confirmed cases of COVID-19 in the United States, with over 107,000 of those cases having resulted in death; and

WHEREAS, as of June 4, 2020, there were over 162,000 positive cases of COVID-19 in New Jersey, with at least 11,970 of those cases having resulted in death; and

WHEREAS, there have been positive cases of COVID-19 in every county in New Jersey, and there have been deaths relating to COVID-19 in every county in New Jersey; and

WHEREAS, due to the significant emergency measures the State has taken in response to COVID-19, there has now been a decrease in the rate of reported new cases of COVID-19 in New Jersey, in the total number of individuals being admitted to hospitals for COVID-19, and in the rate of reproduction for COVID-19 infections in New Jersey; and

WHEREAS, given the progress the State has made based on these emergency measures, I announced a multi-stage New Jersey's Road Back Plan (the "Plan") to allow for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, in line with the Plan, the State has been able to relax a number of restrictions, each time tailored to the relative risk the activity presents, and is lifting additional restrictions with an effective date of June 15, 2020; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, the fact that the spread of COVID-19 has been limited by the State's emergency measures does not in any way suggest that the ongoing Public Health Emergency has dissipated, because absent social distancing measures, public health experts anticipate that the spread of COVID-19 would again significantly increase; and

WHEREAS, the renewal of the declaration of the ongoing Public Health Emergency is necessary to allow the State to continue with the Plan to allow for the methodical and strategic reopening of the State, consistent with the State's authority under the EHPA; and

WHEREAS, the renewal of the declaration of the ongoing Public Health Emergency is also necessary to ensure that the State can swiftly respond to take all appropriate actions should the rate of reported new cases of COVID-19 in New Jersey, number of individuals being admitted to hospitals for COVID-19, or rate of reproduction for COVID-19 infections in New Jersey increase once more; and

WHEREAS, the spread of COVID-19 has greatly strained the resources and capabilities of county and municipal governments, including public health agencies, that provide essential services for containing and mitigating the spread of contagious diseases, and the situation is too large in scope to be handled entirely by the normal county and municipal operating services; and

WHEREAS, the facts as set forth above and consultation with the Commissioner of the Department of Health ("DOH") confirm that the spread of COVID-19 in New Jersey constitutes an ongoing public health hazard that threatens and presently endangers the health, safety, and welfare of the residents of one or more municipalities or counties of the State, and it is necessary and appropriate to take action against this public health hazard to protect and maintain the health, safety, and welfare of New Jersey residents and visitors; and

WHEREAS, the facts as set forth above and consultation with the Commissioner of DOH confirm that there exists a Public Health Emergency in the State; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby DECLARE and PROCLAIM that the Public Health Emergency declared in Executive Order No. 103 (2020) pursuant to the EHPA, N.J.S.A. 26:13-1, et seq., continues to exist throughout the State of New Jersey, and I hereby ORDER and DIRECT:

1. All Executive Orders adopted in whole or in part based on the authority under the EHPA to respond to the Public Health Emergency presented by the COVID-19 outbreak remain in full force and effect.

2. All actions taken by any Executive Branch departments and agencies in whole or in part based on the authority under the EHPA to respond to the Public Health Emergency presented by the COVID-19 outbreak, or in whole or in part based on authority delegated by any Executive Orders described in Paragraph 1 of this Order, including but not limited to any Administrative Orders, remain in full force and effect.

3. For purposes of this Order, "Executive Branch departments and agencies" shall mean any of the principal departments in the Executive Branch of State government and any agency, authority, board, bureau, commission, division, institution, office, or other instrumentality within or created by any such department, and any independent State authority, commission, instrumentality, or agency over which the Governor exercises executive authority, as determined by the Attorney General.

4. This Order shall take effect immediately.
Dated June 4, 2020.

EXECUTIVE ORDER NO. 152

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, and 151, issued on April 7, 2020, May 6, 2020, and June 4, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, and Nos. 140-151 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, among these actions, and in recognition that the Centers for Disease Control and Prevention ("CDC") has advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020) to order steps to mitigate community spread of COVID-19; and

WHEREAS, to further limit community spread from person-to-person contact through use of social mitigation measures, Executive Order No. 107 (2020) required, with limited exceptions, New Jersey residents to remain in their place of residence, cancelled all gatherings, and closed all recreational and entertainment businesses; and

WHEREAS, given the decrease in the rate of reported new cases of COVID-19 in New Jersey, in the total number of individuals being admitted to hospitals for COVID-19, and in the rate of reproduction for COVID-19 infections in New Jersey, the State can and has taken steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, the State is in the second phase of the reopening process and has begun to relax restrictions on activities where appropriately safeguarded, especially outdoor activities; and

WHEREAS, the CDC has issued guidance for mass gatherings or large community events, such as conferences, festivals, parades, concerts, sporting events, weddings, and other potentially super-spreading events, recognizing that gatherings can significantly contribute to the spread of COVID-19 and introduce the virus to new communities through increased transmission to a large number of people in a short period of time, and states throughout the region previously canceled all such events; and

WHEREAS, the CDC recognizes that the stringency of any limit on gatherings should be tailored to the significance of COVID-19 transmission in the State and region, meaning that as the spread of COVID-19 decreases in a state, the state can significantly adjust its limits on indoor and outdoor gatherings; and

WHEREAS, the fact that the spread of COVID-19 has been limited by the State's emergency measures does not in any way suggest that gathering restrictions can be lifted altogether, because absent social distancing measures, public health experts anticipate that the spread of COVID-19 would again significantly increase; and

WHEREAS, the restrictions on indoor gatherings that remain in place may be more stringent than the restrictions that are in place for retail, because in indoor retail settings individuals neither congregate in large groups nor remain in close proximity for extended periods, which are factors that have been linked to the increased risk of COVID-19 transmission; and

WHEREAS, because public health experts have identified that outdoor environments present reduced risks of transmission as compared to indoor environments, it is appropriate to adjust the restrictions relative to gatherings that happen outdoors even more considerably, meaning that certain gatherings that could not take place indoors may still happen in open-air outdoor spaces, but participants should maintain reasonable restrictions to help limit the spread and prevent future outbreaks of COVID-19 and to protect the health, safety, and welfare of New Jersey residents; and

WHEREAS, maintaining overall social distancing and mitigation requirements while gathering in open-air outdoor spaces, particularly by maintaining a six-foot dis-

tance from other individuals, is imperative to continuing to reduce the ongoing risk of community spread of COVID-19; and

WHEREAS, recognizing both that the rate of community spread of COVID-19 has been decreasing and also that limits on gatherings have contributed to that progress, a number of other states in the region have relaxed their restrictions in indoor gatherings, and have relaxed their restrictions on outdoor gatherings even further, while still leaving a number of requirements in place; and

WHEREAS, certain gatherings – including religious services and political activity – are particularly important to the functioning of the State and of society, and while such gatherings must be limited to the same degree as any other during periods of especially high community transmission, at a time during which COVID-19 cases, hospitalizations, and the rate of reproduction is lower, the restrictions on these gatherings can be relaxed to an even greater degree than for other gatherings, especially if they are outdoors, and other states facing analogous levels of COVID-19 transmission have repeatedly recognized these points; and

WHEREAS, the State's restrictions on gatherings continue to be tailored to the harms that each gathering presents, meaning that indoor in-person gatherings must comply with a more stringent limitation than outdoor in-person gatherings, and that additional individuals may participate in a gathering beyond those numerical limitations wherever those participants remain in their vehicle, given the relative risks of COVID-19 transmission presented by each scenario; and

WHEREAS, even where a gathering is permitted, the protective measures that individuals should take, including use of masks and social distancing, remains important, most especially for larger gatherings, because as the CDC has recognized, an increase in the number of participants will offer more opportunities for person-to-person contact, and will also present a higher risk of a super-spread event, especially when it takes place indoors; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. No indoor gathering may take place in the State, whether on public or private property, unless it adheres to all of the following rules:

a. The number of individuals at the gathering shall be limited to 25% of the capacity of the room in which it takes place, but regardless of the capacity of the room, such limit shall never be larger than 50 persons or smaller than 10 persons;

b. All attendees at the gathering must wear face coverings at all times except where doing so would inhibit the individual's health or where the individual is under two years of age;

c. If there are individuals organizing or maintaining the gathering, those individuals must wear face coverings whenever feasible, and must wear face coverings whenever they are within six feet of another individual, except where doing so would inhibit the individual's health;

d. All attendees at the gathering are required to be six feet apart from other attendees at all times, excluding immediate family members, caretakers, household members, or romantic partners, as well as excluding a limited number of individuals organizing or maintaining the gathering;

e. There may be no contact between attendees, excluding immediate family members, caretakers, household members, or romantic partners, and excluding a limited number of individuals organizing or maintaining the gathering;

f. Where the number of individuals at the gathering is 10 persons or fewer, the gathering is not required to comply with Paragraphs 1(a)-(e) of this Order, but all individuals at the gathering should wear face coverings at all times, except where doing so would inhibit the individual's health or where the individual is under two years of age;

g. If there are individuals organizing or maintaining the gathering, they should, where applicable, demarcate six feet of spacing in the area of the gathering to demonstrate appropriate spacing for social distancing, such as through the placement of cones, flags, or other markings;

h. Any physical items, including equipment, may not be shared by multiple attendees of the same gathering except for immediate family members, caretakers, household members, or romantic partners, unless such physical items are sanitized before and after use by different individuals; and

i. To the degree the gathering requires pre-payment, or seeks donations of any kind, contactless options for pre-payment or donation, such as online or by telephone, must be offered wherever feasible.

2. No outdoor gathering may take place in the State, whether on public or private property, unless it adheres to all of the following rules:

a. The number of individuals at the gathering must be limited to 100 persons or fewer;

b. All attendees at the gathering are required to be six feet apart from other attendees at all times, excluding immediate family members, caretakers, household members, or romantic partners, as well as excluding a limited number of individuals organizing or maintaining the gathering;

c. There may be no contact between attendees, excluding immediate family members, caretakers, household members, or romantic partners, and excluding a limited number of individuals organizing or maintaining the gathering;

d. If there are individuals organizing or maintaining the gathering, they should, where applicable, demarcate six feet of spacing in the area of the gathering to

demonstrate appropriate spacing for social distancing, such as through the placement of cones, flags, or other markings;

e. Any physical items, including equipment, may not be shared by multiple attendees of the same gathering except for immediate family members, caretakers, household members, or romantic partners, unless such physical items are sanitized before and after use by different individuals;

f. Where the number of individuals at the gathering is 25 persons or fewer, the gathering is not required to comply with Paragraphs 2(a)-(e) of this Order. Where the outdoor gathering is a religious service or political activity, such as a protest, the gathering is not required to comply with Paragraphs 2(a)-(e) of this Order;

g. Open-air rain tarps, tents, and other outdoor structures shall be allowed solely for the purpose of protecting against foul weather or for shade;

h. All individuals at the gathering should wear face coverings at all times where other social distancing measures are difficult to maintain, in accordance with CDC recommendations, except where doing so would inhibit the individual's health or where the individual is under two years of age, and all attendees must wear such face coverings where required by another Executive Order; and

i. To the degree the gathering requires pre-payment, or seeks donations of any kind, contactless options for pre-payment or donation, such as online or by telephone, must be offered wherever feasible.

3. No individual shall be considered in calculating the total number of attendees at the outdoor gathering at any time in which that individual is in a vehicle, so long as that vehicle is either (1) closed, meaning that the windows, doors, sunroofs, and tops of the vehicle are all closed, or (2) more than six feet from any other vehicle or individual.

4. Nothing in this Order shall prevent an individual at a gathering from coming within six feet of another person, coming into contact with another person, going indoors, or leaving their vehicles, if done to protect their health or safety or the health or safety of another individual.

5. Nothing in this Order shall prevent a person at a gathering from momentarily removing their mask to place or receive an item in their mouth, including food or beverage, if done for religious purposes or for their health or safety.

6. Gatherings authorized by this Order are permitted at State Parks and Forests, county and municipal parks, public and private beaches, boardwalks, lakes, and lakeshores; however, consistent with Executive Order Nos. 108, 133, and 148 (2020), counties and municipalities may impose additional restrictions at county and municipal parks in response to COVID-19.

7. Available parking at all State Parks and Forests shall reopen to their full maximum capacity, and available parking at all county and municipal parks may reopen to their full maximum capacity.

8. The provisions in paragraph 5 of Executive Order No. 107 (2020), paragraphs 3 and 7 of Executive Order No. 133 (2020), paragraphs 4 and 8 of Executive Order No. 142 (2020), and paragraphs 1 and 5 of Executive Order No. 148 (2020) are hereby superseded to the extent inconsistent with this Order. To the extent provi-

sions of these Orders are not inconsistent with this Order, they remain in full force and effect.

9. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

10 It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Executive Order.

11 No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

12. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

13. This Order shall take effect immediately, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated June 9, 2020.

EXECUTIVE ORDER NO. 153

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, and 151, issued on April 7, 2020, May 6, 2020, and June 4, 2020 respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, and Nos. 140-152

(2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, to further limit community spread from person-to-person contact through use of social mitigation measures, Executive Order No. 107 (2020) required, with limited exceptions, New Jersey residents to remain in their place of residence and closed all recreational and entertainment businesses; and

WHEREAS, given the decrease in the rate of reported new cases of COVID-19 in New Jersey, including a reduction in the total number of individuals being admitted to hospitals for COVID-19, the State can take steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan (the "Plan") for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, the State is implementing its reopening process and has begun to relax restrictions on certain businesses, including the authorization of curbside pickup at retail establishments, the resumption of non-essential construction, and the allowance of a number of lower-risk outdoor activities; and

WHEREAS, consistent with this Plan, I have issued a number of Executive Orders, including Executive Order Nos. 133, 142, 143, 146 and 147 (2020), which lifted closures and/or prohibitions of parks, beaches, lakefronts, and several outdoor recreational facilities and activities, with social distancing, cleaning, sanitizing, and hygiene practices in place, given repeated observations from public health experts, including but not limited to the Centers for Disease Control and Prevention ("CDC"), that outdoor environments present reduced risks of COVID-19 transmission as compared to indoor environments; and

WHEREAS, consistent with this Plan, I issued Executive Orders No. 148 and 152 (2020), which allowed additional numbers of individuals to gather outdoors, consistent with the same repeated observations from public health experts, Executive Order No. 149 (2020), which authorized the gradual restart of ordinary child care services, certain youth sporting activities, and summer camps, with social distancing requirements, and Executive Order No. 150 (2020), which permitted restaurants, bars, and other food or beverage establishments to provide in-person dining outdoors, again with social distancing requirements; and

WHEREAS, as more outdoor activities can happen safely, and as additional businesses can begin to open to the public under the Plan, especially outdoors, it is appropriate to lift the Order requiring New Jersey residents to remain home or at their place of residence; and

WHEREAS, consistent with this Plan, most outdoor activities, including those that take place in outdoor spaces owned or operated by recreation businesses, can begin to open to the public consistent with the State's framework on outdoor recreation and the relative risks of COVID-19 transmission provided that certain social distancing measures are followed, but recreation businesses still cannot allow the public into the indoor spaces for activity because such indoor environments continue to pose a higher risk of COVID-19 transmission at this time; and

WHEREAS, a limited number of outdoor spaces owned or operated by recreation businesses, including amusement parks and arcades, cannot be open to the public at this time because they include many high touch areas that make social distancing guidelines and capacity limits difficult to implement, maintain, monitor, and enforce; and

WHEREAS, indoor recreation also entails a higher risk than indoor retail settings, as indoor recreation typically involves individuals congregating together in one location for a prolonged period of time, while in indoor retail settings, individuals neither congregate in large groups nor remain in close proximity for extended periods and so the risk of COVID-19 spread is reduced; and

WHEREAS, the CDC has issued guidance regarding social distancing, cleaning, sanitizing, and hygiene practices necessary for the safe operation of public pools and hot tubs; and

WHEREAS, pursuant to N.J.A.C. 8:26-1.3 swimming pool facilities include conventional pools, hot tubs, spas, wading pools, special purpose pools, and aquatic recreation attractions that include, but are not limited to, "pools operated by or serving campgrounds, clubs, churches, cities, common interest communities, counties, day care centers, group home facilities for six or more clients, health spas, institutions, parks, private lake, river, or bay associations, or private community lake, river, or bay associations, State, county, and municipal agencies, retirement communities, schools, specially exempt facilities, subdivisions, or cooperative living type projects of three or more living units, such as apartments, boarding homes, condominiums, hotels, mobile home parks, motels, recreational vehicle parks, townhouses, trailer parks, and youth camps"; and

WHEREAS, consistent with this Plan, most outdoor swimming pools can begin to open provided such facilities implement measures that ensure critical health standards are met, which will be issued by DOH prior to opening, but consistent with the fact that indoor environments continue to pose a higher risk of COVID-19 transmission, indoor pools cannot open at this time; and

WHEREAS, pursuant to N.J.A.C. 8:26-1.3, aquatic recreation facilities include interactive play attractions, water parks, spray parks, and water amusement rides regulated by the Department of Community Affairs at N.J.A.C. 5:14A-12; and

WHEREAS, aquatic recreation facilities cannot be open to the public at this time due to the significant high touch areas at these facilities where many different individuals are coming into contact with those areas in rapid succession; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A.

38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Effective at 6:00 a.m. on Monday, June 22, 2020, outdoor swimming pools are permitted to open, provided that the pool facility complies with all standards issued by the DOH pursuant to Paragraph 2 of this Order.

2. The Commissioner of the DOH is directed, pursuant to her authority under the Emergency Health Powers Act, N.J.S.A. 26:13-1 et seq., to issue health and safety standards for use by pool facilities in order to be open consistent with this Order. Any pool facility that opens must satisfy all standards issued by DOH pursuant to this Paragraph.

3. Pool facilities may open for the purpose of lifeguard training and swimming lessons prior to Monday, June 22, 2020, consistent with paragraph 10 of Executive Order No. 107 (2020).

4. All recreational and entertainment businesses that were closed to the public by paragraph 9 of Executive Order No. 107 (2020) are permitted to reopen their outdoor spaces to the public, unless otherwise prohibited by this Order, provided that such businesses adopt policies that include, at minimum, the following requirements:

a. The public is permitted only in such outdoor spaces, except that members of the public may enter the indoor premises of the recreation business when entering or exiting the establishment in order to access the outdoor area, or to use the restroom;

b. Limit total capacity to a number that ensures that all individuals can remain six feet apart;

c. Open-air rain tarps, tents, and other outdoor structures shall be allowed solely for the purpose of protecting against foul weather or for shade;

d. Require that reservations, cancellations and pre-payments be made via electronic or telephone reservation systems to limit physical interactions. Such policies shall, wherever possible, consider populations that do not have access to internet service or credit cards;

e. Install a physical barrier, such as a shield guard, between visitors and employees wherever feasible or otherwise ensure six feet of distance between those individuals, except at the moment of payment;

f. Limit the use of equipment rented or otherwise provided by the business to one person at a time, excluding immediate family members, caretakers, household members, or romantic partners, and sanitize such equipment before and after use;

g. Demarcate and post signs that denote six feet of spacing in all commonly used and other applicable areas or where people may form a line;

h. Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;

i. Provide employees break time for repeated handwashing throughout the workday;

j. Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to staff and customers;

k. Limit occupancy in restrooms that remain open to avoid over-crowding and maintain social distancing through signage and, where practicable, the utilization of attendants to monitor capacity;

l. Require frequent sanitization of high-touch areas including, at minimum, the following cleaning protocols:

i. Routinely clean and disinfect all high-touch areas in accordance with DOH and CDC guidelines, particularly in spaces that are accessible to staff, customers, or members, or other individuals, including, but not limited to, restroom and locker facilities, counter tops, hand rails, door knobs, other common surfaces, safety equipment, and other frequently touched surfaces including employee used equipment, and ensure cleaning procedures following a known or potential exposure in compliance with CDC recommendations;

ii. Clean and disinfect equipment that is rented in accordance with CDC and DOH guidelines; and

iii. Train and equip employees to perform the above protocols effectively and in a manner that promotes the safety of the visitors and staff;

m. Place additional restrictions on areas of the business, as necessary, to limit person-to-person interactions and facilitate appropriate social distancing;

n. Immediately separate and send home workers who appear to have symptoms consistent with COVID-19 illness upon arrival at work or who become sick during the day;

o. Promptly notify workers of any known exposure to COVID-19 at the worksite, consistent with the confidentiality requirements of the Americans with Disabilities Act and any other applicable laws;

p. Clean and disinfect the worksite in accordance with CDC guidelines when a worker at the site has been diagnosed with COVID-19 illness; and

q. Continue to follow guidelines and directives issued by the New Jersey Department of Health, the CDC and the Occupational Health and Safety Administration, as applicable, for maintaining a clean, safe and healthy work environment.

5. Any type of event at an outdoor recreational and entertainment business that involves individuals who are there at a specific time and for a common reason, such as a movie, a concert, a sporting event, or a trip on a chartered vessel, shall remain subject to the restrictions on outdoor gatherings in Executive Order No. 152 (2020).

6. Any recreational and entertainment businesses that were already permitted to reopen their outdoor spaces to the public, including outdoor archery ranges, batting cages, golf courses, golf driving ranges, shooting ranges, tennis clubs, and char-

tered vessels, may continue to keep their outdoor spaces open to the public, provided that they comply with all applicable terms of this Order.

7. Public and private social clubs are permitted to reopen their outdoor spaces, provided that they comply with all applicable terms of this Order.

8. The following shall remain closed to the public at pool facilities and all recreational businesses:

a. Aquatic recreation facilities;

b. Indoor recreational areas;

c. Playgrounds; and

d. Water fountains (those considered recreational, not those for drinking).

9. All restaurants, cafeterias, dining establishments, and food courts, with or without a liquor license, all bars, all private and public social clubs, and all other holders of a liquor license with retail consumption privileges located at pool facilities and recreational businesses, including concessions, snack bars, and food trucks, shall comply with the requirements set forth in Executive Order No. 150 (2020).

10. Notwithstanding paragraph 4 of this Order, amusement parks and arcades that are recreational businesses or located at pool facilities shall remain closed pursuant to Executive Order No. 107 (2020), even if they are outdoors. Nothing in this Order prevents a business from operating an amusement game outdoors, such as a game on a boardwalk, so long as the game does not take place in an amusement park and an employee is present and adheres to all of the requirements in paragraph 1 of this Order, including sanitizing all equipment before and after each use.

11. Paragraph 2 of Executive Order No. 107 (2020), which requires New Jersey residents to remain home or at their place of residence with limited exceptions, is hereby rescinded. Paragraph 5 of Executive Order No. 142 (2020) and paragraph 5 of Executive Order No. 146 (2020) are also rescinded.

12. Total capacity at State Parks and Forests, as well as county and municipal parks, shall be limited to a number that ensures that all individuals can remain six feet apart.

13. Nothing in this Order shall replace, limit, or otherwise modify, existing sanitation and safety regulatory requirements for recreational bathing facilities to preserve public health set forth in the New Jersey State Sanitary Code regulations, N.J.A.C. 8:26, adopted pursuant to N.J.S.A. 26:1A-7 and N.J.S.A. 26:4A-7.

14. The provisions in paragraph 9 of Executive Order No. 107 (2020), paragraphs 8 and 9 of Executive Order No. 133 (2020), paragraphs 2-3 of Executive Order No. 143 (2020), paragraph 1 of Executive Order No. 146 (2020), paragraphs 2, 5, 6, 8, and 10 of Executive Order No. 147 (2020), and paragraphs 2 and 4 of Executive Order No. 148 (2020) are hereby superseded to the extent inconsistent with this Order. To the extent provisions of these Orders are not inconsistent with this Order, they remain in full force and effect.

15. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

16. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order, and to cooperate fully with Administrative Orders issued pursuant to this Executive Order.

17. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

18. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

19. This Order shall take effect immediately, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated June 9, 2020.

EXECUTIVE ORDER NO. 154

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, and 151, issued on April 7, 2020, May 6, 2020, and June 4, 2020 respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, and Nos. 140-153 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, to further limit community spread from person-to-person contact through use of social mitigation measures, Executive Order No. 107 (2020) closed all facilities where personal care services are performed that, by their very nature, result in noncompliance with social distancing guidelines; and

WHEREAS, on April 27, 2020, Colonel Patrick J. Callahan, State Director of Emergency Management, issued Administrative Order No. 2020-10 clarifying that the closure of personal care services facilities pursuant to Executive Order No. 107 (2020) extended to providing personal care services in any home or business setting, with limited exceptions; and

WHEREAS, given the decrease in the rate of reported new cases of COVID-19 in New Jersey, including a reduction in the total number of individuals being admitted to hospitals for COVID-19, the State can take steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan ("Plan") for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, as the State moves forward with its reopening plans, it is reasonable to take an approach based on which industries can safely proceed while minimizing the spread of COVID-19, due to the challenges associated with assessing the circumstances of every individual business; and

WHEREAS, the State is implementing its reopening process and has begun to relax restrictions on certain businesses, including the authorization of curbside pickup at retail establishments, the resumption of non-essential construction, and the allowance of a number of lower-risk outdoor activities; and

WHEREAS, consistent with this Plan, I have issued a number of Executive Orders, including Executive Order Nos. 133, 142, 143, 146, 147, and 153 (2020), which lifted closures and/or prohibitions of parks, beaches, lakefronts, and most outdoor recreational facilities and activities, with social distancing, cleaning, sanitizing, and hygiene practices in place, given repeated observations from public health experts, including but not limited to the Centers for Disease Control and Prevention (CDC), that outdoor environments present reduced risks of COVID-19 transmission as compared to indoor environments; and

WHEREAS, consistent with this Plan, I issued Executive Orders No. 148 and 152 (2020), which allowed additional numbers of individuals to gather indoors and outdoors, consistent with the same repeated observations from public health experts, Executive Order No. 149 (2020), which authorized the gradual restart of ordinary child care services, certain youth sporting activities, and summer camps, with social distancing requirements, and Executive Order No. 150 (2020), which

permitted restaurants, bars, and other food or beverage establishments to provide in-person dining outdoors, again with social distancing requirements; and

WHEREAS, consistent with this Plan, facilities where personal care services are performed can begin to open to the public, but should be held to stringent social distancing and cleaning and disinfectant requirements to continue preventing the spread of the virus; and

WHEREAS, it is appropriate to allow indoor personal care service facilities but still require other indoor activities to remain closed because unlike other indoor activities, personal care services 1) typically do not have an outdoor alternative, 2) can be conducted with limited and controlled interactions, as opposed to in an uncontrolled environment, and 3) can be conducted with both staff and clients wearing masks at nearly all times, unlike activities such as indoor dining; and

WHEREAS, while it is appropriate to allow indoor personal care service facilities to reopen, personal care services offered outside a personal care facility or a health facility providing medically necessary or therapeutic services should remain prohibited due to the increased difficulty of complying with the health and standards in non-facility settings where the personal care service provider is likely to have less control over cleaning and disinfection procedures, but reasonable accommodations are appropriate for clients confined to their home and unable to travel due to a disability; and

WHEREAS, students at cosmetology schools and other places that provide instruction and training to individuals who are not yet licensed are less likely than licensed professionals to be able to adhere strictly to health and safety standards; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Effective at 6:00 a.m. on Monday, June 22, 2020, cosmetology shops; barber shops; beauty salons; hair braiding shops; nail salons; electrology facilities; spas, including day spas and medical spas, at which solely elective and cosmetic medical procedures are performed; massage parlors, tanning salons, and tattoo parlors, collectively referred to as "personal care service facilities," are permitted to reopen to the public provided that the facility complies with standards issued by the Division of Consumer Affairs and DOH, as applicable, pursuant to paragraphs 2 and 3 of this Order.

2. The Director of the Division of Consumer Affairs (the "Director") within the Department of Law and Public Safety is directed, consistent with his authority un-

der P.L.2020 c.18, to issue health and safety standards in connection with personal care services to be provided by licensees of the New Jersey State Board of Cosmetology and Hairstyling and the New Jersey Board of Massage and Bodywork Therapy to clients, consistent with this Order, in cosmetology shops; barber shops; beauty salons; hair braiding shops; nail salons; spas, including day spas and medical spas and similar facilities that offer services of skin care specialists, at which solely elective and cosmetic medical procedures are performed; and massage establishments. The Director may, consistent with his authority under P.L.2020 c.18, issue health and safety standards for use in connection with personal care services provided by electrologists licensed by the Board of Medical Examiners. Unless and until the Director issues standards specific to electrologists or electrologist facilities, electrologists and electrologist facilities shall comply with any Administrative Order issued by the Director regarding healthcare services in office practices, including but not limited to the Division of Consumer Affairs Administrative Order No. 2020-07 (May 18, 2020).

3. The Commissioner of the DOH is directed, consistent with her authority under the Emergency Health Powers Act, to issue health and safety standards for use by tattoo parlors, tanning salons and other locations in which personal care services are offered by individuals not acting within the scope of a license issued by a professional board within the Division of Consumer Affairs, in order to serve patrons consistent with this Order.

4. Notwithstanding paragraph 1 of this Order, personal care services offered outside of personal care service facilities or health facilities providing medically necessary or therapeutic services shall remain prohibited pursuant to Administrative Order No. 2020-10, until explicitly authorized by an order from the State Director of Emergency Management. If such an order is issued by the State Director of Emergency Management, these personal care services must be provided in a manner that complies with standards issued by the Division of Consumer Affairs and DOH, as applicable, pursuant to paragraphs 2 and 3 of this Order. The prohibition of personal care services offered outside of the facilities referenced above shall not prevent the provision of services to a person that is confined to their home and unable to travel due to a disability, if these services 1) are permitted under existing statutes and regulations and 2) are provided in a manner that substantially complies with standards issued by the Division of Consumer Affairs and DOH, as applicable, pursuant to paragraphs 2 and 3 of this Order.

5. Nothing in paragraph 4 shall be construed to preclude an individual from providing personal care services in a shop, office, or other premises licensed, or otherwise authorized by the Division of Consumer Affairs or one of its licensing boards or the Department of Health that is located in a residence, provided they comply with standards issued by the Division of Consumer Affairs and DOH, as applicable, pursuant to paragraphs 2 and 3 of this Order and all other applicable laws and regulations.

6. Notwithstanding paragraph 1 of this Order, cosmetology schools or other places that provide instruction and training for personal care services shall remain closed pursuant to paragraph 13 of Executive Order No. 107 (2020).

7. Paragraph 9 of Executive Order No. 107 (2020) is hereby superseded to the extent inconsistent with this Order, effective at 6:00 a.m. on Monday, June 22, 2020.

8. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Executive Order, and to cooperate fully with Administrative Orders issued pursuant to this Executive Order.

9. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

10. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

11. This Order shall take effect immediately and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated June 13, 2020.

EXECUTIVE ORDER NO. 155

WHEREAS, in light of the dangers posed by COVID-19, I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, and 151, issued on April 7, 2020, May 6, 2020, and June 4, 2020 respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-

19, including Executive Order Nos. 104-133, Nos. 135-138, and Nos. 140-154 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, to protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19, including the cessation of in-person instruction at all institutions of higher education; and

WHEREAS, Executive Order No. 104 (2020) also gave the Secretary of Higher Education (the "Secretary") the authority to grant a waiver to allow in-person instruction to students on a case-by-case basis where a compelling rationale to allow such instruction exists; and

WHEREAS, on March 20, 2020, Colonel Patrick J. Callahan, State Director of Emergency Management, issued Administrative Order No. 2020-3 clarifying that the facilities closed to members of the public pursuant to Executive Order No. 104 (2020) included all libraries and computer labs at public and private colleges and universities; and

WHEREAS, to further limit community spread from person-to-person contact through use of social mitigation measures, Executive Order No. 107 (2020) required institutions of higher education to continue to cease in-person instruction and continued the authority of the Secretary to grant waivers to allow in-person instruction to students on a case-by-case basis where a compelling rationale to allow such instruction exists; and

WHEREAS, given the decrease in the rate of reported new cases of COVID-19 in New Jersey, including a reduction in the total number of individuals being admitted to hospitals for COVID-19, the State can take steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, after consultation with officials from the Department of Health, I announced the multi-stage New Jersey's Road Back Plan ("Plan") for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, as the State moves forward with its reopening plans, it is reasonable to take an approach based on which industries can safely proceed while minimizing the spread of COVID-19, due to the challenges associated with assessing the circumstances of every individual entity; and

WHEREAS, consistent with this Plan, I issued Executive Orders No. 148 and 152 (2020), which allowed additional numbers of individuals to gather indoors and outdoors, consistent with the same repeated observations from public health ex-

perts, Executive Order No. 149 (2020), which authorized the gradual restart of ordinary child care services, certain youth sporting activities, and summer camps, including school district-operated summer educational programming, with social distancing requirements, and Executive Order No. 150 (2020), which permitted restaurants, bars, and other food or beverage establishments to provide in-person dining outdoors, again with social distancing requirements, and Executive Order No. 154 (2020), which allowed personal care service facilities to open in accordance with certain health and safety standards; and

WHEREAS, on June 13, 2020, Colonel Patrick J. Callahan, State Director of Emergency Management, issued Administrative Order No. 2020-15 permitting all libraries at public and private colleges and universities to reopen to the public for curbside pickup and drop-off, subject to specific health and safety requirements; and

WHEREAS, it is appropriate to allow institutions of higher education to begin preparing their facilities, staff, and students for the 2020-2021 academic year, as substantial preparation is required to address rooming and boarding, course offerings, and additional considerations unique to higher education settings; and

WHEREAS, it is appropriate to allow private trade schools, career schools, and other post-secondary places that offer or maintain a course of instruction or instructional program utilized to prepare individuals for future education or the workplace, to resume instruction as such programs are generally unable to provide instruction remotely and can proceed with in-person instruction while adhering to necessary health and safety standards; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Effective July 1, 2020, degree-granting public and private institutions of higher education ("IHE") may resume in-person instruction of students for curricula that require *labs*, technical, clinical, or hands-on instruction and therefore cannot be readily taught other than through in-person instruction, subject to the requirements in Paragraph 4 of this Order and all applicable Executive Orders.

2. The Secretary, in consultation with the Commissioner of Health, shall issue health and safety standards for the resumption of in-person instruction and on-campus operations, including housing and dining services, at IHEs ("Restart Standards for all New Jersey Institutions of Higher Education"). These standards are applicable to all degree-granting IHEs that are authorized to resume in-person instruction.

3. In the event that a program operated by an IHE is subject to authorization, accreditation, licensure, approval, or similar requirements by one or more State agencies, in addition to the Secretary, such as the Department of Labor and Workforce Development, the Department of Education, or the Division of Consumer Affairs within the Department of Law and Public Safety, the program must adhere to any health and safety standards issued by such agency or agencies.

4. IHEs that are authorized to resume in-person instruction pursuant to Paragraph 1 of this Order and intend to resume instructional in-person activity on campus must submit a restart plan to the Secretary in accordance with the Restart Standards for all New Jersey Institutions of Higher Education no later than 14 days prior to the expected date of implementation of the plan. Such plans must include, at minimum, the development and implementation of policies and procedures that provide for the following:

a. Training for students regarding COVID-19 sanitization and social distancing practices and protocols as a condition of resuming in-person classes;

b. Training for faculty and staff on appropriate sanitization and social distancing practices and protocols, as well as institutional policies and procedures developed to limit the spread of COVID-19;

c. Use of face coverings for faculty, staff, students, and visitors, except when doing so would inhibit the individual's health;

d. Frequent cleaning and sanitization of classrooms, residences, restrooms, high-touch areas and equipment and shared surfaces;

e. Maintenance of adequate supplies, such as personal protective equipment and cleaning supplies;

f. Continued remote instruction for faculty and/or students who are unable to participate in in-person instruction;

g. Social distancing in classrooms, residence halls, restrooms, and other areas across campus;

h. Limitations on the number of students who may return to residence halls and restricted access to residential common areas;

i. Designation of space(s) for separation of individuals residing on campus who display symptoms consistent with or have a positive diagnosis of COVID-19;

j. A plan for on-campus transportation, which should include protocols for transporting sick students residing on campus to essential appointments as needed;

k. A plan for the operation of research labs, if applicable;

l. A plan for the operation of computer labs;

m. Strategies for food service and dining operations to ensure compliance with all health and safety standards and applicable Executive Orders;

n. A plan for intended resumption of athletics programs, if applicable;

o. A plan for the operation of student services;

p. Strategy for study abroad programs and international travel, if applicable;

q. Performance of health screenings for faculty, staff, students and visitors, and education regarding self-monitoring for symptoms;

r. Commitment to working with local and State officials, including the local health department and local office of emergency management, to share the components of the restart plan and revise same as may become necessary; and

s. Establishment of COVID-19 testing guidance and contact tracing protocols developed in consultation with local health officials and in line with existing State and federal health privacy statutes and regulations. At a minimum, such protocols should include a mechanism to maintain a log of students, faculty, staff and visitors to facilitate contact tracing, and the reporting of any instances of COVID-19 to local health officials.

Following submission to the Secretary, such restart plan must be posted on the IHE's website and provided to students and staff in advance of the anticipated date for implementation.

5. Degree-granting IHEs that previously received a waiver to resume in-person instruction pursuant to Executive Orders No. 104 and 107 (2020) must comply with the requirements outlined in Paragraph 4, as well as all applicable health and safety standards and Executive Orders, within two weeks of the effective date of this Order.

6. The Secretary shall otherwise retain the authority to grant waivers to degree-granting IHEs on a case-by-case basis to allow in-person instruction beyond that authorized by Paragraph 1 of this Order where a compelling rationale to allow such instruction exists. All waiver applications must include, at minimum, the following components:

a. A description of the compelling rationale for providing in-person instruction beyond that authorized by Paragraph 1 of this Order;

b. A description as to why the instruction cannot be provided through either online instruction or distance education;

c. A description of other options the IHE has explored as an alternative to in-person instruction, including alternate forms of instruction or the postponement of academic programming, and an explanation for why these options were not adopted;

d. An estimate of the number of students affected by the proposed waiver; and

e. A restart plan that addresses how the IHE will protect the health and safety of students and staff affected by the proposed waiver.

7. Programs, classes, or degree-granting IHEs that are not permitted to resume in-person instruction pursuant to this Order shall remain subject to the prohibitions in Executive Order No. 107 (2020).

8. Nothing in Paragraph 1 of this Order shall be construed to preclude IHEs from continuing to provide instruction and services to students and members of the public in a form other than in-person instruction.

9. Paragraph 3 of Executive Order No. 104 (2020) and Paragraph 13 of Executive Order No. 107 (2020) are hereby superseded to the extent inconsistent with this Order.

10. Effective July 1, 2020, notwithstanding any prior actions taken by State agencies to the contrary, all private trade schools, career schools and other post-

secondary facilities that offer or maintain a course of instruction or instructional program utilized to prepare individuals for future education or the workplace but are not subject to oversight by the Secretary ("training schools") shall be permitted to resume in-person instruction, including laboratory or clinical components, provided that the training school complies with all applicable Executive Orders and has in place a restart plan that includes, at minimum, policies and procedures that provide for the following:

a. Training for students regarding COVID-19 sanitization and social distancing practices and protocols as a condition for resuming in-person instruction;

b. Training for faculty and staff on appropriate sanitization and social distancing practices and protocols, as well as institutional policies and procedures developed to limit the spread of COVID-19;

c. Use of face coverings for faculty, staff, students, and visitors, except when doing so would inhibit the individual's health;

d. Frequent cleaning and sanitization of classrooms, restrooms, high-touch areas and equipment and shared surfaces;

e. Maintenance of adequate supplies, such as personal protective equipment and cleaning supplies;

f. Installation of hand sanitizing stations with 60 percent or more alcohol content at all building entry points and throughout the school;

g. The option of remote instruction for faculty and students who are unable to participate in in-person instruction;

h. Performance of health screenings for faculty, staff, students and visitors, and education regarding self-monitoring for symptoms;

i. Social distancing in classrooms, workstations, laboratories, clinical settings, and student seating areas throughout the training school and a plan for providing smaller class sizes if feasible;

j. Plan for staggering start, break, and end times of class periods, or alternating scheduled class days to reduce crowding at the training school and classroom entryways;

k. Commitment to working with local and State officials, including the local health department and local office of emergency management, to share the components of the restart plan and revise same as may be necessary; and

l. Establishment of COVID-19 testing guidance and contact tracing protocols developed in consultation with local health officials and in line with existing State and federal health privacy statutes and regulations. At a minimum, such protocols should include a mechanism to maintain a log of students, faculty, staff, and visitors to facilitate contact tracing, and the reporting of any instances of COVID-19 to local health officials.

The above policies and procedures must be posted on the training school's website and provided to students and staff in advance of the anticipated date for implementation.

11. In addition to complying with all other applicable requirements of this Order, training schools and programs subject to accreditation, approval, or licensure by

any professional licensing board within the Division of Consumer Affairs shall submit their restart plans to the applicable board prior to the resumption of in-person education and comply with all applicable rules or standards promulgated by the board or the Director of the Division of Consumer Affairs, including any Administrative Order issued pursuant to P.L.2020, c.18. To the extent that any clinical or hands-on instruction entails the provision of licensed services, training schools must ensure that such services are performed in a manner consistent with all requirements applicable to licensees performing those services. The provision of personal care services by students at such training schools to members of the public shall remain prohibited until such time as the Director of the Division of Consumer Affairs shall adopt an Administrative Order pursuant to P.L.2020, c.18, establishing standards for the supervision of students providing such services.

12. Any actions taken by any State agency pursuant to this Order shall not be subject to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

13. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

14. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order.

15. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

16. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

17. This Order shall take effect immediately.

Dated June 18, 2020.

EXECUTIVE ORDER NO. 156

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, and 151, issued on April 7, 2020, May 6, 2020, and June 4, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and

Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, and Nos. 140-155 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, among these actions, and in recognition that the Centers for Disease Control and Prevention ("CDC") has advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020) to order steps to mitigate community spread of COVID-19, including to cancel all gatherings in the State; and

WHEREAS, given the decrease in the rate of reported new cases of COVID-19 in New Jersey, including a reduction in the total number of individuals being admitted to hospitals for COVID-19, and in the rate of reproduction for COVID-19 infections in New Jersey, the State can take steps and has taken steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, the State is in the second phase of the reopening process and has begun to relax restrictions on activities where appropriately safeguarded, especially outdoor activities; and

WHEREAS, the CDC has issued guidance for mass gatherings or large community events, such as conferences, festivals, parades, concerts, sporting events, weddings, and other potentially super-spreading events, recognizing that gatherings can significantly contribute to the spread of COVID-19 and introduce the virus to new communities through increased transmission to a large number of people in a short period of time, and states throughout the region previously canceled all such events; and

WHEREAS, the CDC recognizes that the stringency of any limit on gatherings should be tailored to the significance of COVID-19 transmission in the state and region, meaning that as the spread of COVID-19 decreases in a state, the state can significantly adjust its limits on indoor and outdoor gatherings; and

WHEREAS, the fact that the spread of COVID-19 has been limited by the State's emergency measures does not in any way suggest that restrictions on gatherings can be lifted altogether, because absent social distancing measures, public health experts anticipate that the spread of COVID-19 would again significantly increase; and

WHEREAS, the restrictions on indoor gatherings that remain in place may be more stringent than the restrictions that are in place for indoor retail settings, because in such retail settings individuals neither congregate in large groups nor remain in close proximity for extended periods, which are factors that have been linked to the increased risk of COVID-19 transmission; and

WHEREAS, because public health experts have identified that outdoor environments present reduced risks of transmission as compared to indoor environments, it is appropriate to adjust the restrictions relative to gatherings that happen outdoors even more considerably, meaning that certain gatherings that could not take place indoors may still happen in open-air outdoor spaces, but participants should maintain reasonable restrictions to help limit the spread and prevent future outbreaks of COVID-19 and to protect the health, safety, and welfare of New Jersey residents; and

WHEREAS, even where a gathering is permitted, the protective measures that individuals should take, including use of masks and social distancing, remain important, most especially for larger gatherings, because as the CDC has recognized, an increase in the number of participants will offer more opportunities for person-to-person contact, and will also present a higher risk of a super-spread event, especially when it takes place indoors; and

WHEREAS, consistent with the above principles, I signed Executive Order No. 152 (2020), limiting the number of persons at indoor gatherings to 25% of the capacity of the room in which it takes place, and stating that such limit, regardless of the capacity of the room, shall never be larger than 50 persons or smaller than 10 persons; and

WHEREAS, Executive Order No. 152 (2020) also limited the number of persons at outdoor gatherings to 100 persons, but stated that this limit does not apply to an outdoor gathering that is a religious service or political activity, such as a protest; and

WHEREAS, in the two weeks since Executive Order No. 152 (2020) was signed, the number of new cases has continued to decrease, and there has been a continued decline in COVID-19 related hospitalizations, ICU admissions, and ventilator usage; and

WHEREAS, in light of this continued progress, it is both appropriate to further relax the limits on both indoor and outdoor gatherings and to continue to do so in a gradual way, so that the State can continue to assess the progress of new COVID-

19 cases and hospitalizations, and to monitor the rate of reproduction and the percentage of COVID-19 tests that yield positive results, relative to the new limits, and thereby avoid the spread of COVID-19 being identified in other parts of the country; and

WHEREAS, because outdoor gatherings present a lower risk of transmission than indoor gatherings, it is reasonable to allow the limit of persons at outdoor gatherings to increase at a faster rate than the limit of persons at indoor gatherings; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Paragraph 1(a) of Executive Order No. 152 (2020) is hereby superseded, and the number of individuals at indoor gatherings shall be limited to 25% of the capacity of the room in which it takes place, but regardless of the capacity of the room, such limit shall never be larger than 100 persons or smaller than 10 persons. All other requirements for indoor gatherings contained in Paragraph 1 of Executive Order No. 152 (2020) shall remain in effect.

2. Paragraph 2(a) of Executive Order No. 152 (2020) is hereby superseded, and the number of individuals at outdoor gatherings shall be limited to 250 persons or fewer. All other requirements for outdoor gatherings contained in Paragraph 2 of Executive Order No. 152 (2020) shall remain in effect, including the provision in Paragraph 2(f) that states that an outdoor gathering that is a religious service or political activity, such as a protest, is not required to comply with the numerical limit on persons.

3. Any requirements in any Executive Order, Administrative Order, or agency directive that incorporated by reference the gatherings limits in Executive Order Nos. 107, 142, 148, and/or 152 (2020) are amended to reflect the rules on gatherings stated in this Order, including, for example, the limit on occupancy on personal care premises, which was subject to the indoor gathering limit under Division of Consumer Affairs Administrative Order No. 2020-09.

4. For the purposes of Executive Order No. 150 (2020), "outdoor areas" shall be defined as open air spaces without a fixed roof, besides a temporary or seasonal awning or cover.

5. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

6. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other

governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order, and to cooperate fully with Administrative Orders issued pursuant to this Order.

7. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

8. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

9. This Order shall take effect immediately, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated June 22, 2020.

EXECUTIVE ORDER NO. 157

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, and 151, issued on April 7, 2020, May 6, 2020, and June 4, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, and Nos. 140-156 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, to further limit community spread from person-to- person contact through use of social mitigation measures, Executive Order No. 107 (2020) closed all recreational and entertainment businesses, and limited all restaurants, dining establishments, and food courts, with or without a liquor license, all bars, and all other holders of a liquor license with retail consumption privileges, to offering food delivery and/or take-out services only; and

WHEREAS, given the decrease in the rate of reported new cases of COVID-19 in New Jersey, including a reduction in the total number of individuals being admitted to hospitals for COVID-19, the State can take steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan (the "Plan") for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, the State is implementing its reopening process and has begun to relax restrictions on certain businesses, including the resumption of non-essential construction, the allowance of a number of lower-risk outdoor activities, and the opening of all retail establishments; and

WHEREAS, consistent with this Plan, I issued Executive Order No. 150 (2020), which permitted restaurants, bars, and other food or beverage establishments to provide in-person dining outdoors, again with social distancing requirements; and

WHEREAS, consistent with this Plan, I issued Executive Order No. 153 (2020), which permitted recreational and entertainment businesses to reopen the outdoor portions of their premises to the public, again with social distancing requirements; and

WHEREAS, while outdoor spaces continue to present a lower risk of COVID-19 transmission than indoor spaces, because of our continued progress in the fight against COVID-19, restaurants, bars, and other food or beverage establishments can begin to offer in-person dining indoors; and

WHEREAS, because of our continued progress, most recreational and entertainment businesses can now allow the public into their indoor spaces for activity, including but not limited to libraries, museums, aquariums, and public and private social clubs; and

WHEREAS, because public health experts have identified that indoor environments present increased risks of transmission as compared to outdoor environments, it is appropriate to impose even stricter social distancing measures and sanitization protocols on indoor dining and indoor recreational and entertainment businesses than are placed on their outdoor counterparts, including capacity limits to limit person-to-person contact and a requirement that individuals wear masks at all feasible times to reduce the risk of COVID-19 transmission when such contact does occur; and

WHEREAS, because indoor dining and indoor recreational and entertainment businesses also both entail a higher risk than indoor retail settings, as the former involves individuals congregating together in one location for a prolonged period of time, while in indoor retail settings, individuals neither congregate in large groups

nor remain in close proximity for extended periods and so the risk of COVID-19 spread is reduced, it is also appropriate to impose stricter capacity limits on indoor dining and indoor recreational and entertainment businesses than are currently imposed on indoor retail settings; and

WHEREAS, although individuals in the indoor premises of all business establishments are required to wear a mask at all times, it is not possible for a customer to wear a mask when consuming food or beverage, meaning that all customers at any indoor food or beverage establishment must only be allowed to consume such food or beverage while seated at their table or at an individual seat, to minimize the risk of any person-to-person contact taking place between patrons without masks in any indoor space; and

WHEREAS, self-serve arrangements at food and beverage establishments, such as buffets, facilitate person-to-person contact and involve the use of common equipment and thus create an unnecessary risk of transmission and must remain prohibited, as the Centers for Disease Control and Prevention ("CDC") have suggested; and

WHEREAS, in heavily regulated industries such as casinos and racetracks, where expert State agencies have special knowledge of and experience with the businesses' operations, these industries can and should be subject to any additional health and safety protocols that those appropriate authorities believe would be consistent with public health and industry operations; and

WHEREAS, even as the State begins to allow recreation and entertainment businesses to reopen their indoor premises to the public with strict social distancing requirements, certain indoor entertainment businesses still pose an unacceptably high risk of transmission of COVID-19 at this time; and

WHEREAS, in particular, performance-based locations such as movie theaters, performing arts centers, and other concert venues, must remain closed to the public at this time, because those businesses necessitate a large number of individuals congregating together concurrently in one indoor location for an unusually prolonged period of time, even more so than in other recreational and entertainment businesses where individuals do not inherently spend as prolonged an amount of time together in one single room or location, and because there are an especially high number of available outdoor and virtual options for members to the public to view and listen to movies and other performances, whether live or otherwise, that reduce the risk of indoor person-to-person contact and COVID-19 transmission; and

WHEREAS, indoor gyms, sports facilities, and fitness centers present particularly high risks of COVID-19 transmission, where people are congregating in a confined indoor space and working out, which entails sustained physical activity resulting in heavy breathing and exhalations that can increase the risk of COVID-19 spread, and where exercise equipment is shared by many different people over the course of the day, creating an additional danger of COVID-19 spread, and there are a high number of outdoor recreation opportunities to ensure that members of the public can engage in a wide range of exercise and fitness; and

WHEREAS, even as individual performance-based locations and gyms and fitness centers may take additional measures to address COVID-19 transmission, it will not be administrable, enforceable, and/or otherwise sufficiently protective of public safety to simply allow business owners to set their own divergent health measures, done without approval of the State and its health officials; and

WHERERAS, because dance floors by their nature are designed to facilitate especially close person-to-person contact, they must remain closed to the public at this time, even at establishments, such as food or beverage establishments, that are otherwise now permitted to reopen to the public; and

WHEREAS, because amusement and water parks include many high touch areas that make social distancing guidelines and capacity limits difficult to implement, maintain, monitor, and enforce, they must be subject to stricter capacity limits than other outdoor environments, and like gyms and fitness centers, cannot yet open their indoor premises to the public; and

WHEREAS, because gatherings bring people together to a specific location for a common reason and a common period of time, they create an increased risk of person-to-person interaction and contact among those participants that must be appropriately curtailed, especially when they take place indoors; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. All retail establishments may open their premises to the public, whether that premises is indoors or outdoors, provided that they adopt policies that include, at minimum, the following requirements:

a. Limit occupancy of any indoor premises to 50% of the stated maximum store capacity, if applicable, at one time, excluding the retail establishment's employees;

b. Limit total capacity of any outdoor area to a number that ensures that all individuals can remain six feet apart;

c. Establish hours of operation, wherever possible, that reserve a designated period of access solely to high-risk individuals, as defined by the CDC;

d. Install a physical barrier, such as a shield guard, between customers and cashiers/baggers wherever feasible or otherwise ensure six feet of distance between those individuals, except at the moment of payment and/or exchange of goods;

e. Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;

f. Provide employees break time for repeated handwashing throughout the workday;

g . Arrange for contactless pay options, pickup, and/or delivery of goods wherever feasible. Such policies shall, wherever possible, consider populations that do not have access to internet service;

h. Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to staff and customers;

i. Require frequent sanitization of high-touch areas like restrooms, credit card machines, keypads, counters and shopping carts;

j. Place conspicuous signage at entrances and throughout the store, if applicable, alerting staff and customers to the required six feet of physical distance;

k. Demarcate six feet of spacing in check-out lines to demonstrate appropriate spacing for social distancing; and

l. Require workers and customers to wear cloth face coverings while in the indoor portion of the premises, except where doing so would inhibit that individual's health or where the individual is under two years of age, and require workers to wear gloves when in contact with customers or goods. Businesses must provide, at their expense, such face coverings and gloves for their employees. If a customer refuses to wear a cloth face covering for non-medical reasons and if such covering cannot be provided to the individual by the business at the point of entry, then the business must decline the individual entry into the indoor premises. If the business is providing medication, medical supplies, or food, the business policy should provide alternate methods of pickup and/or delivery of such goods for such individual. Nothing in the stated policy should prevent workers or customers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if the business is otherwise required to provide such worker with more protective equipment due to the nature of the work involved. Where an individual declines to wear a face covering in the indoor premises due to a medical condition that inhibits such usage, neither the essential retail business nor its staff shall require the individual to produce medical documentation verifying the stated condition.

2. Personal care service facilities, which collectively refers to cosmetology shops; barber shops; beauty salons; hair braiding shops; nail salons; electrology facilities; spas, including day spas and medical spas, at which solely elective and cosmetic medical procedures are performed; massage parlors, tanning salons, and tattoo parlors, may open their premises to the public provided that such businesses adopt policies that they comply with the standards issued by the Division of Consumer Affairs and DOH, as applicable. Additionally, notwithstanding any provision of DOH Executive Directive No. 20-015 or Division of Consumer Affairs Administrative Order No. 2020-09 prohibiting services that would require the removal of a client's face covering, such personal care services may be provided as of 6:00 a.m. on Thursday, July 2, 2020, provided that clients must wear a face covering at all times before and after the service, and subject to Paragraph 3 of this Order and any enhanced standards for the provision of such services as the Division of Consumer Affairs or DOH may adopt, as applicable.

3. Notwithstanding Paragraph 2 of this Order, personal care services offered outside of personal care service facilities or of health facilities providing medically necessary or therapeutic services shall remain prohibited pursuant to Administrative Order No. 2020-10, until explicitly authorized by an order from the State Director of Emergency Management. If such an order is issued by the State Director of Emergency Management, these personal care services must be provided in a manner that complies with standards issued by the Division of Consumer Affairs and DOH, as applicable, and all other applicable laws and regulations. Nothing in this paragraph shall be construed to preclude an individual from providing personal care services in a shop, office, or other premises licensed, or otherwise authorized by the Division of Consumer Affairs or one of its licensing boards or DOH that is located in a residence, provided they comply with standards issued by the Division of Consumer Affairs and DOH, as applicable, and all other applicable laws and regulations.

4. Restaurants, cafeterias, dining establishments, and food courts, with or without a liquor license, bars, and all other holders of a liquor license with retail consumption privileges, collectively referred to as "food or beverage establishments," are permitted to offer in-person service at outdoor areas, defined as open air spaces without a fixed roof, besides a temporary or seasonal awning or cover, provided that the establishment complies with the following requirements:

a. Ensure all areas designated for food and/or beverage consumption are in conformance with applicable local, State, and Federal regulations;

b. Limit capacity to a number that ensures all patrons can remain six feet apart from all other patrons at all times, except for those patrons with whom they are sharing a table;

c. Ensure that tables where individuals or groups are seated remain six feet apart in all directions from any other table or seat and that individual seats in any shared area that is not reserved for individual groups, such as an outdoor bar area, are also six feet apart in all directions from any other table or seat;

d. Prohibit patrons being served at outdoor areas from entering the indoor premises of the food or beverage establishment, except to walk through such premises when entering or exiting the food or beverage establishment in order to access the outdoor area, or to use the restroom;

e. Require patrons being served at outdoor areas to wear a face covering while inside the indoor premises of the food or beverage establishment, unless the patron has a medical reason for not doing so or is a child under two years of age;

f. Prohibit smoking in any outdoor areas designated for the consumption of food and/or beverages. The requirement that food or beverage establishments impose this prohibition shall sunset at 6:00 a.m. on Thursday, July 2, 2020, although food or beverage establishments can choose to continue this prohibition; and

g. Abide by all other health and safety standards issued by the Commissioner of the Department of Health, consistent with her authority under the Emergency Health Powers Act.

5. Effective at 6:00 a.m. on Thursday, July 2, 2020, food or beverage establishments are permitted to offer in-person service at indoor areas, provided that the establishment complies with the following requirements:

a. Limit the number of patrons in indoor areas to 25 percent of the food or beverage establishment's indoor capacity, excluding the food or beverage establishment's employees;

b. Ensure that tables where individuals or groups are seated are six feet apart in all directions from any other table or seat and that individual seats in any shared area that is not reserved for individual groups, such as an indoor bar area, are also six feet apart in all directions from any other table or seat;

c. Require patrons to wear face coverings while inside the indoor premises of the food or beverage establishment, except when seated at their table or in their individual seat. This requirement does not apply if the patron has a medical reason for not wearing a face covering or is a child under two years of age;

d. Food or beverage establishments with table service may only allow patrons to place orders when seated, and only wait staff may bring food or beverages to seated patrons;

e. Patrons may only consume food or beverages while seated; and

f. Abide by all other health and safety standards issued by the Commissioner of the Department of Health, including infection control practices and other sanitization protocols, consistent with her authority under the Emergency Health Powers Act.

6. Nothing in this Order shall prevent a food or beverage establishment that offers take-out options from allowing an individual who is seeking take-out rather than table service to enter the indoor premises of the establishment to place an order, make payment, and pick up food or beverages, including in situations where a food or beverage establishment makes outdoor areas without table service available. Such individuals shall wear a face covering while inside the indoor premises of the food or beverage establishment, unless the individual has a medical reason for not doing so or is a child under two years of age.

7. Prior to 6:00 a.m. on Thursday, July 2, 2020, the rules for recreational and entertainment businesses that were instituted in Executive Order No. 153 (2020) remain in effect. As of 6:00 a.m. on Thursday, July 2, 2020, all recreational and entertainment businesses may open their entire premises, whether indoor or outdoor, to the public, unless otherwise prohibited by this Order, provided that such businesses adopt policies that include, at minimum, the following requirements:

a. Limit the number of patrons in any indoor premises to 25 percent of the stated maximum capacity, if applicable, at one time, excluding the recreational or entertainment business's employees;

b. Limit total capacity of any outdoor area to a number that ensures that all individuals can remain six feet apart, except for amusement parks, water parks, and pools, which are limited to 50 percent capacity, excluding the employees of those businesses;

c. Require that reservations, cancellations and pre-payments be made via electronic or telephone reservation systems to limit physical interactions. Such policies shall, wherever possible, consider populations that do not have access to internet service or credit cards;

d. Install a physical barrier, such as a shield guard, between visitors and employees wherever feasible or otherwise ensure six feet of distance between those individuals, except at the moment of payment;

e. Limit the use of equipment rented or otherwise provided by the business to one person at a time, excluding immediate family members, caretakers, household members, or romantic partners, and sanitize such equipment before and after use;

f. Demarcate and post signs that denote six feet of spacing in all commonly used and other applicable areas or where people may form a line;

g. Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;

h. Provide employees break time for repeated handwashing throughout the workday;

i. Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to staff and customers;

j. Limit occupancy in restrooms that remain open to avoid over-crowding and maintain social distancing through signage and, where practicable, the utilization of attendants to monitor capacity;

k. Require frequent sanitization of high-touch areas including, at minimum, the following cleaning protocols:

i. Routinely clean and disinfect all high-touch areas in accordance with DOH and CDC guidelines, particularly in spaces that are accessible to staff, customers, or members, or other individuals, including, but not limited to, restroom and locker facilities, counter tops, hand rails, door knobs, other common surfaces, safety equipment, and other frequently touched surfaces including employee used equipment, and ensure cleaning procedures following a known or potential exposure in compliance with CDC recommendations;

ii. Clean and disinfect equipment that is rented in accordance with CDC and DOH guidelines; and

iii. Train and equip employees to perform the above protocols effectively and in a manner that promotes the safety of the visitors and staff;

l. Place additional restrictions on areas of the business, as necessary, to limit person-to-person interactions and facilitate appropriate social distancing;

m. Immediately separate and send home workers who appear to have symptoms consistent with COVID-19 illness upon arrival at work or who become sick during the day;

n. Promptly notify workers of any known exposure to COVID-19 at the worksite, consistent with the confidentiality requirements of the Americans with Disabilities Act and any other applicable laws;

o. Clean and disinfect the worksite in accordance with CDC guidelines when a worker at the site has been diagnosed with COVID-19 illness;

p. Continue to follow guidelines and directives issued by the New Jersey Department of Health, the CDC and the Occupational Health and Safety Administration, as applicable, for maintaining a clean, safe and healthy work environment;

q. Require workers and customers to wear cloth face coverings while in the indoor portion of the premises, except where doing so would inhibit that individual's health or where the individual is under two years of age, and require workers to wear gloves when in contact with customers or goods. Businesses must provide, at their expense, such face coverings and gloves for their employees. If a customer refuses to wear a cloth face covering for non-medical reasons and if such covering cannot be provided to the individual by the business at the point of entry, then the business must decline the individual entry into the indoor premises. Nothing in the stated policy should prevent workers or customers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if the business is otherwise required to provide such worker with more protective equipment due to the nature of the work involved. Where an individual declines to wear a face covering in the indoor premises due to a medical condition that inhibits such usage, neither the essential retail business nor its staff shall require the individual to produce medical documentation verifying the stated condition; and

r. The requirement listed above in Paragraph 7(q) shall not apply where impracticable, such as when individuals are eating or drinking while seated, or in an aquatic space such as a pool.

8. The following recreational and entertainment businesses may open their outdoor spaces to the public, but may not open their indoor spaces to the public, except that members of the public may enter the indoor premises of the recreational business when entering or exiting the establishment in order to access the outdoor area, or to use the restroom:

a. "Health clubs," as defined by N.J.S.A. 56:8-39, which include gyms and fitness centers, as well as any health club facilities located in hotels, motels, condominiums, cooperatives, corporate offices, or other business facilities;

b. Entertainment centers where performances are viewed or given, including movie theaters, performing arts centers, other concert venues; and

c. Amusement or water parks that are indoors.

9. Any establishment open to the public, including a food or beverage establishment, must cordon off any indoor or outdoor dance floors to the public.

10. Notwithstanding the prohibition on health clubs opening their indoor spaces to the public, such health clubs may open indoor premises to the public to offer individualized indoor instruction by appointment only where an instructor is offering training to an individual, and the individual's immediate family members, household members, caretakers, or romantic partners. If a health club is offering multiple simultaneous instructions at the same facility, these instructions must take place in separate rooms or, if they take place in the same room, must be separated by a floor-to-ceiling barrier that complies with all fire code requirements.

11. Notwithstanding the other requirements contained in this Order, casinos, including casino gaming floors and retail sports wagering lounges, may only reo-

pen their premises to the public if they comply with any and all additional requirements imposed by the Division of Gaming Enforcement, and racetracks may only reopen their premises to the public if they comply with any and all existing and additional requirements imposed by any relevant State entity, including the New Jersey Racing Commission and the New Jersey Office of Emergency Management.

12. Notwithstanding the above paragraphs, amusement and water parks are permitted to open their outdoor premises to the public only where they are in compliance with the health and safety standards issued by the Commissioner of the DOH.

13. Notwithstanding the above paragraphs, pool facilities are permitted to open to the public only where they are in compliance with the health and safety standards issued by the Commissioner of the DOH. Effective at 6:00 a.m. on Thursday, July 2, 2020, aquatic recreation facilities and water fountains (those considered recreational, not those for drinking) are permitted to be open to the public.

14. Effective at 6:00 a.m. on Thursday, July 2, 2020, playgrounds, including playgrounds at pool facilities, are permitted to be open to the public.

15. Individuals who are at any of these businesses at a specific time, a specific location, and for a common reason, such as a poker tournament at a casino, a wedding at a restaurant, or an outdoor concert or movie screening, are subject to the State gathering limits in effect at that time, which were most recently laid out in Executive Order No. 156 (2020).

16. Any prior requirements imposed by an Executive Order issued on or after March 21, 2020, that are inconsistent with the terms of this Order are hereby superseded.

17. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

18. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order.

19. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

20. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

21. This Order shall take effect immediately, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated June 26, 2020.

EXECUTIVE ORDER NO. 158

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, and 151, issued on April 7, 2020, May 6, 2020, and June 4, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, and Nos. 140-157 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, to further limit community spread from person-to- person contact through use of social mitigation measures, Executive Order No. 107 (2020) closed all recreational and entertainment businesses, and limited all restaurants, dining establishments, and food courts, with or without a liquor license, all bars, and all other holders of a liquor license with retail consumption privileges, to offering food delivery and/or take-out services only; and

WHEREAS, given the decrease in the rate of reported new cases of COVID-19 in New Jersey, including a reduction in the total number of individuals being admitted to hospitals for COVID-19, the State began to take steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan ("Plan") for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, this Plan and the subsequent steps the State has taken to allow various industries to reopen their brick-and-mortar premises to the public all reflect the

recognition by public health experts that indoor environments present significantly increased risks of transmission as compared to outdoor environments, meaning that the State has been more willing to allow businesses to reopen outdoor areas to the public, and meaning that the State has also imposed stricter social distancing limits on indoor premises when businesses are permitted to reopen them to the public; and

WHEREAS, consistent with this Plan, I issued Executive Order No. 150 (2020), which permitted restaurants, bars, and other food or beverage establishments to provide in-person dining outdoors, again with social distancing requirements, but did not allow for food or beverage consumption at indoor premises; and

WHEREAS, even as the State began to permit businesses to reopen additional indoor premises to the public, the State required all individuals to wear masks inside those premises, because masks have been demonstrated to significantly reduce the risk of COVID-19 transmission from person-to-person contact, and therefore are particularly necessary in high-risk indoor environments; and

WHEREAS, as the State has consistently recognized, indoor activities that cannot be done with a face covering on, such as eating or drinking indoors, thus pose a particularly high risk of transmission; and

WHEREAS, while personal care services that require the removal of a face covering can resume on Thursday, July 2, 2020, those services only involve the client interacting with one other person for a discrete period of time in a controlled environment, where the person performing the services is required to wear heavily protective equipment such as a face shield; and

WHEREAS, because of the enormous progress we have made in our fight against the COVID-19 pandemic in New Jersey, on Monday, June 22, 2020, I announced that indoor dining would be able to resume under strict limits as of Thursday, July 2, 2020, and that decision was formalized in Executive Order No. 157 (2020); and

WHEREAS, I have routinely made these announcements one to two weeks in advance of their effective dates in order to give businesses adequate time to prepare, but I have always stated that the implementation is subject to modifications based on the data, the facts that we are observing in real-time, and the ongoing input of the Commissioner of DOH; and

WHEREAS, in the seven days since June 22, 2020, we have seen alarming spikes in COVID-19 cases across the nation, particularly in states that reopened at a faster rate, and that did not follow the same gradual and methodical reopening plan as New Jersey; and

WHEREAS, the Governors and/or Health Commissioners in a number of the states that have been hardest hit by the spikes in COVID-19 cases, including Florida and Texas, have attributed the rise in cases to activities in indoor food and beverage establishments, and a number of independent public health experts have reached the same conclusion; and

WHEREAS, because the State has previously recognized the benefits of addressing the spread of COVID-19 on a regional basis, it is also notable that both the Gov-

ernor of New York and the Mayor of New York City have indicated that they may pause the resumption of indoor dining based on what they have seen in other states; and

WHEREAS, given these spikes in COVID-19 cases that have been attributed to indoor food and beverage establishments, and given the well-established risks that such establishments present given the lack of mask usage indoors, it is necessary to temporarily pause the resumption of indoor dining in New Jersey, while we continue to learn more about what has prompted the spikes in other states and examine whether there are additional protocols that could be instituted to reduce the risks associated with indoor dining; and

WHEREAS, this means that the consumption of food or beverages will not be allowed in the indoor premises of any business open to the public, including casinos; and

WHEREAS, smoking on the premises of any indoor business that is now permitted to reopen to the public, even while permitted in the indoor areas of casinos under State law, cannot be allowed to take place at this time because it would entail individuals removing their masks indoors; and

WHEREAS, other indoor recreational and entertainment businesses that are scheduled to reopen on Thursday, July 2, 2020, can still reopen because face coverings will be required for all individuals on the premises except for children under two years of age and except where doing so would inhibit an individual's health; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Paragraph 5 of Executive Order No. 157 (2020), which allowed "food or beverage establishments" to offer in-person service at indoor areas effective at 6:00 a.m. on Thursday, July 2, 2020, is hereby rescinded.

2. Any retail, recreational, and entertainment business that is authorized to open its indoor premises to the public may only do so where it prohibits the consumption of food or beverages and smoking in those indoor premises.

3. Smoking in the indoor areas of any retail, recreational, and/or entertainment business, including casinos, is prohibited, even when otherwise permitted by State law.

4. Any individual who consumes food or beverages or engages in smoking in the indoor premises of any retail, recreational, or entertainment business that are open to the public is in violation of this Order. Nothing in this Order shall prevent a person from engaging in conduct necessary for their health or safety, such as a per-

son briefly removing their mask to drink water. Nothing in this Order shall prevent a business's employee from consuming food or beverages in any area of the business that is not open to the public, such as an employee break room.

5. Paragraph 4(f) of Executive Order No. 157 (2020) is hereby rescinded, and the prohibition on smoking in any outdoor areas designated for the consumption of food and/or beverages shall continue beyond 6:00 a.m. on Thursday, July 2, 2020. This required prohibition shall automatically sunset once in-person service is allowed at indoor areas of food or beverage establishments.

6. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

7. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order.

8. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

9. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

10. This Order shall take effect immediately, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated June 29, 2020.

EXECUTIVE ORDER NO. 159

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, and 151, issued on April 7, 2020, May 6, 2020, and June 4, 2020 respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted, in whole or in part, in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, and Nos. 140-158 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, to protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, as of March 19, 2020, I instructed all State departments and agencies to utilize work-from-home arrangements for both essential and non-essential employees wherever feasible; and

WHEREAS, in recognition that the Centers for Disease Control and Prevention had advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020) to order steps to mitigate community spread of COVID-19; and

WHEREAS, to further limit community spread from person-to-person contact through use of social mitigation measures, Executive Order No. 107 (2020) required, with limited exceptions, New Jersey residents to remain in their place of residence, cancelled all gatherings, and closed all recreational and entertainment businesses; and

WHEREAS, Executive Order No. 107 (2020) also mandated that all businesses and non-profits in the State accommodate their workforce, wherever practicable, for telework or work-from-home arrangements, and reduce staff on site to the minimal number necessary to continue essential operations because restricting the physical presence of individuals in office environments and work sites is critical to preventing future spread of COVID-19; and

WHEREAS, all State offices and Executive Branch departments and agencies have been directed to prioritize addressing immediate public needs, including protecting public health, safety, and the environment, while still trying as much as is practicable to maintain the basic functions of State government, and its many duties, missions, and initiatives; and

WHEREAS, notwithstanding the extraordinary circumstances of the COVID-19 pandemic, certain Executive Branch departments and agencies remain subject to statutory provisions that require agencies to review and act upon certain filings or other authorizations before a specified deadline lest the matter under review be deemed approved; and

WHEREAS, a public health emergency such as the COVID-19 pandemic, and especially my direction to strictly observe social distancing practices, including avoiding all non-essential travel, working remotely, and prioritizing addressing immediate public needs, including protecting public health, safety, and the environment, is an impediment to compliance with the statutory timeframes by Executive Branch agencies; and

WHEREAS, members of the public, including individuals, small businesses, and other entities, may similarly be limited in their ability to act within statutory timeframes and may require additional time due to the interruptions related to the Public Health Emergency and the social distancing and mitigation restrictions imposed; and

WHEREAS, strict enforcement of certain statutory timeframes during and shortly following the ongoing Public Health Emergency could unduly burden the Executive Branch, industry, and members of the public, including individuals, small businesses, and other entities, in ways that would be detrimental to the public welfare, or yield other unintended consequences that will frustrate the fair achievement of the statute's objectives in a manner that imperils the health, safety and well-being of New Jersey residents; and

WHEREAS, despite the encouraging decrease in the number of infections, the social distancing requirements that have been in place since March and related COVID-19 concerns have frustrated the ability of State agencies and members of the public to comply with certain statutory deadlines; and

WHEREAS, because of the broad range of regulated activities it is not appropriate to allow a blanket extension of statutory deadlines which vary with the function or regulated activity at issue; and

WHEREAS, pursuant to N.J.S.A. App. A:9-47, the Governor is authorized to, among other things, suspend any regulatory provision of law when its enforcement is detrimental to the public welfare during an emergency; and

WHEREAS, I have consulted with the Cabinet and other agency heads with regard to the prioritization of government activities and requirements that are most important to guarding the health, safety, and welfare of the residents of our State, and they have identified deadlines that can be postponed without significant detriment to the well-being of the public for limited periods of time; and

WHEREAS, I find that strict enforcement of certain statutory deadlines that fall within or shortly after the period of the Public Health Emergency would be detrimental to the public welfare; and

WHEREAS, I find that extensions of the deadlines identified in the Appendix to this Order are warranted to address the economic impact of COVID-19 upon individuals, businesses, or other non-government entities; to protect public health and safety, including because social distancing policies adopted in response to COVID-19 will make it harder for individuals, businesses, or other non-government entities to meet the deadline; to protect the health and safety of agency personnel, including because social distancing policies adopted in response to COVID-19 will make it harder to meet the deadline; to address other circum-

stances related to COVID-19 that would make enforcement of the deadline unduly burdensome for individuals, businesses, or other non-government entities; and to address issues arising from the COVID-19 pandemic that would make it unduly burdensome for the agency to adhere strictly to the deadline; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The statutory deadlines, including statutory effective dates, identified in the Appendix to this Order are hereby extended by the amount of time identified in the Appendix.

2. Except as specified in Paragraph 5, for statutory deadlines extended by a specific number of days from the original deadline, the extension shall be available to any person or entity that would have been required to meet such deadline during the Public Health Emergency or within 30 days after the last day of the Public Health Emergency.

3. Except as specified in Paragraph 5, for statutory deadlines extended until a specific number of days or months after the last day of the Public Health Emergency, the extension shall be available to any person or entity that would have been required to meet such deadline during the Public Health Emergency or at any time between the last day of the Public Health Emergency and the new deadline established pursuant to this Order.

4. Except as specified in Paragraph 5, an extension available pursuant to Paragraph 2 or 3 of this Order shall be available regardless of whether the original deadline has already passed.

5. An extension of a statutory deadline after which a filing with any agency or instrumentality of the State government is deemed approved shall be available to the agency only if the original deadline is on or after the date of this Order and within 30 days after the last day of the Public Health Emergency.

6. In addition to extensions available pursuant to Paragraphs 2 and 3 of this Order, this Order also provides extensions to Executive Branch agencies of specific, non-recurring deadlines that occur in 2020 and are identified in the Appendix.

7. For purposes of this Order, the "Public Health Emergency" means the Public Health Emergency declared in Executive Order No. 103 (2020), as extended by Executive Order No. 119 (2020), Executive Order No. 138 (2020), Executive Order No. 151 (2020), and any subsequent Executive Order which may further extend such Public Health Emergency.

8. Nothing in this Order is intended to deny or alter the authority of any agency or instrumentality of the State government, or any other person or entity, to re-

quest, grant, or consent to any extension that would otherwise be permissible under existing law.

9. In administering the extensions set forth in this Order, each agency shall adopt the least disruptive means of addressing the health and safety concerns of this Order while faithfully enforcing the requirements of the affected statute to the fullest extent.

10. This Order is not intended to, and does not confer any legal rights upon businesses or others whose activities are regulated by New Jersey's agencies, boards, commissions, or departments and shall not be used as a basis for legal challenges to regulations, rules, approvals, permits, licenses or other actions or to any inaction of the governmental entity subject to it.

11. This Order shall take effect immediately.

Dated June 30, 2020.

EXECUTIVE ORDER NO. 160

WHEREAS, the COVID-19 pandemic continues to spread around the globe, with some reports indicating that there are now over 10,357,000 cases of COVID-19 worldwide and over 2,624,000 cases in the United States; and

WHEREAS, New Jersey has been particularly hard-hit by COVID-19, with over 171,000 residents testing positive for COVID-19 and at least 13,224 of our fellow New Jerseyans losing their lives; and

WHEREAS, these individuals were family, friends, colleagues, and neighbors, and include healthcare workers, first responders, and others who gave their lives working bravely and tirelessly on the frontlines of the COVID-19 pandemic; and

WHEREAS, each and every life lost to COVID-19 is a profound tragedy for us all; and

WHEREAS, at the beginning of this pandemic, social gatherings were prohibited to prevent further spread of the virus and loss of life, which prevented funerals and memorial services from going forward in the manner that they would under normal circumstances; and

WHEREAS, as a gesture of our collective mourning, I signed Executive Order No. 114 on April 3, 2020, which lowered flags to half-staff indefinitely as a reminder of the awful human toll that this pandemic has inflicted upon this State, our nation, and the world; and

WHEREAS, the number of New Jersey residents who have died from COVID-19 is now greater than the number of New Jersey residents who died in World War II, which was the deadliest armed conflict in the history of our State and nation; and

WHEREAS, despite this unfathomable loss of life, because of the enormous progress that we have made in the fight against COVID-19, we have been able to raise the limits on gatherings considerably, which has allowed many funerals and memorial services to go forward; and

WHEREAS, as of July 3, 2020, our flags will have been lowered for exactly three months, an unprecedented gesture of mourning for an unprecedented tragedy in the history of New Jersey; and

WHEREAS, while we continue to mourn all those who have lost their lives and keep their families in our thoughts and prayers, raising the flags at this time can serve as a symbol of our recovery and continued resolve, and will allow our flags to fly at full staff for Independence Day;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall fly at full staff at all State departments, offices, agencies, and instrumentalities, starting on Friday, July 3, 2020.

2. As of Friday, July 3, 2020, Executive Order No. 114 (2020) is no longer in effect.

Dated July 2, 2020.

EXECUTIVE ORDER NO. 161

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, and 151, issued on April 7, 2020, May 6, 2020, and June 4, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, and Nos. 140-160 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, among these actions, and in recognition that the Centers for Disease Control and Prevention ("CDC") has advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020) to order steps to mitigate community spread of COVID-19, including to cancel all gatherings in the State; and

WHEREAS, given the decrease in the rate of reported new cases of COVID-19 in New Jersey, including a reduction in the total number of individuals being admitted to hospitals for COVID-19, and in the rate of reproduction for COVID-19 infections in New Jersey, the State can take steps and has taken steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, the State is in the second phase of the reopening process and has begun to relax restrictions on activities where appropriately safeguarded, especially outdoor activities; and

WHEREAS, the CDC has issued guidance for mass gatherings or large community events, such as conferences, festivals, parades, concerts, sporting events, weddings, and other potentially super-spreading events, recognizing that gatherings can significantly contribute to the spread of COVID-19 and introduce the virus to new communities through increased transmission to a large number of people in a short period of time, and states throughout the region previously canceled all such events; and

WHEREAS, the CDC recognizes that the stringency of any limit on gatherings should be tailored to the significance of COVID-19 transmission in the State and region, meaning that as the spread of COVID-19 decreases in a State, the State can significantly adjust its limits on indoor and outdoor gatherings; and

WHEREAS, the fact that the spread of COVID-19 has been limited by the State's emergency measures does not in any way suggest that restrictions on gatherings can be lifted altogether, because absent social distancing measures, public health experts anticipate that the spread of COVID-19 would again significantly increase; and

WHEREAS, the restrictions on indoor gatherings that remain in place may be more stringent than the restrictions that are in place for indoor retail settings, because in such retail settings individuals neither congregate in large groups nor remain in

close proximity for extended periods, which are factors that have been linked to the increased risk of COVID-19 transmission; and

WHEREAS, because public health experts have identified that outdoor environments present reduced risks of transmission as compared to indoor environments, it is appropriate to adjust the restrictions relative to gatherings that happen outdoors even more considerably, meaning that certain gatherings that could not take place indoors may still happen in open-air outdoor spaces, but participants should maintain reasonable restrictions to help limit the spread and prevent future outbreaks of COVID-19 and to protect the health, safety, and welfare of New Jersey residents; and

WHEREAS, even where a gathering is permitted, the protective measures that individuals should take, including use of masks and social distancing, remain important, most especially for larger gatherings, because as the CDC has recognized, an increase in the number of participants will offer more opportunities for person-to-person contact, and will also present a higher risk of a super-spread event, especially when it takes place indoors; and

WHEREAS, consistent with the above principles, I signed Executive Order No. 156 (2020), limiting the number of persons at indoor gatherings to 25% of the capacity of the room in which it takes place, and stating that such limit, regardless of the capacity of the room, shall never be larger than 100 persons or smaller than 10 persons; and

WHEREAS, Executive Order No. 156 (2020) also limited the number of persons at outdoor gatherings to 250 persons, but stated that this limit does not apply to an outdoor gathering that is a religious service or political activity, such as a protest; and

WHEREAS, in the 10 days since Executive Order No. 156 (2020) was signed, the number of new cases has remained steady, and there has been a continued decline in COVID-19 related hospitalizations, Intensive Care Unit (ICU) admissions, and ventilator usage; and

WHEREAS, in light of this continued progress, it is both appropriate to further relax the limits on outdoor gatherings and to continue to do so in a gradual way, so that the State can continue to assess the progress of new COVID-19 cases and hospitalizations, and to monitor the rate of reproduction and the percentage of COVID-19 tests that yield positive results, relative to the new limits, and thereby avoid the increased spread of COVID-19 being identified in other parts of the country; and

WHEREAS, because outdoor gatherings present a substantially lower risk of transmission than indoor gatherings, it is reasonable to allow the limit of persons at outdoor gatherings to increase while keeping the limit of persons at indoor gatherings the same, particularly as other states around the country have reported spikes in COVID-19 cases that public health experts believe to be driven by indoor activities; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A.

38A:3-6.1, and N.J.S.A. 38A:24 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Paragraph 2(a) of Executive Order No. 152 (2020) is hereby superseded and the number of individuals at outdoor gatherings shall be limited to 500 persons or fewer. All other requirements for outdoor gatherings contained in Paragraph 2 of Executive Order No. 152 (2020) shall remain in effect, including the provision in Paragraph 2(f) that states that an outdoor gathering that is a religious service or political activity, such as a protest, is not required to comply with the numerical limit on persons. Paragraph 2 of Executive Order No. 156 (2020) is hereby rescinded.

2. Any requirements in any Executive Order, Administrative Order, or agency directive that incorporated by reference the limits on gatherings in Executive Order Nos. 107, 142, 148, 152, and/or 156 (2020) are hereby amended to reflect the rules on gatherings stated in this Order.

3. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

4. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order, and to cooperate fully with Administrative Orders issued pursuant to this Order.

5. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

6. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

7. This Order shall take effect at 6:00 a.m. on Friday, July 3, 2020, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated July 2, 2020.

EXECUTIVE ORDER NO. 162

WHEREAS, on March 9, 2020, through Executive Order No. 103, the facts and circumstances of which are adopted by reference herein, I declared both a Public

Health Emergency and a State of Emergency throughout the State due to the public health hazard created by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, Executive Order No. 103 (2020) described both the symptoms and dangers presented by COVID-19 and the likelihood of community spread across the State, and it recognized the need to use all available statewide authorities to prepare for and respond to COVID-19 cases in New Jersey, to implement appropriate measures to mitigate the spread of COVID-19, and to prepare in the event of an increasing number of individuals requiring medical care or hospitalization; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act ("EHPA"), to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, 135-138, and 140-161 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, N.J.S.A. 26:13-3(b) establishes that a Public Health Emergency declared by the Governor shall automatically terminate after 30 days, unless renewed for an additional 30 days through a declaration of the Governor; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on May 6, 2020, I issued Executive Order No. 138, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on June 4, 2020, I issued Executive Order No. 151, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, through Executive Order Nos. 119, 138, and 151 (2020), I declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, since the Public Health Emergency was renewed on June 4, 2020, at which time there were over 162,000 positive cases of COVID-19 in New Jersey, the COVID-19 outbreak has continued to present a public health hazard in New Jersey, in the region, and across the United States; and

WHEREAS, as of July 1, 2020, according to the World Health Organization, there were over 10,357,000 confirmed cases of COVID-19 worldwide, with over 508,000 of those cases having resulted in death; and

WHEREAS, as of July 1, 2020, according to the Centers for Disease Control and Prevention, there were over 2,624,000 confirmed cases of COVID-19 in the United States, with over 127,000 of those cases having resulted in death; and

WHEREAS, as of July 1, 2020, there were over 171,000 positive cases of COVID-19 in New Jersey, with at least 13,224 of those cases having resulted in death; and

WHEREAS, there have been positive cases of COVID-19 in every county in New Jersey, and there have been deaths relating to COVID-19 in every county in New Jersey; and

WHEREAS, due to the significant emergency measures the State has taken in response to COVID-19, there has now been a decrease in the rate of reported new cases of COVID-19 in New Jersey, in the total number of individuals being admitted to hospitals for COVID-19, and in the rate of reproduction for COVID-19 infections in New Jersey; and

WHEREAS, given the progress the State has made based on these emergency measures and after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan (the "Plan") for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, in line with the Plan, the State has been able to relax a number of restrictions, each time tailored to the relative risk the activity presents, and additional restrictions on outdoor and indoor recreational and entertainment businesses have been lifted as of today; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, the fact that the spread of COVID-19 has been limited by the State's emergency measures does not in any way suggest that the ongoing Public Health Emergency has dissipated, because absent social distancing measures, public health experts anticipate that the spread of COVID-19 would again significantly increase; and

WHEREAS, the renewal of the declaration of the ongoing Public Health Emergency is necessary to allow the State to continue with the Plan to allow for the methodical and strategic reopening of the State, consistent with the State's authority under the EHPA; and

WHEREAS, the renewal of the declaration of the ongoing Public Health Emergency is also necessary to ensure that the State can swiftly respond to take all appropriate actions should the rate of reported new cases of COVID-19 in New Jersey, number of individuals being admitted to hospitals for COVID-19, or rate of reproduction for COVID-19 infections in New Jersey increase once more, as we are now seeing in numerous states across the country; and

WHEREAS, the spread of COVID-19 has greatly strained the resources and capabilities of county and municipal governments, including public health agencies, that provide essential services for containing and mitigating the spread of contagious diseases, and the situation is too large in scope to be handled entirely by the normal county and municipal operating services; and

WHEREAS, the facts as set forth above and consultation with the Commissioner of DOH confirm that the spread of COVID-19 in New Jersey constitutes an ongoing

public health hazard that threatens and presently endangers the health, safety, and welfare of the residents of one or more municipalities or counties of the State, and it is necessary and appropriate to take action against this public health hazard to protect and maintain the health, safety, and welfare of New Jersey residents and visitors; and

WHEREAS, the facts as set forth above and consultation with the Commissioner of DOH confirm that there exists a Public Health Emergency in the State; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby DECLARE and PROCLAIM that the Public Health Emergency declared in Executive Order No. 103 (2020) pursuant to the EHPA, N.J.S.A. 26:13-1, et seq., continues to exist throughout the State of New Jersey, and I hereby ORDER and DIRECT:

1. All Executive Orders adopted in whole or in part based on the authority under the EHPA to respond to the Public Health Emergency presented by the COVID-19 outbreak remain in full force and effect.

2. All actions taken by any Executive Branch departments and agencies in whole or in part based on the authority under the EHPA to respond to the Public Health Emergency presented by the COVID-19 outbreak, or in whole or in part based on authority delegated by any Executive Orders described in Paragraph 1 of this Order, including but not limited to any Administrative Orders, remain in full force and effect.

3. For purposes of this Order, "Executive Branch departments and agencies" shall mean any of the principal departments in the Executive Branch of State government and any agency, authority, board, bureau, commission, division, institution, office, or other instrumentality within or created by any such department, and any independent State authority, commission, instrumentality, or agency over which the Governor exercises executive authority, as determined by the Attorney General.

4. This Order shall take effect immediately.

Dated July 2, 2020.

EXECUTIVE ORDER NO. 163

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circum-

stances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, and 162, issued on April 7, 2020, May 6, 2020, June 4, 2020, and July 2, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, and Nos. 140-162 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, to further limit community spread from person-to-person contact through use of social mitigation measures, Executive Order No. 107 (2020) closed all non-essential retail businesses, as well as all recreational and entertainment businesses, and limited all restaurants, dining establishments, and food courts, with or without a liquor license, all bars, and all other holders of a liquor license with retail consumption privileges, to offering food delivery and/or take-out services only; and

WHEREAS, given the decrease in the rate of reported new cases of COVID-19 in New Jersey, including a reduction in the total number of individuals being admitted to hospitals for COVID-19, the State began to take steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, after consultation with officials from the Department of Health, I announced a multi-stage New Jersey's Road Back Plan for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, even as the State began to permit businesses to reopen indoor premises to the public, the State required all individuals to wear face coverings inside those premises, because face coverings have been demonstrated to significantly reduce the risk of COVID-19 transmission from person-to-person contact, and therefore are particularly necessary in high-risk indoor environments; and

WHEREAS, face coverings have been consistently required in indoor areas of retail businesses, recreational and entertainment businesses, food and beverage establishments, personal care service facilities, and mass transit, among others, reflecting the State's judgment that face coverings are needed to prevent the spread of COVID-19 in indoor areas; and

WHEREAS, while office buildings may have policies that allow for flexibility regarding employees who may not be interacting with others for certain periods during the workday, they should ensure that individuals who are in prolonged proximity are wearing face coverings to reduce the risk of COVID-19 transmission; and

WHEREAS, the Commissioner of the Department of Health has established appropriate policies concerning use of face coverings at child care centers, other child care facilities, and youth summer camps; and

WHEREAS, as the season has turned to summer and the State has reopened many businesses and activities, we have seen more and more examples of crowded outdoor settings, including at outdoor bars, beaches, and boardwalks; and

WHEREAS, while the risk of transmission is significantly lower in outdoor settings than in indoor settings, concentrations of individuals in close proximity outdoors who are unable to socially distance still create a danger that COVID-19 can spread from person-to-person; and

WHEREAS, in such outdoor settings, the risk of transmission is significantly reduced when individuals wear face coverings if they are unable to socially distance; and

WHEREAS, public health authorities advise against wearing a face covering when engaging in high intensity aerobic or anaerobic workouts, while in the water, and in certain other circumstances in which the mask could pose a safety hazard; and

WHEREAS, in light of public health guidance and further review, the definition of outdoor areas can be amended for purposes of outdoor dining, recreation, and entertainment, consistent with the approach taken in other states, to include areas that have a fixed roof but have at least two open sides comprising over 50 percent of the wall space, thus providing sufficient natural airflow; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. When it is not practicable for individuals in outdoor public spaces to socially distance and keep a six-foot distance from others, excluding immediate family members, caretakers, household members, or romantic partners, consistent with Paragraph 3 of Executive Order No. 107 (2020), all individuals shall wear face

coverings. This requirement shall not apply when wearing a face covering would inhibit that individual's health, including when engaging in high intensity aerobic or anaerobic activities, when in the water, and in other situations where the presence of a mask would pose a risk to the individual's safety, or where the individual is under two years of age.

2. The requirement in Paragraph 1 of this Order shall not apply in situations where individuals cannot feasibly wear a face covering, such as when individuals are eating or drinking at outdoor dining areas, or when individuals need to briefly remove their face coverings for religious reasons. In addition, for purposes of Paragraph 1 of this Order, "outdoor public spaces" do not include child care centers, other child care facilities, and youth summer camps, which continue to be governed by Executive Order No. 149 (2020) and applicable standards issued by the Commissioner of the Department of Health.

3. As provided for in Executive Order Nos. 122, 125, 135, 142, 152, 154, 155, and 157 (2020), all individuals shall continue to wear face coverings in indoor spaces that are accessible to members of the public, such as retail, recreational, and entertainment businesses, areas of government buildings open to the public, and mass transit buses, trains, and stations, except when doing so would inhibit the individual's health, including when engaging in high intensity aerobic or anaerobic activities, when in the water, and in other situations where the presence of a mask would pose a risk to the individual's safety, or where the individual is under two years of age. For indoor commercial spaces that are not open to members of the public, such as office buildings, those spaces must have policies that at a minimum, require individuals to wear face coverings when in prolonged proximity to others. This Paragraph does not apply to child care centers, other child care facilities, and youth summer camps, which continue to be governed by Executive Order No. 149 (2020) and applicable standards issued by the Commissioner of the Department of Health.

4. The definition of "outdoor areas" in Paragraph 4 of Executive Order No. 156 (2020) and Paragraph 4 of Executive Order No. 157 (2020) is hereby superseded. Provided that they comply with the requirements of Paragraph 4 of Executive Order No. 157 (2020), food or beverage establishments are permitted to offer in-person service at outdoor areas, defined as open air spaces that either 1) have no roof or cover or 2) have a fixed roof or temporary or seasonal awning or cover, with at least two open sides that would comprise over 50 percent of the total wall space if the space were fully enclosed.

5. The definition of "outdoor areas" in Paragraph 4, above, shall apply to recreational and entertainment businesses that open their outdoor premises to the public in accordance with the requirements of Paragraph 7 of Executive Order No. 157 (2020).

6. Practices and competitions for sports defined as "Low Risk" in the Department of Health's "Guidance for Sports Activities" are permitted in both outdoor and indoor settings. No-contact practices for sports defined as "High or Medium Risk" in the Department of Health's "Guidance for Sports Activities" are permitted

to resume in outdoor and indoor settings. Contact practices and competitions for sports defined as "Medium Risk" in the Department of Health's "Guidance for Sports Activities" are permitted to resume in outdoor settings only. Contact practices and competitions for sports defined as "High Risk" in the Department of Health's "Guidance for Sports Activities" remain prohibited in both indoor and outdoor settings. All activities referenced in this Paragraph are subject to the "Guidance for Sports Activities" issued by the Commissioner of the Department of Health, and such activities must comply with all applicable laws, regulations, and Executive Orders, including restrictions on recreational and entertainment businesses in Paragraph 7 of Executive Order No. 157 (2020) and restrictions on gatherings in place at the time the sporting activities occur. Paragraph 13 of Executive Order No. 149 (2020) is superseded to the extent that it is inconsistent with the provisions of this Paragraph.

7. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

8. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order.

9. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

10. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

11. This Order shall take effect immediately, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of the Department of Health as appropriate.

Dated July 8, 2020.

EXECUTIVE ORDER NO. 164

WHEREAS, in light of the dangers posed by COVID-19, I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, and 162, issued on April 7, 2020, May 6, 2020, June 4, 2020, and July 2, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Ex-

ecutive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, and Nos. 140-163 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, as of July 12, 2020, according to the World Health Organization, there were more than 12,552,000 confirmed cases of COVID-19 worldwide, with over 561,000 of those cases having resulted in death; and

WHEREAS, as of July 12, 2020, according to the Centers for Disease Control and Prevention, there were more than 3,236,000 confirmed cases of COVID-19 in the United States, with over 134,000 of those cases having resulted in death; and

WHEREAS, as of July 12, 2020, there were over 175,000 cases of COVID-19 in New Jersey, with at least 13,594 of those cases having resulted in death; and

WHEREAS, there have been positive cases of COVID-19 in every county in New Jersey, and there have been deaths relating to COVID-19 in every county in New Jersey; and

WHEREAS, pursuant to Executive Order No. 120 (2020), the primary elections set to take place on June 2, 2020, were postponed until July 7, 2020 ("July primary elections"), because preparing for elections to take place in June during the potential height of the COVID-19 emergency would have negatively impacted election officials' preparation efforts; and

WHEREAS, on May 15, 2020, I issued Executive Order No. 144, which declared that the July primary elections would be conducted primarily via vote-by-mail ballots with a minimum number of polling places open in each municipality; and

WHEREAS, to accommodate the increase in vote-by-mail ballots, Executive Order No. 144 (2020) extended the time that ballots must be received by five (5) days, provided that such ballots must be postmarked by July 7, 2020, and received by July 14, 2020, in order to be counted; and

WHEREAS, Executive Order No. 144 (2020) extended the deadline to certify election results under N.J.S.A. 19:23-55 by five (5) days in order to account for the revised timeframe that Boards of Elections had to receive vote-by-mail ballots, thereby extending the certification deadline to July 24, 2020; and

WHEREAS, pursuant to N.J.S.A. 19:5-2, the annual meetings of municipal party committees, where reorganizations of the committees and the election of municipal party chairpersons occur, are the first Monday following the primary elections, which is July 13, 2020; and

WHEREAS, pursuant to N.J.S.A. 19:5-3, the annual meetings of county party committees, where reorganizations of the committees and the election of county party chairpersons occur, are the first Tuesday following the primary election, which is July 14, 2020; and

WHEREAS, pursuant to N.J.S.A. 19:5-2 and 19:5-3, members of municipal party committees and members of county party committees are to take office on the first Saturday following their election; and

WHEREAS, because election results will not be certified until July 24, 2020, the first Saturday following the election of municipal and county party members will be July 25, 2020; and

WHEREAS, due to the extensions for certifying the July primary election results, in order to ensure the timely seating of municipal and county political party members, it is necessary to extend the timeline for seating those party members; and

WHEREAS, on March 19, 2020, I issued Executive Order No. 105, which declared that certain elections set to take place in March and April were postponed until May 12, 2020 ("May elections"), because allowing those elections to proceed as they were originally planned during this unprecedented COVID-19 health crisis would create hardships and health risks for voters, poll workers, and candidates alike; and

WHEREAS, pursuant to N.J.S.A. 40A:16-16, whenever the office of a governing body is deemed vacant, pursuant to N.J.S.A. 19:3-25, a special election is triggered, and the special election must be held not less than forty-five (45) days nor more than fifty (50) days from the date of the vacancy; and

WHEREAS, in at least one jurisdiction, the Superior Court has recently deemed there to be a vacancy following the May elections, triggering a special election in August; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, the COVID-19 emergency and its impact are likely to extend for an as-yet-undetermined period of time; and

WHEREAS, the COVID-19 emergency makes it difficult for election officials, candidates, and voters to properly plan and prepare for and fully participate in special elections if they were to proceed as they would under normal circumstances; and

WHEREAS, States generally have discretion to dictate the time, manner, and place of elections in the absence of controlling federal law; and

WHEREAS, allowing the special elections to proceed as they would under normal circumstances during this unprecedented COVID-19 health crisis will create hardships and health risks for voters, poll workers, and candidates alike; and

WHEREAS, the July primary election required special accommodations for and increased costs for COVID-19-mitigation efforts that are not normally associated with election administration, such as social-distancing measures, sanitization, and face coverings; and

WHEREAS, because there are no federal elections tied to the special elections, local jurisdictions will have to bear the burden of those costs in spite of the dire financial impact of the COVID-19 health crisis on local budgets; and

WHEREAS, Boards of Elections had difficulty retaining poll workers for the July primary election due to the COVID-19 pandemic and are likely to face the same issue for special elections so long as the health crisis exists; and

WHEREAS, election officials require flexibility and sufficient lead time to adapt their locality's voting infrastructure to confront the magnitude of the public health and safety risks of the COVID-19 pandemic; and

WHEREAS, failing to take proactive actions to mitigate the adverse impacts of the current health crisis on upcoming special elections carries the risk of disenfranchising citizens; and

WHEREAS, social distancing measures are required for a period of as-yet-undetermined duration, and the COVID-19 outbreak may have significant effects on New Jersey's voting systems as long as social distancing measures are in place and for some time thereafter; and

WHEREAS, failing to offer voters a ready alternative to reporting to public polling locations to vote in special elections in the midst of the COVID-19 crisis will hinder public participation in the democratic process, particularly among elderly and immune-compromised voters, and undermine the legislative intent of provisions such as N.J.S.A. 19:8-2 and 19:8-3.1, which are designed to ensure that such voters can exercise their right to vote; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The deadline in N.J.S.A. 19:5-2 for the annual meetings of municipal party committees and the deadline in N.J.S.A. 19:5-3 for the annual meetings of county party committees are hereby suspended for 2020.

2. To allow newly elected and re-elected municipal party committee members and county party committee members to be properly seated during their parties' reorganization meetings, for 2020, the annual meetings for municipal party committees shall be held on the first Monday after the July primary election results are certified and the annual meetings for county party committees shall be held on the first Tuesday after the July primary election results are certified.

3. Any election scheduled for a date between July 7, 2020 and November 3, 2020, shall be postponed until November 3, 2020. Further, no other elections may be held or proceed prior to November 3, 2020.

4. This Order shall take effect immediately.
Dated July 13, 2020.

EXECUTIVE ORDER NO. 165

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151 and 162, issued on April 7, 2020, May 6, 2020, June 4, 2020, and July 2, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserved the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, and Nos. 140-164 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, among these actions, and in recognition that the Centers for Disease Control and Prevention has advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020) to order steps to mitigate community spread of COVID-19; and

WHEREAS, in response to the current emergency, I issued Executive Order No. 125 on April 11, 2020 that addressed a variety of requirements that the following entities had to implement in order to protect the workers and customers using public transit during the COVID-19 State of Emergency: NJ TRANSIT (defined collectively as New Jersey Transit Corporation, NJ TRANSIT Rail Operations, Inc., NJ TRANSIT Bus Operations, Inc., NJ TRANSIT Mercer, Inc., and NJ TRANSIT Morris, Inc.), the private carriers that NJ TRANSIT has entered into contracts with for the provision of bus and light rail service (hereinafter referred to collectively as "Private Carriers"), the private carriers that NJ TRANSIT has not entered into contracts with and that run their own individual lines of intrastate ser-

vice in New Jersey as well as interstate service to New York and Pennsylvania (hereinafter referred to collectively as "Unaffiliated Private Carriers"), and the private carriers that NJ TRANSIT has entered into contracts with for the provision of Access Link paratransit services (hereinafter referred to as "Paratransit Private Carriers"); and

WHEREAS, within the State of New Jersey there are numerous entities that provide transportation services, directly or through a third party, to workers or employees to get to, return from, or move within or among work sites that are not otherwise available to the general public (hereinafter referred to as "Employer Provided Transportation Services"); and

WHEREAS, given the decrease in the rate of reported new cases of COVID-19 in New Jersey, including a reduction in the total number of individuals being admitted to hospitals for COVID-19, and in the rate of reproduction for COVID-19 infections in New Jersey, the State can take steps and has taken steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, the State is in the second phase of the reopening process and has begun to relax restrictions on activities where appropriately safeguarded; and

WHEREAS, NJ TRANSIT has instituted enhanced cleaning efforts for vehicles across all its modes of transportation, including disinfecting vehicles every 24 hours, hard surface cleaning and disinfecting including handholds, arm rests, seating areas, and restrooms; and

WHEREAS, NJ TRANSIT has instituted enhanced cleaning regimens in stations including additional disinfecting of frequent customer touchpoints like ticket vending machines, handrails, and door handles; and

WHEREAS, as an added precautionary measure to protect bus operators and customers, NJ TRANSIT and Private Carriers previously implemented rear-door boarding on all bus routes where rear-boarding is available, and seats near the bus operator have also been taken out of service to allow for proper social distancing for the operator; and

WHEREAS, NJ TRANSIT bus operations is actively investigating and implementing the installation of physical barriers between operators and passengers to ensure adequate protections for its bus operators; and

WHEREAS, in accordance with the stay at home provisions of Paragraph 2 of Executive Order No. 107 (2020), which has since been rescinded by Paragraph 11 of Executive Order No. 153 (2020), NJ TRANSIT had issued customer advisories

noting initially that travel across all of its modes of transportation should be limited to essential personnel who did not have any other feasible means of transportation; and

WHEREAS, following the announcement of New Jersey's Road Back Plan, NJ TRANSIT issued guidelines on June 16, 2020 entitled "Ride to Recovery", which indicated that travel on the NJ TRANSIT system is encouraged only for those who cannot work from home; and

WHEREAS, NJ TRANSIT, Private Carriers, and Unaffiliated Private Carriers have adjusted the weekday rail, bus, and light rail service to full weekday regular service schedules to accommodate increasing volume of travel with NJ TRANSIT bus service resuming full weekday schedule on June 8, 2020, NJ TRANSIT rail and light rail service resuming full weekday schedule on July 6, 2020, and Private Carrier and Unaffiliated Private Carriers gradually resuming pre-COVID service schedules based on customer demand; and

WHEREAS, in the three months since Executive Order No. 125 (2020) was signed, the number of new cases has continued to decrease, and there has been a continued decline in COVID-19 related hospitalizations, ICU admissions, and ventilator usage; and

WHEREAS, in light of this continued progress and the continued reopening of New Jersey in accordance with the Road Back Plan, it is appropriate to revise certain provisions of Executive Order No. 125 (2020) applying to NJ TRANSIT, Private Carriers, Unaffiliated Private Carriers, and Paratransit Private Carriers, and to also include provisions applying to Employer Provided Transportation Services, and to continue to do so in a gradual way, so that the State can continue to assess the progress of new COVID-19 cases and hospitalizations, and to monitor the rate of reproduction and the percentage of COVID-19 tests that yield positive results, relative to the new limits, and thereby avoid the spread of COVID-19 being identified in other parts of the country; and

WHEREAS, it is also appropriate to continue to impose specific mitigation requirements on NJ TRANSIT, Private Carriers, Unaffiliated Private Carriers, Paratransit Private Carriers, and Employer Provided Transportation Services to continue to protect workers and members of the public who cannot work from home and thus must be able to report to work, while also preventing increased spread of COVID-19; and

WHEREAS, even as the State began to permit businesses to reopen indoor premises to the public, the State required all individuals to wear face coverings inside those premises, because face coverings have been demonstrated to significantly reduce the risk of COVID-19 transmission from person-to-person contact, and therefore are particularly necessary in high-risk indoor environments; and

WHEREAS, face coverings have been consistently required in indoor areas of retail businesses, recreational and entertainment businesses, personal care service facilities, and mass transit, among other contexts, reflecting the State's judgment that face coverings are needed to prevent the spread of COVID-19 in indoor areas; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. NJ TRANSIT may open their trains, buses, and light rail vehicles to the stated maximum seated capacity, in accordance with any guidelines instituted by NJ TRANSIT operational divisions, provided that NJ TRANSIT adopts policies that include, at minimum, the following requirements:

a. NJ TRANSIT shall continue to require infection control practices, such as coughing and sneezing etiquette, and proper tissue usage and disposal;

b. NJ TRANSIT shall continue to arrange for contactless pay options across all modes of transportation wherever feasible. Such policies shall, wherever possible, consider populations that do not have access to internet service;

c. To the extent physical barriers, such as a shield guard, cannot be installed that protect bus operators from interaction with customers, NJ TRANSIT shall continue to arrange for back door entry on buses wherever feasible, and take seats out of service near the bus operator to allow for proper social distancing from the bus operator wherever feasible;

d. NJ TRANSIT shall continue to require frequent sanitization of high-touch areas in stations, like restrooms, waiting areas, credit card machines, and keypads;

e. NJ TRANSIT shall continue to place conspicuous signage at stations and throughout train cars, buses, and light rail vehicles, if applicable, alerting workers and customers to the need for social distancing;

f. NJ TRANSIT shall continue to require workers and customers to wear cloth face coverings while on trains, buses, and light rail vehicles except where doing so would inhibit that individual's health or where the individual is under two years of age, and require workers to wear gloves when in contact with customers. NJ TRANSIT must provide, at its expense, such face coverings and gloves for their workers, to the extent supplies are available. If a customer refuses to wear a cloth face covering for non-medical reasons, then NJ TRANSIT workers may decline entry to the individual, in accordance with any guidelines instituted by NJ TRANSIT operational divisions. Nothing in the stated policy should prevent workers or customers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if NJ TRANSIT is otherwise required to provide such worker with more protective equipment due to the nature of the work involved. Where an individual declines to wear a face covering on a train, bus, or light rail vehicle due to a medical condition that inhibits

such usage, neither NJ TRANSIT nor its workers shall require the individual to produce medical documentation verifying the stated condition;

g. In accordance with Paragraph 3 of Executive Order No. 163 (2020), require workers and customers to wear cloth face coverings while in the indoor portion of any stations, facilities, or premises owned or operated by NJ TRANSIT, except where doing so would inhibit that individual's health or where the individual is under two years of age. If a customer refuses to wear a cloth face covering for non-medical reasons, then NJ TRANSIT workers may decline entry to the individual, in accordance with any guidelines instituted by NJ TRANSIT operational divisions. Nothing in the stated policy should prevent workers or customers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if NJ TRANSIT is otherwise required to provide such worker with more protective equipment due to the nature of the work involved. Where an individual declines to wear a face covering in the indoor portion of any stations, facilities, or premises owned or operated by NJ TRANSIT due to a medical condition that inhibits such usage, neither NJ TRANSIT nor its workers shall require the individual to produce medical documentation verifying the stated condition;

h. NJ Transit shall prohibit the consumption of food or beverages and smoking in trains, buses, and light rail vehicles; and

i. In accordance with Paragraph 1 of Executive Order No. 163 (2020), when it is not practicable for individuals in the outdoor portion of any stations, facilities, or premises owned or operated by NJ TRANSIT to socially distance and keep a six-foot distance from others, excluding immediate family members, caretakers, household members, or romantic partners, consistent with Paragraph 3 of Executive Order No. 107 (2020), all individuals shall wear face coverings. This requirement shall not apply when wearing a face covering would inhibit that individual's health, and in other situations where the presence of a mask would pose a risk to the individual's safety, or where the individual is under two years of age.

2. Private Carriers may open their buses and light rail vehicles to the stated maximum seated capacity in accordance with the terms of their contracts with NJ TRANSIT and in accordance with any guidelines instituted by the Private Carriers in consultation with NJ TRANSIT operational divisions, provided that Private Carriers adopt policies that include, at minimum, the following requirements:

a. Private Carriers shall continue to require infection control practices, such as coughing and sneezing etiquette, and proper tissue usage and disposal;

b. Private Carriers shall continue to arrange for contactless pay options across all modes of transportation that the Private Carriers operate wherever feasible. Such policies shall, wherever possible, consider populations that do not have access to internet service;

c. To the extent physical barriers, such as a shield guard, cannot be installed to protect bus operators from interaction with customers, Private Carriers shall continue to arrange for back door entry on buses wherever feasible, and take seats out

of service near the bus operator wherever feasible to allow for proper social distancing from the bus operator;

d. Private Carriers shall continue to place conspicuous signage throughout buses and light rail vehicles, if applicable, alerting workers and customers to the need for social distancing;

e. Private Carriers shall continue to require workers and customers to wear cloth face coverings while on buses and light rail vehicles except where doing so would inhibit that individual's health or where the individual is under two years of age, and require workers to wear gloves when in contact with customers. Private Carriers must provide, at their own expense, such face coverings and gloves for their workers, to the extent supplies are available. If a customer refuses to wear a cloth face covering for non-medical reasons, then Private Carrier workers may decline entry to the individual, in accordance with any guidelines instituted by the Private Carriers in consultation with NJ TRANSIT operational divisions. Nothing in the stated policy should prevent workers or customers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if the Private Carriers are otherwise required to provide such worker with more protective equipment due to the nature of the work involved. Where an individual declines to wear a face covering on a bus or light rail vehicle due to a medical condition that inhibits such usage, neither Private Carriers nor any of their workers shall require the individual to produce medical documentation verifying the stated condition;

f. In accordance with Paragraph 3 of Executive Order No. 163 (2020), require workers and customers to wear cloth face coverings while in the indoor portion of any stations, facilities, or premises owned or operated by Private Carriers, except where doing so would inhibit that individual's health or where the individual is under two years of age. If a customer refuses to wear a cloth face covering for non-medical reasons, then Private Carrier workers may decline entry to the individual, in accordance with any guidelines instituted by Private Carriers in consultation with NJ TRANSIT operational divisions. Nothing in the stated policy should prevent workers or customers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if Private Carriers are otherwise required to provide such worker with more protective equipment due to the nature of the work involved. Where an individual declines to wear a face covering in the indoor portion of any stations, facilities, or premises owned or operated by Private Carriers due to a medical condition that inhibits such usage, neither Private Carriers nor any of their workers shall require the individual to produce medical documentation verifying the stated condition;

g. Private Carriers shall prohibit consumption of food or beverages and smoking in buses and light rail vehicles; and

h. In accordance with Paragraph 1 of Executive Order No. 163 (2020), when it is not practicable for individuals in the outdoor portion of any stations, facilities, or premises owned or operated by Private Carriers to socially distance and keep a six-

foot distance from others, excluding immediate family members, caretakers, household members, or romantic partners, consistent with Paragraph 3 of Executive Order No. 107 (2020), all individuals shall wear face coverings. This requirement shall not apply when wearing a face covering would inhibit that individual's health, and in other situations where the presence of a mask would pose a risk to the individual's safety, or where the individual is under two years of age.

3. Unaffiliated Private Carriers may open their buses to the stated maximum seated capacity, in accordance with any guidelines instituted by the Unaffiliated Private Carriers, provided that Unaffiliated Private Carriers adopt policies that include, at minimum, the following requirements:

a. Unaffiliated Private Carriers shall continue to require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;

b. Unaffiliated Private Carriers shall continue to arrange for contactless pay options across all modes of transportation that the Unaffiliated Private Carriers operate wherever feasible. Such policies shall, wherever possible, consider populations that do not have access to internet service;

c. To the extent physical barriers, such as a shield guard, cannot be installed protecting bus operators from interaction with customers, Unaffiliated Private Carriers shall continue to arrange for back door entry on buses wherever feasible, and take seats out of service near the bus operator wherever feasible to allow for proper social distancing from the bus operator;

d. Unaffiliated Private Carriers shall continue to place conspicuous signage throughout buses, if applicable, alerting workers and customers to the need for social distancing;

e. Unaffiliated Private Carriers shall continue to require workers and customers to wear cloth face coverings while on buses except where doing so would inhibit that individual's health or where the individual is under two years of age, and require workers to wear gloves when in contact with customers. Unaffiliated Private Carriers must provide, at their own expense, such face coverings and gloves for their workers, to the extent supplies are available. If a customer refuses to wear a cloth face covering for non-medical reasons, then Unaffiliated Private Carrier workers may decline entry to the individual, in accordance with any guidelines instituted by the Unaffiliated Private Carriers. Nothing in the stated policy should prevent workers or customers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if the Unaffiliated Private Carriers are otherwise required to provide such worker with more protective equipment due to the nature of the work involved. Where an individual declines to wear a face covering on a bus due to a medical condition that inhibits such usage, neither Unaffiliated Private Carriers nor any of their workers shall require the individual to produce medical documentation verifying the stated condition;

f. In accordance with Paragraph 3 of Executive Order No. 163 (2020), require workers and customers to wear cloth face coverings while in the indoor portion of

any stations, facilities, or premises owned or operated by Unaffiliated Private Carriers, except where doing so would inhibit that individual's health or where the individual is under two years of age. If a customer refuses to wear a cloth face covering for non-medical reasons, then Unaffiliated Private Carrier workers may decline entry to the individual, in accordance with any guidelines instituted by the Unaffiliated Private Carriers. Nothing in the stated policy should prevent workers or customers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if Unaffiliated Private Carriers are otherwise required to provide such worker with more protective equipment due to the nature of the work involved. Where an individual declines to wear a face covering in the indoor portion of any stations, facilities, or premises owned or operated by Unaffiliated Private Carriers due to a medical condition that inhibits such usage, neither Unaffiliated Private Carriers nor any of their workers shall require the individual to produce medicandal documentation verifying the stated condition;

g. Unaffiliated Private Carriers shall prohibit the consumption of food or beverage and smoking on buses; and

h. In accordance with Paragraph 1 of Executive Order No. 163 (2020), when it is not practicable for individuals in the outdoor portion of any stations, facilities, or premises owned or operated by Unaffiliated Private Carriers to socially distance and keep a six-foot distance from others, excluding immediate family members, caretakers, household members, or romantic partners, consistent with Paragraph 3 of Executive Order No. 107 (2020), all individuals shall wear face coverings. This requirement shall not apply when wearing a face covering would inhibit that individual's health, and in other situations where the presence of a mask would pose a risk to the individual's safety, or where the individual is under two years of age.

4. Paratransit Private Carriers may open their Access Link vehicles to the stated maximum seated capacity in accordance with the terms of their contracts with NJ TRANSIT, and in accordance with any guidelines instituted by the Paratransit Private Carriers in consultation with NJ TRANSIT operational divisions, provided that Paratransit Private Carriers adopt policies that include, at minimum, the following requirements:

a. Paratransit Private Carriers shall continue to require infection control practices, such as coughing and sneezing etiquette, and proper tissue usage and disposal;

b. Paratransit Private Carriers shall continue to arrange for contactless pay options, including EZ Wallet, across all modes of transportation that the Paratransit Private Carriers operate wherever feasible. Such policies shall, wherever possible, consider populations that do not have access to internet service;

c. Paratransit Private Carriers shall continue to place conspicuous signage throughout Access Link vehicles, if applicable, alerting workers and customers to the need for social distancing;

d. Paratransit Private Carriers shall continue to require workers and customers to wear cloth face coverings while on all Access Link vehicles except where doing so would inhibit that individual's health or where the individual is under two years of

age, and require workers to wear gloves when in contact with customers. Paratransit Private Carriers must provide, at their own expense, such face coverings and gloves for their workers, to the extent supplies are available. If a customer refuses to wear a cloth face covering for non-medical reasons, then Paratransit Private Carriers may decline entry to the individual, in accordance with any guidelines instituted by the Paratransit Private Carriers in consultation with NJ TRANSIT operational divisions. Nothing in the stated policy should prevent workers or customers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if the Paratransit Private Carriers are otherwise required to provide such worker with more protective equipment due to the nature of the work involved. Where an individual declines to wear a face covering on an Access Link vehicle due to a medical condition that inhibits such usage, neither Paratransit Private Carriers nor any of their workers shall require the individual to produce medical documentation verifying the stated condition; and

e. Paratransit Private Carriers shall prohibit the consumption of food or beverages and smoking on Access Link vehicles.

5. Employer Provided Transportation Services may operate their vehicles, up to the stated seated maximum capacity, provided that these entities adopt policies that include, at minimum, the following requirements:

a. Require infection control practices, such as coughing and sneezing etiquette, and proper tissue usage and disposal;

b. Place conspicuous signage throughout vehicles, if applicable, alerting workers and customers to the need for social distancing;

c. Require workers to wear cloth face coverings while on all vehicles except where doing so would inhibit that individual's health or where the individual is under two years of age, and require drivers to wear gloves when in contact with workers. These employers must provide, at their own expense, such face coverings and gloves for their drivers and workers, to the extent supplies are available. If a worker refuses to wear a cloth face covering for non-medical reasons, then these employers may decline entry to the individual, in accordance with any guidelines instituted by these employers that provide such transportation services. Nothing in the stated policy should prevent workers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if these employers are otherwise required to provide such worker with more protective equipment due to the nature of the work involved. Where an individual declines to wear a face covering on Employer Provided Transportation Service vehicles due to a medical condition that inhibits such usage, neither these employers nor any of their drivers shall require the individual to produce medical documentation verifying the stated condition; and

d. Employer Provided Transportation Services shall prohibit the consumption of food or beverages and smoking on their vehicles.

6. Individuals who ride public transportation should abide by best social distancing practices, including making all efforts to stand or sit six feet away from other

riders where practicable and frequently using sanitizing products. Paragraph 4 of Executive Order No. 107 (2020) is hereby superseded.

7. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

8. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order, and to cooperate fully with Administrative Orders issued pursuant to this Order.

9. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or with any of the provisions of any subsequent Administrative Orders adopted pursuant to this Order, or which will or might in any way interfere with or impede the achievement of any or all of these Orders.

10. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

This Order shall take effect beginning at 8:00 p.m. on Wednesday, July 15, 2020, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated July 13, 2020.

EXECUTIVE ORDER NO. 166

WHEREAS, in light of the dangers posed by Coronavirus Disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, to further protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19, which have been strengthened and expanded upon in subsequent Executive Orders, including Executive Order Nos. 105-133, Nos. 135-138, and Nos. 140-165 (2020), the facts and circumstances of which are adopted by reference herein; and

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency pursuant to his constitutional and statutory powers, including those granted by Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. § 1601, et seq., and consistent with Section 1135 of the Social Security Act, as amended, 42 U.S.C. § 1320b-5; and

WHEREAS, also on March 13, 2020, the President determined that the COVID-19 pandemic was of sufficient severity and magnitude to warrant a nationwide emergency declaration under Section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("Stafford Act"), 42 U.S.C. § 5121-5207, which remains in effect today; and

WHEREAS, on March 25, 2020, the President determined that the COVID-19 pandemic in New Jersey was of sufficient severity and magnitude to warrant a major disaster declaration under Section 401 of the Stafford Act, 42 U.S.C. § 5121-5207, which remains in effect today; and

WHEREAS, the Federal Government has established various sources of federal funding for state and local governments, businesses, non-profit organizations, and members of the public to support pandemic response and economic recovery, with state and local governments serving as intermediaries for the distribution of some of those funds; and

WHEREAS, New Jersey state and local governments, as well as non-government sources, are likely to make additional funding available to support pandemic response and economic recovery; and

WHEREAS, efficient and effective audit and oversight functions combined with robust transparency procedures foster government accountability, while increasing public trust and confidence that every public dollar is spent toward impactful recovery and resilience projects and programs; and

WHEREAS, New Jersey residents expect that government agencies will maintain adequate controls over financial management, contracting, financial reporting, and the delivery of government programs and activities with due regard to efficiency, effectiveness, and economy; and

WHEREAS, the distribution of emergency and relief funds to local government units, businesses, non-profit organizations, and the general public is a priority of my Administration, and the waste, fraud, or abuse of those funds would frustrate that purpose; and

WHEREAS, the Legislature established an independent Office of the State Comptroller ("State Comptroller") to report directly to the Governor and to promote accountability and oversight for the expenditure of public funds; and

WHEREAS, the provisions of this Order regarding the State Comptroller have been developed in consultation with and with the concurrence of the State Comptroller; and

WHEREAS, in addition to the COVID-19 pandemic, various hazards over the last decade, such as hurricanes, winter storms, floods, and other natural disasters, have caused severe physical damages and economic impacts in New Jersey that have resulted in significant distributions of federal funds to residents and private entities, as well as to local, county, and State government facilities and operations; and

WHEREAS, the Governor's Office of Recovery & Rebuilding was created during the prior Administration pursuant to Executive Order No. 125 (2013) to coordinate the State's multi-billion dollar rebuilding effort following Superstorm Sandy,

which caused unprecedented damages to the State's people, economy, infrastructure, and resources, and that Office continues to oversee various State-led and federally funded recovery, rebuilding, and resilience projects; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The Establishment of the Governor's Disaster Recovery Office. There shall be established a Governor's Disaster Recovery Office ("GDRO") within the Governor's Office, reporting to the Governor's Chief of Staff. The GDRO shall be led by an Executive Director, who shall work full-time on the State's COVID-19 recovery, as well as any past or future disaster recovery or resilience efforts, and shall have experience in disaster recovery, public transparency, risk management, fraud prevention, and federal compliance. The GDRO shall be responsible for the following activities:

a. Coordinating the work of "COVID-19 Accountability Officers", as described in Paragraph 2(a) of this Order, to ensure cross-agency collaboration, compliance, and transparency;

b. Developing a transparency website within ninety (90) days of the date of this Order to track the State's eligible and planned uses of any funds disbursed by the federal or State government to help New Jersey residents, businesses, non-profit organizations, government agencies, and other entities respond to or recover from the COVID-19 pandemic ("COVID-19 Recovery Programs"), including any funds awarded to the State pursuant to the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136 ("COVID-19 Recovery Funds");

c. Coordinating and consulting with all relevant stakeholders regarding the disbursement of COVID-19 Recovery Funds and the administration of COVID-19 Recovery Programs, including:

i. State Executive Branch agencies;

ii. The Office of Diversity and Inclusion, within the Department of Treasury;

iii. Federal government agencies, including the Federal Emergency Management Agency, the U.S. Department of Health & Human Services, the U.S. Small Business Administration, the U.S. Department of Labor, the U.S. Department of the Treasury, the U.S. Department of Housing & Urban Development, the U.S. Army Corps of Engineers, and the U.S. Department of Education;

iv. Local and county government units; and

v. Non-governmental stakeholders, including the Governor's Restart and Recovery Commission as described in Executive Order No. 131 (2020), residents, the

business community, and non-profit organizations engaged in COVID-19 disaster recovery activities;

d. Publishing an annual report summarizing the State's use of federal funds in response to COVID-19; and

e. Assuming the responsibilities of the Governor's Office of Recovery & Rebuilding, which will no longer exist.

2. COVID-19 Recovery Program Participants. Each principal department and agency of this State, as well as each independent State authority, that receives COVID-19 Recovery Funds or administers a COVID-19 Recovery Program ("COVID-19 Recovery Program Participant") is hereby directed to:

a. Appoint or designate a senior-level official as the Recovery Program Participant's "COVID-19 Accountability Officer", who shall serve as the COVID-19 Recovery Program Participant's primary liaison to the GDRO and the Office of the State Comptroller, and who shall oversee the responsible disbursement of COVID-19 Recovery Funds by or through that COVID-19 Recovery Program Participant, and the administration of any COVID-19 Recovery Programs operated by the COVID-19 Recovery Program Participant;

b. Ensuring that all new potential procurements involving an expenditure of $150,000 or more involving COVID-19 Recovery Funds and/or a COVID-19 Recovery Program are submitted to the State Comptroller for review as part of the procurement process, as described in Paragraph 3(a) of this Order; and

c. Provide, at request of the State Comptroller, all documentation demonstrating that an expenditure of less than $150,000 involving COVID-19 Recovery Funds and/or a COVID-19 Recovery Program complied with all relevant federal and State laws.

3. State Comptroller. The Office of the State Comptroller shall exercise its statutory responsibilities pursuant to N.J.S.A. 52:15C-1, et seq., and shall:

a. Review potential procurements submitted by COVID-19 Recovery Program Participants pursuant to Paragraph 2(b) of this Order and determine, within 10 business days, whether the proposed procurement process complies with applicable public contracting laws, rules, and regulations. If the State Comptroller determines that the proposed procurement process does not comply with applicable laws, rules, and regulations, the State Comptroller shall inform the COVID-19 Recovery Program Participant, as well as the GDRO, of the changes needed to make the process legally compliant;

b. Amend, as necessary, the monetary threshold for the review process described in Paragraphs 2(b) and 3(a) of this Order, either for all COVID-19 Recovery Programs and COVID-19 Recovery Program Participants or for individual programs and participants, in order to balance the need for efficient and timely procurements with the need to mitigate risks arising from such procurements;

c. Provide training and assistance to each Recovery Program Participant regarding best practices for mitigating risks of waste, fraud, and abuse;

d. Serve as the chair of the COVID-19 Compliance and Oversight Taskforce, as described in Paragraph 4 of this Order;

e. Oversee the work of any COVID-19 Integrity Oversight Monitors appointed pursuant to Paragraph 5 of this Order, and receive regular updates from such monitors regarding their work; and

f. Ensure that all approved contracts for the allocation and expenditure of resources involving a Recovery Program allocated by or through any Recovery Program Participant are publicly posted online to the dedicated GDRO transparency website described in Paragraph 1(b) of this Order.

4. COVID-19 Compliance and Oversight Taskforce. There shall be established a "COVID-19 Compliance and Oversight Taskforce" (the "Taskforce"), which shall advise the Recovery Program Participants on complying with federal and State law and mitigating risks of waste, fraud, and abuse. The Taskforce shall:

a. Consist of the following members or their designees:

i. The State Comptroller, who shall serve as chair;

ii. The Attorney General;

iii. The State Treasurer;

iv. The GDRO Executive Director; and

v. Three Recovery Program Participants' COVID-19 Accountability Officers, as determined by the Taskforce Chair;

b. Issue, within thirty (30) days of this Order, guidelines regarding the appointment and responsibilities of "COVID-19 Oversight Integrity Monitors," as described in Paragraph 5 of this Order;

c. Issue, within forty-five (45) days of the date of this Order, a comprehensive plan describing the State's system to guard against fraud, waste, and abuse in the disbursement of COVID-19 Recovery Funds and the administration of COVID-19 Recovery Programs (the "Taskforce Compliance Plan"); and

d. Issue updates to the Taskforce Compliance Plan that assess any new risks not addressed in prior versions of the compliance plan and that propose appropriate mitigation measures.

5. COVID-19 Integrity Oversight Monitoring Program. In accordance with the guidance issued by the Taskforce pursuant to Paragraph 4(b) of this Order, a Recovery Program Participant may retain and appoint a COVID-19 Integrity Oversight Monitor ("Monitor") to oversee the disbursement of COVID-19 Recovery Funds and/or the administration of a COVID-19 Recovery Program. Each Monitor shall operate according to the guidelines established by the Taskforce pursuant to Paragraph 4(b) of this Order and shall:

a. Develop measures to prevent, detect, and remediate inefficiency and malfeasance in the expenditure of COVID-19 Recovery Funds;

b. Respond promptly to any inquiries posed by the GDRO or the State Comptroller; and

c. Submit a quarterly report detailing the specific services rendered during that quarter and any findings of fraud, waste, or abuse to the State Treasurer, who shall share the reports with the GDRO, the Senate President, the Speaker of the General Assembly, the Attorney General, and the State Comptroller. The integrity over-

sight monitor quarterly reports will be posted on the GDRO transparency website described in Paragraph 1(b) of this Order.

6. The State Comptroller and the GDRO shall report to the Governor from time to time on the progress of the COVID-19 recovery and the compliance process, and, in doing so, shall indicate whether additional staff and assistance is necessary to ensure accountability, transparency, and the timely expenditure of federal resources.

7. The GDRO and the Taskforce shall be authorized to call upon any department, office, division, or agency of this State to supply them with any information, personnel, or other assistance necessary to discharge their duties under this Order.

8. Each department, office, division, and agency of this State is hereby required, to the extent not inconsistent with law, to cooperate fully with the State Comptroller, the GDRO, and the Taskforce, and to furnish the State Comptroller, the GDRO, and the Taskforce with such information and assistance on as timely a basis as is necessary to accomplish the purposes of this Order.

9. This Order shall take effect immediately.

Dated July 17, 2020.

EXECUTIVE ORDER NO. 167

WHEREAS, Representative John Lewis was born John Robert Lewis on February 21, 1940 in Troy, Alabama, as the son of two sharecroppers; and

WHEREAS, Representative Lewis graduated from the American Baptist Theological Seminary in Nashville and received a Bachelor's degree in Religion and Philosophy from Fisk University; and

WHEREAS, Representative Lewis became heavily involved in the civil rights movement as a student, organizing sit-ins at segregated lunch counters, bus boycotts, and other nonviolent protests, and was arrested and jailed many times for his efforts; and

WHEREAS, in 1961, Representative Lewis became one of the 13 original Freedom Riders, both black and white, who were determined to ride together from Washington, D.C. to New Orleans to pressure the federal government to enforce the U.S. Supreme Court's decision that segregated interstate bus travel was unconstitutional; and

WHEREAS, Representative Lewis and his fellow Freedom Riders were repeatedly beaten and assaulted by racist mobs in states throughout the South, but were not deterred; and

WHEREAS, in 1963, Representative Lewis was elected as chairman of the Student Nonviolent Coordinating Committee (SNCC), which he had helped found, and served as chairman until 1966; and

WHEREAS, while chairman of the SNCC, Representative Lewis was one of the six leaders who organized the March on Washington in 1963, where Dr. Marin Lu-

ther King Jr. delivered his famous "I Have a Dream" speech, and Representative Lewis was the youngest speaker at the March on Washington, at age 23; and

WHEREAS, Representative Lewis coordinated SNCC's efforts for the Freedom Summer in Mississippi, where college students from around the country traveled to Mississippi to help African-Americans register to vote; and

WHEREAS, on March 7, 1965, which became known as "Bloody Sunday", Representative Lewis led over 600 marchers in a peaceful march across the Edmund Pettus Bridge in Selma, Alabama, where they were met by Alabama State Troopers, who discharged tear gas and brutally beat many of the marchers with night sticks; and

WHEREAS, Representative Lewis was beaten so badly that his skull was fractured, but he managed to escape the assault, and even before going to the hospital, appeared on national television to call on President Lyndon Johnson to intervene; and

WHEREAS, Representative Lewis would bear physical scars on his head from that day for the rest of his life; and

WHEREAS, Representative Lewis went on to serve as associate director of the Field Foundation in New York City, director of the Southern Regional Council's Community Organization Project, and director of the Voter Education Project; and

WHEREAS, Representative Lewis served in President Jimmy Carter's administration as associate director of ACTION, which was described as "the federal domestic volunteer agency"; and

WHEREAS, in 1981, Representative Lewis was elected to an at-large seat on the Atlanta City Council, and served in that role until 1986; and

WHEREAS, in 1986, Representative Lewis was elected to represent Georgia's Fifth Congressional District in the U.S. House of Representatives, and was re-elected 16 times, serving nearly 34 years in Congress; and

WHEREAS, during his time in Congress, Representative Lewis was a leading voice for racial justice, LGBTQ rights, national health insurance, comprehensive immigration reform, and gun safety; and

WHEREAS, Representative Lewis voted against and fiercely opposed the war in Iraq that was launched in 2003, and was repeatedly arrested for protesting the genocide in Darfur at the Sudanese embassy; and

WHEREAS, in 1988, Representative Lewis introduced a bill to create a national African-American museum in Washington, D.C., which was blocked for fifteen years, largely due to opposition in the Senate from Southern senators; and

WHEREAS, Representative Lewis continued to fight for the creation of such a museum, and in 2003, his bill was finally passed and signed into law, and the National Museum of African-American History and Culture opened on September 25, 2016; and

WHEREAS, Representative Lewis's autobiography Walking with the Wind: A Memoir of the Movement, was widely acclaimed and won numerous awards, including the Robert F. Kennedy Book Award; and

WHEREAS, Representative Lewis has received numerous awards for his courage, heroism, and leadership, including the Profile in Courage Award from the John F. Kennedy Library Foundation and the Springarn Medal from the NAACP; and

WHEREAS, Representative Lewis was the only living speaker from the March on Washington to be present on stage during Barack Obama's inauguration as the first African-American President, and in 2011, President Obama awarded Representative Lewis the Presidential Medal of Freedom; and

WHEREAS, Representative Lewis married Lillian Miles in 1968, and the two had a son, John-Miles, and remained married until Lillian's death in December 2012; and

WHEREAS, Representative Lewis passed away on July 17, 2020, at the age of 80, from pancreatic cancer; and

WHEREAS, as a towering figure of the civil rights movement, Representative Lewis forever changed America, as his work led to the establishment of civil rights and voting rights for millions of Americans who had been deprived of these basic liberties for centuries; and

WHEREAS, through his commitment, bravery, and sacrifice, Representative Lewis bent the arc of justice and pushed America closer to the ideals of equality and justice that are expressed in our Founding documents, but are not a reality for many Americans to this very day; and

WHEREAS, Representative Lewis continued his fight for economic, social, and racial justice for over three decades in the halls of Congress, as he recognized that the fight for dignity and human rights did not end in the 1960s and now must be carried on by every one of us; and

WHEREAS, Representative Lewis will be sorely missed by his son, John-Miles, his family, his friends, and a country that will forever be in his debt;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours from Saturday, July 18, 2020, through the day of Representative Lewis's interment, in recognition and mourning of an American hero, Representative John Lewis.

2. This Order shall take effect immediately.

Dated July 18, 2020.

EXECUTIVE ORDER NO. 168

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circum-

stances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, and 162, issued on April 7, 2020, May 6, 2020, June 4, 2020, and July 2, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, and Nos. 140-166 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, given the decrease in the rate of reported new cases of COVID-19 in New Jersey, including a reduction in the total number of individuals being admitted to hospitals for COVID-19, the State began to take steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, after consultation with officials from the Department of Health, I announced a multi-stage New Jersey's Road Back Plan for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, organized sports play a crucial role for individuals' physical and mental development, and for a number of athletes, organized sports offer the possibility of collegiate scholarships or other opportunities; and

WHEREAS, on May 29, 2020, I signed Executive Order No. 149, which allowed organized sporting activities to resume on June 22, 2020, in outdoor settings, provided that they did not involve person-to-person contact or individuals routinely interacting in close proximity; and

WHEREAS, Executive Order No. 149 (2020) also directed the Commissioner of the Department of Health to issue health and safety standards regarding sporting activities before June 22, 2020; and

WHEREAS, on June 15, 2020, the Commissioner of the Department of Health issued Guidance for Sports Activities (the "Guidance"), which categorized sports as "High Risk", "Medium Risk", and "Low Risk"; and

WHEREAS, the Guidance stated that practices and competitions for Low Risk sports could resume on June 22, 2020 in outdoor settings, because pursuant to Executive Order No. 149 (2020), they do not involve person-to-person contact and do not routinely entail individuals interacting within six feet of one another; and

WHEREAS, the Guidance noted no-contact practices for Medium Risk and High Risk sports could also resume on June 22, 2020, in outdoor settings, consistent with Executive Order No. 149 (2020); and

WHEREAS, the Guidance also stated that, assuming continued progress in the fight against COVID-19, contact practices and competitions were expected to be able to resume for Medium Risk sports on July 6, 2020; and

WHEREAS, the Guidance further stated, again assuming continued progress in the fight against COVID-19, that contact practices and competitions were expected to be able to resume for High Risk sports on July 20, 2020; and

WHEREAS, such contemplated authorizations of contact practices and competitions in the Guidance would have to be implemented by Executive Order; and

WHEREAS, on July 8, 2020, I issued Executive Order No. 163, which among other things, stated that practices and competitions for Low Risk sports and no-contact practices for High or Medium Risk sports could resume in both outdoor and indoor settings; and

WHEREAS, Executive Order No. 163 (2020) also stated that contact practices and competitions for Medium Risk sports were permitted to resume, but in outdoor settings only; and

WHEREAS, Executive Order No. 163 (2020) noted that contact practices and competitions for High Risk sports remain prohibited in both indoor and outdoor settings; and

WHEREAS, because of our continued progress, we can now allow High Risk sports to resume contact practices and competitions, but such practices and competitions should take place in outdoor settings only, to reduce the risk of transmission; and

WHEREAS, the indefinite prohibition of contact practices and competitions would be highly disruptive to individuals' athletic careers, and could endanger certain opportunities for individuals, such as collegiate scholarships; and

WHEREAS, organized sports typically involve a common, defined group of people interacting, which makes contact tracing easier in the event there are identified cases of COVID-19; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Practices and competitions for sports defined as "Low Risk" by the Department of Health's Guidance are permitted in both outdoor and indoor settings. No-contact practices for sports defined as "High Risk" or "Medium Risk" in the Department of Health's Guidance are permitted to resume in outdoor and indoor settings. Contact practices and competitions for sports defined as "Medium Risk" and "High Risk" in the Department of Health's Guidance are permitted to resume in outdoor settings only. All activities referenced in this Paragraph are subject to the Guidance issued by the Commissioner of the Department of Health, and such activities must comply with all applicable laws, regulations, and Executive Orders, including restrictions on recreational and entertainment businesses in Paragraph 7 of Executive Order No. 157 (2020) and restrictions on gatherings in place at the time the sporting activities occur. Paragraph 13 of Executive Order No. 149 (2020) and Paragraph 6 of Executive Order No. 163 (2020) are superseded to the extent that they are inconsistent with the provisions of this Paragraph.

2. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

3. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order.

4. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

5. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

6. This Order shall take effect immediately, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of the Department of Health as appropriate.

Dated July 20, 2020.

EXECUTIVE ORDER NO. 169

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 (2020) on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, and 162, issued on April 7, 2020, May 6, 2020, June 4, 2020, and July 2, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Ex-

ecutive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-166, and No. 168 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, pursuant to Executive Order No. 120 (2020), the primary elections set to take place on June 2, 2020, were postponed until July 7, 2020 ("July primary elections"), because preparing for elections to take place in June during the potential height of the COVID-19 emergency would have negatively impacted election officials' preparation efforts; and

WHEREAS, Executive Order No. 144 (2020) extended the deadline to certify election results under N.J.S.A. 19:23-55 by five (5) days in order to account for the revised timeframe that Boards of Elections had to receive vote-by-mail ballots for the July 7 primary elections, thereby extending the certification deadline to July 24, 2020; and

WHEREAS, Executive Order No. 164 (2020) postponed the annual meetings in 2020 for municipal party committees to the first Monday after the July primary election results are certified, and postponed the annual meetings in 2020 for county party committees to the first Tuesday after the July primary election results are certified; and

WHEREAS, the annual municipal party committee meetings and the annual county party committee meetings were postponed for 2020 to allow newly elected and re-elected municipal party committee members and county party committee members to be properly seated during their parties' reorganization meetings; and

WHEREAS, not every county held elections for municipal party committees and county party committees during the July primary elections; and

WHEREAS, for those municipal party committees and county party committees that did not have an election to determine their memberships, there is no need for them to postpone their annual meetings in order to properly seat newly elected and re-elected municipal party committee members and county party committee members; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Paragraphs 1 and 2 of Executive Order No. 164 (2020) shall apply only to municipal party committees and county party committees whose memberships were up for election during the July primary elections.

2. This Order shall take effect immediately.

Dated July 20, 2020.

EXECUTIVE ORDER NO. 170

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, and 162, issued on April 7, 2020, May 6, 2020, June 4, 2020, and July 2, 2020 respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted, in whole or in part, in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-159, Nos. 161-166, and Nos. 168-69 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, to protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, as of March 19, 2020, I instructed all State departments and agencies to utilize work-from-home arrangements for both essential and non-essential employees wherever feasible; and

WHEREAS, in recognition that the Centers for Disease Control and Prevention had advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020) to order steps to mitigate community spread of COVID-19; and

WHEREAS, to further limit community spread from person-to-person contact through use of social mitigation measures, Executive Order No. 107 (2020) required, with limited exceptions, New Jersey residents to remain in their place of residence, cancelled all gatherings, and closed all recreational and entertainment businesses; and

WHEREAS, Executive Order No. 107 (2020) also mandated that all businesses and non-profits in the State accommodate their workforce, wherever practicable, for telework or work-from-home arrangements, and reduce staff on site to the minimal number necessary to continue essential operations because restricting the physical presence of individuals in office environments and work sites is critical to preventing future spread of COVID-19; and

WHEREAS, all State offices and Executive Branch departments and agencies have been directed to prioritize addressing immediate public needs, including protecting public health, safety, and the environment, while still trying as much as is practicable to maintain the basic functions of State government, and its many duties, missions, and initiatives; and

WHEREAS, notwithstanding the extraordinary circumstances of the COVID-19 pandemic, certain Executive Branch departments and agencies remain subject to statutory provisions that require agencies to review and act upon certain filings or other authorizations before a specified deadline lest the matter under review be deemed approved; and

WHEREAS, a public health emergency such as the COVID-19 pandemic, and especially my direction to strictly observe social distancing practices, including avoiding all non-essential travel, working remotely, and prioritizing addressing immediate public needs, including protecting public health, safety, and the environment, is an impediment to compliance with the statutory timeframes by Executive Branch agencies; and

WHEREAS, members of the public, including individuals, small businesses, and other entities, may similarly be limited in their ability to act within statutory timeframes and may require additional time due to the interruptions related to the Public Health Emergency and the social distancing and mitigation restrictions imposed; and

WHEREAS, strict enforcement of certain statutory timeframes during and shortly following the ongoing Public Health Emergency could unduly burden the Executive Branch, industry, and members of the public, including individuals, small businesses, and other entities, in ways that would be detrimental to the public welfare, or yield other unintended consequences that will frustrate the fair

achievement of the statute's objectives in a manner that imperils the health, safety, and well-being of New Jersey residents; and

WHEREAS, despite the encouraging decrease in the number of infections, the social distancing requirements that have been in place since March and related COVID-19 concerns have frustrated the ability of State agencies and members of the public to comply with certain statutory deadlines; and

WHEREAS, because of the broad range of regulated activities, it is not appropriate to allow a blanket extension of statutory deadlines which vary with the function or regulated activity at issue; and

WHEREAS, pursuant to N.J.S.A. App. A:9-47, the Governor is authorized to, among other things, suspend any regulatory provision of law when its enforcement is detrimental to the public welfare during an emergency; and

WHEREAS, I have consulted with the Cabinet and other agency heads with regard to the prioritization of government activities and requirements that are most important to guarding the health, safety, and welfare of the residents of our State, and they have identified deadlines that can be postponed without significant detriment to the well-being of the public for limited periods of time; and

WHEREAS, I find that strict enforcement of certain statutory deadlines that fall within or shortly after the period of the Public Health Emergency would be detrimental to the public welfare; and

WHEREAS, I find that extensions of the deadlines identified in the Appendix to this Order are warranted to address the economic impact of COVID-19 upon individuals, businesses, or other non-government entities; to protect public health and safety, including because social distancing policies adopted in response to COVID-19 will make it harder for individuals, businesses, or other non-government entities to meet the deadline; to protect the health and safety of agency personnel, including because social distancing policies adopted in response to COVID-19 will make it harder to meet the deadline; to address other circumstances related to COVID-19 that would make enforcement of the deadline unduly burdensome for individuals, businesses, or other non-government entities; and to address issues arising from the COVID-19 pandemic that would make it unduly burdensome for the agency to adhere strictly to the deadline; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The statutory deadlines, including statutory effective dates, identified in the Appendix to this Order are hereby extended by the amount of time identified in the Appendix.

2. Except as specified in Paragraph 5, for statutory deadlines extended by a specific number of days from the original deadline, the extension shall be available to any person or entity that would have been required to meet such deadline during the Public Health Emergency or within 30 days after the last day of the Public Health Emergency.

3. Except as specified in Paragraph 5, for statutory deadlines extended until a specific number of days or months after the last day of the Public Health Emergency, the extension shall be available to any person or entity that would have been required to meet such deadline during the Public Health Emergency or at any time between the last day of the Public Health Emergency and the new deadline established pursuant to this Order.

4. Except as specified in Paragraph 5, an extension available pursuant to Paragraph 2 or 3 of this Order shall be available regardless of whether the original deadline has already passed.

5. An extension of a statutory deadline after which a filing with any agency or instrumentality of the State government is deemed approved shall be available to the agency only if the original deadline is on or after the date of this Order and within 30 days after the last day of the Public Health Emergency.

6. In addition to extensions available pursuant to Paragraphs 2 and 3 of this Order, this Order also provides extensions to Executive Branch agencies of specific, non-recurring deadlines that occur in 2020 and are identified in the Appendix.

7. For purposes of this Order, the "Public Health Emergency" means the Public Health Emergency declared in Executive Order No. 103 (2020), as extended by Executive Order No. 119 (2020), Executive Order No. 138 (2020), Executive Order No. 151 (2020), Executive Order No. 162 (2020), and any subsequent Executive Order which may further extend such Public Health Emergency.

8. Nothing in this Order is intended to deny or alter the authority of any agency or instrumentality of the State government, or any other person or entity, to request, grant, or consent to any extension that would otherwise be permissible under existing law.

9. In administering the extensions set forth in this Order, each agency shall adopt the least disruptive means of addressing the health and safety concerns of this Order while faithfully enforcing the requirements of the affected statute to the fullest extent.

10. This Order is not intended to, and does not confer any legal rights upon businesses or others whose activities are regulated by New Jersey's agencies, boards, commissions, or departments and shall not be used as a basis for legal challenges to regulations, rules, approvals, permits, licenses or other actions, or to any inaction of the governmental entity subject to it.

11. This Order shall take effect immediately.

Dated July 31, 2020.

EXECUTIVE ORDER NO. 171

WHEREAS, on March 9, 2020, through Executive Order No. 103, the facts and circumstances of which are adopted by reference herein, I declared both a Public Health Emergency and a State of Emergency throughout the State due to the public health hazard created by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, Executive Order No. 103 (2020) described both the symptoms and dangers presented by COVID-19 and the likelihood of community spread across the State, and it recognized the need to use all available statewide authorities to prepare for and respond to COVID-19 cases in New Jersey, to implement appropriate measures to mitigate the spread of COVID-19, and to prepare in the event of an increasing number of individuals requiring medical care or hospitalization; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act ("EHPA"), to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, 135-138, 140-166, and 168-170 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, N.J.S.A. 26:13-3(b) establishes that a Public Health Emergency declared by the Governor shall automatically terminate after 30 days, unless renewed for an additional 30 days through a declaration of the Governor; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on May 6, 2020, I issued Executive Order No. 138, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on June 4, 2020, I issued Executive Order No. 151, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on July 2, 2020, I issued Executive Order No. 162, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, through Executive Order Nos. 119, 138, 151, and 162 (2020), I declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, since the Public Health Emergency was renewed on July 2, 2020, at which time there were over 171,000 positive cases of COVID-19 in New Jersey, the COVID-19 outbreak has continued to present a public health hazard in New Jersey, in the region, and across the United States; and

WHEREAS, as of July 31, 2020, according to the World Health Organization, there were over 17,106,000 confirmed cases of COVID-19 worldwide, with over 668,000 of those cases having resulted in death; and

WHEREAS, as of July 31, 2020, according to the Centers for Disease Control and Prevention (CDC), there were over 4,473,000 confirmed cases of COVID-19 in the United States, with over 151,000 of those cases having resulted in death; and

WHEREAS, as of July 31, 2020, there were over 181,000 positive cases of COVID-19 in New Jersey, with at least 13,944 of those cases having resulted in death; and

WHEREAS, there have been positive cases of COVID-19 in every county in New Jersey, and there have been deaths relating to COVID-19 in every county in New Jersey; and

WHEREAS, due to the significant emergency measures the State has taken in response to COVID-19, there has now been a decrease in the rate of reported new cases of COVID-19 in New Jersey, in the total number of individuals being admitted to hospitals for COVID-19, and in the rate of reproduction for COVID-19 infections in New Jersey; and

WHEREAS, given the progress the State has made based on these emergency measures and after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan (the "Plan") for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, in line with the Plan, the State has been able to relax a number of restrictions, each time tailored to the relative risk the activity presents, and additional restrictions on outdoor and indoor recreational and entertainment businesses have been lifted over the past several months; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, the fact that the spread of COVID-19 has been limited by the State's emergency measures does not in any way suggest that the ongoing public health emergency has dissipated, because absent social distancing measures, public health experts anticipate that the spread of COVID-19 would again significantly increase; and

WHEREAS, the renewal of the declaration of the ongoing public health emergency is necessary to allow the State to continue with the Plan to allow for the methodical and strategic reopening of the State, consistent with the State's authority under the Emergency Health Powers Act; and

WHEREAS, the renewal of the declaration of the ongoing public health emergency is also necessary to ensure that the State can swiftly respond to take all appropriate actions should the rate of reported new cases of COVID-19 in New Jersey, number of individuals being admitted to hospitals for COVID-19, or rate of re-

production for COVID-19 infections in New Jersey increase once more, as we are now seeing in numerous states across the country; and

WHEREAS, the spread of COVID-19 has greatly strained the resources and capabilities of county and municipal governments, including public health agencies, that provide essential services for containing and mitigating the spread of contagious diseases, and the situation is too large in scope to be handled entirely by the normal county and municipal operating services; and

WHEREAS, the facts as set forth above and consultation with the Commissioner of DOH confirm that the spread of COVID-19 in New Jersey constitutes an ongoing public health hazard that threatens and presently endangers the health, safety, and welfare of the residents of one or more municipalities or counties of the State, and it is necessary and appropriate to take action against this public health hazard to protect and maintain the health, safety, and welfare of New Jersey residents and visitors; and

WHEREAS, the facts as set forth above and consultation with the Commissioner of DOH confirm that there exists a public health emergency in the State; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby DECLARE and PROCLAIM that the Public Health Emergency declared in Executive Order No. 103 (2020) pursuant to the EHPA, N.J.S.A. 26:13-1, et seq., continues to exist throughout the State of New Jersey, and I hereby ORDER and DIRECT:

1. All Executive Orders adopted in whole or in part based on the authority under the EHPA to respond to the Public Health Emergency presented by the COVID-19 outbreak remain in full force and effect.

2. All actions taken by any Executive Branch departments and agencies in whole or in part based on the authority under the EHPA to respond to the Public Health Emergency presented by the COVID-19 outbreak, or in whole or in part based on authority delegated by any Executive Orders described in Paragraph 1 of this Order, including but not limited to any Administrative Orders, remain in full force and effect.

3. For purposes of this Order, "Executive Branch departments and agencies" shall mean any of the principal departments in the Executive Branch of State government and any agency, authority, board, bureau, commission, division, institution, office, or other instrumentality within or created by any such department, and any independent State authority, commission, instrumentality, or agency over

which the Governor exercises executive authority, as determined by the Attorney General.

4. This Order shall take effect immediately.

Dated August 1, 2020.

EXECUTIVE ORDER NO. 172

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, and 171, issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, and August 1, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserved the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, pursuant to N.J.S.A. App. A:9-47, the Governor is authorized to, among other things, suspend any regulatory provision of law when its enforcement is detrimental to the public welfare during an emergency; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act, N.J.S.A. App. A:9-33 et seq., and the Emergency Health Powers Act, N.J.S.A. 26:13-1 et seq., to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-166 (2020), and Nos. 168–171 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, pursuant to N.J.S.A. 52:14-17.26, N.J.S.A. 52:14-17.31, N.J.A.C. 17:9-2.6 (for State employees and dependents), and N.J.A.C. 17:9-2.7 (for local government employees and dependents), there is a waiting period before a new hire becomes eligible for participation in the State Health Benefits Program ("SHBP"); and

WHEREAS, on April 6, 2020, through Executive Order No. 115, the facts and circumstances of which are adopted by reference herein, I recognized that new employees hired by State departments, agencies, boards, commissions and independent authorities and local municipal and county governments in response to the COVID-19 pandemic will need and desire to have health insurance coverage

under the SHBP immediately upon hire, and cannot feasibly complete the waiting period under State law between the date of hire of a new employee and the new employee becoming eligible to participate in the SHBP; and

WHEREAS, workers are commencing employment in, and certain workers are returning from furloughs or other circumstances in which they did not retain health benefits through SHBP or maintain health benefits through COBRA to, positions that allow the workers to participate in the SHBP ("New or Returning Employees"), but these workers are not necessarily hired specifically to respond to the COVID-19 pandemic as required to enroll immediately upon hiring in the SHBP pursuant to Executive Order No. 115 (2020); and

WHEREAS, the statutory scheme described herein could result in new employees not having access to health benefits during a pandemic, when seamless access to health care, including preventive services as well as care relating to COVID-19, is of the utmost importance, and the State needs these employees to promptly seek and receive medical services related to COVID-19; and

WHERAS, the employment of skilled professionals is essential to the State's response to the COVID-19 pandemic and the lack of health benefits coverage for newly hired personnel may serve as a deterrent to attracting and hiring staff with the necessary skills to respond to the pandemic; and

WHEREAS, when employees are hired to work in positions that increase their risk of exposure to COVID-19, there is a compelling reason to ensure that such employees have immediate access to health benefits coverage; and

WHEREAS, a healthy workforce decreases absenteeism, reduces long-term employer costs, increases worker morale, and improves talent acquisition and retention; and

WHEREAS, comprehensive health benefits coverage commencing immediately upon employment will foster a healthy workforce, particularly during an emergency when a pandemic poses health risks for all residents and when the State must be able to rely on stability in its workforce; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. For the duration of this Public Health Emergency, any New or Returning Employee who is hired on or after the date of issuance of Executive Order No. 103 (2020) may immediately enroll in the SHBP.

2. The requirement of Paragraph 5 of Executive Order No. 115 (2020) mandating that a person must be hired for the purpose of responding to the COVID-19 pan-

demic in order to be eligible to enroll immediately upon hiring in the SHBP is hereby superseded.

3. To the degree that they are inconsistent with this Order, the provisions of N.J.S.A. 52:14-17.26, N.J.S.A. 52:14-17.31, N.J.A.C. 17:9-2.6 (for State employees and dependents), and N.J.A.C. 17:9-2.7 (for local government employees and dependents), requiring a waiting period to become eligible for participation in the SHBP, are suspended for the duration of this Public Health Emergency. Any provisions of these statutes and regulations that are not inconsistent with this Order shall remain in full force and effect.

4. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order, and to cooperate fully with Administrative Orders issued pursuant to this Order.

5. This Order shall take effect immediately and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of the Department of Health as appropriate.

Dated August 3, 2020.

EXECUTIVE ORDER NO. 173

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, and 171, issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, and August 1, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, and Nos. 140-166,

and 168-172 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, among these actions, and in recognition that the Centers for Disease Control and Prevention ("CDC") has advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020) to order steps to mitigate community spread of COVID-19, including to cancel all gatherings in the State; and

WHEREAS, given the previous decrease in the rate of reported new cases of COVID-19 in New Jersey, including a reduction in the total number of individuals being admitted to hospitals for COVID-19, and in the rate of reproduction for COVID-19 infections in New Jersey, the State has taken steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even when the rate of reported new cases of COVID-19 is decreasing, the ongoing risks presented by COVID-19 mean that many protective measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, the State is in the second phase of the reopening process and has relaxed a number of restrictions on activities where appropriately safeguarded; and

WHEREAS, the CDC has issued guidance for mass gatherings or large community events, such as conferences, festivals, parades, concerts, sporting events, and other potentially super-spreading events, recognizing that gatherings can significantly contribute to the spread of COVID-19 and introduce the virus to new communities through increased transmission to a large number of people in a short period of time, and states throughout the region previously canceled all such events; and

WHEREAS, the CDC recognizes that the stringency of any limit on gatherings should be tailored to the significance of COVID-19 transmission in the State and region, meaning that as the spread of COVID-19 decreases or increases in a State, the State can both reduce and raise again its limits on indoor and outdoor gatherings; and

WHEREAS, the fact that the spread of COVID-19 has been limited by the State's emergency measures does not in any way suggest that restrictions on gatherings can be lifted altogether, because absent social distancing measures, public health experts anticipate that the spread of COVID-19 would again significantly increase, and indeed COVID-19 has been spreading again in other regions of the country that did not adopt similar measures, or that lifted such measures more abruptly; and

WHEREAS, the restrictions on indoor gatherings that remain in place may be more stringent than the restrictions that are in place for indoor retail settings, because in such retail settings individuals neither congregate in large groups nor remain in close proximity for extended periods, which are factors that have been linked to the increased risk of COVID-19 transmission; and

WHEREAS, consistent with the above principles, I signed a series of Executive Orders gradually lifting restrictions on both outdoor and indoor gatherings and allowing a greater number of individuals at outdoor gatherings, given the reduced risk of COVID-19 transmission outdoors; and

WHEREAS, the most recent of these Orders was Executive Order No. 161 (2020), which raised the limit on outdoor gatherings to 500 persons, with exceptions for religious services or political activities, such as protests, while leaving the limit on the number of persons at indoor gatherings at 25% of the capacity of the room in which it takes place, and stating that such limit, regardless of the capacity of the room, shall never allow a gathering to be larger than 100 persons or require the gathering to be smaller than 10 persons; and

WHEREAS, at least one cluster of COVID-19 has been traced back to a house party in Middletown, consistent with the role indoor gatherings have played in leading to further spikes of COVID-19 in other states and countries; and

WHEREAS, public health experts have advised that outdoor environments present reduced risks of transmission as compared to indoor environments; and

WHEREAS, the rate of transmission has increased over the last two weeks, and over the last two weeks, the seven-day rolling average of the number of cases has increased from between 200 and 300 each day to between 400 and 500 each day; and

WHEREAS, the combination of evidence tracing clusters of COVID-19 to indoor gatherings and the overall statewide increase in the rate of transmission means that it is appropriate to reduce the limits on indoor gatherings at the current time, while making no change to the higher limit for outdoor gatherings; and

WHEREAS, as I noted when issuing Executive Order No. 152 (2020), certain gatherings, including religious services and political activity, are particularly important to the functioning of the State and society, and restrictions on these gatherings can be relaxed to a greater extent than restrictions on other gatherings, as other states have repeatedly recognized; and

WHEREAS, certain events such as wedding ceremonies, funerals, and memorial services, whether religious in nature or not, which typically happen once in a lifetime, provide benefits to the well-being of the participants such that they can be treated differently from casual social gatherings such as house parties and birthday parties, which occur on a more frequent basis and typically do not present the same compelling societal need; and

WHEREAS, a number of other states have treated wedding ceremonies, funerals, and memorial services similarly to religious gatherings, subjecting them to similar capacity limits for the very reasons described above; and

WHEREAS, indoor wedding ceremonies and memorial services may have been planned under the current capacity limits, and often with social distancing protocols set up well in advance, and suddenly changing the applicable limits for these events would be highly disruptive; and

WHEREAS, events such as wedding ceremonies, funerals, and memorial services typically include a defined list of attendees, which makes it easier for contract tracing to occur; and

WHEREAS, the informal nature of house parties also makes it especially hard to engage in contact tracing, as well as to monitor and to enforce the requirements to wear masks and engage in social distancing, which stands in sharp contrast to wedding ceremonies, funerals, and memorial services; and

WHEREAS, reducing the limits on indoor gatherings other than religious services or celebrations, political activities, wedding ceremonies, funerals, and memorial services from a maximum of 100 persons to a maximum of 25 persons will both help reduce the spread of COVID-19 and reduce the burden on our contact tracing program; and

WHEREAS, all indoor gatherings, whatever their nature, must continue to utilize protective measures, including use of masks and social distancing; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Paragraph 1 of Executive Order No. 156 (2020) is hereby rescinded and the number of individuals at indoor gatherings that are not religious services or celebrations, political activities, wedding ceremonies, funerals, or memorial services shall be limited to 25% of the capacity of the room in which it takes place, but regardless of the capacity of the room, such limit shall never be larger than 25 persons or smaller than 10 persons. The number of individuals at indoor gatherings that are religious services or celebrations, political activities, wedding ceremonies, funerals, or memorial services shall be limited to 25% of the capacity of the room in which it takes place, but regardless of the capacity of the room, such limit shall never be larger than 100 persons or smaller than 10 persons. For purposes of this Paragraph, any private residence or residential unit shall be treated as a single "room".

2. While the numerical limits on indoor gatherings in Paragraph 1(a) of Executive Order No. 152 (2020) are hereby superseded, all other requirements for indoor gatherings contained in Paragraph 1 of Executive Order No. 152 (2020) shall remain in effect.

3. Any requirements in any Executive Order, Administrative Order, or agency directive that incorporated by reference the limits on gatherings in Executive Order Nos. 107, 142, 148, 152, 156, and/or 161 (2020) are hereby amended to reflect the rules on gatherings stated in this Order. Legislative proceedings of state, county, or local government are not subject to the capacity limits on gatherings in this or any other applicable Executive Order.

4. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

5. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order, and to cooperate fully with Administrative Orders issued pursuant to this Order.

6. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

7. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

8. This Order shall take effect at 6:00 a.m. on Tuesday, August 4, 2020, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated August 3, 2020.

EXECUTIVE ORDER NO. 173

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, and 171, issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, and August 1, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, and Nos. 140-166, and 168-172 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, among these actions, and in recognition that the Centers for Disease Control and Prevention ("CDC") has advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020) to order steps to mitigate community spread of COVID-19, including to cancel all gatherings in the State; and

WHEREAS, given the previous decrease in the rate of reported new cases of COVID-19 in New Jersey, including a reduction in the total number of individuals being admitted to hospitals for COVID-19, and in the rate of reproduction for COVID-19 infections in New Jersey, the State has taken steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even when the rate of reported new cases of COVID-19 is decreasing, the ongoing risks presented by COVID-19 mean that many protective measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, the State is in the second phase of the reopening process and has relaxed a number of restrictions on activities where appropriately safeguarded; and

WHEREAS, the CDC has issued guidance for mass gatherings or large community events, such as conferences, festivals, parades, concerts, sporting events, and other potentially super-spreading events, recognizing that gatherings can significantly contribute to the spread of COVID-19 and introduce the virus to new communities through increased transmission to a large number of people in a short period of time, and states throughout the region previously canceled all such events; and

WHEREAS, the CDC recognizes that the stringency of any limit on gatherings should be tailored to the significance of COVID-19 transmission in the State and region, meaning that as the spread of COVID-19 decreases or increases in a State, the State can both reduce and raise again its limits on indoor and outdoor gatherings; and

WHEREAS, the fact that the spread of COVID-19 has been limited by the State's emergency measures does not in any way suggest that restrictions on gatherings can be lifted altogether, because absent social distancing measures, public health experts anticipate that the spread of COVID-19 would again significantly increase, and indeed COVID-19 has been spreading again in other regions of the country that did not adopt similar measures, or that lifted such measures more abruptly; and

WHEREAS, the restrictions on indoor gatherings that remain in place may be more stringent than the restrictions that are in place for indoor retail settings, because in such retail settings individuals neither congregate in large groups nor remain in close proximity for extended periods, which are factors that have been linked to the increased risk of COVID-19 transmission; and

WHEREAS, consistent with the above principles, I signed a series of Executive Orders gradually lifting restrictions on both outdoor and indoor gatherings and allowing a greater number of individuals at outdoor gatherings, given the reduced risk of COVID-19 transmission outdoors; and

WHEREAS, the most recent of these Orders was Executive Order No. 161 (2020), which raised the limit on outdoor gatherings to 500 persons, with exceptions for religious services or political activities, such as protests, while leaving the limit on the number of persons at indoor gatherings at 25% of the capacity of the room in which it takes place, and stating that such limit, regardless of the capacity of the room, shall never allow a gathering to be larger than 100 persons or require the gathering to be smaller than 10 persons; and

WHEREAS, at least one cluster of COVID-19 has been traced back to a house party in Middletown, consistent with the role indoor gatherings have played in leading to further spikes of COVID-19 in other states and countries; and

WHEREAS, public health experts have advised that outdoor environments present reduced risks of transmission as compared to indoor environments; and

WHEREAS, the rate of transmission has increased over the last two weeks, and over the last two weeks, the seven-day rolling average of the number of cases has increased from between 200 and 300 each day to between 400 and 500 each day; and

WHEREAS, the combination of evidence tracing clusters of COVID-19 to indoor gatherings and the overall statewide increase in the rate of transmission means that it is appropriate to reduce the limits on indoor gatherings at the current time, while making no change to the higher limit for outdoor gatherings; and

WHEREAS, as I noted when issuing Executive Order No. 152 (2020), certain gatherings, including religious services and political activity, are particularly important to the functioning of the State and society, and restrictions on these gatherings can be relaxed to a greater extent than restrictions on other gatherings, as other states have repeatedly recognized; and

WHEREAS, certain events such as wedding ceremonies, funerals, and memorial services, whether religious in nature or not, which typically happen once in a lifetime, provide benefits to the well-being of the participants such that they can be

treated differently from casual social gatherings such as house parties and birthday parties, which occur on a more frequent basis and typically do not present the same compelling societal need; and

WHEREAS, a number of other states have treated wedding ceremonies, funerals, and memorial services similarly to religious gatherings, subjecting them to similar capacity limits for the very reasons described above; and

WHEREAS, indoor wedding ceremonies and memorial services may have been planned under the current capacity limits, and often with social distancing protocols set up well in advance, and suddenly changing the applicable limits for these events would be highly disruptive; and

WHEREAS, events such as wedding ceremonies, funerals, and memorial services typically include a defined list of attendees, which makes it easier for contract tracing to occur; and

WHEREAS, the informal nature of house parties also makes it especially hard to engage in contact tracing, as well as to monitor and to enforce the requirements to wear masks and engage in social distancing, which stands in sharp contrast to wedding ceremonies, funerals, and memorial services; and

WHEREAS, reducing the limits on indoor gatherings other than religious services or celebrations, political activities, wedding ceremonies, funerals, and memorial services from a maximum of 100 persons to a maximum of 25 persons will both help reduce the spread of COVID-19 and reduce the burden on our contact tracing program; and

WHEREAS, all indoor gatherings, whatever their nature, must continue to utilize protective measures, including use of masks and social distancing; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Paragraph 1 of Executive Order No. 156 (2020) is hereby rescinded and the number of individuals at indoor gatherings that are not religious services or celebrations, political activities, wedding ceremonies, funerals, or memorial services shall be limited to 25% of the capacity of the room in which it takes place, but regardless of the capacity of the room, such limit shall never be larger than 25 persons or smaller than 10 persons. The number of individuals at indoor gatherings that are religious services or celebrations, political activities, wedding ceremonies, funerals, or memorial services shall be limited to 25% of the capacity of the room in which it takes place, but regardless of the capacity of the room, such limit shall never be larger than 100 persons or smaller than 10 persons. For purposes of this

Paragraph, any private residence or residential unit shall be treated as a single "room".

2. While the numerical limits on indoor gatherings in Paragraph 1(a) of Executive Order No. 152 (2020) are hereby superseded, all other requirements for indoor gatherings contained in Paragraph 1 of Executive Order No. 152 (2020) shall remain in effect.

3. Any requirements in any Executive Order, Administrative Order, or agency directive that incorporated by reference the limits on gatherings in Executive Order Nos. 107, 142, 148, 152, 156, and/or 161 (2020) are hereby amended to reflect the rules on gatherings stated in this Order. Legislative proceedings of state, county, or local government are not subject to the capacity limits on gatherings in this or any other applicable Executive Order.

4. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

5. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order, and to cooperate fully with Administrative Orders issued pursuant to this Order.

6. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

7. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

8. This Order shall take effect at 6:00 a.m. on Tuesday, August 4, 2020, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated August 3, 2020.

EXECUTIVE ORDER NO. 174

WHEREAS, the National Weather Service is forecasting that Hurricane Isaias will impact New Jersey beginning early on August 4, 2020, bringing the potential for severe weather conditions including hurricane force winds and heavy and sustained rainfall of up to 4 to 6 inches; and

WHEREAS, these severe weather conditions may cause downed trees and power lines, tornado activity, stream and river flooding, and possible coastal flooding with storm surge of 1 to 3 feet; and

WHEREAS, these impending weather conditions may endanger lives, threaten residences and other structures, jeopardize public and private property, cause power

outages, disrupt transportation and the flow of traffic in New Jersey, and impede the normal operation of public and private entities; and

WHEREAS, these severe weather conditions may make it difficult or impossible for citizens to obtain the necessities of life, as well as essential services such as police, fire, and first aid; and

WHEREAS, this situation constitutes an imminent hazard that threatens and presently endangers the health, safety, and resources of the residents of the State; and

WHEREAS, the State is still contending with the ongoing impacts of the Coronavirus disease 2019 pandemic, which has already strained State and local resources; and

WHEREAS, this situation may become too large in scope to be handled by the normal county and municipal operating services in some parts of this State, and may spread to other parts of the State; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. App. A:9-33, et seq., N.J.S.A. 38A:3-6.1, N.J.S.A. 38A:2-4, and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, in order to protect the health, safety, and welfare of the people of the State of New Jersey, do DECLARE AND PROCLAIM that a State of Emergency exists throughout the State of New Jersey effective at 5:00 a.m. on August 4, 2020; and I hereby ORDER and DIRECT the following:

1. I authorize and empower the State Director of Emergency Management, who is the Superintendent of State Police, to implement the State Emergency Operations Plan and to direct the activation of county and municipal emergency operations plans, as necessary, and to coordinate the preparation, response, and recovery efforts for this emergency with all governmental agencies, volunteer organizations, and the private sector.

2. I authorize and empower the State Director of Emergency Management, in accordance with N.J.S.A. App. A:9-33, et seq., as supplemented and amended, through the police agencies under his control, to determine and control the direction of the flow of vehicular traffic on any State or interstate highway, municipal or county road, and any access road, including the right to detour, reroute, or divert any or all traffic and to prevent ingress or egress from any area that, in the State Director's discretion, is deemed necessary for the protection of the health, safety, and welfare of the public, and to remove parked or abandoned vehicles from such roadways as conditions warrant.

3. I authorize and empower the Attorney General, pursuant to the provisions of N.J.S.A. 39:4-213, acting through the Superintendent of State Police, to determine and control the direction of the flow of vehicular traffic on any State or interstate highway, municipal or county road, or any access road, including the right to detour, reroute, or divert any or all traffic, and to prevent ingress or egress, and to

determine the type of vehicle or vehicles to be operated on such roadways. I further authorize all law enforcement officers to enforce any such order of the Attorney General or Superintendent of State Police within their respective municipalities or jurisdictions.

4. I authorize and empower the State Director of Emergency Management to order the evacuation of all persons, except for those emergency, governmental, or essential personnel whose presence the State Director deems necessary, from any area where their continued presence would present a danger to their health, safety, or welfare because of the conditions created by this emergency.

5. I authorize and empower the State Director of Emergency Management to utilize all facilities owned, rented, operated, and maintained by the State of New Jersey to house and shelter persons who may need to be evacuated from a residence, dwelling, building, structure, or vehicle during the course of this emergency.

6. I authorize and empower the executive head of any agency or instrumentality of the State government with authority to promulgate rules to waive, suspend, or modify any existing rule, the enforcement of which would be detrimental to the public welfare during this emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary for the duration of this Order, subject to my prior approval and in consultation with the State Director of Emergency Management. Any such waiver, modification, or suspension shall be promulgated in accordance with N.J.S.A. App. A:9-45.

7. I authorize and empower the Adjutant General, in accordance with N.J.S.A. 38A:2-4 and N.J.S.A. 38A:3-6.1, to order to active duty such members of the New Jersey National Guard who, in the Adjutant General's judgment, are necessary to provide aid to those localities where there is a threat or danger to the public health, safety, and welfare and to authorize the employment of any supporting vehicles, equipment, communications, or supplies as may be necessary to support the members so ordered.

8. In accordance with N.J.S.A. App. A:9-34 and -51, as supplemented and amended, I reserve the right to utilize and employ all available resources of the State government and of each and every political subdivision of the State, whether of persons, properties, or instrumentalities, and to commandeer and utilize any personal services and any privately owned property necessary to protect against this emergency.

9. In accordance with N.J.S.A. App. A:9-40, no municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will in any way interfere with or impede the achievement of the purposes of this Order.

10. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatso-

ever, to cooperate fully with the State Director of Emergency Management in all matters concerning this State of Emergency.

11. In accordance with N.J.S.A. App. A:9-34, N.J.S.A. App. A:9-40.6, and N.J.S.A. 40A:14-156.4, no municipality or public or semipublic agency shall send public works, fire, police, emergency medical, or other personnel or equipment into any non-contiguous disaster-stricken municipality within this State, nor to any disaster-stricken municipality outside this State, unless and until such aid has been directed by the county emergency management coordinator or his deputies in consultation with the State Director of Emergency Management.

12. This Order shall take effect at 5:00 a.m. on August 4, 2020, and shall remain in effect until such time as it is determined by me that an emergency no longer exists.

Dated August 3, 2020.

EXECUTIVE ORDER NO. 175

WHEREAS, on March 9, 2020, through Executive Order No. 103, the facts and circumstances of which are adopted by reference herein, I declared both a Public Health Emergency and a State of Emergency throughout the State due to the public health hazard created by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, and 171 issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, and August 1, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-166, and Nos. 168-173 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, to protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 (2020) on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19, including the

closure of all public, private, and parochial preschool program premises, and elementary and secondary schools, including charter and renaissance schools, to students and the cessation of in-person instruction at all private and public institutions of higher education; and

WHEREAS, to further limit community spread from person-to-person contact through use of social mitigation measures, Executive Order No. 107 (2020) required all public, private, and parochial preschool program premises, and elementary and secondary schools, including charter and renaissance schools, to continue to remain closed to students and required all public and private institutions of higher education to continue to cease in-person instruction; and

WHEREAS, in light of month-to-month decreases in the rate of reported new cases of COVID-19 in New Jersey, the State began to take steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreased, the ongoing risks presented by COVID-19 meant that many of the State's measures remained in place, both to reduce additional new infections and to save lives; and

WHEREAS, after consultation with officials from the Department of Health, I announced a multi-stage New Jersey's Road Back Plan ("Road Back Plan") for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, consistent with the Road Back Plan, I issued Executive Order No. 149 (2020), which authorized the gradual restart of ordinary child care services, certain youth sporting activities, and summer camps, including public and nonpublic school district-operated summer educational programming, with social distancing and infection control requirements, Executive Order No. 155 (2020), which permitted the resumption of limited in-person instruction at institutions of higher education, Executive Order No. 157 (2020), which permitted indoor recreational facilities to resume operations in accordance with certain health and safety restrictions, and Executive Order No. 168 (2020), which allowed for the resumption of contact sport practices and competitions for certain organized sports in outdoor settings; and

WHEREAS, the resumption of youth sports activities, youth summer camps, and school district-operated summer educational programs, with appropriate health and safety protocols, have not resulted in any notable increase in New Jersey's number of COVID-19 cases; and

WHEREAS, the Department of Education has determined that in-person instruction provides students with academic, social, emotional, and mental health supports that cannot be provided with the same level of efficacy in a remote setting; and

WHEREAS, the Department of Education has found that reopening schools for in-person instruction is critical in facilitating the social and emotional health of students and providing educators with the ability to actively participate in student learning, provide feedback, and promote active learning among students on a daily basis; and

WHEREAS, the American Academy of Pediatrics has determined that in-person instruction is preferred over other forms of instructional delivery for reasons such as addressing and preventing learning loss, attending to students' social and emotional wellbeing, and minimizing educational inequities resulting from the remote learning model; and

WHEREAS, New Jersey's schools serve a critical function for the State's workforce, in that they provide safe supervision of children during the day, allowing parents and guardians to work and move the economy forward; and

WHEREAS, in order to provide the many benefits of in-person instruction, New Jersey public and private schools alike must ensure that the school environment is safe for both students and staff; and

WHEREAS, access to school buildings is not available to the general public and the individuals present in a school building do not vary from day to day, which creates a lesser risk of COVID-19 transmission than exists in spaces generally open to the public and makes contact tracing substantially easier in the event of an outbreak; and

WHEREAS, a school district may need additional time to properly implement the health and safety precautions necessary to return any portion of the student population to in-person instruction, potentially making it necessary for such district to begin the 2020-2021 school year with remote instruction for all students; and

WHEREAS, those school districts that are unable to meet the necessary health and safety precautions must actively strive to address any deficiencies in order to return all or a portion of its student population to in-person instruction at the earliest possible date; and

WHEREAS, it is necessary for families to have the option to engage in full-time remote learning, even where a school district is providing in-person instruction; and

WHEREAS, unlike other activities that can take place without gathering limits outdoors, education-related activities cannot be readily relocated outdoors for many reasons, including the need for continuous supervision of children, which is considerably more difficult in outdoor settings; and

WHEREAS, because education-related activities often take place over the course of a full school day and happen every weekday, it is much more difficult to stagger the time that students spend in educational facilities; and

WHEREAS, pursuant to N.J.S.A. 18A:6-123(b)(2) and (4), measures of student growth based on standardized assessments are a component of gauging student progress in overall educator evaluations; and

WHEREAS, the cancellation of statewide assessments for the Spring 2020 testing window pursuant to Executive Order No. 117 (2020) resulted in reduced availability of data regarding student achievement and performance; and

WHEREAS, due to the lack of standardized assessment data for the 2019-2020 school year, it will not be possible to measure student growth through multiple objective measures from the 2019-2020 school year as a measure for overall educator evaluations as required by N.J.S.A. 18A:6-123(b)(2) and (4); and

WHEREAS, overall educator evaluations consist of additional categories that remain unaffected by the cancellation of statewide assessments for the Spring 2020 testing window and thus will serve as accurate measures of teacher performance for the 2020-2021 school year; and

WHEREAS, it is appropriate to allow institutions of higher education to resume in-person instruction not previously permitted under Executive Order No. 155 (2020) while adhering to necessary health and safety standards; and

WHEREAS, cafeterias and other designated eating areas within public and private school buildings and institutions of higher education play essential roles in the provision of meals to students, faculty, and staff, and allow for the safe and cleanly consumption of meals; and

WHEREAS, cafeterias and other designated eating areas within public and private school buildings and institutions of higher education are not open to the general public in the same manner as traditional indoor dining establishments, thus creating decreased risk of transmission of COVID-19 when appropriate health and safety protocols are in place; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Effective immediately, Executive Order Nos. 104 (2020) and 107 (2020) are hereby superseded to the extent that they require all public, private, and parochial preschool program premises, and elementary and secondary schools, including charter and renaissance schools (collectively "school districts"), to remain closed.

2. All school districts that reopen for full or part-time in-person instruction must meet the following health and safety standards, delineated in the Department of Education's "Checklist for Re-Opening of School 2020-2021" and detailed in "The Road Back: Restart and Recovery Plan for Education" which include, but are not limited to the following:

a. At least six (6) feet of distance between individuals in all settings to the greatest extent practicable or social distancing modifications, such as a physical barrier or turning desks to face the same direction, when six (6) feet of distance cannot be achieved;

b. Mandatory use of face coverings by staff, students, and visitors, except in the following circumstances:

i. When doing so would inhibit the individual's health;

ii. When the individual is exposed to extreme heat outdoors;

iii. When the individual has trouble breathing, is unconscious, incapacitated, or otherwise unable to remove a face covering without assistance;

iv. When a student's documented medical condition or disability, as reflected in an Individualized Education Program (IEP) or Educational Plan pursuant to Section 504 of the Rehabilitation Act of 1973, precludes the use of a face covering;

v. When the individual is under two (2) years of age;

vi. When the individual is eating or drinking;

vii. When the individual is engaged in high-intensity aerobic or anerobic activity;

viii. When a student is participating in high-intensity physical activities during a physical education class in a well-ventilated location and able to maintain a physical distance of six feet from all other individuals;

ix. When a student, as part of music instruction, is playing an instrument that would be obstructed by the face covering; or

x. When wearing a face covering creates an unsafe condition in which to operate equipment or execute a task.

c. Routine cleaning and sanitization of classrooms, lunchrooms, gymnasiums, restrooms, high-trafficked areas such as hallways, high-touch areas such as light switches and door knobs, and shared surfaces;

d. The facilitation of student hand washing at frequent intervals, or use of alcohol-based hand sanitizer if soap and water are not readily available;

e. Use of face coverings and social distancing procedures to the extent practicable and cleaning protocols on school buses if students are bussed to and from school;

f. Student and staff health screenings;

g. Implementation of enhanced social distancing and infection control protocols for music, choir, and physical education classes that are conducted in indoor spaces, particularly where students are not wearing face coverings;

h. A plan for response to students and staff that exhibit symptoms of COVID-19, which must include coordination with the local health department and procedures for isolating symptomatic students and staff;

i. A plan detailing the response when students and/or staff test positive for COVID-19, which must include coordination with the local health department and procedures for isolating any students or staff who learn of a positive test result while on school grounds;

j. Coordination with the local health department to support contact tracing efforts;

k. A plan to ensure that indoor facilities have adequate ventilation;

l. Implementation of social distancing and infection control practices during recess and physical education periods; and

m. Procedures for resumption of athletics programs and extracurriculars, if applicable.

3. Public preschool, elementary, and secondary schools, including county vocational schools, charter schools, and renaissance schools (collectively "public school

districts"), shall resume partial or full-time in-person instruction during the fall of school year 2020-2021.

4. Public school districts shall submit a reopening plan (the "Plan") to the Department of Education at minimum thirty days prior to the first day of school. A public school district that has already submitted such Plan pursuant to the standards outlined in "The Road Back: Restart and Recovery Plan for Education" will be considered to have satisfied this requirement if the Plan is otherwise consistent with the requirements of this Order. In addition to the Plan, a minimum of seven days prior to the first day of school, the chief school administrator or his/her designee must also certify to the Department of Education that the district has policies and procedures in place to meet the minimum health and safety standards set forth in Paragraph 2.

5. Nonpublic schools shall also create and maintain reopening plans. Those schools that intend to resume partial or full-time in-person instruction during the fall of 2020-2021 school year must certify to the Department of Education that the school has policies and procedures in place to meet the minimum health and safety standards set forth in Paragraph 2 of this Order.

6. School districts that resume partial or full-time in-person instruction shall permit students to engage in full-time remote learning upon the request of a parent or guardian, subject to the Department of Education's July 24, 2020 "Clarifying Expectations Regarding Full-time Remote Learning Options for Families in 2020-2021." School districts must implement a policy that, at a minimum, addresses the following:

a. Unconditional eligibility for full-time remote learning;

b. Procedures for parent or guardian submission of full-time remote learning requests;

c. The scope and expectations of full-time remote learning;

d. Procedures to transition from full-time remote learning to in-person instruction and services;

e. Reporting data to the Department of Education regarding participation in full-time remote learning. Data must include number of students participating in full-time remote learning by each of the following subgroups: economically disadvantaged; major racial and ethnic groups; students with disabilities; and English learners; and

f. Procedures for communicating the school district's full-time remote learning policy to school district families.

7. Public school districts that are or become unable to satisfy the health and safety requirements for in-person instruction, as detailed in Paragraph 2 of this Order, may provide full-time remote instruction to all students pursuant to N.J.S.A. 18A:7F-9.

8. Public school districts that determine that they cannot provide in-person instruction pursuant to Paragraph 7 of this Order must submit documentation to the Department of Education that identifies:

a. The school building(s) or grade level(s) within the district that will provide full-time remote instruction;

b. The specific health and safety standard(s) listed in Paragraph 2 of this Order that the school is unable to satisfy;

c. The school's anticipated efforts to satisfy the identified health and safety standard(s); and

d. A date by which the school anticipates the resumption of in-person instruction. Such documentation must be submitted at minimum one week prior to the public school district's first day of school.

9. The Department of Education, by way of executive county superintendents, shall request periodic updates from the chief school administrator of a public school district offering only remote instruction in accordance with Paragraphs 8 and 9 of this Order to demonstrate that the school district is actively engaged in good-faith efforts towards the resumption of in-person instruction.

10. All instruction, whether in-person instruction or remote instruction, for the 2020-2021 year shall adhere to the following requirements, and any other requirements imposed by Order, statute, or regulation:

a. A school day, whether in-person or remote must consist of at least four (4) hours of active instruction to students by an appropriately certified teacher, except that one continuous session of two and one-half hours may be considered a full day in kindergarten, pursuant to N.J.A.C. 6A:32-8.3.

b. District and school policies for attendance and instructional contact time will need to accommodate opportunities for both synchronous and asynchronous instruction, while ensuring the requirements for a 180-day school year are met pursuant to N.J.S.A. 18A:7F-9.

c. All instructional time shall be provided in accordance with the New Jersey Student Learning Standards.

11. All school districts participating in the National School Lunch and Breakfast Programs, regardless of whether they are required to participate or voluntarily opt-in to the programs, must offer the required meals to all children, regardless of eligibility, when the school day involves at least four hours of in-person or remote instruction.

12. For the 2020-2021 school year, N.J.S.A. 18A:6-123(b)(2) and (4) shall be waived and student growth data based on standardized assessment or student growth percentile shall not be used as a measure of educator effectiveness in the overall evaluation of any educator.

13. Effective immediately, degree-granting institutions of higher education may resume all in-person instruction not previously permitted in Executive Order No. 155 (2020). Institutions must provide students with the option of participation via remote instruction to the extent practicable.

14. In resuming in-person instruction, a degree-granting institution of higher education shall continue to adhere to the requirements of Paragraph 4 of Executive Order No. 155 (2020) as addressed in the restart plan submitted by the institution to

the Office of the Secretary of Higher Education, and any other requirements established by Order, statute, or regulation.

15. Nothing in Paragraph 13 of this Order shall be construed to preclude degree-granting institutions of higher education from continuing to provide instruction and services to students and members of the public in a form other than in-person instruction.

16. Paragraph 8 of Executive Order No. 107 (2020), which prohibits in-person dining at certain establishments that are open to the public, shall not apply to school district cafeterias or dining halls operated by degree-granting institutions of higher education, provided that social distancing can be maintained and access is limited to staff and students and is not available to the general public. In-person dining at degree-granting institutions of higher education shall continue to adhere to the requirements of Paragraph 4 of Executive Order No. 155 (2020) as addressed in the restart plan submitted by the institution to the Office of the Secretary of Higher Education. Such cafeterias and dining halls must adhere to infection control practices outlined for dining in the applicable reopening documents issued by the Department of Education and the Office of the Secretary of Higher Education.

17. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

18. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order.

19. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

20. This Order shall take effect immediately.

Dated August 13, 2020.

EXECUTIVE ORDER NO. 176

WHEREAS, Executive Order No. 174, declaring a State of Emergency, was issued on August 3, 2020, because of the potential for severe weather conditions, including hurricane force winds and heavy and sustained rainfall, that was expected to result from Hurricane Isaias on August 4, 2020; and

WHEREAS, the severity of the conditions necessitating the declaration of a State of Emergency has eased;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT the following:

1. The State of Emergency declared in Executive Order No. 174 (2020) is terminated effective at 3:00 p.m., Eastern Daylight Time, on August 13, 2020.

Dated August 13, 2020.

EXECUTIVE ORDER NO. 177

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, and 171 issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, and August 1, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act, N.J.S.A. App. A:9-33 et seq. and the Emergency Health Powers Act, N.J.S.A. 26:13-1 et seq., to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-166, Nos. 168-173, and No. 175 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, as of August 14, 2020, according to the World Health Organization, there were over 20,730,000 confirmed cases of COVID-19 worldwide, with over 751,000 of those cases having resulted in death; and

WHEREAS, as of August 14, 2020, according to the Centers for Disease Control and Prevention ("CDC"), there were over 5,228,000 confirmed cases of COVID-19 in the United States, with over 166,000 of those cases having resulted in death; and

WHEREAS, as of August 14, 2020, there were over 187,000 positive cases of COVID-19 in New Jersey, with at least 14,064 of those cases having resulted in death; and

WHEREAS, there have been positive cases of COVID-19 in every county in New Jersey, and there have been deaths relating to COVID-19 in every county in New Jersey; and

WHEREAS, on March 19, 2020, I issued Executive Order No. 105, which declared that certain elections set to take place in March and April were postponed until May 12, 2020, because allowing those elections to proceed as they were originally planned during this unprecedented COVID-19 health crisis would create hardships and health risks for voters, poll workers, and candidates alike; and

WHEREAS, pursuant to Executive Order No. 120 (2020), the primary election set to take place on June 2, 2020, was postponed until July 7, 2020 ("July Primary Election"), because preparing for the election to take place in June during the potential height of the COVID-19 emergency would have negatively impacted election officials' preparation efforts; and

WHEREAS, on May 15, 2020, I issued Executive Order No. 144, which declared that the July Primary Election would be conducted primarily via vote-by-mail ballots with a minimum number of polling places open in each municipality; and

WHEREAS, I issued Executive Order No. 164 (2020), which postponed any election scheduled between July 7, 2020 and November 3, 2020, until November 3, 2020, and declared that no other elections may be held or proceed prior to November 3, 2020; and

WHEREAS, to accommodate the increase in vote-by-mail ballots, Executive Order No. 144 (2020) extended the time that ballots must be received by five (5) days, provided that such ballots must be postmarked by July 7, 2020, and received by July 14, 2020, in order to be counted; and

WHEREAS, Executive Order No. 144 (2020) extended the deadline to certify election results under N.J.S.A. 19:23-55 by five (5) days in order to account for the revised timeframe that Boards of Elections had to receive vote-by-mail ballots, thereby extending the certification deadline to July 24, 2020; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreased, the ongoing risks presented by COVID-19 have meant that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, the COVID-19 emergency and its impact are likely to extend for an as-yet-undetermined period of time; and

WHEREAS, the COVID-19 emergency makes it difficult for election officials, candidates, and voters to properly plan and prepare for and fully participate in the general election on November 3, 2020 ("November General Election") if it was to proceed as it would under normal circumstances; and

WHEREAS, States generally have discretion to dictate the time, manner, and place of elections in the absence of controlling federal law; and

WHEREAS, pursuant to 3 U.S.C. §1, the presidential election shall be held on the Tuesday after the first Monday in November, which is November 3, 2020; and

WHEREAS, pursuant to 3 U.S.C. §7 and N.J.S.A. 19:36-1, the State's electors for President and Vice President must meet and vote on the first Monday after the second Wednesday in December, which is December 14, 2020; and

WHEREAS, the results of the November General Election must be certified in advance of the federal deadline for the meeting of electors; and

WHEREAS, although the dates for the November General Election and the meeting of electors are established by federal law and cannot be changed, allowing the November General Election to proceed as it would under normal circumstances during this unprecedented COVID-19 health crisis will create hardships and health risks for voters, poll workers, and candidates alike; and

WHEREAS, the county Boards of Elections had difficulty retaining poll workers for the July Primary Election due to the COVID-19 pandemic and are likely to face the same issue for the November General Election so long as the health crisis exists; and

WHEREAS, election officials require flexibility and sufficient lead time to adapt their locality's voting infrastructure to confront the magnitude of the public health and safety risks of the COVID-19 pandemic; and

WHEREAS, failing to take proactive actions to mitigate the adverse impacts of the current health crisis on the upcoming November General Election carries the risk of disenfranchising citizens; and

WHEREAS, social distancing measures are required for a period of as-yet-undetermined duration, and the COVID-19 outbreak may have significant effects on New Jersey's voting systems as long as social distancing measures are in place and for some time thereafter; and

WHEREAS, failing to offer voters a ready alternative to reporting to public polling locations to vote in the upcoming November General Election in the midst of the COVID-19 crisis will hinder public participation in the democratic process, particularly among elderly and immune-compromised voters, and undermine the legislative intent of provisions such as N.J.S.A. 19:8-2 and 19:8-3.1, which are designed to ensure that such voters can exercise their right to vote; and

WHEREAS, the United States Post Office has advised that voters must use First-Class postage to return their ballots to the county Boards of Elections so that it will be delivered 2-5 days after it is received by the Postal Service, and recent reports have indicated that mail is taking longer for delivery than is typical; and

WHEREAS, in July the United States Post Office sent letters to the county Boards of Elections advising that mail-in ballots were in the mail stream on or before the July Primary Election, notwithstanding the postmark on the ballots and that the ballots were delivered to the county Boards of Elections the day after the July Primary Election; and

WHEREAS, the United States Post Office has advised that international mail service has been suspended to and from sixty-seven (67) destinations, see https://about.usps.com/newsroom/service-alerts/international/welcome.htm, for further details; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The November General Election shall be conducted primarily via vote-by-mail ballots, which will be sent to all "Active" registered voters without the need for an application to receive a vote-by-mail ballot.

2. All vote-by-mail return envelopes shall have prepaid First-Class postage in order to facilitate the proper delivery of all cast vote-by-mail ballots.

3. The requirements of N.J.S.A. 19:14-25 that sample ballots be sent shall be suspended. In lieu of sending a sample ballot, the appropriate county official, as identified in N.J.S.A. 19:14-25, shall send notice to all "Active" voters, pursuant to N.J.S.A. 19:14-21, advising of the voter's polling place, the URL to the Division of Election's website that contains polling place information, locations of secure ballot drop boxes within the county, information on where to obtain a sample ballot prior to the election, a statement indicating that a sample ballot will be available at the polling place on the day of the election, and, if applicable, information on a county website where a sample ballot may be viewed. This notice in lieu of a sample ballot shall be sent return receipt requested as required by N.J.S.A. 19:14-23. The time to mail the notice in lieu of a sample ballot, under N.J.S.A. 19:14-25, shall be modified such that the notices are to be mailed by October 23, 2020.

4. To the extent possible, each county shall have at least a total of ten (10) secure ballot drop boxes in locations that are readily accessible to the registered voters within the county. To the best of their ability, the county Boards of Elections shall place secure ballot drop boxes based on geographic location and population density to best serve the voters of each county. The Secretary of State shall establish guidelines for the placement of the ballot drop boxes, the security of the ballot drop boxes, and the schedule for ballot pickup from the ballot boxes.

5. All public primary and secondary schools shall be closed to in-person instruction on November 3, 2020, and pursuant to N.J.S.A. 19:8-2, the authorities in charge of such schools shall not deny the request of county Boards of Elections for use of their buildings as polling places. All public primary and secondary schools shall work cooperatively with the county elections officials for the delivery of the necessary equipment for the November General Election.

6. Each county shall open a minimum of at least one (1) polling place in each municipality. Each county shall open a minimum of fifty (50) percent of its regularly used polling places, and may open more than the minimum number of its regularly used polling places. If a county Boards of Elections is unable to reach a

minimum of fifty (50) percent of its regularly used polling places, the county Boards of Elections must utilize schools or other large facilities to serve as large voting centers, which will accommodate more voting districts in one polling place. To the best of their ability, the county Boards of Elections shall select polling places based on geographic location and population density to best serve the voters of each municipality. County Boards of Elections must ensure that polling places and poll workers implement, at a minimum, the following requirements:

a. Limit occupancy within all polling places to a number that permits voters to maintain a distance of six feet between each other and poll workers at any time;

b. Ensure six feet of distance between voters and ensure six feet of distance between voters and poll workers through the demarcation of six feet of spacing in voter lines and poll worker stations to demonstrate appropriate spacing for social distancing;

c. Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;

d. Provide poll workers break time for repeated handwashing throughout their shifts;

e. Require frequent sanitization of high-touch areas in polling places consistent with CDC guidelines as of the date of the election;

f. Place conspicuous signage at entrances and throughout the polling place alerting poll workers and voters to the required six feet of physical distance;

g. Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to poll workers, voters, and those accompanying voters;

h. Require poll workers to adhere to CDC guidelines as of the date of the election regarding face coverings while in the polling place, except where doing so would inhibit that individual's health, and require poll workers to wear gloves when in contact with voters and those accompanying voters. County Boards of Elections must provide any required face coverings and gloves for poll workers, without charge to the poll workers. If a poll worker refuses to wear a required cloth face covering for non-medical reasons, then a county Board of Elections may decline entry to the individual. Nothing herein should prevent a poll worker from wearing a surgical grade mask or other more protective face covering if the individual is already in possession of such equipment. Where a poll worker declines to wear a required face covering at a polling place due to a medical condition that inhibits such usage, they shall not be required to produce medical documentation verifying the stated condition;

i. Require appointed challengers to adhere to CDC guidelines as of the date of the election regarding face coverings while in the polling places and while in any location where the challenger is serving in such a capacity, such as while observing the counting of ballots. If an appointed challenger refuses to wear a required cloth face covering, then a county Board of Elections may decline entry to the individual; and

j. Strongly encourage voters and those accompanying voters to adhere to any CDC guidelines as of the date of the election regarding face coverings while inside

polling places except where doing so would inhibit that individual's health. County Boards of Elections may provide such face coverings for voters and those accompanying voters, without charge to them. If a voter or person accompanying a voter refuses to comply with the CDC guidelines, a poll worker shall not deny entry to the voter or person. Nothing herein should prevent a voter from wearing a surgical grade mask or other more protective face covering if the individual is already in possession of such equipment.

7. The Secretary of State may modify the requirements of N.J.S.A. 19:31-21 concerning the use of poll books and the information contained therein as necessary to address the procedure by which the November General Election will be conducted under this Order, and the needs resulting therefrom.

8. Any voter who appears at a polling place on the day of the November General Election and does not return a voted mail-in ballot, pursuant to paragraph 9 of the Order, shall vote via a provisional ballot, except that accommodations will be made for voters with disabilities.

9. Pursuant to N.J.S.A. 19:63-16, the county Boards of Elections shall designate each polling place as a location to receive voted mail-in ballots. A voter may return only the mail-in ballot that they personally voted to their designated polling place. The Secretary of State shall establish appropriate standards for the acceptance of mail-in ballots, including, but not limited to, the poll worker verification that the voter returning the voted mail-in ballot at the polling place is the individual who voted the mail-in ballot, the securing of the returned mail-in ballots, and the return of the mail-in ballots to the county Boards of Elections after the close of polls.

10. Each polling place shall have signage that provides the location of all ballot drop boxes in the county in which the polling place is located.

11. The time restrictions of N.J.S.A. 19:63-9 shall be modified as follows: vote-by-mail ballots shall be mailed to all "Active" voters on or before the 29th day before the November General Election and in a manner to ensure the timely receipt and return of ballots for counting in the November General Election, and whenever the county Clerk forwards a mail-in ballot by mail to a voter between the 29th day and the 13th day before the November General Election it shall be transmitted within three (3) business days of receipt of the application and in a manner to ensure the timely receipt and return of ballot for counting in the November General Election. All other provisions of N.J.S.A. 19:63-9 remain, and this paragraph does not modify the requirements set forth in the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. §20302(a)(8)(A).

12. To allow enough time for the county Clerks to print and mail the ballots to voters, the following deadlines are modified as follows: the deadline to submit a public question for November school board elections to the county Clerk by the School Board Secretary, pursuant to N.J.S.A. 19:16-4, shall be August 31, 2020; the last day a vacancy may occur for primary election nominees for the November General Election, under N.J.S.A. 19:13-20, shall be August 29, 2020; the deadline to fill a vacancy in the primary election nominees for the November General Elec-

tion, under N.J.S.A. 19:13-20, shall be August 31, 2020; the deadline to apply for a mail-in ballot by mail, under N.J.S.A. 19:63-3, shall be October 23, 2020; and the deadline for returning a vote-by-mail application in-person in N.J.S.A. 19:63-3(d) shall be suspended.

13. Vote-by-mail ballots shall be processed and canvassed in accordance with guidelines provided by the CDC, the New Jersey Department of Health, and the respective county departments of health.

14. To account for the increase in vote-by-mail ballots and to ensure that registered voters' efforts to vote are not impacted by delays in the postal service, the requirements of N.J.S.A. 19:59-15(d) shall be suspended and the ballot-return deadline in N.J.S.A. 19:63-22 shall be suspended. Every vote-by-mail ballot that is postmarked on or before November 3, 2020, and that is received by November 10, 2020, at 8:00 p.m. shall be considered valid and shall be canvassed, assuming the ballot meets all other statutory requirements. Additionally, every ballot without a postmark, and ballots mis-marked and confirmed by the post office that those ballots were received by the post office on or before November 3, 2020, that is received by the county Boards of Elections from the United States Postal Service within forty-eight (48) hours of the closing of polls on November 3, 2020, shall be considered valid and shall be canvassed, assuming the ballot meets all other statutory requirements.

15. To account for the increase in vote-by-mail ballots and to provide the county Boards of Elections sufficient time to canvass the returned ballots, N.J.S.A. 19:63-18 is hereby suspended. The county Boards of Elections may continue the counting of ballots beyond the close of polls on November 3, 2020, and may adjourn counting after 11:00 pm on November 3, 2020 to immediately continue counting at 9:00 am on November 4, 2020, and continue every business day thereafter, until the counting is completed within the limits of this Order.

16. In order to expedite the signature-verification process outlined in N.J.S.A. 19:63-17, the county Boards of Elections shall meet at least four (4) days per week starting October 13, 2020. Voters whose ballots are rejected pursuant to N.J.S.A. 19:63-17, for a missing or discrepant signature, shall be given the opportunity to cure the signature defect in accordance with procedures established by the Secretary of State.

17. Because of the need to meet the federal deadlines for the State's electors to meet, the meeting of the county Board of Canvassers, under N.J.S.A. 19:19-1, must occur on or before November 20, 2020 to certify the results of the November General Election, and no extension under N.J.S.A. 19:19-4 or -6 shall be sought. The county Clerks' transmittal of the Official November General Election Results to the Secretary of State, under N.J.S.A. 19:19-13, must occur on or before November 23, 2020, and the county Clerks may not seek an extension of this deadline. The meeting of the Board of State Canvassers, under N.J.S.A. 19:21-1, shall occur on or before December 8, 2020 to certify the results of the November General Election.

18. To allow for greater flexibility in obtaining poll workers, the county-resident requirement for poll workers set forth in N.J.S.A. 19:6-2 is hereby suspended.

19. Due to the limited number of polling places that will be open for the November General Election, the 1,000-foot limitation on the location of polling places set forth in N.J.S.A. 19:8-2 shall be suspended.

20. Due to the suspension of N.J.S.A. 19:63-22 and N.J.S.A. 19:63-18, the time to prepare reports pursuant to N.J.S.A. 19:53B-21 and 19:53C-21 is extended to November 23, 2020.

21. To allow enough time for results to be certified prior to the meeting of electors, N.J.S.A. 19:61-9(c)(8) is suspended, and counties may certify their election results prior to the commencement of the election audit required in N.J.S.A. 19:61-9.

22. The Secretary of State shall establish other appropriate standards for ensuring that all voters with disabilities are able to exercise their right to vote in the November General Election.

23. The Secretary of State and county election officials, as appropriate, shall coordinate with the United States Postal Service to facilitate proper delivery of ballots by the United States Postal Service.

24. The Secretary of State and county election officials, as appropriate, shall act to facilitate the public's understanding of the rules governing the November General Election.

25. The Secretary of State shall establish a hotline number for reports of violations of the election laws and this Order in connection with the November General Election.

26. Any actions taken by the Secretary of State pursuant to this Order shall not be subject to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

27. December 2020 special school elections pursuant to N.J.S.A. 19:60-2(a) shall be suspended until the authorized January 2021 special school election date. No special elections to fill any vacancies shall be held prior to January 12, 2021.

28. This Order shall take effect immediately.

Dated August 14, 2020.

EXECUTIVE ORDER NO. 178

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, and 171 issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, and August 1, 2020 respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted, in whole

or in part, in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-159, Nos. 161-166, Nos. 168-69, No. 171, and No. 175 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, to protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, as of March 19, 2020, I instructed all State departments and agencies to utilize work-from-home arrangements for both essential and non-essential employees wherever feasible; and

WHEREAS, in recognition that the Centers for Disease Control and Prevention had advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020) to order steps to mitigate community spread of COVID-19; and

WHEREAS, to further limit community spread from person-to-person contact through use of social mitigation measures, Executive Order No. 107 (2020) required, with limited exceptions, New Jersey residents to remain in their place of residence, cancelled all gatherings, and closed all recreational and entertainment businesses; and

WHEREAS, Executive Order No. 107 (2020) also mandated that all businesses and non-profits in the State accommodate their workforce, wherever practicable, for telework or work-from-home arrangements, and reduce staff on site to the minimal number necessary to continue essential operations because restricting the physical presence of individuals in office environments and work sites is critical to preventing future spread of COVID-19; and

WHEREAS, all State offices and Executive Branch departments and agencies have been directed to prioritize addressing immediate public needs, including protecting public health, safety, and the environment, while still trying as much as is practicable to maintain the basic functions of State government, and its many duties, missions, and initiatives; and

WHEREAS, notwithstanding the extraordinary circumstances of the COVID-19 pandemic, certain Executive Branch departments and agencies remain subject to statutory provisions that require agencies to review and act upon certain filings or other authorizations before a specified deadline lest the matter under review be deemed approved; and

WHEREAS, a public health emergency such as the COVID-19 pandemic, and especially my direction to strictly observe social distancing practices, including avoiding all non-essential travel, working remotely, and prioritizing addressing immediate public needs, including protecting public health, safety, and the environment, is an impediment to compliance with the statutory timeframes by Executive Branch agencies; and

WHEREAS, members of the public, including individuals, small businesses, and other entities, may similarly be limited in their ability to act within statutory timeframes and may require additional time due to the interruptions related to the Public Health Emergency and the social distancing and mitigation restrictions imposed; and

WHEREAS, strict enforcement of certain statutory timeframes during and shortly following the ongoing Public Health Emergency could unduly burden the Executive Branch, industry, and members of the public, including individuals, small businesses, and other entities, in ways that would be detrimental to the public welfare, or yield other unintended consequences that will frustrate the fair achievement of the statute's objectives in a manner that imperils the health, safety, and well-being of New Jersey residents; and

WHEREAS, despite the encouraging decrease in the number of infections, the social distancing requirements that have been in place since March and related COVID-19 concerns have frustrated the ability of State agencies and members of the public to comply with certain statutory deadlines; and

WHEREAS, because of the broad range of regulated activities, it is not appropriate to allow a blanket extension of statutory deadlines which vary with the function or regulated activity at issue; and

WHEREAS, pursuant to N.J.S.A. App. A:9-47, the Governor is authorized to, among other things, suspend any regulatory provision of law when its enforcement is detrimental to the public welfare during an emergency; and

WHEREAS, I have consulted with the Cabinet and other agency heads with regard to the prioritization of government activities and requirements that are most important to guarding the health, safety, and welfare of the residents of our State, and they have identified deadlines that can be postponed without significant detriment to the well-being of the public for limited periods of time; and

WHEREAS, I find that strict enforcement of certain statutory deadlines that fall within or shortly after the period of the Public Health Emergency would be detrimental to the public welfare; and

WHEREAS, I find that extensions of the deadlines identified in the Appendix to this Order are warranted to address the economic impact of COVID-19 upon individuals, businesses, or other non-government entities; to protect public health and

safety, including because social distancing policies adopted in response to COVID-19 will make it harder for individuals, businesses, or other non-government entities to meet the deadline; to protect the health and safety of agency personnel, including because social distancing policies adopted in response to COVID-19 will make it harder to meet the deadline; to address other circumstances related to COVID-19 that would make enforcement of the deadline unduly burdensome for individuals, businesses, or other non-government entities; and to address issues arising from the COVID-19 pandemic that would make it unduly burdensome for the agency to adhere strictly to the deadline; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The statutory deadlines, including statutory effective dates, identified in the Appendix to this Order are hereby extended by the amount of time identified in the Appendix.

2. Except as specified in Paragraph 5, for statutory deadlines extended by a specific number of days from the original deadline, the extension shall be available to any person or entity that would have been required to meet such deadline during the Public Health Emergency or within 30 days after the last day of the Public Health Emergency.

3. Except as specified in Paragraph 5, for statutory deadlines extended until a specific number of days or months after the last day of the Public Health Emergency, the extension shall be available to any person or entity that would have been required to meet such deadline during the Public Health Emergency or at any time between the last day of the Public Health Emergency and the new deadline established pursuant to this Order.

4. Except as specified in Paragraph 5, an extension available pursuant to Paragraph 2 or 3 of this Order shall be available regardless of whether the original deadline has already passed.

5. An extension of a statutory deadline after which a filing with any agency or instrumentality of the State government is deemed approved shall be available to the agency only if the original deadline is on or after the date of this Order and within 30 days after the last day of the Public Health Emergency.

6. In addition to extensions available pursuant to Paragraphs 2 and 3 of this Order, this Order also provides extensions to Executive Branch agencies of specific, non-recurring deadlines that occur in 2020 and are identified in the Appendix.

7. For purposes of this Order, the "Public Health Emergency" means the Public Health Emergency declared in Executive Order No. 103 (2020), as extended by

Executive Order No. 119 (2020), Executive Order No. 138 (2020), Executive Order No. 151 (2020), Executive Order No. 162 (2020), Executive Order No. 171 (2020), and any subsequent Executive Order which may further extend such Public Health Emergency.

8. Nothing in this Order is intended to deny or alter the authority of any agency or instrumentality of the State government, or any other person or entity, to request, grant, or consent to any extension that would otherwise be permissible under existing law.

9. In administering the extensions set forth in this Order, each agency shall adopt the least disruptive means of addressing the health and safety concerns of this Order while faithfully enforcing the requirements of the affected statute to the fullest extent.

10. This Order is not intended to, and does not confer any legal rights upon businesses or others whose activities are regulated by New Jersey's agencies, boards, commissions, or departments and shall not be used as a basis for legal challenges to regulations, rules, approvals, permits, licenses or other actions, or to any inaction of the governmental entity subject to it.

11. This Order shall take effect immediately.

Dated August 14, 2020.

EXECUTIVE ORDER NO. 179

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, and 171 issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, and August 1, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act, N.J.S.A. App. A:9-33 et seq. and the Emergency Health Powers Act, N.J.S.A. 26:13-1 et seq., to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-166, Nos. 168-173, and No. 175,

and Nos. 177-178 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, as of August 24, 2020, according to the World Health Organization, there were over 23,311,000 confirmed cases of COVID-19 worldwide, with over 806,000 of those cases having resulted in death; and

WHEREAS, as of August 24, 2020, according to the Centers for Disease Control and Prevention, there were over 5,682,000 confirmed cases of COVID-19 in the United States, with over 176,000 of those cases having resulted in death; and

WHEREAS, as of August 24, 2020, there were over 189,000 positive cases of COVID-19 in New Jersey, with at least 14,120 of those cases having resulted in death; and

WHEREAS, there have been positive cases of COVID-19 in every county in New Jersey, and there have been deaths relating to COVID-19 in every county in New Jersey; and

WHEREAS, on March 19, 2020, I issued Executive Order No. 105, which declared that certain elections set to take place in March and April were postponed until May 12, 2020, because allowing those elections to proceed as they were originally planned during this unprecedented COVID-19 health crisis would create hardships and health risks for voters, poll workers, and candidates alike; and

WHEREAS, pursuant to Executive Order No. 120 (2020), the primary election set to take place on June 2, 2020, was postponed until July 7, 2020 ("July Primary Election"), because preparing for the election to take place in June during the potential height of the COVID-19 emergency would have negatively impacted election officials' preparation efforts; and

WHEREAS, on May 15, 2020, I issued Executive Order No. 144, which declared that the July Primary Election would be conducted primarily via vote-by-mail ballots with a minimum number of polling places open in each municipality; and

WHEREAS, I issued Executive Order No. 164 (2020), which postponed any election scheduled between July 7, 2020 and November 3, 2020, until November 3, 2020, and declared that no other elections may be held or proceed prior to November 3, 2020; and

WHEREAS, to accommodate the increase in vote-by-mail ballots, Executive Order No. 144 (2020) extended the time that ballots must be received by five (5) days, provided that such ballots must be postmarked by July 7, 2020, and received by July 14, 2020, in order to be counted; and

WHEREAS, Executive Order No. 144 (2020) extended the deadline to certify election results under N.J.S.A. 19:23-55 by five (5) days in order to account for the revised timeframe that Boards of Elections had to receive vote-by-mail ballots, thereby extending the certification deadline to July 24, 2020; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreased, the ongoing risks presented by COVID-19 have meant that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, the COVID-19 emergency and its impact are likely to extend for an as-yet-undetermined period of time; and

WHEREAS, the COVID-19 emergency makes it difficult for election officials, candidates, and voters to properly plan and prepare for and fully participate in the general election on November 3, 2020 ("November General Election") if it was to proceed as it would under normal circumstances; and

WHEREAS, States generally have discretion to dictate the time, manner, and place of elections in the absence of controlling federal law; and

WHEREAS, pursuant to 3 U.S.C. §1, the presidential election shall be held on the Tuesday after the first Monday in November, which is November 3, 2020; and

WHEREAS, pursuant to 3 U.S.C. §7 and N.J.S.A. 19:36-1, the State's electors for President and Vice President must meet and vote on the first Monday after the second Wednesday in December, which is December 14, 2020; and

WHEREAS, the results of the November General Election must be certified in advance of the federal deadline for the meeting of electors; and

WHEREAS, although the dates for the November General Election and the meeting of electors are established by federal law and cannot be changed, allowing the November General Election to proceed as it would under normal circumstances during this unprecedented COVID-19 health crisis will create hardships and health risks for voters, poll workers, and candidates alike; and

WHEREAS, the county Boards of Elections had difficulty retaining poll workers for the July Primary Election due to the COVID-19 pandemic and are likely to face the same issue for the November General Election so long as the health crisis exists; and

WHEREAS, election officials require flexibility and sufficient lead time to adapt their locality's voting infrastructure to confront the magnitude of the public health and safety risks of the COVID-19 pandemic; and

WHEREAS, failing to take proactive actions to mitigate the adverse impacts of the current health crisis on the upcoming November General Election carries the risk of disenfranchising citizens; and

WHEREAS, social distancing measures are required for a period of as-yet-undetermined duration, and the COVID-19 outbreak may have significant effects on New Jersey's voting systems as long as social distancing measures are in place and for some time thereafter; and

WHEREAS, failing to offer voters a ready alternative to reporting to public polling locations to vote in the upcoming November General Election in the midst of the COVID-19 crisis will hinder public participation in the democratic process, particularly among elderly and immune-compromised voters, and undermine the legislative intent of provisions such as N.J.S.A. 19:8-2 and 19:8-3.1, which are designed to ensure that such voters can exercise their right to vote; and

WHEREAS, the United States Post Office has advised that voters must use First-Class postage to return their ballots to the county Boards of Elections so that it will be delivered 2-5 days after it is received by the Postal Service, and recent reports have indicated that mail is taking longer for delivery than is typical; and

WHEREAS, in July, the United States Post Office sent letters to the county Boards of Elections advising that mail-in ballots were in the mail stream on or before the July Primary Election, notwithstanding the postmark on the ballots and that the ballots were delivered to the county Boards of Elections the day after the July Primary Election; and

WHEREAS, the United States Post Office has advised that international mail service has been suspended to and from sixty-seven (67) destinations, see https://about.usps.com/newsroom/service-alerts/international/welcome.htm, for further details; and

WHEREAS, on August 14, 2020, I issued Executive Order No. 177, the facts and circumstances of which are adopted by reference herein, which established the voting procedures for the November General Election; and

WHEREAS, Executive Order No. 177 (2020) requires modification as set forth below to ensure enough time to complete preparations for the November General Election, to minimize voter confusion, to ensure voters have a process by which they may cure a ballot with a signature deficiency, and to ensure timely counting of the November General Election ballots; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Paragraph 3 of Executive Order No. 177 (2020) is modified such that the notice in lieu of a sample ballot authorized pursuant to this subsection shall be sent return service requested as required by N.J.S.A. 19:14-23.

2. Paragraph 12 of Executive Order No. 177 (2020) is modified such that the last day a vacancy may occur for primary election nominees for the November General Election, under N.J.S.A. 19:13-20, shall be August 28, 2020. Furthermore, vacancies occurring after August 28, 2020, and any initiatives or referendums not on the ballot by August 31, 2020, shall not be placed on the November General Election ballot.

3. Paragraph 15 of Executive Order No. 177 (2020) is modified such that the county Boards of Elections may continue the counting of ballots beyond the close of polls on November 3, 2020, and may adjourn counting after 11:00 pm on November 3, 2020 to immediately continue counting at 9:00 am on November 4, 2020, and continue every day thereafter, until the counting is completed within the limits of this section.

4. Paragraph 16 of Executive Order No. 177 (2020) is modified such that voters whose ballots are rejected pursuant to N.J.S.A. 19:63-17, for a missing or discrep-

ant signature, shall be given the opportunity to cure the signature defect in accordance with procedures established by the Secretary of State, in the absence of any governing statute.

5. Paragraph 21 of Executive Order No. 177 (2020) is modified such that counties may certify their election results prior to the commencement of the election audit required in that section, provided that the audit is completed by December 4, 2020.

6. To allow enough time for the county Boards of Elections to complete the count of the provisional ballots, N.J.S.A. 19:53C-13 is suspended. The county commissioner of registration may forward provisional ballots to the county Board of Elections for counting on an ongoing basis as the verification process is completed.

7. To avoid voter confusion, N.J.S.A. 19:63-6 is suspended. In lieu of the statutory notice, the county clerks shall, in a time set forth by the Secretary of State, publish a notice to be prepared by the Secretary of State.

8. This Order shall take effect immediately.

Dated August 25, 2020.

EXECUTIVE ORDER NO. 180

WHEREAS, on March 9, 2020, through Executive Order No. 103, the facts and circumstances of which are adopted by reference herein, I declared both a Public Health Emergency and a State of Emergency throughout the State due to the public health hazard created by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, Executive Order No. 103 (2020) described both the symptoms and dangers presented by COVID-19 and the likelihood of community spread across the State, and it recognized the need to use all available statewide authorities to prepare for and respond to COVID-19 cases in New Jersey, to implement appropriate measures to mitigate the spread of COVID-19, and to prepare in the event of an increasing number of individuals requiring medical care or hospitalization; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act ("EHPA"), to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, 135-138, 140-166, 168-173, 175, and 177-179 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, N.J.S.A. 26:13-3(b) establishes that a Public Health Emergency declared by the Governor shall automatically terminate after 30 days, unless renewed for an additional 30 days through a declaration of the Governor; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on May 6, 2020, I issued Executive Order No. 138, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on June 4, 2020, I issued Executive Order No. 151, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on July 2, 2020, I issued Executive Order No. 162, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on August 1, 2020, I issued Executive Order No. 171, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, and 171 (2020), I declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, since the Public Health Emergency was renewed on August 1, 2020, at which time there were over 181,000 positive cases of COVID-19 in New Jersey, the COVID-19 outbreak has continued to present a public health hazard in New Jersey, in the region, and across the United States; and

WHEREAS, as of August 27, 2020, according to the World Health Organization, there were over 23,980,000 confirmed cases of COVID-19 worldwide, with over 820,000 of those cases having resulted in death; and

WHEREAS, as of August 26, 2020, according to the Centers for Disease Control and Prevention (CDC), there were over 5,752,000 confirmed cases of COVID-19 in the United States, with over 177,000 of those cases having resulted in death; and

WHEREAS, as of August 26, 2020, there were over 190,000 positive cases of COVID-19 in New Jersey, with at least 14,134 of those cases having resulted in death; and

WHEREAS, there have been positive cases of COVID-19 in every county in New Jersey, and there have been deaths relating to COVID-19 in every county in New Jersey; and

WHEREAS, due to the significant emergency measures the State has taken in response to COVID-19, there has now been a decrease in the rate of reported new cases of COVID-19 in New Jersey, in the total number of individuals being admitted to hospitals for COVID-19, and in the rate of reproduction for COVID-19 infections in New Jersey; and

WHEREAS, given the progress the State has made based on these emergency measures and after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan (the "Plan") for the methodical and strategic reopening of businesses and activities based on

scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, in line with the Plan, the State has been able to relax a number of restrictions, each time tailored to the relative risk the activity presents, and additional restrictions on outdoor and indoor recreational and entertainment businesses have been lifted over the past several months; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, the fact that the spread of COVID-19 has been limited by the State's emergency measures does not in any way suggest that the ongoing Public Health Emergency has dissipated, because absent social distancing measures, public health experts anticipate that the spread of COVID-19 would again significantly increase; and

WHEREAS, the renewal of the declaration of the ongoing Public Health Emergency is necessary to allow the State to continue with the Plan to allow for the methodical and strategic reopening of the State, consistent with the State's authority under the EHPA; and

WHEREAS, the renewal of the declaration of the ongoing Public Health Emergency is also necessary to ensure that the State can swiftly respond to take all appropriate actions should the rate of reported new cases of COVID-19 in New Jersey, number of individuals being admitted to hospitals for COVID-19, or rate of reproduction for COVID-19 infections in New Jersey increase once more, as we are now seeing in numerous states across the country; and

WHEREAS, the spread of COVID-19 has greatly strained the resources and capabilities of county and municipal governments, including public health agencies, that provide essential services for containing and mitigating the spread of contagious diseases, and the situation is too large in scope to be handled entirely by the normal county and municipal operating services; and

WHEREAS, the facts as set forth above and consultation with the Commissioner of DOH confirm that the spread of COVID-19 in New Jersey constitutes an ongoing public health hazard that threatens and presently endangers the health, safety, and welfare of the residents of one or more municipalities or counties of the State, and it is necessary and appropriate to take action against this public health hazard to protect and maintain the health, safety, and welfare of New Jersey residents and visitors; and

WHEREAS, the facts as set forth above and consultation with the Commissioner of DOH confirm that there exists a public health emergency in the State; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby DECLARE and PROCLAIM that the Public Health Emergency declared in Executive Order No. 103 (2020) pursuant to the EHPA, N.J.S.A. 26:13-1, et seq., continues to exist throughout the State of New Jersey, and I hereby ORDER and DIRECT:

1. All Executive Orders adopted in whole or in part based on the authority under the EHPA to respond to the Public Health Emergency presented by the COVID-19 outbreak remain in full force and effect.

2. All actions taken by any Executive Branch departments and agencies in whole or in part based on the authority under the EHPA to respond to the Public Health Emergency presented by the COVID-19 outbreak, or in whole or in part based on authority delegated by any Executive Orders described in Paragraph 1 of this Order, including but not limited to any Administrative Orders, remain in full force and effect.

3. For purposes of this Order, "Executive Branch departments and agencies" shall mean any of the principal departments in the Executive Branch of State government and any agency, authority, board, bureau, commission, division, institution, office, or other instrumentality within or created by any such department, and any independent State authority, commission, instrumentality, or agency over which the Governor exercises executive authority, as determined by the Attorney General.

4. This Order shall take effect immediately.

Dated August 27, 2020.

EXECUTIVE ORDER NO. 181

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, and 180, issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, August 1, 2020, and August 27, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-166, Nos. 168-173, No. 175, and Nos. 177-180 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, to further limit community spread from person-to person contact through use of social mitigation measures, Executive Order No. 107 (2020) closed all recreational and entertainment businesses, and limited all restaurants, dining establishments, and food courts, with or without a liquor license, all bars, and all other holders of a liquor license with retail consumption privileges, to offering food delivery and/or take-out services only; and

WHEREAS, given the decrease in the rate of reported new cases of COVID-19 in New Jersey, including a reduction in the total number of individuals being admitted to hospitals for COVID-19, the State has taken and can take steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan (the "Plan") for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, the State is implementing its reopening process and has begun to relax restrictions on certain businesses, including the opening of all retail businesses, and resumption of limited indoor recreation and outdoor dining; and

WHEREAS, because of our continued progress, most recreational and entertainment businesses can allow the public into their indoor spaces for activity, as long as there are strict capacity limits and individuals are wearing face coverings; and

WHEREAS, a limited number of indoor entertainment businesses still pose a higher risk of transmission of COVID-19 at this time, such as performance-based locations such as movie theaters, performing arts centers, other concert venues, and nightclubs, because those businesses necessitate individuals congregating together concurrently in one indoor location for a prolonged period of time, which is different than indoor retail settings, and even most recreational and entertainment businesses where individuals do not inherently spend a prolonged amount of time together in one location; and

WHEREAS, Executive Order No. 157 (2020) permitted certain recreation and entertainment businesses, including those businesses that offered fitness activities, to reopen subject to their compliance with specified health and safety protocols; and

WHEREAS, issuing health and safety protocols that apply to fitness activities that were previously permitted to resume can help ensure that these activities can continue to occur while minimizing the risk of COVID-19 transmission; and

WHEREAS, while gyms and fitness centers involve people congregating in a confined space and exercising, individuals are typically utilizing the facility for a short period of time, so that with strict mitigation protocols in place, safe operations can resume inside the facilities; and

WHEREAS, certain businesses that were permitted to resume operations were required to adopt policies and procedures that incorporated critical health and safety guidelines, including through Executive Orders Nos. 122, 157, and 163 (2020), and which required that staff wear gloves at worksites; and

WHEREAS, the Centers for Disease Control and Prevention ("CDC") has now advised that gloves should be worn in certain limited circumstances, such as when caring for a sick individual or while cleaning, but that frequent handwashing is generally the preferable method to maintain appropriate hand hygiene; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. "Health clubs," as defined by N.J.S.A. 56:8-39, which include gyms and fitness centers, as well as amusement and water parks, can open their indoor premises as of 6:00 a.m. on Tuesday, September 1, 2020, provided that such businesses adopt policies that include, at minimum, the following requirements:

a. Limit occupancy of any indoor premises to 25 percent of the stated maximum capacity, if applicable, at one time, excluding staff;

b. Require that reservations, cancellations, and pre-payments be made via electronic or telephone reservation systems to limit physical interactions. Such policies shall, wherever possible, consider populations that do not have access to internet service or credit cards;

c. Install a physical barrier, such as a shield guard, between customers and employees wherever feasible or otherwise ensure six feet of distance between those individuals, except at the moment of payment;

d. Limit the use of equipment rented or otherwise provided by the business to one person at a time, excluding immediate family members, caretakers, household members, or romantic partners, and sanitize such equipment before and after use;

e. Demarcate and post signs that denote six feet of spacing in all commonly used and other applicable areas or where people may form a line;

f. Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;

g. Provide employees break time for repeated handwashing throughout the workday;

h. Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to staff and customers;

i. Limit occupancy in restrooms and locker facilities that remain open to avoid over-crowding and maintain social distancing through signage and, where practicable, the utilization of attendants to monitor capacity;

j. Require frequent sanitization of high-touch areas including, at minimum, the following cleaning protocols:

i. Routinely clean and disinfect all high-touch areas in accordance with DOH and CDC guidelines, particularly in spaces that are accessible to staff, customers, or members, or other individuals, including, but not limited to, restroom and locker facilities, counter tops, hand rails, door knobs, other common surfaces, safety equipment, and other frequently touched surfaces including employee used equipment, and ensure cleaning procedures following a known or potential exposure in compliance with CDC recommendations;

ii. Clean and disinfect equipment that is rented in accordance with CDC and DOH guidelines; and

iii. Train and equip employees to perform the above protocols effectively and in a manner that promotes the safety of the visitors and staff;

k. Place additional restrictions on areas of the business, as necessary, to limit person-to-person interactions and facilitate appropriate social distancing;

l. Immediately separate and send home workers who appear to have symptoms consistent with COVID-19 illness upon arrival at work or who become sick during the day;

m. Promptly notify workers of any known exposure to COVID-19 at the worksite, consistent with the confidentiality requirements of the Americans with Disabilities Act and any other applicable laws;

n. Clean and disinfect the worksite in accordance with CDC guidelines when a worker at the site has been diagnosed with COVID-19 illness;

o. Continue to follow guidelines and directives issued by the New Jersey DOH, the CDC and the Occupational Health and Safety Administration, as applicable, for maintaining a clean, safe, and healthy work environment; and

p. Require workers and customers to wear cloth face coverings while in the indoor portion of the premises, except where doing so would inhibit that individual's health or where the individual is under two years of age. Businesses must provide, at their expense, such face coverings for their employees. If a customer refuses to wear a cloth face covering for non-medical reasons and if such covering cannot be provided to the individual by the business at the point of entry, then the business must decline the individual entry into the indoor premises. This requirement shall not apply when wearing a face covering would inhibit that individual's health, including when in the water and in other situations where the presence of a mask

would pose a risk to the individual's safety, or where the individual is under two years of age. Nothing in the stated policy should prevent workers or customers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if the business is otherwise required to provide such worker with more protective equipment due to the nature of the work involved. Where an individual declines to wear a face covering in the indoor premises due to a medical condition that inhibits such usage, neither the business nor its staff shall require the individual to produce medical documentation verifying the stated condition.

2. Notwithstanding the provisions of Paragraph 1, above, health clubs, amusement parks, and water parks are permitted to open their indoor premises to the public only where they are in compliance with the health and safety guidelines and standards issued by the Commissioner of the DOH.

3. Recreational and entertainment businesses that provide fitness instruction and which were permitted to resume operations pursuant to Executive Order No. 157 (2020) must adhere to the protocols outlined in Paragraph 1 and to guidance issued by the Commissioner of Health.

4. Paragraphs 8 and 10 of Executive Order No. 157 (2020) are superseded to the extent that they are inconsistent with the provisions of this Order.

5. Any type of event at one of the above-described facilities that involves individuals who are there at a specific time, a specific location, and for a common reason, such as a fitness class at a gym or a birthday party at an amusement park, are subject to the applicable gathering limits, which were most recently laid out in Executive Order No. 173 (2020).

6. Businesses subject to the requirements of Executive Orders Nos. 122, 157, and 165 (2020) are no longer required to mandate that workers wear gloves on the premises or when in contact with customers or goods. Such businesses may adopt policies that require staff to wear gloves, in addition to regular hand hygiene. Where a business requires its staff to wear gloves while at the worksite, the business must provide such gloves to staff. The specified businesses must ensure that staff practice regular hand hygiene when interacting with the public. Paragraphs 1 and 3 of Executive Order No. 122 (2020), paragraphs 1 and 7 of Executive Order No. 157 (2020), and paragraphs 1, 2, 3, 4, and 5 of Executive Order No. 165 (2020) are superseded to the extent that they are inconsistent with the provisions of this Order.

7. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

8. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order.

9. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

10. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

11. This Order shall take effect immediately, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated August 27, 2020.

EXECUTIVE ORDER NO. 182

WHEREAS, United States Army Staff Sergeant Vincent P. Marketta was a lifelong product of Ocean County and most recently resided in Brick Township; and

WHEREAS, Staff Sergeant Marketta graduated from Brick High School in 2005 and enlisted in the U.S. Army as a Black Hawk helicopter repairer in 2011; and

WHEREAS, following extensive training and assessment, Staff Sergeant Marketta was assigned to the 160th Special Operations Aviation Regiment (Airborne) in 2012; and

WHEREAS, soldiers within the 160th Special Operations Aviation Regiment, known as "Night Stalkers," are recognized for their proficiency in nighttime military engagements; and

WHEREAS, Staff Sergeant Marketta dedicated eighteen months to aircraft repair within the 160th Special Operations Aviation Regiment before he was promoted to an MH-60M Crew Chief in 2014; and

WHEREAS, Staff Sergeant Marketta completed or graduated from the Enlisted Combat Skills, Combatives Level 1, MH-60 Maintainers Course, Survival, Evasion, Resistance, and Escape School, MH-60 Non-Rated Crew Member Course, the Basic and Advanced Leaders Courses, and the MH-60 Flight Instructors Course; and

WHEREAS, while assigned to the 160th Special Operations Aviation Regiment, Staff Sergeant Marketta was first deployed to Afghanistan in Operation Enduring Freedom; and

WHEREAS, Staff Sergeant Marketta subsequently served multiple tours in Iraq in support of Operation Inherent Resolve in action against the Islamic State; and

WHEREAS, during his eleven years of service to the United States, Staff Sergeant Marketta received many awards and decorations, including the Distinguished Flying Cross, Air Medal with V device, Air Medal with C device, Air Medal, Army Commendation Medal with C device (2OLC), Army Commendation Medal, Army Achievement Medal (1OLC), Army Good Conduct Medal, Afghanistan Campaign Medal (Campaign Star), Inherent Resolve Campaign Medal, Global War on Terrorism Service Medal, Global War on Terrorism Expeditionary Med-

al, Noncommissioned Officer Professional Development Ribbon (Numeral 2), Army Service Ribbon, NATO Medal, Combat Action Badge, and the Basic Aviator's Badge; and

WHEREAS, Staff Sergeant Marketta tragically lost his life while engaged in training operations on San Clemente Island in California on August 27, 2020; and

WHEREAS, Staff Sergeant Marketta was a beloved member of our New Jersey family whose presence will be immensely missed by his family, his friends, his fellow servicemembers, and by the people of New Jersey and around the country whom are grateful for his service; and

WHEREAS, it is with immense sadness that we mourn Staff Sergeant Marketta's sudden passing, and extend our deepest sympathy and gratitude to his family, friends, and colleagues; and

WHEREAS, it is appropriate to honor the exemplary character, outstanding achievements, and cherished memory of Staff Sergeant Marketta and to mark his passing;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Tuesday, September 1, 2020, in recognition and mourning of a courageous and loyal American hero, Staff Sergeant Vincent P. Marketta.

2. This Order shall take effect immediately.

Dated August 31, 2020.

EXECUTIVE ORDER NO. 183

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, and 180, issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, August 1, 2020, and August 27, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-166, Nos. 168-173, No. 175, and Nos. 177-181 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, to further limit community spread from person-to-person contact through use of social mitigation measures, Executive Order No. 107 (2020) closed all recreational and entertainment businesses, and limited all restaurants, dining establishments, and food courts, with or without a liquor license, all bars, and all other holders of a liquor license with retail consumption privileges, to offering food delivery and/or take-out services only; and

WHEREAS, given the decrease in the rate of reported new cases of COVID-19 in New Jersey, including a reduction in the total number of individuals being admitted to hospitals for COVID-19, the State has taken and can take steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan (the "Plan") for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, in accordance with this Plan, on June 3, 2020, I signed Executive Order No. 150, which authorized food or beverage establishments to offer in-person service at outdoor areas, provided that the food or beverage establishment complied with certain social distancing protocols; and

WHEREAS, Executive Order No. 150 (2020) prohibited smoking in any outdoor areas designated for the consumption of food and/or beverages, but stated that the requirement that food or beverage establishments impose this prohibition would automatically sunset when in-person service was permitted in indoor areas; and

WHEREAS, on June 9, 2020, I signed Executive Order No. 153, which allowed all recreational and entertainment businesses to reopen their outdoor spaces to the public as long as they adopted policies containing a specified list of health and safety requirements; and

WHEREAS, I signed Executive Order No. 157 on June 26, 2020, which authorized most recreational and entertainment businesses to reopen their entire premises,

whether indoor or outdoor, to the public, contingent on those businesses adopting certain health and safety protocols; and

WHEREAS, while Executive Order No. 157 (2020) announced the limited resumption of indoor dining, this step was put on hold in Executive Order No. 158 (2020), in light of COVID-19 spikes in states around the nation, which were attributed by state officials and other experts, at least in part, to activities in indoor food and beverage establishments; and

WHEREAS, Executive Order No. 157 (2020) prohibited certain recreational and entertainment businesses, including health clubs, performance-based entertainment centers such as movie theaters, performing arts centers, or other concert venues, and indoor amusement or water parks, from opening their indoor spaces to the public because they were deemed to pose an unacceptably high risk of transmission of COVID-19 at that time; and

WHEREAS, on August 27, 2020, I signed Executive Order No. 181 (2020), which opened health clubs and indoor amusement and water parks with strict capacity limits and mask requirements; and

WHEREAS, indoor performance-based entertainment centers have posed unique challenges because they involve individuals in proximity for unusually significant periods of time, and, in the case of centers like movie theaters that offer concessions, necessitate individuals removing their masks for limited periods; and

WHEREAS, indoor dining has also presented challenges given that it necessitates individuals removing their masks, and given that it has been tied to spikes in other states; and

WHEREAS, because of the enormous progress that New Jersey has made in combatting the spread of COVID-19, including the lack of any sustained uptick in transmission for the last several months, it is now appropriate to allow indoor dining and indoor entertainment centers to operate, with strict capacity limits and health and safety protocols; and

WHEREAS, in line with the State's overall rules, which require individuals to wear a face covering any time they are in a range of indoor locations, except when doing so would endanger someone's health or would physically block an activity from taking place, individuals will still be required to wear a mask in indoor dining locations or performance-based entertainment centers except when consuming their food or drinks; and

WHEREAS, in light of this continued progress, and of the importance of activities that receive heightened First Amendment protection, including religious worship and political activities, it is appropriate to adjust the limit on these types of indoor gatherings upward, while maintaining the 25 percent capacity limit that ensures that individuals are able to appropriately social distance; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Effective at 6:00 a.m. on Friday, September 4, 2020, restaurants, cafeterias, dining establishments, and food courts, with or without a liquor license, bars, and all other holders of a liquor license with retail consumption privileges, collectively referred to as "food or beverage establishments," are permitted to offer in-person service at indoor areas, provided that the establishment complies with the following requirements:

a. Limit the number of patrons in indoor areas to 25 percent of the food or beverage establishment's indoor capacity, excluding the food or beverage establishment's employees;

b. Ensure that tables where individuals or groups are seated are six feet apart in all directions from any other table or seat and that individual seats in any shared area that is not reserved for individual groups, such as an indoor bar area, are also six feet apart in all directions from any other table or seat;

c. Require indoor patrons to wear face coverings while inside the indoor premises of the food or beverage establishment. When seated at their table or their individual seat, indoor patrons shall wear face coverings until their food or drinks arrive, and after individuals have finished consuming their food or drinks, they shall put their face coverings back on. The face covering requirement does not apply if the patron has a medical reason for not wearing a face covering or is a child under two years of age;

d. Food or beverage establishments shall only allow patrons to place orders for indoor table service when they are seated at a table or bar, and only wait staff or other employees may bring food or beverages to seated patrons;

e. Patrons may only consume food or beverages while seated; and

f. Abide by all other health and safety standards issued by the Commissioner of DOH, including infection control practices and other sanitization protocols, consistent with her authority under the Emergency Health Powers Act.

2. Effective at 6:00 a.m. on September 4, 2020, entertainment centers where performances are viewed or given, including movie theaters, performing arts centers, and other concert venues, may open their indoor spaces to the public, subject to the following requirements:

a. Limit the number of patrons in any indoor room where a performance is viewed or given to 25 percent of the stated maximum capacity, if applicable, at one time, excluding the entertainment business's employees, but regardless of the capacity of the room, such limit shall never be larger than 150 persons;

b. Individuals who purchase or reserve tickets together may be seated together, but must be six feet away from all other groups or individuals in all directions;

c. Require that reservations, cancellations, and pre-payments be made via electronic or telephone reservation systems to limit physical interactions. Such policies

shall, wherever possible, consider populations that do not have access to internet service or credit cards;

d. Install a physical barrier, such as a shield guard, between visitors and employees wherever feasible or otherwise ensure six feet of distance between those individuals, except at the moment of payment;

e. Limit the use of equipment rented or otherwise provided by the business to one person at a time, excluding immediate family members, caretakers, household members, or romantic partners, and sanitize such equipment before and after use;

f. Demarcate and post signs that denote six feet of spacing in all commonly used and other applicable areas or where people may form a line;

g. Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;

h. Provide employees break time for repeated handwashing throughout the workday;

i. Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to staff and customers;

j. Limit occupancy in restrooms that remain open to avoid over-crowding and maintain social distancing through signage and, where practicable, the utilization of attendants to monitor capacity;

k. Require frequent sanitization of high-touch areas including, at minimum, the following cleaning protocols:

i. Routinely clean and disinfect all high-touch areas in accordance with DOH and Centers for Disease Control and Prevention ("CDC") guidelines, particularly in spaces that are accessible to staff, customers, or members, or other individuals, including, but not limited to, restroom and locker facilities, counter tops, hand rails, door knobs, other common surfaces, safety equipment, and other frequently touched surfaces including employee used equipment, and ensure cleaning procedures following a known or potential exposure in compliance with CDC recommendations;

ii. Clean and disinfect equipment that is rented in accordance with CDC and DOH guidelines; and

iii. Train and equip employees to perform the above protocols effectively and in a manner that promotes the safety of the visitors and staff;

l. Place additional restrictions on areas of the business, as necessary, to limit person-to-person interactions and facilitate appropriate social distancing;

m. Immediately separate and send home workers who appear to have symptoms consistent with COVID-19 illness upon arrival at work or who become sick during the day;

n. Promptly notify workers of any known exposure to COVID-19 at the worksite, consistent with the confidentiality requirements of the Americans with Disabilities Act and any other applicable laws;

o. Clean and disinfect the worksite in accordance with CDC guidelines when a worker at the site has been diagnosed with COVID-19 illness;

p. Continue to follow guidelines and directives issued by the New Jersey DOH, the CDC, and the Occupational Health and Safety Administration, as applicable, for maintaining a clean, safe and healthy work environment;

q. Ensure that staff practice regular hand hygiene when interacting with the public. Businesses may adopt policies that require staff to wear gloves, in addition to regular hand hygiene. Where a business requires its staff to wear gloves while at the worksite, the business must provide such gloves to staff;

r. Require workers and customers to wear cloth face coverings while in the indoor portion of the premises, except where doing so would inhibit that individual's health or where the individual is under two years of age. Businesses must provide, at their expense, such face coverings for their employees. If a customer refuses to wear a cloth face covering for non-medical reasons and if such covering cannot be provided to the individual by the business at the point of entry, then the business must decline the individual entry into the indoor premises. Nothing in the stated policy should prevent workers or customers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if the business is otherwise required to provide such worker with more protective equipment due to the nature of the work involved. Where an individual declines to wear a face covering in the indoor premises due to a medical condition that inhibits such usage, neither the essential retail business nor its staff shall require the individual to produce medical documentation verifying the stated condition; and

s. The requirement listed above in Paragraph 2(p) shall not apply where impracticable, such as when individuals are eating or drinking. Individuals who are eating or drinking concessions must wear face coverings before they begin eating or drinking, and then must put their face coverings back on after they are finished eating or drinking.

3. Effective at 6:00 a.m. on Friday, September 4, 2020, Paragraphs 2, 3, 4, and 5 of Executive Order No. 158 (2020) are hereby rescinded. After 6:00 a.m. on Friday, September 4, 2020, any retail, recreational, and entertainment business that is authorized to open its indoor premises to the public may allow the consumption of food, beverages, or smoking in those indoor premises, when otherwise permitted by State law. The State-mandated prohibition of smoking in any outdoor areas designated for the consumption of food and/or beverages shall sunset at 6:00 a.m. on Friday, September 4, 2020, although food or beverage establishments may choose to continue this prohibition if otherwise permitted to do so by State law.

4. Paragraph 1 of Executive Order No. 173 (2020) is hereby rescinded and the number of individuals at indoor gatherings that are not religious services or celebrations, political activities, wedding ceremonies, funerals, or memorial services shall be limited to 25 percent of the capacity of the room in which it takes place, but regardless of the capacity of the room, such limit shall never be larger than 25 persons or smaller than 10 persons. The number of individuals at indoor gatherings that are religious services or celebrations, political activities, wedding ceremonies, funerals, or memorial services shall be limited to 25 percent of the capaci-

ty of the room in which it takes place, but regardless of the capacity of the room, such limit shall never be larger than 150 persons or smaller than 10 persons. For purposes of this Paragraph, any private residence or residential unit shall be treated as a single "room."

5. Paragraph 1(b) of Executive Order No. 152 (2020) is hereby rescinded and all attendees at an indoor gathering must wear face coverings at all times except where doing so would inhibit the individual's health, where the individual is under two years of age, or when wearing a face covering is impracticable, such as when an individual is eating, drinking, or smoking.

6. While the numerical limits on indoor gatherings in Paragraph 1(a) of Executive Order No. 152 (2020) and the face covering requirement in Paragraph 1(b) of Executive Order No. 152 (2020) are hereby superseded, all other requirements for indoor gatherings contained in Paragraph 1 for Executive Order No. 152 (2020) shall remain in effect.

7. Any requirements in any Executive Order, Administrative Order, or agency directive that incorporated by reference the gatherings limits in Executive Order Nos. 107, 142, 148, 152, 156, 161, and/or 173 (2020) are amended to reflect the rules on gatherings stated in this Order.

8. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

9. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order.

10. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

11. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

12. This Order shall take effect immediately, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated September 1, 2020.

EXECUTIVE ORDER NO. 184

WHEREAS, on September 11, 2001, unprecedented acts of terrorism were committed in New York, Washington, D.C., and Pennsylvania; and

WHEREAS, these barbaric attacks took the lives of almost 3,000 innocent people, nearly 700 of whom were residents of New Jersey; and

WHEREAS, many New Jerseyans, including thousands of police, fire, military, emergency, and construction personnel, bravely responded to this tragedy; and

WHEREAS, these attacks caused a tremendous loss of life, and further inflicted incalculable pain and anguish on the survivors of the attacks and the families who lost loved ones that day; and

WHEREAS, nineteen years later, many New Jerseyans continue to endure the devastating loss of a parent, spouse, child, or other loved one; and

WHEREAS, September 11, 2001 will be remembered by New Jerseyans across the State, both privately and at public remembrances and memorials, as we continue to display the patriotism and compassion that defines us as Americans and as New Jerseyans; and

WHEREAS, we remain grateful to our law enforcement officers, Armed Forces, and intelligence officers for their extraordinary sacrifices in the protection of our country and our State; and

WHEREAS, on this nineteenth anniversary of September 11, 2001, it is appropriate and fitting that this day be observed with full solemnity, in honor of the victims of the attacks;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of the State of New Jersey shall be flown at half-staff at all State departments, offices, agencies, instrumentalities, and all public buildings during appropriate hours on Friday, September 11, 2020, in recognition and in mourning of the victims of the attacks of September 11, 2001, including those from our home State.

2. This Order shall take effect immediately.

Dated September 10, 2020.

EXECUTIVE ORDER NO. 185

WHEREAS, Justice Ruth Bader Ginsburg was born Joan Ruth Bader on March 15, 1933 in Brooklyn, New York, to Celia and Nathan Bader; and

WHEREAS, Celia Bader, Justice Ginsburg's mother, struggled with cancer while Justice Ginsburg was in high school, and tragically passed away the day before Justice Ginsburg's high school graduation; and

WHEREAS, Justice Ginsburg attended Cornell University on a scholarship, where she received a Bachelor of Arts in Government, was a member of Phi Beta Kappa, and earned the highest grade point average of any female student in her graduating class; and

WHEREAS, during her time at Cornell, Justice Ginsburg met and began dating a fellow student named Martin Ginsburg, and they married nine days after Justice

Ginsburg's graduation in 1954 and remained married for 56 years until Martin's death from cancer in 2010; and

WHEREAS, after Justice Ginsburg gave birth to her and Martin's first child, Jane, in 1955, Martin enrolled at Harvard Law School that year while Justice Ginsburg enrolled at Harvard Law School the following year, in 1956; and

WHEREAS, Justice Ginsburg was one of only nine women in a class of 500 at Harvard Law School, and excelled academically while caring for both Jane and Martin, who had been diagnosed with testicular cancer; and

WHEREAS, when Martin took a job in New York City after graduating in 1958, Justice Ginsburg transferred to Columbia Law School and spent her third year of law school there, where she graduated tied for first in her class; and

WHEREAS, despite her superb academic credentials, Justice Ginsburg received no offers from New York law firms and was rejected for a clerkship at the U.S. Supreme Court by a Justice who refused to consider her because she was a woman, reflecting the pervasive discrimination that women in the law faced during that time; and

WHEREAS, Justice Ginsburg eventually obtained a clerkship with U.S. District Judge Edmund L. Palmieri of the Southern District of New York, and then went to work for the Columbia Law School Project on International Procedure, and produced a treatise on Swedish civil law; and

WHEREAS, Justice Ginsburg joined the faculty at Rutgers Law School in Newark in 1963, at which time she was one of fewer than 20 female law professors in the United States, and taught there from 1963 to 1972; and

WHEREAS, during this time, Justice Ginsburg and Martin had their second child, James, in 1965; and

WHEREAS, while a member of the faculty, Justice Ginsburg began volunteering to work on discrimination cases for the New Jersey affiliate and the national chapter of the American Civil Liberties Union ("ACLU"), including Reed v. Reed, 404 U.S. 71 (1972), in which the U.S. Supreme Court ruled for the first time that the Equal Protection Clause in the Fourteenth Amendment prohibits gender discrimination; and

WHEREAS, in 1972, Justice Ginsburg left Rutgers Law School to join the faculty at Columbia Law School as its first female tenured law professor and was also hired that year as the first director of the Women's Rights Project at the ACLU; and

WHEREAS, in her role at the Women's Rights Project, Justice Ginsburg argued six gender discrimination cases before the U.S. Supreme Court and won five of them, including several cases where she argued against laws that were based on stereotypes of male and female roles; and

WHEREAS, her contributions to gender equality in the courts led many observers to describe her as the Thurgood Marshall of the women's rights movement; and

WHEREAS, in 1980, Justice Ginsburg was nominated by President Jimmy Carter to serve as a Judge on the U.S. Court of Appeals for the District of Columbia Circuit, and she served on that court for 13 years; and

WHEREAS, in June 1993, President Clinton nominated Justice Ginsburg to the U.S. Supreme Court, and after being confirmed by a 96 to 3 vote in the Senate, she became the second woman ever to serve on our nation's highest court; and

WHEREAS, Justice Ginsburg served on the U.S. Supreme Court for over 27 years, and authored numerous landmark majority and dissenting opinions; and

WHEREAS, in 1996, Justice Ginsburg wrote the majority opinion in *United States v. Virginia*, 518 U.S. 515 (1996), where the Court held that the Virginia Military Institute's all-male admissions policy violated the Equal Protection Clause; and

WHEREAS, in *Ledbetter v. Goodyear*, 550 U.S. 618 (2007), Justice Ginsburg dissented and called on Congress to clarify Title VII and reverse the majority's decision making it extraordinarily difficult to assert a pay discrimination claim, which came to pass in 2009 when Congress passed the Lily Ledbetter Fair Pay Act that was signed into law by President Barack Obama; and

WHEREAS, Justice Ginsburg also notably dissented in *Shelby County v. Holder*, 570 U.S. 2 (2013), where she criticized the Court's decision to invalidate portions of the Voting Rights Act of 1965 because "throwing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet"; and

WHEREAS, Justice Ginsburg was a beloved member of the Court, and famously forged a close personal friendship with Justice Antonin Scalia despite their sharp ideological differences, serving as a reminder that we in public life can disagree while still maintaining civility and respect for each other; and

WHEREAS, towards the end of her tenure, Justice Ginsburg achieved significant fame in pop culture and became the subject of numerous books, movies, and artwork, making her an iconic figure to younger generations who have benefited from her fights for equality; and

WHEREAS, in 2019, I had the distinct honor of presenting Justice Ginsburg with The Golden Pea on behalf of MARCHENLAND Berlin, an experience that my family and I will never forget; and

WHEREAS, Justice Ginsburg died from complications of metastatic pancreatic cancer on September 18, 2020; and

WHEREAS, Justice Ginsburg leaves behind her daughter Jane, her son James, and her four grandchildren, including her granddaughter Clara, who has followed in Justice Ginsburg's footsteps as a lawyer at the ACLU; and

WHEREAS, despite beginning her legal career at a time when the legal field was almost entirely male, Justice Ginsburg ascended to the highest level of our judiciary through an unmatched combination of intellect, work ethic, and perseverance; and

WHEREAS, Justice Ginsburg was a towering figure in American jurisprudence, both as an advocate and as a Justice, and leaves behind a particularly profound legacy for women and girls, who today are entitled to equal rights under the law because of Justice Ginsburg's lifetime of work; and

WHEREAS, Justice Ginsburg will be sorely missed by a country that will forever be in her debt, and she will always remain a guiding light for all those who continue the fight for justice, equality, and civil rights;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours from Saturday, September 19, 2020, through the day of Justice Ginsburg's interment, in recognition and mourning of an American hero, Justice Ruth Bader Ginsburg.

2. This Order shall take effect immediately.

Dated September 19, 2020.

EXECUTIVE ORDER NO. 186

WHEREAS, on March 9, 2020, through Executive Order No. 103 (2020), the facts and circumstances of which are adopted by reference herein, I declared both a Public Health Emergency and a State of Emergency throughout the State due to the public health hazard created by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, Executive Order No. 103 (2020) described both the symptoms and dangers presented by COVID-19 and the likelihood of community spread across the State, and it recognized the need to use all available statewide authorities to prepare for and respond to COVID-19 cases in New Jersey, to implement appropriate measures to mitigate the spread of COVID-19, and to prepare in the event of an increasing number of individuals requiring medical care or hospitalization; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act ("EHPA"), to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, 135-138, 140-166, 168-173, 175, 177-181, and 183 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, N.J.S.A. 26:13-3(b) establishes that a Public Health Emergency declared by the Governor shall automatically terminate after 30 days, unless renewed for an additional 30 days through a declaration of the Governor; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on May 6, 2020, I issued Executive Order No. 138, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on June 4, 2020, I issued Executive Order No. 151, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on July 2, 2020, I issued Executive Order No. 162, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on August 1, 2020, I issued Executive Order No. 171, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on August 27, 2020, I issued Executive Order No. 181, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, and 181 (2020), I declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, since the Public Health Emergency was renewed on August 27, 2020, at which time there were over 190,000 positive cases of COVID-19 in New Jersey, the COVID-19 outbreak has continued to present a public health hazard in New Jersey, in the region, and across the United States; and

WHEREAS, as of September 25, 2020, according to the World Health Organization, there were over 32,029,000 confirmed cases of COVID-19 worldwide, with over 979,000 of those cases having resulted in death; and

WHEREAS, as of September 24, 2020, according to the Centers for Disease Control and Prevention (CDC), there were over 6,916,000 confirmed cases of COVID-19 in the United States, with over 201,000 of those cases having resulted in death; and

WHEREAS, as of September 24, 2020, there were over 201,000 positive cases of COVID-19 in New Jersey, with at least 14,300 of those cases having resulted in death; and

WHEREAS, there have been positive cases of COVID-19 in every county in New Jersey, and there have been deaths relating to COVID-19 in every county in New Jersey; and

WHEREAS, due to the significant emergency measures the State has taken in response to COVID-19, there has now been a decrease in the rate of reported new cases of COVID-19 in New Jersey, in the total number of individuals being admitted to hospitals for COVID-19, and in the rate of reproduction for COVID-19 infections in New Jersey; and

WHEREAS, given the progress the State has made based on these emergency measures and after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan (the "Plan") for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, in line with the Plan, the State has been able to relax a number of restrictions, each time tailored to the relative risk the activity presents, and additional restrictions on outdoor and indoor recreational and entertainment businesses have been lifted over the past several months; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, the fact that the spread of COVID-19 has been limited by the State's emergency measures does not in any way suggest that the ongoing Public Health Emergency has dissipated, because absent social distancing measures, public health experts anticipate that the spread of COVID-19 would again significantly increase; and

WHEREAS, the renewal of the declaration of the ongoing Public Health Emergency is necessary to allow the State to continue with the Plan to allow for the methodical and strategic reopening of the State, consistent with the State's authority under the EHPA; and

WHEREAS, the renewal of the declaration of the ongoing Public Health Emergency is also necessary to ensure that the State can swiftly respond to take all appropriate actions should the rate of reported new cases of COVID-19 in New Jersey, number of individuals being admitted to hospitals for COVID-19, or rate of reproduction for COVID-19 infections in New Jersey increase once more, as we are now seeing in numerous states across the country; and

WHEREAS, the spread of COVID-19 has greatly strained the resources and capabilities of county and municipal governments, including public health agencies, that provide essential services for containing and mitigating the spread of contagious diseases, and the situation is too large in scope to be handled entirely by the normal county and municipal operating services; and

WHEREAS, the facts as set forth above and in consultation with the Commissioner of DOH confirm that the spread of COVID-19 in New Jersey constitutes an ongoing public health hazard that threatens and presently endangers the health, safety, and welfare of the residents of one or more municipalities or counties of the State, and it is necessary and appropriate to take action against this public health hazard to protect and maintain the health, safety, and welfare of New Jersey residents and visitors; and

WHEREAS, the facts as set forth above and in consultation with the Commissioner of DOH confirm that there exists a Public Health Emergency in the State; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby DECLARE and PROCLAIM that the Public Health Emergency declared in Executive Order No. 103 (2020) pursuant to the EHPA, N.J.S.A. 26:13-1, et seq., continues to exist throughout the State of New Jersey, and I hereby ORDER and DIRECT:

1. All Executive Orders adopted in whole or in part based on the authority under the EHPA to respond to the Public Health Emergency presented by the COVID-19 outbreak remain in full force and effect.

2. All actions taken by any Executive Branch departments and agencies in whole or in part based on the authority under the EHPA to respond to the Public Health Emergency presented by the COVID-19 outbreak, or in whole or in part based on authority delegated by any Executive Orders described in Paragraph 1 of this Order, including but not limited to any Administrative Orders, remain in full force and effect.

3. For purposes of this Order, "Executive Branch departments and agencies" shall mean any of the principal departments in the Executive Branch of State government and any agency, authority, board, bureau, commission, division, institution, office, or other instrumentality within or created by any such department, and any independent State authority, commission, instrumentality, or agency over which the Governor exercises executive authority, as determined by the Attorney General.

4. This Order shall take effect immediately.

Dated September 25, 2020.

EXECUTIVE ORDER NO. 187

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, 180, and 186, issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, August 1, 2020, August 27, 2020, and September 25, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all

Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-166, Nos. 168-173, No. 175, Nos. 177-181, and No. 183 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, organized sports play a crucial role in an individual's physical and mental development, and for a number of athletes, organized sports offer the possibility of collegiate scholarships or other opportunities; and

WHEREAS, on May 29, 2020, I signed Executive Order No. 149, which allowed organized sporting activities to resume on June 22, 2020, in outdoor settings, provided that they did not involve person-to-person contact or individuals routinely interacting in close proximity; and

WHEREAS, Executive Order No. 149 (2020) also directed the Commissioner of the DOH to issue health and safety standards regarding sporting activities before June 22, 2020; and

WHEREAS, on June 15, 2020, the Commissioner of the DOH issued Guidance for Sports Activities (the "Guidance"), which categorized sports as "High Risk", "Medium Risk", and "Low Risk"; and

WHEREAS, the Guidance stated that practices and competitions for Low Risk sports could resume on June 22, 2020 in outdoor settings, because pursuant to Executive Order No. 149 (2020), they do not involve person-to-person contact and do not routinely entail individuals interacting within six feet of one another; and

WHEREAS, the Guidance noted no-contact practices for Medium Risk and High Risk sports could also resume on June 22, 2020, in outdoor settings, consistent with Executive Order No. 149 (2020); and

WHEREAS, on July 8, 2020, I issued Executive Order No. 163, which among other things, stated that practices and competitions for Low Risk sports and no-contact practices for High or Medium Risk sports could resume in both outdoor and indoor settings; and

WHEREAS, Executive Order No. 163 (2020) also stated that contact practices and competitions for Medium Risk sports were permitted to resume, but in outdoor settings only; and

WHEREAS, Executive Order No. 163 (2020) noted that contact practices and competitions for High Risk sports remain prohibited in both indoor and outdoor settings; and

WHEREAS, on July 20, 2020, I issued Executive Order No. 168, which allowed contact practices and competitions for High Risk sports in outdoor settings only, meaning that contact practices and competitions for both Medium Risk and High Risk sports have been permitted in outdoor settings but prohibited in indoor settings; and

WHEREAS, there are certain Medium and High Risk sports that require the use of indoor facilities and cannot be readily played outside; and

WHEREAS, the feasibility of conducting organized sporting activities outside will decrease as the weather becomes colder; and

WHEREAS, by expressly authorizing Medium and High Risk sports to resume contact practices and competitions in indoor settings, organizers and participants will be required to abide by the protocols outlined in the Guidance and will be subject to additional monitoring by leagues, associations and similar entities, thereby minimizing the potential risk associated with the activities; and

WHEREAS, the indefinite prohibition of contact practices and competitions in indoor settings would be highly disruptive to individuals' athletic careers, which could both affect individuals' personal and professional development and endanger certain financial opportunities for individuals, such as collegiate scholarships; and

WHEREAS, Paragraph 7 of Executive Order No. 148 clarified that professional athletes could fulfill their job duties, meaning professional sporting activities associated with Medium and High Risk sports have been permitted indoors, and there are no confirmed COVID-19 outbreaks in New Jersey related to professional sporting activities indoors; and

WHEREAS, organized sports typically involve a common, defined group of people interacting, which makes contact tracing easier in the event there are identified cases of COVID-19; and

WHEREAS, because of our continued progress, we can now allow Medium and High Risk sports to resume contact practices and competitions in indoor settings; and

WHEREAS, certain sports practices and competitions require more than 25 individuals to be present, when accounting for players, coaches, referees, and other necessary individuals, and the formal nature of such events makes it easier to ensure that health and safety protocols are being appropriately followed; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supple-

ments thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. No-contact practices, contact practices, and competitions for sports defined as "Low Risk", "Medium Risk", and "High Risk" by DOH's "Guidance for Sports Activities" are permitted in both outdoor and indoor settings. All activities referenced in this Paragraph are subject to the "Guidance for Sports Activities" issued by the Commissioner of the DOH, and such activities must comply with all applicable laws, regulations, and Executive Orders, including restrictions on recreational and entertainment businesses in Paragraph 7 of Executive Order No. 157 (2020) and restrictions on gatherings in place at the time the sporting activities occur. Paragraph 13 of Executive Order No. 149 (2020), Paragraph 6 of Executive Order No. 163 (2020), and Paragraph 1 of Executive Order No. 168 (2020) are superseded to the extent that they are inconsistent with the provisions of this Paragraph.

2. No-contact practices, contact practices, and competitions that are conducted indoors are subject to the current indoor gathering limit of 25% of the capacity of the room in which it takes place, with such limit not to exceed 25 persons or be smaller than 10 persons. However, if the number of individuals who are necessary for a no-contact practice, contact practice, or competition, such as players, coaches, and referees, is greater than 25 persons, such a no-contact practice, contact practice, or competition may proceed, as long as no individuals are present who are not necessary for the no-contact practice, practice, or competition, such as spectators. If this exception applies, the number of individuals at such an indoor gathering still may not exceed 25% of the capacity of the room in which it takes place, and such limit may not exceed 150 persons.

3. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

4. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order.

5. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

6. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

7. This Order shall take effect immediately, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated October 12, 2020.

EXECUTIVE ORDER NO. 188

WHEREAS, New Jersey is one of the most racially, ethnically, and religiously diverse states in the nation, and this diversity is one of our State's greatest strengths; and

WHEREAS, discrimination, prejudice, and bigotry have no place in New Jersey or anywhere else in the nation; and

WHEREAS, in addition to enforcing existing anti-discrimination laws and regulations, such as the New Jersey Law Against Discrimination, our Administration is committed to using all resources and tools available to end hate and intolerance in all their forms, especially among New Jersey's students and young adults; to root out systemic racism and bias; and to foster learning environments where all students are welcome; and

WHEREAS, bias incidents, or suspected or confirmed crimes that are committed based on the victim's actual or perceived race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity, jeopardize our pursuit of freedom and opportunity, attack the identity and heritage of our citizens, shake the foundations of our cultural and religious institutions, and strike at our efforts to build a stronger and fairer New Jersey; and

WHEREAS, our institutions and systems play a role in teaching and perpetuating interpersonal bias, and it is impossible to address interpersonal bias without addressing systemic bias, particularly systemic racism; and

WHEREAS, the 2017-2018 Bias Incident Report issued by the Department of Law & Public Safety in August 2019, drawing on data submitted to the New Jersey Uniform Crime Reporting System by every New Jersey law enforcement agency, identified 569 reported bias incidents in New Jersey in 2018, the highest annual total since 2011; and

WHEREAS, the 2017-2018 Bias Incident Report noted that an alarming number of reported bias incidents occurred at schools, and/or involved offenders and/or victims who were minors; and

WHEREAS, the Department of Law & Public Safety's Bias Incident Report for 2019 identifies 994 reported bias incidents, a 75% increase from 2018 -- the highest annual number of bias incidents in the State and the largest year-over-year increase since New Jersey began reporting bias incident data in 1994; and

WHEREAS, the reported bias incidents from 2019 include the deadly December 10th attacks at the JC Kosher Supermarket and the Bayview Cemetery in Jersey City, in which two shooters fueled by hate, tragically killed four of our fellow New Jerseyans; and

WHEREAS, in 2019, almost 25% of reported bias incidents occurred in elementary and secondary schools; and

WHEREAS, young people continue to make up a disproportionate share of offenders and victims in reported bias incidents; and

WHEREAS, addressing the rise in reported bias incidents among students and young adults in New Jersey requires cooperation across government agencies to understand the root causes of bias incidents and determine the best path forward; and

WHEREAS, in response to the findings in the 2017-2018 Bias Incident Report, Acting Governor Sheila Y. Oliver issued Executive Order No. 78 (2019), which created an Interagency Task Force to Combat Youth Bias ("Interagency Task Force") to provide advice and recommendations to the Governor's Office, the Attorney General, and other Executive Branch departments and agencies on strategies and actions to reduce incidents of hate, bias, and intolerance involving students and young adults; and

WHEREAS, the Interagency Task Force has now issued the required report of its findings and recommendations to the Governor and Attorney General; and

WHEREAS, the Interagency Task Force's report includes 27 recommendations for how New Jersey can better address the rate of bias incidents, particularly among young people, through education, enforcement, and public engagement; and

WHEREAS, although certain recommendations of the Interagency Task Force would require action by the Legislature, by school districts, or by postsecondary institutions, other recommendations can be implemented through action by Executive Branch departments and agencies, as described in the Interagency Task Force report's "Implementation Plan"; and

WHEREAS, the Interagency Task Force's recommendations are consistent with the policy of the State of New Jersey to combat discrimination, prejudice, and bigotry, and to reduce the rate of bias incidents in the State;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The Attorney General; the Department of Law & Public Safety's Division on Civil Rights, Division of Criminal Justice, Division of State Police, and Juvenile Justice Commission; the Department of Children & Families; the Department of Education; the Office of Homeland Security & Preparedness; and the Office of the Secretary of Higher Education, shall take necessary and appropriate steps to implement those recommendations contained in the report of the Interagency Task Force that these Executive Branch departments and agencies currently have legal authority to implement.

2. No later than December 31, 2021, each of the Executive Branch departments and agencies identified in Paragraph 1 shall report to the Office of the Governor on

the progress of their implementation of the Interagency Task Force's recommendations.

3. Nothing contained herein shall be construed to direct the exercise of enforcement discretion by the Attorney General, the Division on Civil Rights, the Division of Criminal Justice, or the New Jersey State Police.

4. Nothing in this Order shall be construed to supersede any federal, State, or local law.

5. This order shall take effect immediately.

Dated October 13, 2020.

EXECUTIVE ORDER NO. 189

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, 180, and 186 issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, August 1, 2020, August 27, 2020, and September 25, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act, N.J.S.A. App. A:9-33 et seq. and the Emergency Health Powers Act, N.J.S.A. 26:13-1 et seq., to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-166, Nos. 168-173, No. 175, Nos. 177-181, and Nos. 186-187 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, as of October 14, 2020, according to the World Health Organization, there were over 38,002,000 confirmed cases of COVID-19 worldwide, with over 1,083,000 of those cases having resulted in death; and

WHEREAS, as of October 14, 2020, according to the Centers for Disease Control and Prevention, there were over 7,835,000 confirmed cases of COVID-19 in the United States, with over 215,000 of those cases having resulted in death; and

WHEREAS, as of October 14, 2020, there were over 216,000 positive cases of COVID-19 in New Jersey, with at least 14,402 of those cases having resulted in death; and

WHEREAS, there have been positive cases of COVID-19 in every county in New Jersey, and there have been deaths relating to COVID-19 in every county in New Jersey; and

WHEREAS, the COVID-19 Emergency has caused many businesses throughout the State to transition to remote working arrangements, including third party and in-house tax professionals; and

WHEREAS, adherence to social distancing requirements have made it difficult for tax preparers to meet with their clients to prepare tax returns; and

WHEREAS, P.L.2018, c.48 and P.L.2018, c.131 overhauled the State's Corporation Business Tax ("CBT") Act, including by collectively mandating combined reporting for tax years ending on and after July 31, 2019 for combined groups that have common ownership, conduct a unitary business, and have at least one member corporation subject to tax under the CBT Act; and

WHEREAS, pursuant to N.J.S.A. 54:10A-4.11, the managerial member of a combined group may elect to have the combined group determined on a world-wide basis or an affiliated group basis, and if no such election is made, the combined group shall be determined on a water's-edge basis and will take into account the incomes and allocation factors of only members with significant business operations within the United States, with several inclusions and exceptions; and

WHEREAS, a world-wide election or an affiliated group election is effective only if made on a timely filed, original return for a privilege period by the managerial member of the combined group; and

WHERAS, N.J.A.C. 18:7-11.19 requires tax preparers and taxpayers who submit their own returns to file CBT returns electronically; and

WHEREAS, N.J.S.A. 54:10A-15 provides that annual returns and installment payments of estimated tax for the first quarter of the current tax year for CBT taxpayers with accounting periods ending December 31 are due April 15; and

WHEREAS, N.J.S.A. 54:10A-19 allows the Director of the Division of Taxation in the Department of the Treasury to grant a reasonable extension of time for the filing of CBT returns or the payment of tax, or both, under such rules and regulations as the Director shall prescribe and N.J.A.C. 18:7-11.12 provides for an automatic extension for a period not exceeding six months; and

WHEREAS, on March 21, 2020, the United States Treasury Department and the Internal Revenue Service (IRS) announced that the federal income tax filing due date is extended from April 15, 2020 to July 15, 2020, and taxpayers may also defer federal income tax payments due on April 15, 2020 to July 15, 2020, without penalties and interest, regardless of the amount owed; and

WHEREAS, pursuant to P.L.2020, c.19, the "COVID-19 Fiscal Mitigation Act," the Legislature and the Governor aligned certain New Jersey tax payment and reporting deadlines with the federal government by automatically extending the deadline for filing New Jersey gross income tax and corporation business tax

annual or quarterly returns or reports with an original due date of April 15, 2020 to July 15, 2020 and providing that a taxpayer will not be subject to penalties or interest if the taxpayer files a return or report, and makes a payment, by the end of the extension; and

WHEREAS, 2019 CBT calendar year and 2020 CBT first quarter returns being filed under an extension pursuant to N.J.S.A. 54:10A-19 have the same return due date as the federal return, October 15, 2020; and

WHEREAS, many filers received an extension to file their federal returns and therefore need some additional time to file their New Jersey returns; and

WHEREAS, the starting point for computing the CBT is a taxpayer's federal taxable income before the subtraction of any net operating loss deduction and special deductions and therefore having a CBT filing due date that aligns with the due date for federal taxation makes it difficult for taxpayers to determine their CBT liability; and

WHEREAS, the difficulty of filing federal and State corporate taxes concurrently may have been further exacerbated by the inability of tax professionals to meet with their clients due to the social distancing mandates and work-from home requirements brought about by the COVID-19 emergency; and

WHEREAS, the transition to combined reporting presents new challenges for tax preparers which are made more severe by the inability of tax preparers to meet with their clients in-person and engage in a line-by-line review and collaborative discussion about the intricacies of the new combined return due to the COVID-19 emergency; and

WHEREAS, failure to file a timely CBT return will result in CBT taxpayers being defaulted to a water's edge basis for the current tax year; and

WHEREAS, the concurrent due dates of State and federal returns in combination with the difficulties caused by the COVID-19 Emergency will likely result in many corporate taxpayers being unable to file their returns by the October 15, 2020 extended due date; and

WHEREAS, mandatory electronic filing of the newly required combined returns is likely to result in errors given the size and complexity of many CBT returns; and

WHEREAS, the COVID-19 emergency has had a profound effect on the lives and livelihoods of all State residents and the extension of the filing due date of the CBT is necessary to ensure that residents and State officials have the ability to focus their full attention and resources on the immediate emergency; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A:9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The extended due date for filing the 2019 CBT annual return, which is currently October 15, 2020, will instead be November 16, 2020. The Director of the Division of Taxation shall not impose any penalties for failure to file a corporation business tax report for the applicable tax year after October 15, 2020 but on or before November 16, 2020.

2. The provisions of N.J.S.A. 54:10A-15, N.J.S.A. 54:10A-19, and N.J.A.C. 18:7-11.12 are suspended for the duration of the COVID-19 Public Health Emergency to the degree that the filing deadlines set forth in those provisions are inconsistent with Paragraph 1 of this Order. Any provisions of these statutes and regulations that are not inconsistent with this Order remain in full force and effect.

3. This Order shall take effect immediately.

Dated October 15, 2020.

EXECUTIVE ORDER NO. 190

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, 180, and 186, issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, August 1, 2020, August 27, 2020, and September 25, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-166, Nos. 168-173, No. 175, Nos. 177-181, No. 183, Nos. 186-187, and No. 189 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, in response to the COVID-19 pandemic, on March 13, 2020, the Federal Communications Commission issued a request for the nation's telephone companies and internet providers to pledge to "Keep America Connected" and, among other things, not terminate service due to inability to pay because of disruptions caused by COVID-19 through June 30, 2020; and

WHEREAS, to protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19, including the closure of all public, private, and parochial preschool program premises, and elementary and secondary schools, including charter and renaissance schools, to students and the cessation of in-person instruction at all private and public institutions of higher education; and

WHEREAS, to further limit community spread from person-to-person contact through use of social mitigation measures, Executive Order No. 107 (2020) required all public, private, and parochial preschool program premises, and elementary and secondary schools, including charter and renaissance schools, to continue to remain closed to students, required all public and private institutions of higher education to continue to cease in-person instruction, and mandated that all businesses or non-profits in the State accommodate their workforce, wherever practicable, for telework or work-from-home arrangements; and

WHEREAS, on March 19, 2020, the New Jersey Board of Public Utilities ("BPU") issued an order, Dkt. No. EO20030254, emphasizing the critical need to maintain essential services for New Jersey residents throughout the pandemic, and permitting broadband internet providers to continue to establish new connections and repair existing service for homes with school-aged children, those in need of internet access to meet job requirements, or other priority customers; and

WHEREAS, Executive Order No. 126 (2020) prohibited cable and telecommunications providers that provide residential internet and voice services to New Jersey residents from terminating such internet and voice service due to nonpayment to ensure that residents maintained sufficient residential internet and voice services to work and further their education in a home environment; and

WHEREAS, recognizing that access to heat, power, and clean water are essential to New Jersey residents as they stay, work, and learn at home in response to COVID-19, all gas and electric utilities in the State, as well as all privately and publicly owned water systems, have voluntarily suspended service shutoffs due to nonpayment through October 15, 2020; and

WHEREAS, given the prior decreases in the rate of reported new cases of COVID-19 in New Jersey, including an ongoing reduction in the total number of individuals being admitted to hospitals for COVID-19, the State has taken steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, the ongoing risks presented by COVID-19 mean that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, after consultation with officials from the Department of Health, I announced a multi-stage New Jersey's Road Back Plan (the "Plan") for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, the Department of Education has found that reopening schools for in-person instruction is critical in facilitating the social and emotional health of students and providing educators with the ability to actively participate in student learning, provide feedback, and promote active learning among students on a daily basis; and

WHEREAS, because some school districts may need additional time to properly implement the health and safety precautions necessary to return any portion of the student population to in-person instruction, potentially making it necessary for such district to begin the 2020-2021 school year with remote instruction for all students, on August 13, 2020 I issued Executive Order No. 175, allowing public school districts to begin the school year with full-time remote instruction under certain circumstances; and

WHEREAS, as of October 14, 2020, of the 800 public educational entities that submitted finalized plans to the Department of Education pursuant to Executive Order No. 175, 241 have begun the 2020-2021 school year with all-remote instruction, 434 are utilizing a hybrid plan that incorporates some in-person instruction, 38 have implemented a combination of all-remote and hybrid instruction, and 87 have begun the school year with full in-person instruction; and

WHEREAS, as the Plan is implemented throughout the State, with some students returning to the classroom for in-person instruction, and some businesses are now reopened to employees, clients, and customers, it is appropriate to allow cable and telecommunications providers that provide residential internet and voice services to New Jersey residents to resume discontinuation of services due to nonpayment, so long as the providers work with their customers to implement repayment plans to mitigate potential financial hardships for residents prior to discontinuing service as a last resort; and

WHEREAS, while providers may resume discontinuing internet and voice services under some circumstances, it remains essential to continue to provide access to residential internet services to households with children attending elementary and secondary schools so that they may continue to receive their education; and

WHEREAS, many New Jersey residents continue to experience financial hardship as a result of the Public Health Emergency, which may hinder their ability to make payments for gas, electric, or water services, subjecting them to potential discontinuation of such essential services due to nonpayment after October 15, 2020; and

WHEREAS, access to heat, power, and clean water remains essential to all New Jersey residents; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. No gas or electric public or municipal utility or privately or publicly owned water system shall discontinue any gas, electric, or water service to New Jersey residents, which includes all residential accounts and any accounts primarily serving residential customers, due to nonpayment unless the disconnection is to prevent or ameliorate a risk to public health or safety.

2. No gas or electric public or municipal utility or privately or publicly owned water system shall collect any fee or charge imposed for late or otherwise untimely payments or service reconnections that have accrued, and will continue to accrue, during the Public Health Emergency.

3. Any gas or electric public or municipal utility or privately or publicly owned water system that serves New Jersey residents shall, at no cost to the customer, reconnect any gas, electric, or water service at any occupied residence, which includes all residential accounts and any accounts primarily serving residential customers, that was discontinued due to nonpayment after the social distancing measures went into effect pursuant to Executive Order No. 104 on March 16, 2020, including where the disconnection was for unpaid bills incurred prior to the current Public Health Emergency, so long as maintaining the disconnection is not necessary to prevent a risk to public health and safety.

4. No cable or telecommunications provider that provides residential internet and voice services to New Jersey residents shall terminate such internet and voice service due to nonpayment before November 15, 2020.

5. Before disconnecting residential internet and voice services to New Jersey residents that have an existing account with the cable or telecommunications provider as of the effective date of this Order due to nonpayment after the date established in Paragraph 4 of this Order, after the required notice of discontinuance is sent to the customer, the cable or telecommunications provider shall offer to enroll customers in an interest free payment plan of at least twelve equal monthly installments that includes any outstanding balance due and owing, as well as the ongoing balance for any services provided during the payment plan period, provided that nothing in this provision prevents a customer from requesting a shorter payback period.

6. A cable or telecommunications provider may provide additional flexibility to customers by offering a combined payment and payment forgiveness plan, involving forgiveness of at least 50% of the outstanding principal, in lieu of a twelve-month payment plan required by paragraph 5 of this Order, solely upon consent of the customer by written or recorded verbal communication, pursuant to a policy approved in writing by the BPU.

7. No cable or telecommunications provider shall discontinue residential internet and voice services to New Jersey residents entered into a payment plan pursuant to paragraphs 5 or 6 of this Order so long as the customer makes timely payments under the payment plan selected by the customer.

8. No cable or telecommunications provider shall require a down payment or deposit to enroll a customer in a payment plan pursuant to Paragraphs 5 through 7 of this Order.

9. No cable or telecommunications provider may disconnect the internet service provided to a residential account that is in effect as of the effective date of this Order that one or more school-aged children utilize for educational purposes. Prior to terminating internet service, a provider must ask the customer, either in writing or through a recorded verbal communication, whether the internet service is being used by a school-aged child for education purposes. If the customer answers in the affirmative, then the provider shall not disconnect the internet service provided to that residential account; provided that nothing in this Order prohibits a cable or telecommunications provider from implementing a policy of continuing to provide residential internet and voice services to all customers in New Jersey subject to approval from the BPU.

10. Where internet service has been disconnected for a residential account and there has been a change of circumstances such that one or more school-aged children will be using the account for educational purposes, the provider shall, upon notification by a customer of such a change of circumstances, take immediate steps to reestablish service to that residential account. The provider shall develop and implement a process for customers to obtain reestablishment of services in those circumstances pursuant to a policy approved in writing by the BPU and shall provide notice of that policy in writing to all customers prior to the disconnection of internet services and on its website.

11. A cable or telecommunications provider that provides residential internet and voice services to New Jersey residents pursuant to paragraphs 9 and 10 may downgrade or otherwise reduce the quality of residential internet services only if acting pursuant to a policy approved in writing by the BPU as long as this Order remains in effect.

12. No cable or telecommunications provider shall seek to impose or collect any late fees, penalties or other reconnection costs on customers affected by the Public Health Emergency as a condition of maintaining service.

13. To the degree that they are inconsistent with this Order, the provisions of N.J.A.C. 14:3-3A.1a(3)-(4) and -3A.5 are suspended for the duration of the Public

Health Emergency. Any provisions of these regulations that are not inconsistent with this Order remain in full force and effect.

14. To the degree that they are inconsistent with this Order, the provisions of N.J.S.A. 40:14A-21; N.J.S.A. 40:14B-41 and -42; N.J.S.A. 40A:26A-12; N.J.S.A. 40A:31-12 are suspended for the duration of the Public Health Emergency. Any provisions of these statutes that are not inconsistent with this Order remain in full force and effect.

15. Any actions taken by the BPU pursuant to this Order shall not be subject to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

16. Executive Order No. 126 (2020) is hereby superseded to the extent inconsistent with this Order.

17. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Executive Order, and to cooperate fully with Administrative Orders issued pursuant to this Order.

18. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

19. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

20. This Order shall take effect immediately and shall remain in effect until March 15, 2021.

Dated October 15, 2020.

EXECUTIVE ORDER NO. 191

WHEREAS, on March 9, 2020, through Executive Order No. 103, the facts and circumstances of which are adopted by reference herein, I declared both a Public Health Emergency and a State of Emergency throughout the State due to the public health hazard created by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, Executive Order No. 103 (2020) described both the symptoms and dangers presented by COVID-19 and the likelihood of community spread across the State, and it recognized the need to use all available statewide authorities to prepare for and respond to COVID-19 cases in New Jersey, to implement appropriate measures to mitigate the spread of COVID-19, and to prepare in the event of an increasing number of individuals requiring medical care or hospitalization; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Ci-

vilian Defense and Disaster Control Act and the Emergency Health Powers Act ("EHPA"), to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, 135-138, 140-166, 168-173, 175, 177-181, 183, 187, 189, and 190 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, N.J.S.A. 26:13-3(b) establishes that a Public Health Emergency declared by the Governor shall automatically terminate after 30 days, unless renewed for an additional 30 days through a declaration of the Governor; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on May 6, 2020, I issued Executive Order No. 138, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on June 4, 2020, I issued Executive Order No. 151, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on July 2, 2020, I issued Executive Order No. 162, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on August 1, 2020, I issued Executive Order No. 171, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on August 27, 2020, I issued Executive Order No. 181, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on September 25, 2020, I issued Executive Order No. 186, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, 181, and 186 (2020), I declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, since the Public Health Emergency was renewed on September 25, 2020, at which time there were over 201,000 positive cases of COVID-19 in New Jersey, the COVID-19 outbreak has continued to present a public health hazard in New Jersey, in the region, and across the United States; and

WHEREAS, as of October 24, 2020, according to the World Health Organization, there were over 41,809,078 confirmed cases of COVID-19 worldwide, with over 1,139,372 of those cases having resulted in death; and

WHEREAS, as of October 23, 2020, according to the Centers for Disease Control and Prevention (CDC), there were over 8,387,047 confirmed cases of COVID-19 in the United States, with over 222,447 of those cases having resulted in death; and

WHEREAS, as of October 23, 2020, there were over 225,430 positive cases of COVID-19 in New Jersey, with at least 14,484 of those cases having resulted in death; and

WHEREAS, there have been positive cases of COVID-19 in every county in New Jersey, and there have been deaths relating to COVID-19 in every county in New Jersey; and

WHEREAS, due to the significant emergency measures the State has taken in response to COVID-19, there was a decrease in the rate of reported new cases of COVID-19 in New Jersey, in the total number of individuals being admitted to hospitals for COVID-19, and in the rate of reproduction for COVID-19 infections in New Jersey; and

WHEREAS, given the progress the State has made based on these emergency measures and after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan (the "Plan") for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, in line with the Plan, the State has been able to relax a number of restrictions, each time tailored to the relative risk the activity presents, and additional restrictions on outdoor and indoor recreational and entertainment businesses have been lifted over the past several months; and

WHEREAS, the fact that the spread of COVID-19 had been limited by the State's emergency measures does not in any way suggest that the ongoing Public Health Emergency had dissipated, because absent social distancing measures, public health experts anticipate that the spread of COVID-19 would again significantly increase; and

WHEREAS, the State has experienced recent upticks in the rate of reported new cases across all counties, demonstrating the need for many of the State's current measures to remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, the renewal of the declaration of the ongoing Public Health Emergency is necessary to allow the State to continue with the Plan to allow for the methodical and strategic reopening of the State, consistent with the State's authority under the EHPA; and

WHEREAS, the renewal of the declaration of the ongoing Public Health Emergency is also necessary to ensure that the State can swiftly respond to take all appropriate actions should the rate of reported new cases of COVID-19 in New Jersey, number of individuals being admitted to hospitals for COVID-19, or rate of reproduction for COVID-19 infections in New Jersey continue to increase once more, as we are now seeing in numerous states across the country; and

WHEREAS, the spread of COVID-19 has greatly strained the resources and capabilities of county and municipal governments, including public health agencies, that provide essential services for containing and mitigating the spread of con-

tagious diseases, and the situation is too large in scope to be handled entirely by the normal county and municipal operating services; and

WHEREAS, the facts as set forth above and in consultation with the Commissioner of DOH confirm that the spread of COVID-19 in New Jersey constitutes an ongoing public health hazard that threatens and presently endangers the health, safety, and welfare of the residents of one or more municipalities or counties of the State, and it is necessary and appropriate to take action against this public health hazard to protect and maintain the health, safety, and welfare of New Jersey residents and visitors; and

WHEREAS, the facts as set forth above and in consultation with the Commissioner of DOH confirm that there exists a Public Health Emergency in the State; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby DECLARE and PROCLAIM that the Public Health Emergency declared in Executive Order No. 103 (2020) pursuant to the EHPA, N.J.S.A. 26:13-1, et seq., continues to exist throughout the State of New Jersey, and I hereby ORDER and DIRECT:

1. All Executive Orders adopted in whole or in part based on the authority under the EHPA to respond to the Public Health Emergency presented by the COVID-19 outbreak remain in full force and effect.

2. All actions taken by any Executive Branch departments and agencies in whole or in part based on the authority under the EHPA to respond to the Public Health Emergency presented by the COVID-19 outbreak, or in whole or in part based on authority delegated by any Executive Orders described in Paragraph 1 of this Order, including but not limited to any Administrative Orders, remain in full force and effect.

3. For purposes of this Order, "Executive Branch departments and agencies" shall mean any of the principal departments in the Executive Branch of State government and any agency, authority, board, bureau, commission, division, institution, office, or other instrumentality within or created by any such department, and any independent State authority, commission, instrumentality, or agency over which the Governor exercises executive authority, as determined by the Attorney General.

4. This Order shall take effect immediately.

Dated October 24, 2020.

EXECUTIVE ORDER NO. 192

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, 180, 186, and 191 (2020), issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, August 1, 2020, August 27, 2020, September 25, 2020, and October 24, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act ("EHPA"), to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-166, Nos. 168-173, No. 175, Nos. 177-181, No. 183, Nos. 186-187 and Nos. 189-191 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, during that time, essential retail businesses and many other types of businesses continued to operate, and it was necessary to impose strict COVID-19 mitigation protocols on those businesses to protect the health of workers and of the community; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan (the "Plan") for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, part of the Plan required imposing health and safety protocols on businesses that were permitted to resume partial or total operations in order to protect visitors, customers, and the workforce; and

WHEREAS, now that a more significant portion of the State's workforce has returned to in-person work, and as the State's economy continues to gradually reopen, it is necessary to ensure broad application of relevant health and safety standards to protect workers across all industries; and

WHEREAS, given the recent upticks in the rate of reported new cases across all counties in the State, the use of mandatory health and safety protocols for all

industries can help guard against continuing spread and ensure that New Jersey's workers feel safe and supported at their places of work; and

WHEREAS, the federal Occupational Safety and Health Administration ("OSHA") has not issued occupational safety or health standards specific to COVID-19; and

WHEREAS, expanding application of critical COVID-19 protocols to workplaces that have resumed physical operations will require increased investigative and enforcement capacity to efficiently address worker complaints of insufficient compliance with such protocols; and

WHEREAS, Public Employees Occupational Safety and Health ("PEOSH") has already established a process for considering health and safety complaints raised by public sector employees in New Jersey; and

WHEREAS, imposing new safety protocols will require training of both employers and employees to encourage full compliance, so as to ensure public health and safety; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Effective at 6:00 a.m. on Thursday, November 5, 2020, every business, non-profit, and governmental or educational entity (hereinafter collectively referred to as "employers" or "employer"), that requires or permits its workforce, whether in part or as a whole, to be physically present at a worksite to perform work is required to abide by the following requirements, at minimum, to protect employees, customers, and all others who come into physical contact with its operations:

a. Require that individuals at the worksite maintain at least six feet of distance from one another to the maximum extent possible, including but not limited to during worksite meetings, orientations and similar activities that would traditionally require individuals to be present in a single room or space and in close proximity, in common areas such as restrooms and breakrooms, and when individuals are entering and exiting the workplace. Where the nature of an employee's work or the work area does not allow for six feet of distance to be maintained at all times, employers shall ensure that each such employee wears a mask as provided in subsection b. and shall install physical barriers between workstations wherever possible.

b. Require employees, customers, visitors, and other individuals entering the worksite to wear cloth or disposable face masks while on the premises, in accordance with Centers for Disease Control and Prevention ("CDC") recommendations, except where the individual is under two years of age or where it is impracticable

for an individual to wear a face mask, such as when the individual is eating or drinking or where a service being provided by the employer cannot be performed on an individual who is wearing a mask;

i. Masking requirements specific to employees:

1. Employers may permit employees to remove face masks when the employees are situated at their workstations and are more than six feet from other individuals at the workplace, or when an individual is alone in a walled office;

2. Employers must make available, at their expense, such face masks to their employees;

3. Nothing in this subsection shall prevent employees from wearing a surgical-grade mask or other more protective face mask, or interfere with the employer's obligation to provide employees with more protective equipment if it is otherwise required because of the nature of the work involved; and

4. Employers may deny entry to the worksite to any employee who declines to wear a face mask, except when doing so would violate State or federal law. Where an employee cannot wear a mask because of a disability, an employer may, consistent with the Americans with Disabilities Act ("ADA") and/or New Jersey Law Against Discrimination ("NJLAD"), be required to provide the employee with a reasonable accommodation unless doing so would be an undue hardship on the employer's operations. An employer may require employees to produce medical documentation supporting claims that they are unable to wear a face mask because of a disability.

ii. Masking requirements specific to customers and visitors:

1. Employers may deny entry to the worksite to any customer or visitor who declines to wear a face mask, except when doing so would violate State or federal law. The employer may be required to provide a customer or visitor who declines to wear a mask due to a disability services or goods via a reasonable accommodation, pursuant to ADA and NJLAD, unless such accommodation would pose an undue hardship on the employer's operations; and

2. Where a customer or other visitor declines to wear a face mask on the premises due to a disability that inhibits such usage, neither the employer nor its employees shall require the individual to produce medical documentation verifying the stated condition, unless production is otherwise required by State or federal law.

iii. Any prior requirements imposed by an Executive Order restricting the ability of an employer to require the production of medical documentation, or to deny entry to a customer, employee, or other visitor to the worksite that refuses to wear a face mask, that are inconsistent with the terms of this Paragraph are hereby superseded.

iv. Subsection b. shall not apply to employers subject to Executive Order No. 175 (2020).

c. Provide sanitization materials, such as hand sanitizer that contains at least 60% alcohol and sanitizing wipes that are approved by the United States Environmental Protection Agency for SARS-CoV-2 virus to employees, customers, and visitors at no cost to those individuals;

d. Ensure that employees practice regular hand hygiene, particularly when such employees are interacting with the public, and provide employees break time for repeated handwashing throughout the workday and access to adequate hand washing facilities. Employers may adopt policies that require employees to wear gloves in addition to regular hand hygiene. Where an employer requires its employees to wear gloves while at the worksite, the employer must provide such gloves to employees;

e. Routinely clean and disinfect all high-touch areas in accordance with DOH and CDC guidelines, particularly in spaces that are accessible to employees, customers, or other individuals, including, but not limited to, restrooms, hand rails, door knobs, other common surfaces, safety equipment, and other frequently touched surfaces including employee used equipment, and ensure cleaning procedures following a known or potential exposure are in compliance with CDC recommendations;

f. Prior to each shift, conduct daily health checks of employees, such as temperature screenings, visual symptom checking, self-assessment checklists, and/or health questionnaires, consistent with CDC guidance, including latest CDC guidance regarding COVID-19 symptoms, consistent with the confidentiality requirements of the ADA, NJLAD and any other applicable laws, and consistent with any guidance from the Equal Employment Opportunity Commission ("EEOC") and the New Jersey Division on Civil Rights;

g. Immediately separate and send home employees who appear to have symptoms, as defined by the CDC, consistent with COVID-19 illness upon arrival at work or who become sick during the day. Employers subject to the New Jersey Earned Sick Leave Law, New Jersey Family Leave Act, N.J.S.A. 34:11D-12 and/or federal leave laws must continue to follow the requirements of the law, including by allowing individuals to use accrued leave in the manner permitted by law and employer policy, when requiring employees to leave the workplace in accordance with the provisions of this subparagraph;

h. Promptly notify all employees of any known exposure to COVID-19 at the worksite, consistent with the confidentiality requirements of the ADA and any other applicable laws, and consistent with guidance from the EEOC;

i. Clean and disinfect the worksite in accordance with CDC guidelines when an employee at the site has been diagnosed with COVID-19 illness; and

j. Continue to follow guidelines and directives issued by the New Jersey DOH, the CDC and the Occupational Safety and Health Administration, as applicable, for maintaining a clean, safe and healthy work environment.

2. The provisions included in Paragraph 1 do not apply when they interfere with the discharge of the operational duties of first responders, emergency management personnel, emergency dispatchers, health care personnel, public health personnel, court personnel, law enforcement and corrections personnel, hazardous materials responders, transit workers, child protection and child welfare personnel, housing and shelter personnel, military employees, and governmental employees engaged in emergency response activities.

3. Paragraph 1 does not apply to the United States government, or to religious institutions to the extent that application of the health and safety protocols would prohibit the free exercise of religion.

4. The Commissioner of the DOH, pursuant to her authority under the EHPA, N.J.S.A. 26:13-1 et seq., and in consultation with any applicable State agencies, is authorized to impose additional health and safety standards relevant to COVID-19 on employers. Nothing in this Order shall be construed to impair any other state agency's authority to impose additional health and safety standards pursuant to other laws or Executive Orders.

5. The Commissioner of the Department of Labor and Workforce Development ("DOLWD"), in consultation with the Commissioner of the DOH, is hereby authorized to provide support for efforts to enforce the requirements outlined in Paragraph 1 of this Order through the following means:

a. Establishing an intake mechanism to receive complaints from individuals working in the State that are subject to the COVID-19 specific health and safety protocols outlined in this Order. The Commissioner of the DOLWD shall, where applicable, coordinate with relevant licensing and/or regulating agencies or refer complaints to such agencies. Nothing in this Order shall require the intake mechanism to serve as the sole means for receiving or processing such complaints;

b. Creating a process for consideration of such complaints, including, but not limited to, through the use of employee and employer interviews; and

c. Coordinating with the Commissioner of the DOH and any other applicable State entity to establish a process to address such complaints and to raise potential deficiencies in compliance with the requirements outlined in Paragraph 1 with the employer. Such process shall, at minimum, provide employers with an opportunity to correct the alleged or confirmed deficiency.

Complaints received by employees working for employers subject to oversight by PEOSH shall be directed to PEOSH for consideration.

The Commissioner of the DOH, pursuant to her authority under the EHPA, N.J.S.A. 26:13-1 et seq., in consultation with the Commissioner of the DOLWD, shall establish a process for investigation of complaints received pursuant to the intake mechanism outlined above, where necessary, including, for example, by performing workplace inspections and issuing subpoenas for information. The DOH shall enter into a memorandum of understanding with the DOLWD to provide assistance in the exercise of those powers and support for investigative efforts. The Commissioners of DOH and DOLWD shall, where necessary, coordinate with relevant federal and State agencies, including OSHA, during this process.

7. Where consistent, the requirements of this Order shall supplement the requirements outlined in any Executive Order, Administrative Order, or similar directive that apply to employers that have resumed operations prior to the effective date of this Order, including via Executive Orders Nos. 122, 125, 142, 145, 147, 149, 155, 157, 165, 175, 181 and 183 (2020). Where an already existing requirement is inconsistent with a requirement outlined in Paragraph 1 of this Order, the previously issued requirement shall continue to apply unless otherwise specified.

8. Paragraph 2, subsection (c) of Executive Order No. 142 (2020) is hereby rescinded.

9. The Commissioner of the DOLWD is hereby further directed to provide compliance and safety training for employers and employees, focused at least in part on the health and safety protocols listed in Paragraph 1, through the following means:

a. Establish a program to fund workforce training partners to develop and deliver, including virtually, training to workers and employers throughout the State, subject to the availability of funding; and

b. Develop notices and informational materials to inform workers of their rights and employers of their obligations under this Order.

10. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

11. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order.

12. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

13. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50. Any employer that fails to adhere to the protocols outlined in this Order or to any subsequent requirements issued by the Commissioner of the DOH is subject to, among other actions, closure by the Commissioner of the DOH pursuant to N.J.S.A. 26:13-8.

14. Nothing in this Order shall be considered to create a private right of action to enforce the requirements outlined herein.

15. This Order shall take effect immediately, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of the DOH as appropriate.

Dated October 28, 2020.

EXECUTIVE ORDER NO. 193

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, 180, 186, and 191 issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, August 1, 2020, August 27, 2020, September 25, 2020 and October 24, 2020, respec-

tively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act, N.J.S.A. App. A:9-33 et seq. and the Emergency Health Powers Act, N.J.S.A. 26:13-1 et seq., to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-166, Nos. 168-173, No. 175, Nos. 177-181, No. 183, Nos. 186-187, and Nos. 189-192 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, as of November 2, 2020, according to the World Health Organization, there were over 46,403,000 confirmed cases of COVID-19 worldwide, with over 1, 198,000 of those cases having resulted in death; and

WHEREAS, as of November 2, 2020, according to the Centers for Disease Control and Prevention ("CDC"), there were over 9,182,000 confirmed cases of COVID-19 in the United States, with over 565,000 of those cases having resulted in death; and

WHEREAS, as of November 2, 2020, there were over 240,000 positive cases of COVID-19 in New Jersey, with at least 14,564 of those cases having resulted in death; and

WHEREAS, there have been positive cases of COVID-19 in every county in New Jersey, and there have been deaths relating to COVID-19 in every county in New Jersey; and

WHEREAS, on March 19, 2020, I issued Executive Order No. 105, which declared that certain elections set to take place in March and April were postponed until May 12, 2020, because allowing those elections to proceed as they were originally planned during this unprecedented COVID-19 health crisis would create hardships and health risks for voters, poll workers, and candidates alike; and

WHEREAS, pursuant to Executive Order No. 120 (2020), the primary election set to take place on June 2, 2020, was postponed until July 7, 2020 ("July Primary Election"), because preparing for the election to take place in June during the potential height of the COVID-19 emergency would have negatively impacted election officials' preparation efforts; and

WHEREAS, on May 15, 2020, I issued Executive Order No. 144, which declared that the July Primary Election would be conducted primarily via vote-by-mail ballots with a minimum number of polling places open in each municipality; and

WHEREAS, I issued Executive Order No. 164 (2020), which postponed any election scheduled between July 7, 2020 and November 3, 2020, until November 3, 2020, and declared that no other elections may be held or proceed prior to November 3, 2020; and

WHEREAS, Executive Order No. 144 (2020) extended the deadline to certify election results under N.J.S.A. 19:23-55 by five (5) days to account for the revised timeframe that Boards of Elections had to receive vote-by-mail ballots, thereby extending the certification deadline to July 24, 2020; and

WHEREAS, on August 14, 2020, I issued Executive Order No. 177, the facts and circumstances of which are adopted by reference herein, which established the voting procedures for the general election on November 3, 2020 ("November General Election") and declared that the election would be conducted primarily by vote-by-mail; and

WHEREAS, to accommodate the increase in vote-by-mail ballots, Executive Order No. 177 (2020) delayed the meeting of the county Board of Canvassers to certify the results of the November General Election until no later than November 20, 2020; and

WHEREAS, on August 25, 2020, I issued Executive Order No. 179, making modifications to Executive Order No. 177 (2020) to ensure enough time to complete preparations for the November General Election and minimize voter confusion, the facts and circumstances of which are adopted by reference herein; and

WHEREAS, legislation subsequently codified the standards adopted by Executive Order and addressed other issues relating to upcoming elections; and

WHEREAS, N.J.S.A. 40:45-19 requires a run-off election in any municipal election held under N.J.S.A. 40:45-18 if a candidate does not receive a majority of the votes cast, in the case of a mayoral election, or if a sufficient number of candidates do not receive a majority of the votes cast, in the case of a councilman-at-larger, commissioner, or village trustee election; and

WHEREAS, pursuant to N.J.S.A. 40:45-19, run-off elections resulting from municipal elections occurring on the day of the November General Election shall be held on the Tuesday following the first Monday in December; and

WHEREAS, the delayed deadline to certify the November General Election results will reduce the time elections officials have to prepare for any run-off election required by N.J.S.A. 40:45-19; and

WHEREAS, election officials require flexibility and sufficient lead time to adapt their locality's voting infrastructure to confront the magnitude of the public health and safety risks of the COVID-19 pandemic; and

WHEREAS, failing to take proactive actions to mitigate the adverse impacts of the current health crisis on any upcoming run-off elections carries the risk of disenfranchising citizens; and

WHEREAS, social distancing measures are required for a period of as-yet-undetermined duration, and the COVID-19 outbreak may have significant effects on New Jersey's voting systems as long as social distancing measures are in place and for some time thereafter; and

WHEREAS, failing to offer voters a ready alternative to reporting to public polling locations to vote in any upcoming run-off elections in the midst of the COVID-19 crisis will hinder public participation in the democratic process, particularly among elderly and immune-compromised voters, and undermine the legislative intent of provisions such as N.J.S.A. 19:8-2 and 19:8-3.1, which are designed to ensure that such voters can exercise their right to vote; and

WHEREAS, a temporary delay in any upcoming run-off elections will give the county and municipal election officials enough time to send vote-by-mail ballots to all registered voters for these elections, allowing voters to exercise their constitutional franchise without jeopardizing their health and safety; and

WHEREAS, to prepare vote-by-mail ballots for all registered voters in any upcoming run-off elections, county and municipal election officials need sufficient preparation time; and

WHEREAS, the COVID-19 emergency and its impact are likely to extend for an as-yet-undetermined period of time; and

WHEREAS, states generally have discretion to dictate the time, manner, and place of elections in the absence of controlling federal law; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Any run-off elections resulting from municipal elections held on the November General Election and required under N.J.S.A. 40:45-19, shall be postponed and rescheduled for Tuesday, December 15, 2020.

2. Run-off elections required under N.J.S.A. 40:45-19 shall be conducted primarily via vote-by-mail ballots, which will be sent to all "Active" registered voters without the need for an application to receive a vote-by-mail ballot.

3. All vote-by-mail return envelopes shall have prepaid First-Class postage to facilitate the proper delivery of all cast vote-by-mail ballots.

4. The requirements of N.J.S.A. 19:14-25 that sample ballots be sent shall be suspended. In lieu of sending a sample ballot, the appropriate county official, as identified in N.J.S.A. 19:14-25, shall send notice to all "Active" voters, pursuant to N.J.S.A. 19:14-21, who have not returned their vote-by-mail ballot at the time of the sending of the notice, advising of the voter's polling place, the URL to the Division of Election's website that contains polling place information, locations of secure ballot drop boxes within the municipality, information on where to obtain a sample ballot prior to the election, a statement indicating that a sample ballot will be available at the polling place on the day of the election, and, if applicable, in-

formation on a county website where a sample ballot may be viewed. This notice in lieu of a sample ballot shall be sent return receipt requested as required by N.J.S.A. 19:14-23. The time to mail the notice in lieu of a sample ballot, under N.J.S.A. 19:14-25, shall be modified such that the notices are to be mailed by December 4, 2020.

5. If the municipality has a ballot drop box(es), the ballot drop box(es) shall be opened for use in the run-off election. Each municipality holding a run-off election shall, to the extent possible, use the polling places used for the November General Election, but in no case shall open less than the number of polling places used in the November General Election. Further, if any school was used as a polling place in the November General Election by a municipality needing to hold a run-off election on December 15, 2020, then all schools located in the municipality must not conduct in-person instruction, nor provide in-person day care, on December 15, 2020, such that any school used as a polling place in the November General Election may be used as a polling place on December 15, 2020. Schools located in a municipality needing to hold a run-off election December 15, 2020 may provide remote instruction pursuant to N.J.S.A. 18A:7F-9. County Boards of Elections must ensure that polling places and poll workers implement, at a minimum, the following requirements:

a. Limit occupancy within all polling places to a number that permits voters to maintain a distance of six feet between each other and poll workers at any time;

b. Ensure six feet of distance between voters and ensure six feet of distance between voters and poll workers through the demarcation of six feet of spacing in voter lines and poll worker stations to demonstrate appropriate spacing for social distancing;

c. Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;

d. Provide poll workers break time for repeated handwashing throughout their shifts;

e. Require frequent sanitization of high-touch areas in polling places consistent with CDC guidelines as of the date of the election;

f. Place conspicuous signage at entrances and throughout the polling place alerting poll workers and voters to the required six feet of physical distance;

g. Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to poll workers, voters, and those accompanying voters;

h. Require poll workers to adhere to CDC guidelines as of the date of the election regarding face coverings while in the polling place, except where doing so would inhibit that individual's health, and require poll workers to wear gloves when in contact with voters and those accompanying voters. County Boards of Elections must provide any required face coverings and gloves for poll workers, without charge to the poll workers. If a poll worker refuses to wear a required cloth face covering for non-medical reasons, then a county Board of Elections may decline entry to the individual. Nothing herein should prevent a poll worker from wearing a surgical grade mask or other more protective face covering if the indi-

vidual is already in possession of such equipment. Where a poll worker declines to wear a required face covering at a polling place due to a medical condition that inhibits such usage, they shall not be required to produce medical documentation verifying the stated condition;

i. Require appointed challengers to adhere to CDC guidelines as of the date of the election regarding face coverings while in the polling places and while in any location where the challenger is serving in such a capacity, such as while observing the counting of ballots. If an appointed challenger refuses to wear a required cloth face covering, then a county Board of Elections may decline entry to the individual; and

j. Strongly encourage voters and those accompanying voters to adhere to any CDC guidelines as of the date of the election regarding face coverings while inside polling places except where doing so would inhibit that individual's health. County Boards of Elections may provide such face coverings for voters and those accompanying voters, without charge to them. If a voter or person accompanying a voter refuses to comply with the CDC guidelines, a poll worker shall not deny entry to the voter or person. Nothing herein should prevent a voter from wearing a surgical grade mask or other more protective face covering if the individual is already in possession of such equipment.

6. The Secretary of State may modify the requirements of N.J.S.A. 19:31-21 concerning the use of poll books and the information contained therein as necessary to address the procedure by which the run-off election will be conducted under this Order, and the needs resulting therefrom.

7. Any voter who appears at a polling place on the day of the run-off election and does not return a voted mail-in ballot, pursuant to paragraph 8 of the Order, shall vote via a provisional ballot, except that accommodations will be made for voters with disabilities.

8. Pursuant to N.J.S.A. 19:63-16, the county Boards of Elections shall designate each polling place as a location to receive voted mail-in ballots. A voter may return only the mail-in ballot that they personally voted to their designated polling place. The Secretary of State's Guide to Processing An In-Person Voter At The Polling Place On Election Day shall apply to any municipal run-off election held on December 15, 2020.

9. Each polling place shall have signage that provides the location of all ballot drop boxes in the municipality in which the polling place is located.

10. The notice provision of N.J.S.A. 40:45-12 is modified as follows to allow for the timely printing and mailing of the vote-by-mail ballots. The notice to the candidates or groups of candidates required by N.J.S.A. 40:45-12, shall be made by email and phone immediately following the certification of the results of the November General Election resulting in the run-off election. The ballot draw must not take place within 24 hours from the date and time the notice was sent to the candidates or groups of candidates. The county clerk shall send the vote-by-mail ballots by first-class mail to all "Active" voters on or before November 27, 2020.

11. Vote-by-mail ballots shall be processed and canvassed in accordance with guidelines provided by the CDC, the New Jersey Department of Health, and the respective county departments of health.

12. To account for the increase in vote-by-mail ballots and to provide the county Boards of Elections sufficient time to canvass the returned ballots, the ballot return deadline in N.J.S.A. 19:63-22 is hereby suspended. Every vote-by-mail ballot that is postmarked on or before December 15, 2020, that is received by December 17, 2020, at 8:00 p.m. shall be considered valid and shall be canvassed, assuming the ballot meets all other statutory requirements. Additionally, every ballot without a postmark, and ballots mis-marked and confirmed by the post office that those ballots were received by the post office on or before December 15, 2020, that is received by the county Boards of Elections from the United States Postal Service within forty-eight (48) hours of the closing of polls on December 15, 2020, shall be considered valid and shall be canvassed, assuming the ballot meets all other statutory requirements.

13. The county Boards of Elections may continue the counting of ballots beyond the close of polls on December 15, 2020, and may only adjourn counting after 11:00 p.m. on December 15, 2020, and must resume counting at 9:00 a.m. on December 16, 2020, and continue every business day thereafter, until the counting is completed within the limits of this Order.

14. To expedite the signature-verification process outlined in N.J.S.A. 19:63-17, the county Boards of Elections shall meet at least one (1) day per week starting November 30, 2020. Voters whose ballots are rejected pursuant to N.J.S.A. 19:63-17, for a missing or discrepant signature, shall be given the opportunity to cure the signature defect in accordance with procedures established by N.J.S.A. 19:63-17.

15. To allow for the signature verification and cure process, the certification deadline set forth in N.J.S.A. 40:45-16 is hereby suspended. The municipal clerk shall certify the results of the run-off election on December 30, 2020.

16. To allow for greater flexibility in obtaining poll workers, the county-resident requirement for poll workers set forth in N.J.S.A. 19:6-2 is hereby suspended.

17. Due to the limited number of polling places that will be open for the December 15, 2020 elections, the 1,000-foot limitation on the location of polling places set forth in N.J.S.A. 19:8-2 shall be suspended.

18. The Secretary of State shall establish other appropriate standards for ensuring that all voters with disabilities are able to exercise their right to vote in the December 15, 2020 run-off elections.

19. The Secretary of State and county and municipal election officials, as appropriate, shall coordinate with the United States Postal Service to facilitate proper delivery of ballots by the United States Postal Service.

20. County and municipal election officials, as appropriate, shall act to facilitate the public's understanding of the rules governing the December 15, 2020 run-off elections.

21. Any actions taken by the Secretary of State pursuant to this Order shall not be subject to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

22. This Order shall take effect immediately.

Dated November 2, 2020.

EXECUTIVE ORDER NO. 194

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, 180, 186, and 191, issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, August 1, 2020, August 27, 2020, September 25, 2020, and October 24, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-166, Nos. 168-173, No. 175, Nos. 177-181, No. 183, Nos. 186-187 and Nos. 189-193 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, to further limit community spread from person-to-person contact through use of social mitigation measures, Executive Order No. 107 (2020) closed all recreational and entertainment businesses, and limited all restaurants, dining establishments, and food courts, with or without a liquor license; all bars; and all other holders of a liquor license with retail consumption privileges, to offering food delivery and/or take-out services only; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan (the "Plan") for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, the Plan and the subsequent steps the State has taken to allow various industries to reopen their brick-and-mortar premises to the public all reflect the recognition by public health experts that indoor environments present significantly increased risks of transmission as compared to outdoor environments, meaning that while it has been prudent to allow businesses to reopen outdoor areas to the public, the State has also reasonably imposed stricter social distancing limits on indoor premises when businesses are permitted to reopen them to the public; and

WHEREAS, consistent with the Plan, I issued Executive Order No. 150 (2020), which permitted restaurants, bars, and other food or beverage establishments to provide in-person dining outdoors, again with social distancing requirements; and

WHEREAS, because of the progress we had made in our fight against the COVID-19 pandemic in New Jersey, on Monday, June 22 2020, I announced that indoor dining would be able to resume under strict limits as of Thursday, July 2, 2020, and that decision was formalized in Executive Order No. 157; and

WHEREAS, while Executive Order No. 157 (2020) announced the limited resumption of indoor dining, this step was put on hold in Executive Order No. 158 (2020), in light of COVID-19 spikes in states around the nation which state officials and other experts attributed, at least in part, to activities in indoor food and beverage establishments; and

WHEREAS, indoor dining was permitted to resume on September 4, 2020, pursuant to Executive Order No. 183; and

WHEREAS, personal care service facilities were permitted to reopen their premises to the public pursuant to Paragraph 2 of Executive Order No. 157 (2020); and

WHEREAS, Division of Consumer Affairs Administrative Order No. 2020-09 and subsequently No. 2020-11 limited the occupancy on premises of indoor facilities providing personal care services to indoor gathering limits; and

WHEREAS, because the State has long understood personal care services performed in indoor settings to be subject to the same indoor capacity limits imposed on recreational and entertainment businesses, but has recently received questions on this subject, it should be clarified that the same capacity limit applies, meaning 25 percent of the facility's indoor capacity; and

WHEREAS, on May 29, 2020, I signed Executive Order No. 149, which allowed organized sporting activities to resume on June 22, 2020, in outdoor settings, provided that they did not involve person-to-person contact or individuals routinely interacting in close proximity; and

WHEREAS, Executive Order No. 149 (2020) also directed the Commissioner of the DOH to issue health and safety standards regarding sporting activities before June 22, 2020; and

WHEREAS, on June 15, 2020, the Commissioner of DOH issued Guidance for Sports Activities ("Guidance") that stated that practices and competitions for Low Risk sports, as well as no-contact practices for Medium and High Risk

sports, could resume on June 22, 2020 in outdoor settings, because pursuant to Executive Order No. 149 (2020), they do not involve person-to-person contact; and

WHEREAS, Medium and High Risk Sports were subsequently permitted to resume in outdoor and indoor settings with strict limitations on contact activities indoors; and

WHEREAS, on October 12, 2020, I issued Executive Order No. 187 (2020), which permitted contact practices and competitions for both Medium Risk and High Risk sports to resume in indoor settings, so that all sports activities are currently permitted to operate in indoor and outdoor settings subject to DOH guidance; and

WHEREAS, recent upticks in the number of confirmed cases of COVID-19 have increased dramatically, demonstrating more significant community spread; and

WHEREAS, the Centers for Disease Control and Prevention ("CDC") and DOH have maintained that congregation of individuals, particularly in indoor environments, is a contributing factor in the spread of COVID-19; and

WHEREAS, the institution of mitigation protocols limiting certain high-risk activities is necessary to combat the spread of the virus and lessen the need for more comprehensive restrictions; and

WHEREAS, the progress we made earlier this year demonstrates the effectiveness of such protocols, particularly those that prevented individuals from congregating indoors and encouraged avoidance of close contact in indoor settings, where the virus is more readily transmitted; and

WHEREAS, in the past eight months, we have gained critical knowledge in our experience with COVID-19, including a better understanding of the risks associated with certain activities and the safeguards that can be implemented to mitigate those risks; and

WHEREAS, this information, together with expanded access to testing, personal protective equipment, and other materials necessary to protect individuals from spread of the virus, allows us to permit certain activities to continue subject to more limited restrictions; and

WHEREAS, restricting the operating hours of the indoor portions of dining and drinking establishments, where consumers are authorized to remove their masks to eat and drink in an indoor setting, will limit congregation inside establishments that are frequently more crowded at late hours, particularly where drinking is taking place; and

WHEREAS, we are aware of at least one outbreak at a restaurant in New Jersey involving nine bartenders at a single location; and

WHEREAS, indoor bar service commonly results in individuals, including patrons, bartenders, and servers, remaining in close contact for extended periods of time; and

WHEREAS, bar service can be suspended to lessen the risk of spread between patrons and bartenders at restaurants and bars while still permitting seated table service that does not involve the same potential for sustained contact between

customers and employees when businesses and customers follow health and safety protocols; and

WHEREAS, since the reopening of indoor contact competitions for Medium and High Risk sports, there have been eleven confirmed outbreaks amongst youth and school-aged ice hockey teams in New Jersey that are believed to be associated with hockey activities, with additional investigations pending and more than one hundred cases believed to be associated with such activities; and

WHEREAS, a number of these outbreaks involved teams and leagues that regularly participate in interstate competitions; and

WHEREAS, health officials across the Northeast region have pointed to interstate youth sports competitions as a source of viral spread; and

WHEREAS, the CDC has advised that sports competitions between teams from different states involves the highest risk of COVID-19 spread of any sports activity; and

WHEREAS, college and university athletic programs and professional athletic teams, leagues, and organizations, are readily able to establish comprehensive protocols for the athletes participating within their programs, including by placing limitations on outside activities, subjecting participants to regular testing, and requiring athletes to reside in a specified location; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. All restaurants, cafeterias, dining establishments, and food courts, with or without a liquor license; bars; and all other holders of a liquor license with retail consumption privileges, collectively referred to as "food or beverage establishments," that are open to the public, must close their indoor operations to the public from 10:00 p.m. until 5:00 a.m. each day. Food or dining establishments are permitted to operate during their full range of normal business hours for outdoor dining and food delivery and/or take-out services. Casinos shall cease indoor food and beverage service between 10:00 p.m. and 5:00 a.m. each day, including service on casino floors. This restriction on hours of operation shall not apply to indoor dining in airports in New Jersey. Any retail, recreational, and entertainment business that is authorized to open its indoor premises to the public may only do so after 10:00 p.m. only where it prohibits the consumption of food or beverages in those indoor premises between the hours of 10:00 p.m. and 5:00 a.m.

2. Food and beverage establishments are prohibited from seating patrons at any indoor bar area. Food and beverage establishments may continue seating patrons at

tables within their premises consistent with the requirements of Executive Order No. 183 (2020), Paragraph 1 of this Order, and guidance provided by DOH. In-person service to patrons standing in bar areas continues to be prohibited.

3. Food and beverage establishments that are permitted to offer in-person service at indoor areas must ensure that tables where individuals or groups are seated are six feet apart in all directions from any other table or seat. Where six feet of distance is not possible, establishments must erect barriers between tables pursuant to guidance issued by DOH, while still complying with the capacity limits in Executive Order No. 183 (2020). Paragraph 1(b) of Executive Order No. 183 (2020) is hereby superseded to the extent that it conflicts with the provisions of this Paragraph.

4. The definition of "outdoor areas" in Paragraph 4 of Executive Order No. 163 (2020) is updated to include the following:

a. Outdoor enclosed structures, such as plastic domes, to seat individual parties, provided they meet the following criteria:

i. The use of the structures complies with the requirements for outdoor dining contained in Executive Order No. 157 (2020) and associated guidance issued by DOH;

ii. Each party is limited to no more than eight individuals at a time;

iii. The structure is ventilated and cleaned and sanitized in accordance with CDC and DOH guidance between seatings;

iv. The structure and use of the structures otherwise comply with all other applicable codes and regulations, including the provisions of the Fire Safety Code; and

v. Any necessary municipal approvals and permits are obtained prior to use of the structure.

b. Such structures shall be considered "outdoor dining" for purposes of determining the establishment's capacity limitations as described in Executive Order No. 157 (2020) and Executive Order No. 183 (2020).

5. Indoor interstate youth sports competitions – including those operated by school-based, club, and recreational programs — are hereby suspended within the State. School-based, club, and recreational programs are also prohibited from hosting indoor interstate youth sports competitions outside of New Jersey, or indoor youth sports competitions outside of New Jersey that would require New Jersey teams to travel to another state.

6. For purposes of this Order, "indoor interstate youth sports competition" includes any sports game, scrimmage, tournament, or similar competition that is conducted indoors with opposing teams or individuals from different states competing against each other and which would require an opposing team or individual to travel from a state outside of New Jersey.

7. This suspension shall not impact collegiate and professional sports activities, which are permitted to continue operations subject to compliance with all applicable laws, regulations, and Executive Orders, including restrictions on recreational and entertainment businesses in Paragraph 7 of Executive Order No. 157 (2020) and restrictions on gatherings in place at the time the sporting activities occur.

8. Personal care services authorized to reopen their indoor facilities to the public pursuant to Paragraph 2 of Executive Order No. 157 (2020) shall limit occupancy of any indoor premises to 25 percent of the stated maximum capacity, if applicable, at one time, excluding the facility's employees.

9. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

10. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order.

11. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

12. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

13. This Order shall take effect at 6:00 a.m. on Thursday, November 12, 2020, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated November 10, 2020.

EXECUTIVE ORDER NO. 195

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, 180, 186, and 191, issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, August 1, 2020, August 27, 2020, September 25, 2020, and October 24, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Ci-

vilian Defense and Disaster Control Act (the "Act") and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 103-133, Nos. 135-138, Nos. 140-166, Nos. 168-173, No. 175, Nos. 177-181, No. 183, Nos. 186-187 and Nos. 189-194 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, I issued Executive Order No. 108 on March 21, 2020, which permitted municipalities and counties to impose additional restrictions on county and municipal parks and on online marketplaces for arranging or offering lodging to permit locals targeted flexibility to respond to issues with congregation in certain areas; and

WHEREAS, on November 10, 2020, I issued Executive Order No. 194, which, in part, required food and beverage establishments to close their indoor operations between the hours of 10:00 p.m. and 5:00 a.m. each day; and

WHEREAS, the Act establishes that the Governor "is authorized to make, amend and rescind orders, rules and regulations ... and it shall be unlawful for any municipality or other subdivision or any other governmental agency of this State to adopt any rule or regulation or to enforce any such rule or regulation that may be at variance with any such order, rule or regulation established by the Governor," N.J.S.A. App. A:9-40; and

WHEREAS, the Act further provides that "[i]n the event of a dispute on the question of whether or not any such rule or regulation is at variance with an order, rule or regulation established by the Governor ... the determination of the Governor shall control," N.J.S.A. App. A:9-40; and

WHEREAS, in accordance with N.J.S.A. App A:9-40, I declared that, due to the State of Emergency, no municipality, county, or any agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of my Executive Orders, or which will in any way interfere with or impede their achievement; and

WHEREAS, I have subsequently reaffirmed that declaration in numerous COVID-19-related Orders, including in Executive Order No. 194 (2020); and

WHEREAS, during an emergency such as the outbreak of COVID-19, it is of the utmost importance that the emergency response be well coordinated in order to provide consistency of action and clarity of action to the general public, avoid duplication of efforts, prevent unnecessary use of critical resources, and ensure accurate and prompt communications between government and emergency personnel and the public; and

WHEREAS, unitary management is essential for coordination needed during an emergency, because, among other things:

a. It allows the efficient gathering and assessment of information, and the formulation of a consistent response to changing circumstances;

b. It ensures an appropriate balance statewide between actions needed to combat the spread of COVID-19 and the avoidance of unnecessary hardships to the public;

c. It ensures that the State's resources are efficiently and adequately deployed;

d. It avoids the individual and potential competing interests of the State's hundreds of municipalities and 21 counties; and

WHEREAS, the issuance of mandates and restrictions by municipalities and counties at variance with the Governor's Executive Orders confounds the benefits of a unitary management structure, because, among other things:

a. It risks confusion among members of the public by creating requirements that are different and in places contrary to the Governor's Executive Orders;

b. It may cause the public to conform to mandates that the Governor has determined are unnecessary or, in the worst case, counter-productive;

c. It disrupts the balance between the actions necessary to combat the spread of COVID-19 and the other needs of the population as determined by the Governor;

d. It risks inefficient deployment of finite resources in that municipal authorities may use their emergency personnel to implement and enforce local mandates the Governor has deemed inappropriate or unnecessary; and

WHEREAS, notwithstanding the overwhelming benefits of a unitary management structure, there exist certain limited circumstances where it may be beneficial for localities to be able to impose additional restrictions; and

WHEREAS, certain municipalities may have legitimate concerns about congregation in and around businesses at particular hours, which may cause public health concerns as we aim to avoid unnecessary increases in density of individuals; and

WHEREAS, businesses vary widely in their nature, with some attracting large, crowded groups of people in indoor spaces, which would pose significant public health concerns; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A:9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Any county or municipal restriction imposed in response to COVID-19 that in any way will or might conflict with any of the provisions of Executive Order Nos. 103-133, Nos. 135-138, Nos. 140-166, Nos. 168-173, No. 175, Nos. 177-181, No. 183, Nos. 186-187 and Nos. 189-194 (2020), or which will or might in any way interfere with or impede their achievement, or the achievement of Administrative

Orders issued as authorized by my Executive Orders, is hereby invalidated unless otherwise expressly permitted. Examples of such restrictions include, but are not limited to, the following:

a. Any additions to or deletions from the list of retail businesses that I have deemed essential or that have been identified as essential through Administrative Orders authorized by my Executive Orders;

b. Any limitations imposed on any business's scope of service;

c. Any density or social distancing requirements;

d. Any orders relating to the gathering of individuals; and

e. General restrictions on the freedom of movement within that county or municipality, including but not limited to the imposition of curfews.

2. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of Executive Order Nos. 103-133, Nos. 135-138, Nos. 140-166, Nos. 168-173, No. 175, Nos. 177-181, No. 183, Nos. 186-187 and Nos. 189-194 (2020), or which will or might in any way interfere with or impede its achievement, or the achievement of Administrative Orders issued as authorized by my Executive Orders, unless otherwise expressly permitted. This Order shall not supersede the provisions of Executive Order No. 108 (2020) that currently remain in effect, which includes the ability of municipalities and counties to impose additional restrictions on online marketplaces for arranging or offering lodging and on municipal parks, or the provisions of any Administrative order that permits municipalities and counties to impose additional restrictions.

3. Notwithstanding Paragraphs 1 and 2, municipalities and counties are permitted under this Order to impose additional restrictions, in response to COVID-19, on the hours of operation of non-essential retail businesses, as defined by Executive Order No. 107 (2020) and subsequent Administrative orders, and food and beverage establishments, as defined by Executive Order No. 194 (2020), personal care service businesses, as defined by Executive Order No. 157 (2020), and recreation and entertainment businesses, as defined by Executive Orders Nos. 157 and 181 (2020). Such limitations may apply across the entire county or municipality or in targeted locations therein. Provided, however, that the limitations authorized by this paragraph cannot restrict the hours of operation of such businesses between 5:00 a.m. and 8:00 p.m. While municipalities and counties can restrict hours of operation for the aforementioned businesses between the hours of 8:00 p.m. and 5:00 a.m., they cannot prevent dining establishments from arranging for the pickup or delivery of goods or otherwise limit their scope of operations. The State Director of Emergency Management, who is the Superintendent of the State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to this list of entities.

4. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

5. This Order shall take effect immediately, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of the Department of Health as appropriate.

Dated November 12, 2020.

EXECUTIVE ORDER NO. 196

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, 180, 186, and 191, issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, August 1, 2020, August 27, 2020, September 25, 2020, and October 24, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-166, Nos. 168-173, No. 175, Nos. 177-181, No. 183, Nos. 186-187 and Nos. 189-195 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, the Centers for Disease Control and Prevention ("CDC") has issued guidance for mass gatherings or large community events, such as conferences, festivals, parades, concerts, sporting events, and other potentially super-spreading events, recognizing that gatherings can significantly contribute to the spread of COVID-19 and introduce the virus to new communities through in-

creased transmission to a large number of people in a short period of time, and states throughout the region previously canceled all such events; and

WHEREAS, the CDC recognizes that the stringency of any limit on gatherings should be tailored to the significance of COVID-19 transmission in the State and region, meaning that as the spread of COVID-19 fluctuates in a state, that state can adjust its limits on indoor and outdoor gatherings accordingly; and

WHEREAS, consistent with the above principles, I signed a series of Executive Orders gradually lifting restrictions on both outdoor and indoor gatherings; and

WHEREAS, the most recent of which, Executive Order No. 183, issued on September 1, 2020, limited the number of individuals at indoor gatherings that are not religious services or celebrations, political activities, wedding ceremonies, funerals, or memorial services to 25 percent of the capacity of the room in which it takes place, but regardless of the capacity of the room, such limit shall never be larger than 25 persons or smaller than 10 persons; and

WHEREAS, the limitations on outdoor gatherings have not been altered since Executive Order No. 161, issued on July 2, 2020, which limited the number of individuals at such a gathering to 500 persons or fewer and clarified that an outdoor gathering that is a religious service or political activity, such as a protest, is not required to comply with the numerical limit on persons; and

WHEREAS, the State has experienced recent upticks in the number of cases and hospitalizations across all counties; and

WHEREAS, approximately 13 percent of all outbreaks in New Jersey between March 20 through November 1 can be attributed to private gatherings, consistent with the role indoor gatherings have played in leading to further spikes of COVID-19 in other states and countries; and

WHEREAS, the combination of evidence tracing clusters of COVID-19 to gatherings and the overall statewide increase in the rate of transmission means that it is appropriate to reduce the limits on gatherings at the current time; and

WHEREAS, certain gatherings, including religious services and political activity, are constitutionally protected activities, and restrictions on these gatherings should be less aggressive than restrictions on other gatherings, as other states have repeatedly recognized; and

WHEREAS, legislative and judicial proceedings are particularly important to the functioning of the State, the latter of which implicates constitutional rights and foundational privileges, and so can proceed with less restrictive limits; and

WHEREAS, certain events such as wedding ceremonies, funerals, and memorial services, whether religious in nature or not, which typically happen once in a lifetime, provide benefits to the well-being of the participants such that they can be treated differently from casual social gatherings such as house parties and birthday parties, which occur on a more frequent basis and typically do not present the same compelling need; and

WHEREAS, indoor wedding ceremonies and memorial services may have been planned under the current capacity limits, and often with social distancing pro-

tocols set up well in advance, and therefore suddenly changing the applicable limits for these events would be highly disruptive; and

WHEREAS, events such as wedding ceremonies, funerals, and memorial services typically include a defined list of attendees, which makes it easier for contract tracing to occur; and

WHEREAS, the informal nature of large house parties also makes it especially hard to engage in contact tracing, as well as to monitor and to enforce the requirements to wear masks and engage in social distancing, which stands in sharp contrast to wedding ceremonies, funerals, and memorial services; and

WHEREAS, reducing the limits on indoor gatherings other than religious services or celebrations, political activities, wedding ceremonies, funerals, and memorial services from a maximum of 25 persons to a maximum of 10 persons will both help reduce the spread of COVID-19 and reduce the burden on our contact tracing program; and

WHEREAS, certain sports practices and competitions require more than 10 individuals to be present, when accounting for players, coaches, referees, and other necessary individuals, and the formal nature of such events makes it easier to ensure that health and safety protocols are being appropriately followed; and

WHEREAS, college and university athletic programs and professional athletic teams, leagues, and organizations, are readily able to establish comprehensive protocols for the athletes participating within their programs, including by placing limitations on outside activities, subjecting participants to regular testing, and requiring athletes to reside in a specified location; and

WHEREAS, while there is generally less risk associated with outdoor gatherings, it is likewise appropriate to lower the outdoor gatherings limit in our State to no more than 150 people to prevent increased transmission through superspreading events and large community gatherings; and

WHEREAS, all gatherings, whatever their nature, must continue to utilize protective measures, including use of masks and social distancing; and

WHEREAS, because of the severity of the decrease of the limit on outdoor gatherings, as compared with the limit on indoor gatherings, the effective date of that provision will be delayed by approximately one week to avoid significant disruption of prescheduled activities; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Paragraph 4 of Executive Order No. 183 (2020) is hereby rescinded and the number of individuals at indoor gatherings that are not religious services or celebrations, political activities, wedding ceremonies, funerals, or memorial services shall be limited to 10 persons. The number of individuals at indoor gatherings that are religious services or celebrations, political activities, wedding ceremonies, funerals, or memorial services shall be limited to 25 percent of the capacity of the room in which it takes place, but regardless of the capacity of the room, such limit shall never be larger than 150 persons or smaller than 10 persons. For purposes of this Paragraph, any private residence or residential unit shall be treated as a single "room". Legislative proceedings of state, county, or local government, including local Boards of Education, and state and local judicial proceedings are not subject to the capacity limits on gatherings in this or any other applicable Executive Order.

2. Professional and collegiate athletic competitions that are conducted indoors are subject to the current indoor gathering limit of 10 persons. Athletes, coaches, referees, and trainers, and other individuals who are necessary for the competitive professional or collegiate sporting event are not included in the number of individuals present at a gathering for purposes of the limits on gatherings. The number of individuals present inside facilities where indoor professional or collegiate athletic competitions are taking place may not exceed 25 percent of the capacity of the room in which it takes place, and such limit may not exceed 150 persons. The provisions of Paragraph 1 of Administrative Order No. 2020-22 regarding indoor gatherings shall continue to apply.

3. All other athletic practices and competitions that are conducted indoors are subject to the current indoor gathering limit of 10 persons. However, if the number of individuals who are necessary for a no-contact practice, contact practice, or competition, such as players, coaches, and referees, is greater than 10 persons, such a practice or competition may proceed, as long as no individuals are present who are not necessary for the practice or competition, such as spectators. If this exception applies, the number of individuals at such an indoor gathering still may not exceed 25 percent of the capacity of the room in which it takes place, and such limit may not exceed 150 persons. Paragraph 2 of Executive Order No. 187 (2020) is hereby rescinded.

4. While the numerical limits on indoor gatherings in Paragraph 4 of Executive Order No. 183 (2020) are rescinded, all other requirements for indoor gatherings outlined in Paragraphs 5 and 6 of Executive Order No. 183 (2020), including those provisions that incorporate by reference the requirements of Paragraph 1 of Executive Order No. 152 (2020), shall remain in effect.

5. Any requirements in any Executive Order, Administrative Order, or agency directive that incorporated by reference the gatherings limits in Executive Order Nos. 107, 142, 148, 152, 156, 161, 173, or 183 (2020) are amended to reflect the rules on gatherings stated in this Order.

6. Paragraph 2 of Executive Order No. 183 (2020) shall remain in effect.

7. Paragraph 1 of Executive Order No. 161 (2020) is hereby rescinded and the number of individuals at outdoor gatherings shall be limited to 150 persons or few-

er. All other requirements for outdoor gatherings contained in Paragraph 1 of Executive Order No. 161 (2020), including the requirements of Paragraph 2 of Executive Order No. 152 (2020) incorporated by reference therein, shall remain in effect. An outdoor gathering that is a religious service or celebration, political activity, wedding ceremony, funeral, or memorial service is not required to comply with the numerical limit on persons.

8. Outdoor entertainment centers where performances are viewed or given, including movie theaters, performing arts centers, and other concert venues, must limit the number of patrons in any outdoor area where a performance is viewed or given to a number that ensures that all individuals can remain six feet apart, but such limit shall never be larger than 150 persons.

9. Professional and collegiate athletic competitions that are conducted outdoors are subject to the outdoor gathering limit of 150 persons. Athletes, coaches, referees, and trainers, and other individuals who are necessary for the competitive professional or collegiate sporting event are not included in the number of individuals present at a gathering for purposes of the limits on gatherings. The provisions of Paragraph 1 of Administrative Order No. 2020-22 regarding outdoor gatherings shall continue to apply.

10. All other sports practices and competitions that are conducted outdoors are subject to the outdoor gathering limit of 150 persons, inclusive of athletes, coaches, referees, and trainers.

11. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

12. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order.

13. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

14. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

15. Paragraphs 1 – 6 of this Order regarding the indoor gathering limit shall take effect at 6:00 a.m. on Tuesday, November 17, 2020, and Paragraphs 7 – 10 of this Order regarding the outdoor gathering limit shall take effect at 6:00 a.m. on Monday, November 23, 2020. This Order shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated November 16, 2020.

EXECUTIVE ORDER NO. 197

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, 180, 186, and 191, issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, August 1, 2020, August 27, 2020, September 25, 2020, and October 24, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted, in whole or in part, in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-166, Nos. 168-173, No. 175, Nos. 177-181, No. 183, Nos. 186-187, and Nos. 189-196 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, to protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, the issuance of the Public Health Emergency on March 9, 2020 and mitigation strategies on March 16, 2020 resulted in the closure of the racetracks conducting horse races and stabling facilities; and

WHEREAS, the racetracks remained closed until June 1, 2020, when Administrative Order No. 2020-14 allowed the racetrack permit holders to offer live racing and to open stabling facilities, while still prohibiting spectators or other members of the public due to the ongoing Public Health Emergency; and

WHEREAS, the permit holders ultimately were authorized to allow spectators and other members of the public, in a limited capacity, into the racetrack to participate in simulcasting, pari-mutuel wagering, sports wagering or other activities on July 3, 2020, by Administrative Order No. 2020-16; and

WHEREAS, notwithstanding the extraordinary circumstances of the COVID-19 pandemic, N.J.S.A. 5:5-156 requires the permit holders to schedule a minimum

number of live race dates as a condition for participation in off-track wagering and account wagering; and

WHEREAS, N.J.S.A. 5:5-130 provides that the New Jersey Racing Commission shall issue an off-track wagering license only if the permit holders schedule at least the minimum number of race dates required in N.J.S.A. 5:5-156; and

WHEREAS, N.J.S.A. 5:5-139 similarly provides that the New Jersey Racing Commission shall issue the account wagering license only if the permit holders schedule the statutory minimum number of race dates; and

WHEREAS, the permit holders were limited in their ability to conduct the minimum number of live race dates required in N.J.S.A. 5:5-156 due to the interruptions related to the Public Health Emergency and the social distancing and mitigation restrictions imposed, including the closure of the racetracks for a period of months, along with the continued limitation on public access; and

WHEREAS, the permit holders' inability to strictly comply with the mandatory minimum number of live race dates under N.J.S.A. 5:5-156, was caused by the March 16, 2020 closure of the racetracks by Executive Order No. 104 through June 1, 2020, when Administrative Order No. 2020-14 permitted live races at the racetracks; and

WHEREAS, strict enforcement of the statutory mandate under N.J.S.A. 5:5-156, during the ongoing Public Health Emergency, would unduly burden the permit holders and frustrate their ability to maintain their licenses and participate in off-track and account wagering; and

WHEREAS, pursuant to N.J.S.A. App. A:9-47, the Governor is authorized to, among other things, suspend any regulatory provision of law when its enforcement is detrimental to the public welfare during an emergency; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The statutory minimum number of live race dates required by N.J.S.A. 5:5-156 is hereby waived for the 2020 calendar year.

2. This Order is not intended to, and does not confer any legal rights upon the permit holders whose activities are regulated by the New Jersey Racing Commission and shall not be used as a basis for legal challenges to regulations, rules, approvals, permits, licenses or other actions, or to any inaction of the governmental entity subject to it.

3. This Order shall take effect immediately.
Dated November 17, 2020.

EXECUTIVE ORDER NO. 198

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, 180, 186, and 191 issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, August 1, 2020, August 27, 2020, September 25, 2020, and October 24, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act, N.J.S.A. App. A:9-33 et seq. and the Emergency Health Powers Act, N.J.S.A. 26:13-1 et seq., to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-166, Nos. 168-173, No. 175, Nos. 177-181, No. 183, Nos. 186-187, and Nos. 189-197 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, as of November 19, 2020, according to the World Health Organization, there were over 55,928,000 confirmed cases of COVID-19 worldwide, with over 1,344,000 of those cases having resulted in death; and

WHEREAS, as of November 19, 2020, according to the Centers for Disease Control and Prevention ("CDC"), there were over 11,654,000 confirmed cases of COVID-19 in the United States, with over 249,000 of those cases having resulted in death; and

WHEREAS, as of November 19, 2020, there were over 293,000 positive cases of COVID-19 in New Jersey, with at least 14,877 of those cases having resulted in death; and

WHEREAS, there have been positive cases of COVID-19 in every county in New Jersey, and there have been deaths relating to COVID-19 in every county in New Jersey; and

WHEREAS, on March 19, 2020, I issued Executive Order No. 105, which declared that certain elections set to take place in March and April were postponed until May 12, 2020, because allowing those elections to proceed as they were originally planned during this unprecedented COVID-19 health crisis would create hardships and health risks for voters, poll workers, and candidates alike; and

WHEREAS, pursuant to Executive Order No. 120 (2020), the primary election set to take place on June 2, 2020, was postponed until July 7, 2020 ("July Primary Election"), because preparing for the election to take place in June during the potential height of the COVID-19 emergency would have negatively impacted election officials' preparation efforts; and

WHEREAS, on May 15, 2020, I issued Executive Order No. 144, which declared that the July Primary Election would be conducted primarily via vote-by-mail ballots with a minimum number of polling places open in each municipality; and

WHEREAS, on July 13, 2020, I issued Executive Order No. 164, which postponed any election scheduled between July 7, 2020 and November 3, 2020, until November 3, 2020, and declared that no other elections may be held or proceed prior to November 3, 2020; and

WHEREAS, Executive Order No. 144 (2020) extended the deadline to certify election results under N.J.S.A. 19:23-55 by five (5) days to account for the revised timeframe that Boards of Elections had to receive vote-by-mail ballots, thereby extending the certification deadline to July 24, 2020; and

WHEREAS, on August 14, 2020, I issued Executive Order No. 177, the facts and circumstances of which are adopted by reference herein, which established the voting procedures for the general election on November 3, 2020 ("November General Election") and declared that the election would be conducted primarily by vote-by-mail; and

WHEREAS, to accommodate the increase in vote-by-mail ballots, Executive Order No. 177 (2020) delayed the meeting of the county Board of Canvassers to certify the results of the November General Election until no later than November 20, 2020; and

WHEREAS, on August 25, 2020, I issued Executive Order No. 179, making modifications to Executive Order No. 177 (2020) to ensure enough time to complete preparations for the November General Election and minimize voter confusion, the facts and circumstances of which are adopted by reference herein; and

WHEREAS, legislation subsequently codified the standards adopted by Executive Order and addressed other issues relating to upcoming elections; and

WHEREAS, N.J.S.A. 19:61-9 requires the Secretary of State to annually appoint an independent, professional audit team to oversee an audit of each election for federal or State offices, and for county and municipal offices selected for audit by the Secretary of State; and

WHEREAS, N.J.S.A. 19:61-9(c)(8) prohibits a county from certifying the results of an election that is subject to an audit prior to the completion of the audit and the announcement and publication of the audit results; and

WHEREAS, to allow enough time for the results of the November General Election to be certified prior to the meeting of electors, Executive Order No. 177 (2020) suspended N.J.S.A. 19:61-9(c)(8), thereby allowing counties to certify their election results prior to the commencement of the election audit required under N.J.S.A. 19:61-9; and

WHEREAS, Executive Order No. 179 (2020) modified Executive Order No. 177 (2020), permitting counties to certify their election results prior to commencing the election audit and ordering the audit to be completed by December 4, 2020; and

WHEREAS, the federal deadline for the meeting of electors is December 14, 2020; and

WHEREAS, despite best efforts to socially distance and adhere to CDC guidelines and public health protocols, several county boards of elections are experiencing COVID-19 outbreaks among county boards of election members and staff; and

WHEREAS, these COVID-19 outbreaks have resulted in staff shortages in affected counties as boards of elections work to meet the November 20, 2020 deadline to certify the election results; and

WHEREAS, allowing county boards of election an additional week to conduct the audit will enable employees in impacted counties to isolate and quarantine for the recommended two weeks following certification of the election results, while still ensuring that the audit occurs before the meeting of the electors; and

WHEREAS, the Ocean County Board of Elections (Ocean County Board") had approximately sixty-seven people working more than full-time every day, and approximately thirty additional people working after traditional work hours, to process ballots for the November 2020 General Election; and

WHEREAS, since the November 2020 General Election, the Ocean County Board has had seventeen COVID-19 positive cases, which resulted in the need to shut down the ballot counting operations on November 9, 2020 at 4:00 p.m., for deep cleaning and the rapid testing of staff on November 11, 2020, which identified additional positive COVID-19 cases; and

WHEREAS, on November 12, 2020 at 4:00 p.m., the ballot counting operations again had to be shut down for deep cleaning as a result of another COVID-19 positive test result and the testing of all staff on November 13, 2020, which identified additional positive COVID-19 cases; and

WHEREAS, the Ocean County Board's ballot processing operations remained shut down from November 12, 2020 at 4:00 p.m. through November 16, 2020, with staff being permitted back on November 17, 2020 gradually as their negative test results were received; and

WHEREAS, the Ocean County Board effectively lost five full days of ballot processing for the November 2020 General Election; and

WHEREAS, the Salem County Board of Elections ("Salem County Board") had four permanent employees, four Board of Elections Commissioners, six voting machine technicians, twenty-six temporary employees, and ten National Guard

members on staff in an effort to complete the November 2020 General Election ballot count for the November 20, 2020 certification of the election results; and

WHEREAS, since November 5, 2020, the Salem County Board has had seventeen COVID-19 positive cases, which resulted in the quarantine of the remaining thirty-three staff members; and

WHEREAS, all quarantined Salem County Board staff were required to leave the county offices by 9:00 p.m. on November 6, 2020; and

WHEREAS, due to COVID-19, and the fact that all of the remaining Salem County Board staff are under quarantine, the alternate site in the Salem County Board's Continuity of Operations Plan could not be used; and

WHEREAS, Salem County provided the Salem County Board with a temporary satellite office on November 7, 2020, which could not be outfitted with access to the tabulation equipment; and

WHEREAS, only four Salem County Board staff can work in the temporary satellite office under social distancing guidelines and those four staff are responsible for reviewing and manually processing the ballots in preparation for counting; and

WHEREAS, allowing the Ocean County Board and Salem County Board an additional five days to complete the ballot count so the respective county Boards of Canvassers can meet and certify the results of the November 2020 General Election is necessary given the hardships these Boards have faced in their attempt to complete the ballot count amid the public health crisis; and

WHEREAS, failing to take proactive actions to mitigate the spread of the virus risks further infecting election officials; and

WHEREAS, social distancing measures are required for a period of as-yet-undetermined duration, and the COVID-19 outbreak may have significant effects on New Jersey's voting systems as long as social distancing measures are in place and for some time thereafter; and

WHEREAS, the COVID-19 emergency and its impact are likely to extend for an as-yet-undetermined period of time; and

WHEREAS, states generally have discretion to dictate the time, manner, and place of elections in the absence of controlling federal law; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. For any county board of elections that has notified the Office of the Secretary of State prior to the issuance of this Order that the county board of canvassers can-

not hold their meeting under N.J.S.A. 19:19-1 by November 20, 2020 due to the significant impact of COVID-19 on their staff and facilities, which are the Ocean and Salem County Boards of Elections, such meeting must occur on or before November 25, 2020. For such counties, the county Clerks' transmittal of the Official November General Election Results to the Secretary of State, under N.J.S.A. 19:19-13, must occur on or before November 25, 2020, and the county Clerks may not seek an extension of this deadline.

2. Due to the suspension of N.J.S.A. 19:63-22 and N.J.S.A. 19:63-18, the production of reports pursuant to N.J.S.A. 19:53B-21 and 19:53C-21 must occur on or before November 25, 2020, for any county that receives an extension under Paragraph 1 of this Order.

3. The deadline to conduct the election audit required under N.J.S.A. 19:61-9, which is currently December 4, 2020, is extended an additional week, until December 11, 2020, for all counties.

4. Any deadline set forth in P.L.2020, c.72, Executive Order No. 177 (2020), or Executive Order No. 179 (2020) that is inconsistent with the provisions of this Order is suspended to the extent of such inconsistency.

5. This Order shall take effect immediately.

Dated November 19, 2020.

EXECUTIVE ORDER NO. 199

WHEREAS, United States Air Force Senior Airman Richard "Rico" Asey Samaroo was born in Guyana and moved to the United States in 2003, spending his formative years in North Brunswick, New Jersey; and

WHEREAS, Senior Airman Samaroo attended Livingston Park Elementary School, Linwood Middle School, and North Brunswick High School, from which he graduated with honors in 2017 and thereafter enlisted in the United States Air Force; and

WHEREAS, Senior Airman Samaroo completed his basic training at Lackland Airforce Base in Texas and subsequently completed his military school training at Sheppard Air Force Base in Texas; and

WHEREAS, Senior Airman Samaroo served as an electrical power production technician at the Ramstein Air Force Base in Germany for two years and later as a member of the 51st Civil Engineer Squadron at the Osan Air Force Base in South Korea, where he had been stationed since May of 2020; and

WHEREAS, Senior Airman Samaroo was the recipient of multiple honors during his service, including the National Defense Service Medal; the Global War on Terrorism Medal; the M-16 Expert Qualifying Medal; and the Air Force Training Ribbon; and

WHEREAS, while on active duty in South Korea, Senior Airman Samaroo tragically passed away at the age of twenty-one; and

WHEREAS, Senior Airman Samaroo was a beloved member of our New Jersey family whose presence will be immensely missed by his family, his friends, his fellow servicemembers, and by the people of New Jersey whom are grateful for his service; and

WHEREAS, it is with immense sadness that we mourn Senior Airman Samaroo's sudden passing, and extend our deepest sympathy and gratitude to his family, especially to his parents, Richard and Bibi Samaroo, his sister, Zhane, and his friends and colleagues; and

WHEREAS, it is appropriate to honor the exemplary character, outstanding achievements, and cherished memory of Senior Airman Samaroo and to mark his passing;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Monday, November 23, 2020, in recognition and mourning of Senior Airman Richard Asey Samaroo.

2. This Order shall take effect immediately.

Dated November 20, 2020.

EXECUTIVE ORDER NO. 200

WHEREAS, on March 9, 2020, through Executive Order No. 103, the facts and circumstances of which are adopted by reference herein, I declared both a Public Health Emergency and a State of Emergency throughout the State due to the public health hazard created by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, Executive Order No. 103 (2020) described both the symptoms and dangers presented by COVID-19 and the likelihood of community spread across the State, and it recognized the need to use all available statewide authorities to prepare for and respond to COVID-19 cases in New Jersey, to implement appropriate measures to mitigate the spread of COVID-19, and to prepare in the event of an increasing number of individuals requiring medical care or hospitalization; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act ("EHPA"), to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104- 133, 135-

138, 140-166, 168-173, 175, 177-181, 183, 187, and 189-198 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, N.J.S.A. 26:13-3(b) establishes that a Public Health Emergency declared by the Governor shall automatically terminate after 30 days, unless renewed for an additional 30 days through a declaration of the Governor; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on May 6, 2020, I issued Executive Order No. 138, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on June 4, 2020, I issued Executive Order No. 151, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on July 2, 2020, I issued Executive Order No. 162, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on August 1, 2020, I issued Executive Order No. 171, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on August 27, 2020, I issued Executive Order No. 181, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on September 25, 2020, I issued Executive Order No. 186, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on October 24, 2020, I issued Executive Order No. 191, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, 181, 186, and 191 (2020), I declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, due to the significant emergency measures the State has taken in response to COVID-19, there was a decrease in the rate of reported new cases of COVID-19 in New Jersey, in the total number of individuals being admitted to hospitals for COVID-19, and in the rate of reproduction for COVID-19 infections in New Jersey; and

WHEREAS, given the progress the State had made based on these emergency measures and after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan (the "Plan") for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, in line with the Plan, the State had been able to relax a number of restrictions, each time tailored to the relative risk the activity presents, and additional restrictions on outdoor and indoor recreational and entertainment businesses were lifted over the past several months; and

WHEREAS, the fact that the spread of COVID-19 had been limited by the State's emergency measures did not in any way suggest that the ongoing Public Health Emergency had dissipated, because absent social distancing measures, public health experts anticipated that the spread of COVID-19 would again significantly increase; and

WHEREAS, since the Public Health Emergency was renewed on October 24, 2020, at which time there were over 225,430 positive cases of COVID-19 in New Jersey, the COVID-19 outbreak has continued to present a public health hazard in New Jersey, in the region, and across the United States; and

WHEREAS, as of November 22, 2020, according to the World Health Organization, there were over 57,639,631 confirmed cases of COVID-19 worldwide, with over 1,373,294 of those cases having resulted in death; and

WHEREAS, as of November 21, 2020, according to the Centers for Disease Control and Prevention (CDC), there were over 11,843,490 confirmed cases of COVID-19 in the United States, with over 253,600 of those cases having resulted in death; and

WHEREAS, as of November 21, 2020, there were over 302,039 positive cases of COVID-19 in New Jersey, with at least 14,934 of those cases having resulted in death; and

WHEREAS, there have been positive cases of COVID-19 in every county in New Jersey, and there have been deaths relating to COVID-19 in every county in New Jersey; and

WHEREAS, the State has experienced significant upticks in the rate of reported new cases across all counties, demonstrating the need for many of the State's current measures to remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, the renewal of the declaration of the ongoing Public Health Emergency is necessary to allow the State to continue with the Plan to allow for the methodical and strategic reopening of the State, consistent with the State's authority under the EHPA; and

WHEREAS, the renewal of the declaration of the ongoing Public Health Emergency is also necessary to ensure that the State can swiftly respond to take all appropriate actions should the rate of reported new cases of COVID-19 in New Jersey, number of individuals being admitted to hospitals for COVID-19, or rate of reproduction for COVID-19 infections in New Jersey continue to increase, as we are now seeing in numerous states across the country; and

WHEREAS, the spread of COVID-19 has greatly strained the resources and capabilities of county and municipal governments, including public health agencies, that provide essential services for containing and mitigating the spread of con-

tagious diseases, and the situation is too large in scope to be handled entirely by the normal county and municipal operating services; and

WHEREAS, the facts as set forth above and in consultation with the Commissioner of DOH confirm that the spread of COVID-19 in New Jersey constitutes an ongoing public health hazard that threatens and presently endangers the health, safety, and welfare of the residents of one or more municipalities or counties of the State, and it is necessary and appropriate to take action against this public health hazard to protect and maintain the health, safety, and welfare of New Jersey residents and visitors; and

WHEREAS, the facts as set forth above and in consultation with the Commissioner of DOH confirm that there exists a Public Health Emergency in the State; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby DECLARE and PROCLAIM that the Public Health Emergency declared in Executive Order No. 103 (2020) pursuant to the EHPA, N.J.S.A. 26:13-1, et seq., continues to exist throughout the State of New Jersey, and I hereby ORDER and DIRECT:

1. All Executive Orders adopted in whole or in part based on the authority under the EHPA to respond to the Public Health Emergency presented by the COVID-19 outbreak remain in full force and effect.

2. All actions taken by any Executive Branch departments and agencies in whole or in part based on the authority under the EHPA to respond to the Public Health Emergency presented by the COVID-19 outbreak, or in whole or in part based on authority delegated by any Executive Orders described in Paragraph 1 of this Order, including but not limited to any Administrative Orders, remain in full force and effect.

3. For purposes of this Order, "Executive Branch departments and agencies" shall mean any of the principal departments in the Executive Branch of State government and any agency, authority, board, bureau, commission, division, institution, office, or other instrumentality within or created by any such department, and any independent State authority, commission, instrumentality, or agency over which the Governor exercises executive authority, as determined by the Attorney General.

4. This Order shall take effect immediately.

Dated November 22, 2020.

EXECUTIVE ORDER NO. 201

WHEREAS, the State of New Jersey is committed to serving as a model for the nation on effective policing practices and criminal justice reform; and

WHEREAS, the Attorney General has sought, through the "Excellence in Policing" initiative, to promote the professionalism, accountability, and transparency that are hallmarks of New Jersey's best law enforcement agencies; and

WHEREAS, ensuring trust between the police and the communities they serve is a critical component of public safety; and

WHEREAS, the vast majority of New Jersey's 38,000 law enforcement officers serve the public in accordance with the highest standards of professionalism and integrity; and

WHEREAS, the deployment of body worn camera systems by law enforcement agencies can be a powerful tool for building community trust, both by creating a record of law enforcement professionalism in interactions with the public, and by providing evidence of officer misconduct when it does occur; and

WHEREAS, body worn camera footage can also be utilized to improve training for law enforcement officers, by enabling scenario-based review of past encounters with the public; and

WHEREAS, Attorney General Law Enforcement Directive No. 2015-1 establishes mandatory standards for the handling and storage of body worn camera footage; and

WHEREAS, as of September 23, 2020, 237 of the State's 537 law enforcement agencies now equip some or all of their officers with body-worn cameras; and

WHEREAS, many more law enforcement agencies recognize the benefits of body worn camera systems, but find the adoption of such systems to be prohibitively expensive or logistically difficult; and

WHEREAS, a significant factor in the cost and utilization of body worn camera systems is the ongoing expense of storing and retrieving body worn camera footage, which currently requires that law enforcement agencies individually contract directly with private vendors; and

WHEREAS, New Jersey's municipal government structure provides municipalities with the authority to establish their own services, but which can have the effect of hindering cooperation on problems common across the State; and

WHEREAS, my Administration is dedicated to promoting and supporting shared services as a way to reduce costs borne by individual municipalities and take advantage of economies of scale; and

WHEREAS, a statewide, centralized solution for the storage and retrieval of body worn camera footage could leverage the State's purchasing power to significantly reduce the costs associated with doing so, which would lower the financial and logistical barriers to system adoption for law enforcement agencies, and

WHEREAS, reducing the costs associated with adopting a comprehensive body worn camera program will accelerate the implementation of body worn camera systems across the state; and

WHEREAS, the review of a statewide solution for the storage of body worn camera footage has not previously been conducted; and

WHEREAS, a statewide, centralized solution would facilitate the Office of Public Integrity and Accountability's review of use of force and death in custody incidents, thereby streamlining the process to ensure timely release of video footage to the public pursuant to Attorney General Law Enforcement Directive 2019-4; and

WHEREAS, such a solution would benefit from the input of stakeholders across State government and law enforcement in New Jersey;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. There is hereby created the Interagency Working Group on Body Worn Cameras ("Working Group"), which shall be responsible for providing advice and recommendations to the Governor's Office and to the Attorney General regarding technology solutions to facilitate the statewide implementation of body worn cameras in law enforcement agencies.

2. The objectives of the Working Group shall include the following:

a. Consulting with law enforcement agencies to identify barriers to the adoption of body worn camera systems;

b. Identifying and recommending potential technology solutions to facilitate the adoption of body worn camera systems by police departments, including the potential provision of centralized statewide or regional storage systems;

c. Developing recommended strategies for implementation of a body worn camera solution for police departments, including any actions that must be taken by agencies of state government; and

d. Recommending any necessary changes to existing policies, whether by executive action or legislation, related to the deployment of body worn camera systems or the storage and handling of body worn camera footage.

3. The Working Group shall consist of the following fourteen members:

a. The Attorney General, or designee; who shall serve as Chair;

b. The Superintendent of the State Police, or designee;

c. The Director of the Division of Criminal Justice, or designee;

d. The Chief Technology Officer of the Office of Information Technology, or designee;

e. The Chief Innovation Officer, or designee;

f. The New Jersey State Treasurer, or designee;

g. Four members of the public, including at least one member of the faith-based community and one criminal justice advocate, who shall be appointed by the Governor;

h. Two members of county or municipal law enforcement agencies, who shall be appointed by the Governor;

i. A member of a police union, who shall be appointed by the Governor; and

j. A County Prosecutor, who shall be appointed by the Governor. The appointed County Prosecutor may designate a representative for participation in the Working Group.

4. All members and designees shall serve at the pleasure of the appointing department or agency, or in the case of those appointed by the Governor, at the pleasure of the Governor, and all shall serve without compensation.

5. The Working Group shall be authorized to call upon any department, office, division, or agency of this State to supply it with information or other assistance as the Working Group determines to be necessary to discharge its duties under this Order.

6. Each Executive Branch department and agency is hereby required, to the extent not inconsistent with law and consistent with budgetary constraints, to cooperate fully with the Working Group within the limits of its statutory authority and to furnish the Working Group with such assistance on as timely a basis as is necessary to accomplish the purposes of this Order. To the extent necessary, the Department of Law and Public Safety shall provide professional and clerical staff to the Working Group.

7. The Working Group may consult with experts or other knowledgeable individuals in the public or private sector with respect to any aspect of its mission.

8. The Working Group shall organize and meet as soon as practicable to begin performing the charges set forth in this order.

9. The Working Group, which shall be purely advisory in nature, shall issue a report of its findings and recommendations to the Governor's Office and Attorney General no later than March 31, 2021. The Working Group shall expire upon the issuance of this report.

10. Nothing in this Order shall be construed to supersede any federal, State, or local law.

11. For purposes of this Order, "Executive Branch departments and agencies" shall mean any of the principal departments in the Executive Branch of State government and any agency, authority, board, bureau, commission, division, institution, office, or other instrumentality within or created by any such department, and any independent State authority, commission, instrumentality, or agency over which the Governor exercises executive authority, as determined by the Attorney General.

12. This Order shall take effect immediately.

Dated November 24, 2020.

EXECUTIVE ORDER NO. 202

WHEREAS, Mayor David Dinkins was born David Norman Dinkins on July 10, 1927 in Trenton, New Jersey, as the son of a barber and real estate broker; and

WHEREAS, Mayor Dinkins graduated from Trenton Central High School in 1945 and attempted to enlist in the U.S. Marine Corps but was denied because of the color of his skin; and

WHEREAS, Mayor Dinkins was later drafted and served with the U.S. Marine Corps in Korea; and

WHEREAS, Mayor Dinkins graduated from Howard University in Washington, D.C. with a Bachelor's degree in Mathematics and earned his Juris Doctor from Brooklyn Law School in New York; and

WHEREAS, Mayor Dinkins was elected to the New York State Assembly in 1965, and later served as President of the New York City Board of Elections, City Clerk, and Manhattan Borough President; and

WHEREAS, Mayor Dinkins was elected the 106th Mayor of New York City in 1989, becoming the first Black mayor in the City's history; and

WHEREAS, during his tenure, Mayor Dinkins began the transformation of Times Square, rehabilitated housing in the Bronx, Brooklyn, and Harlem, and expanded the National Tennis Center in Queens; and

WHEREAS, Mayor Dinkins brought other leaders into his administration who mirrored the City's diversity, and initiated many of the changes that renewed New York City's place on the world stage as a cultural epicenter, including the creation of *Fashion Week*, *Restaurant Week*, and *Broadway on Broadway*; and

WHEREAS, in 1994, Mayor Dinkins became a professor at Columbia University's School of International and Public Affairs, where he remained until his passing; and

WHEREAS, during that time, Mayor Dinkins remained active in New York City politics as the host of a weekly radio show; and

WHEREAS, Mayor Dinkins received numerous awards and acknowledgements throughout his long career, including, most notably, the renaming of the City's municipal building as the David N. Dinkins Municipal Building on October 15, 2015; and

WHEREAS, Mayor Dinkins married Joyce B. Dinkins in 1953, and the two had a son, David Dinkins, Jr., and a daughter, Donna Dinkins, and remained married until Joyce's death in October 2020; and

WHEREAS, Mayor Dinkins passed away on November 23, 2020, at the age of 93; and

WHEREAS, it is with immense sadness that we mourn the passing of Mayor Dinkins and extend our deepest sympathy to his family, friends, and colleagues; and

WHEREAS, it is appropriate to honor the exemplary character, selflessness, and cherished memory of Mayor Dinkins and to mark his passing;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Monday, November 30, 2020, in recognition and mourning of a dedicated and tireless public servant, Mayor David Dinkins.

2. This Order shall take effect immediately.

Dated November 25, 2020.

EXECUTIVE ORDER NO. 203

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, 180, 186, 191, and 200 issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, August 1, 2020, August 27, 2020, September 25, 2020, October 24, 2020, and November 22, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act, N.J.S.A. App. A:9-33 et seq. and the Emergency Health Powers Act, N.J.S.A. 26:13-1 et seq., to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-166, Nos. 168-173, No. 175, Nos. 177-181, No. 183, Nos. 186-187, Nos. 189-198, and No. 200 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, as of November 25, 2020, according to the World Health Organization, there were over 59,204,000 confirmed cases of COVID-19 worldwide, with over 1,397,000 of those cases having resulted in death; and

WHEREAS, as of November 24, 2020, according to the Centers for Disease Control and Prevention ("CDC"), there were over 12,333,000 confirmed cases of COVID-19 in the United States, with over 257,000 of those cases having resulted in death; and

WHEREAS, as of November 24, 2020, there were over 313,000 positive cases of COVID-19 in New Jersey, with at least 15,007 of those cases having resulted in death; and

WHEREAS, there have been positive cases of COVID-19 in every county in New Jersey, and there have been deaths relating to COVID-19 in every county in New Jersey; and

WHEREAS, on March 19, 2020, I issued Executive Order No. 105, which declared that certain elections set to take place in March and April were postponed until May 12, 2020, because allowing those elections to proceed as they were originally planned during this unprecedented COVID-19 health crisis would create hardships and health risks for voters, poll workers, and candidates alike; and

WHEREAS, pursuant to Executive Order No. 120 (2020), the primary election set to take place on June 2, 2020, was postponed until July 7, 2020 ("July Primary Election"), because preparing for the election to take place in June during the potential height of the COVID-19 emergency would have negatively impacted election officials' preparation efforts; and

WHEREAS, on May 15, 2020, I issued Executive Order No. 144, which declared that the July Primary Election would be conducted primarily via vote-by-mail ballots with a minimum number of polling places open in each municipality; and

WHEREAS, Executive Order No. 144 (2020) extended the N.J.S.A. 19:23-55 deadline to certify the results of the Primary Election under by five (5) days to account for the revised timeframe that Boards of Elections had to receive vote-by-mail ballots, thereby extending the Primary Election certification deadline to July 24, 2020; and

WHEREAS, on July 13, 2020, I issued Executive Order No. 164, which postponed any election scheduled between July 7, 2020 and November 3, 2020, until November 3, 2020, and declared that no other elections may be held or proceed prior to November 3, 2020; and

WHEREAS, on August 14, 2020, I issued Executive Order No. 177, the facts and circumstances of which are adopted by reference herein, which established the voting procedures for the General Election on November 3, 2020 ("November General Election") and declared that the election would be conducted primarily by vote-by-mail; and

WHEREAS, on August 25, 2020, I issued Executive Order No. 179, making modifications to Executive Order No. 177 (2020) to ensure enough time to complete preparations for the November General Election and minimize voter confusion, the facts and circumstances of which are adopted by reference herein; and

WHEREAS, legislation subsequently codified the standards adopted by Executive Orders Nos. 177 and 179 (2020) and addressed other issues relating to upcoming elections; and

WHEREAS, on November 2, 2020, I issued Executive Order No. 193, postponing any run-off elections resulting from municipal elections held on the November General Election and required under N.J.S.A. 40:45-19 until December 15, 2020, in order to give county and municipal election officials enough time to send vote-by-mail ballots to all registered voters; and

WHEREAS, Executive Order No. 193 (2020) requires modification as set forth below to ensure enough time to complete preparations for the runoff elections required under N.J.S.A. 40:45-19; and

WHEREAS, the COVID-19 emergency continues to unfold alongside contemporaneous elections; and

WHEREAS, pursuant to N.J.S.A. 19:60-2(a), the board of education of a type II school district may call a special election of the legal voters of the district on the fourth Tuesday in January, the second Tuesday in March, the last Tuesday in September, or the second Tuesday in December when, in the board's judgement, the interests of the schools so requires; and

WHEREAS, Executive Order No. 105 (2020) postponed the special school elections scheduled for March 21, 2020 until May 12, 2020 and concurrent with other elections scheduled for that date; and

WHEREAS, Executive Order No. 177 (2020) postponed the special school elections scheduled for December 8, 2020 until the authorized January 2021 special school election date; and

WHEREAS, allowing upcoming elections to proceed during this unprecedented COVID-19 health crisis as they were originally planned will create hardships and health risks for voters, poll workers, and candidates alike; and

WHEREAS, the full participation of voters and candidates is critical to a robust democracy; and

WHEREAS, the New Jersey Secretary of State is legally obligated to ensure that all qualified voters within the State are able to fully exercise their constitutionally protected right to vote; and

WHEREAS, the COVID-19 emergency and its impact are likely to extend for an as-yet-undetermined period of time; and

WHEREAS, failing to take proactive actions to mitigate the spread of the virus risks further infecting election officials; and

WHEREAS, states generally have discretion to dictate the time, manner, and place of elections in the absence of controlling federal law; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Paragraph 4 of Executive Order No. 193 (2020) is modified such that the notice in lieu of a sample ballot authorized pursuant to this subsection shall be sent return service requested as required by N.J.S.A. 19:14-23.

2. Any special school elections scheduled for January 26, 2021, shall be postponed until the authorized March 2021 special school election date.

3. This Order shall take effect immediately.

Dated November 25, 2020.

EXECUTIVE ORDER NO. 204

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, 180, 186, 191, and 200, issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, August 1, 2020, August 27, 2020, September 25, 2020, October 24, 2020, and November 22, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-166, Nos. 168-173, No. 175, Nos. 177-181, No. 183, Nos. 186-187, Nos. 189-198, No. 200, and No. 203 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, on May 29, 2020, I signed Executive Order No. 149, which allowed organized sporting activities to resume on June 22, 2020, in outdoor settings, provided that they did not involve person-to-person contact or individuals routinely interacting in close proximity; and

WHEREAS, Executive Order No. 149 (2020) also directed the Commissioner of the DOH to issue health and safety standards regarding sporting activities before June 22, 2020; and

WHEREAS, on June 15, 2020, the Commissioner of DOH issued Guidance for Sports Activities ("Guidance") that stated that practices and competitions for Low Risk sports, as well as no-contact practices for Medium and High Risk sports, could resume on June 22, 2020 in outdoor settings, because pursuant to Executive Order No. 149 (2020), they do not involve person-to-person contact; and

WHEREAS, Medium and High Risk sports were subsequently permitted to resume in outdoor and indoor settings with strict limitations on contact activities indoors; and

WHEREAS, on October 12, 2020, I issued Executive Order No. 187, which permitted contact practices and competitions for both Medium Risk and High Risk sports to resume in indoor settings, so that all sports activities were permitted to operate in indoor and outdoor settings subject to DOH guidance; and

WHEREAS, in light of outbreaks associated with youth sports teams in New Jersey that had participated in interstate games, I issued Executive Order No. 194 (2020), which prohibited indoor interstate youth sports competitions; and

WHEREAS, the number of confirmed cases of COVID-19 continues to increase dramatically, demonstrating more significant community spread; and

WHEREAS, the Centers for Disease Control and Prevention ("CDC") and DOH have maintained that congregation of individuals, particularly in indoor environments, is a contributing factor in the spread of COVID-19; and

WHEREAS, the institution of mitigation protocols limiting certain high-risk activities is necessary to combat the spread of the virus and lessen the need for more comprehensive restrictions; and

WHEREAS, the progress we made earlier this year demonstrates the effectiveness of such protocols, particularly those that prevented individuals from congregating indoors and encouraged avoidance of close contact in indoor settings, where the virus is more readily transmitted; and

WHEREAS, in the past nine months, we have gained critical knowledge in our experience with COVID-19, including a better understanding of the risks associated with certain activities and the safeguards that can be implemented to mitigate those risks; and

WHEREAS, this information, together with expanded access to testing, personal protective equipment, and other materials necessary to protect individuals from spread of the virus, allows us to permit certain activities to continue while others are subject to restrictions; and

WHEREAS, the CDC has advised that there is risk associated with any indoor sports activity, including practices, and particularly with full competitions between teams, with the highest risk associated with competitions between teams from different states; and

WHEREAS, the risks associated with such activities extend beyond the practice or competition itself, as individuals participating in sports activities tend to congregate on benches, sidelines, in locker rooms, and other similar settings that are not amenable to social distancing; and

WHEREAS, the restart of other similar indoor activities, such as exercise classes at gyms, have not been linked to any significant confirmed outbreaks; and

WHEREAS, since the reopening of indoor youth sports practices and competitions, there have been numerous confirmed outbreaks amongst teams in New Jersey that are believed to be associated with participation in sports activities, including non-contact sports activities such as swimming and gymnastics, with additional investigations pending; and

WHEREAS, the CDC has noted that the incubation period for the virus is approximately 14 days, so that a month-long pause will capture data over two incubation periods; and

WHEREAS, college and university athletic programs and professional athletic teams, leagues, and organizations, are readily able to establish comprehensive protocols for the athletes participating within their programs, including by placing limitations on outside activities, subjecting participants to regular testing, and requiring athletes to reside in a specified location; and

WHEREAS, though high school teams are also typically subject to strict health and safety protocols by schools and overseeing organizations, so that they have previously been treated similarly to collegiate and professional sports in outdoor settings, it is still appropriate to restrict activities indoors where the risk of spread is heightened; and

WHEREAS, Executive Order No. 196, issued November 16, 2020, lowered the outdoor gathering limit from 500 to 150 persons; and

WHEREAS, while there is generally less risk associated with outdoor gatherings, it is appropriate to reduce the outdoor gatherings limit in our State to no more than 25 people to prevent increased transmission through super-spreading events and large community gatherings; and

WHEREAS, individuals organizing and participating in outdoor gatherings must continue to utilize protective measures, including use of masks and social distancing; and

WHEREAS, addiction group counseling services are a critical social and mental health service that necessitate robust group participation, particularly during the pandemic, which has heightened feelings of stress and social isolation, and thus can exceed the general indoor gathering limit while following health and safety protocols; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq.,

N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Practices and competitions for organized, group, and/or competitive sports defined as "Low Risk", "Medium Risk", and "High Risk" by DOH's "Guidance for Sports Activities" are prohibited in indoor settings. Executive Order Nos. 168 and 187 (2020) are hereby superseded to the extent inconsistent with this paragraph.

2. It is hereby restated that Executive Order No. 194 (2020) prohibits facilities within the State from hosting indoor youth sports competitions between two or more out-of-state teams, regardless of whether a New Jersey team is participating in the competition.

3. Paragraphs 1 and 2 of this Order shall not apply to collegiate and professional sports activities, which are permitted to continue operations subject to compliance with all applicable laws, regulations, and Executive Orders, including restrictions on recreational and entertainment businesses in Paragraph 7 of Executive Order No. 157 (2020) and restrictions on gatherings in place at the time the sporting activities occur.

4. Paragraphs 7 - 10 of Executive Order No. 196 (2020) are hereby rescinded and the number of individuals at outdoor gatherings shall be limited to 25 persons or fewer. All other requirements for outdoor gatherings contained in Paragraph 1 of Executive Order No. 161 (2020), including the requirements of Paragraph 2 of Executive Order No. 152 (2020) incorporated by reference therein, shall remain in effect. An outdoor gathering that is a religious service or celebration, political activity, wedding ceremony, funeral, or memorial service is not required to comply with the numerical limit on persons.

5. Professional and collegiate athletic competitions that are conducted outdoors are subject to the outdoor gathering limit of 25 persons. Athletes, coaches, referees, and trainers, and other individuals who are necessary for the competitive professional or collegiate sporting event are not included in the number of individuals present at a gathering for purposes of the limits on gatherings. The provisions of Paragraph 1 of Administrative Order No. 2020-22 regarding outdoor gatherings shall continue to apply.

6. All non-collegiate and non-professional athletic practices and competitions that are conducted outdoors are subject to the current outdoor gathering limit of 25 persons. However, if the number of individuals who are necessary for a practice or competition, such as players, coaches, and referees, is greater than 25 persons, such a practice or competition may proceed, as long as no individuals are present who

are not necessary for the practice or competition, such as spectators. Paragraph 10 of Executive Order No. 196 (2020) is hereby rescinded.

7. It is hereby clarified that the number of individuals at an indoor gathering that involves an Alcoholics Anonymous meeting, Narcotics Anonymous meeting, or similar meeting of an addiction support group shall be limited to 25 percent of the capacity of the room in which it takes place, but regardless of the capacity of the room, such limit shall never be larger than 150 persons or smaller than 10 persons.

8. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

9. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order.

10. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

11. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

12. Paragraph 1 of this Order shall take effect at 6:00 a.m. on Saturday, December 5, 2020, and shall terminate on January 2, 2021, unless otherwise revoked or modified by the Governor. Paragraphs 2 and 7 shall take effect immediately and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate. Paragraphs 4 - 6 shall take effect at 6:00 a.m. on Monday, December 7, 2020, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated November 30, 2020.

EXECUTIVE ORDER NO. 205

WHEREAS, United States Air Force Captain Kelliann Leli, 30, of Parlin, New Jersey, died on November 27, 2020 in a non-combat related vehicle incident at Al Dhafra Air Base, United Arab Emirates; and

WHEREAS, Captain Leli was a graduate of the United States Air Force Academy and earned her commission in 2012 before completing her medical program; and

WHEREAS, Captain Leli was a physician assigned to the 60th Healthcare Operations Squadron at the Family Medicine Clinic at David Grant United States Air Force Medical Center on Travis Air Force Base in California; and

WHERAS, Captain Leli was on her first deployment, stationed at Al Dhafra Air Base, United Arab Emirates in support of Operation Freedom's Sentinel as part of the 380th Air Expeditionary Wing; and

WHEREAS, Captain Leli was a beloved member of our New Jersey family whose presence will be greatly missed by her family, her friends, her fellow servicemembers, and by the people of New Jersey whom are grateful for her service; and

WHEREAS, it is with immense sadness that we mourn Captain Leli's sudden passing, and extend our deepest sympathy and gratitude to her family; and

WHEREAS, it is appropriate to honor the exemplary character, outstanding achievements, and cherished memory of Captain Leli and to mark her passing;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Thursday, December 3, 2020, in recognition and mourning of Captain Kelliann Leli.

2. This Order shall take effect immediately.

Dated December 2, 2020.

EXECUTIVE ORDER NO. 206

WHEREAS, State Police Trooper Recruit Lucas C. Homeijer, age 27, was a resident of Boonton, New Jersey; and

WHEREAS, Recruit Homeijer was a member of the 161st State Police Academy Class, following in the footsteps of his father and uncle, both of whom are retired State Troopers; and

WHEREAS, Recruit Homeijer was a graduate of Morris Knolls High School in Rockaway, New Jersey where he was a member of the wrestling team; and

WHEREAS, before joining the 161st State Police Academy Class, Recruit Homeijer attended Trooper Youth Week at the age of 17 years old; and

WHEREAS, Recruit Homeijer was dedicated to service from a young age and was an Eagle Scout; and

WHEREAS, Recruit Homeijer was the beloved son of Don and Denise Homeijer, and his presence will be missed by his family, his friends, his fellow classmates and instructors, and by the people of New Jersey whom will always be grateful for his decision to serve; and

WHEREAS, it is with immense sadness that we mourn Recruit Homeijer's sudden passing, and extend our deepest sympathy to his family, friends, and fellow classmates and instructors; and

WHEREAS, it is appropriate to honor the exemplary character, outstanding achievements, and cherished memory of Recruit Homeijer, and to mark his passing;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours from Friday, December 4, 2020, through Sunday, December 6, 2020, in recognition and mourning of State Police Trooper Recruit Lucas C. Homeijer.

2. This Order shall take effect immediately.

Dated December 3, 2020.

EXECUTIVE ORDER NO. 207

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, 180, 186, 191, and 200, issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, August 1, 2020, August 27, 2020, September 25, 2020, October 24, 2020, and November 22, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, the Emergency Health Powers Act ("EHPA"), N.J.S.A. 26:13-1 et seq., outlines the authorities of the Commissioner of the Department of Health ("DOH") to oversee vaccine administration during a public health emergency; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and EHPA, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-166,

Nos. 168-173, No. 175, Nos. 177-181, No. 183, Nos. 186-187, Nos. 189-198, No. 200, and Nos. 203-204 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, after consultation with officials from the DOH, I announced a multi-stage New Jersey's Road Back Plan for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, despite these efforts, the number of confirmed cases of COVID-19 continues to increase dramatically due to high levels of community spread, something that cannot be fully mitigated without robust participation in a COVID-19 vaccine program; and

WHEREAS, New Jersey submitted to the Centers for Disease Control and Prevention a required Interim COVID-19 Vaccination Plan (the "Plan") in October 2020; and

WHEREAS, the Plan aims to provide equitable access to all who live, work, and/or are educated in New Jersey; achieve community protection, assuming vaccine effectiveness, availability, and uptake; and build sustainable trust in COVID-19 and other vaccines; and

WHEREAS, the first tranche of COVID-19 vaccines is expected to arrive in New Jersey before the end of the year; and

WHEREAS, the process of vaccinating the population to levels sufficient to establish community immunity is expected to take many months and will require comprehensive and aggressive State efforts to maximize the benefits of vaccination across all communities as quickly as feasible; and

WHEREAS, though many vaccines are currently under development, the first vaccines that are anticipated to arrive in the State would require two doses to be effective, necessitating a mechanism to track individuals who have received the first dose to ensure they also receive the required second dose of the same vaccine type; and

WHEREAS, it is critically important that a sufficient number of residents receive the full course of a COVID-19 vaccine as quickly as supply allows in order to optimize protection against COVID-19; and

WHEREAS, it is also critically important to track the rate of vaccination among the State's population, regardless if the vaccine received is a single dose or multiple dose, to support all virus mitigation efforts now and in the future; and

WHEREAS, the New Jersey Immunization Information System ("NJIIS"), the statewide electronic immunization registry, is an existing means to coordinate and promote disease prevention and control efforts in the State, to track vaccination uptake critical to the COVID-19 response, and ensure that individuals are not inadvertently receiving duplicative vaccines; and

WHEREAS, pursuant to N.J.S.A. 26:4-134, individuals born prior to January 1, 1998, must currently affirmatively opt-in to participate in the registry, whereas children born after January 1, 1998, are automatically enrolled in the registry

immediately following birth unless a parent or guardian provides a written request to not participate; and

WHEREAS, pursuant to the same statutory provision, individuals born after January 1, 1998, are afforded the opportunity to opt-out of participation in the registry; and

WHEREAS, pursuant to N.J.A.C. 8:57-3.12(g), adults are permitted to voluntarily enroll in the NJIIS; and

WHEREAS, these opt-in provisions could limit the ability of the DOH to quickly and effectively track individuals who have received a dose of a COVID-19 vaccine; and

WHEREAS, automatic enrollment in the NJIIS for individuals receiving a COVID-19 vaccine will facilitate and track progress relative to New Jersey's vaccination targets; and

WHEREAS, the data collected pursuant to the NJIIS is only used for public health purposes and contains significant privacy protections, including a data firewall, that ensure it is a safe and appropriate mechanism for tracking sensitive information; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. For no longer than 30 days after the expiration of the Public Health Emergency, all individuals, regardless of age, shall be enrolled in the NJIIS prior to or concurrent with receipt of a COVID-19 vaccination in New Jersey, if the individual is not already participating in NJIIS at the time of the vaccine administration. This enrollment will enable the tracking of COVID-19 vaccines and all other vaccines administered while registered in the NJIIS. After an individual has received a complete course of a COVID-19 vaccination, the individual or the individual's legal guardian may provide a written request to withdraw from the registry. Beginning 30 days after the Public Health Emergency ceases, the DOH shall honor all valid, written requests to withdraw from the registry. The Commissioner of DOH is hereby authorized to issue guidance to effectuate the requirements of this Paragraph.

2. Individuals that have received approval to opt-out of the NJIIS prior to the effective date of this Order shall also be automatically enrolled in the registry upon receipt of a dose of a COVID-19 vaccine, and may subsequently re-submit any request to withdraw from the system after the full course of the COVID-19 vaccination has been administered.

3. To the degree that they are inconsistent with this Order, the provisions of N.J.S.A. 26:4-134 establishing an opt-in system for individuals born prior to January 1, 1998 and permitting individuals born after January 1, 1998 to opt-out of the NJIIS, are suspended for the duration of this Emergency. The provisions of N.J.A.C. 8:57-3.12(g) are modified to allow for automatic enrollment of adults that receive a COVID-19 vaccine. Any provisions of these statutes and regulations that are not inconsistent with this Order, or subsequently entered administrative orders or executive directives, shall remain in full force and effect.

4. For purposes of this Order, the "Public Health Emergency" means the Public Health Emergency declared in Executive Order No. 103 (2020), as extended by Executive Order No. 119 (2020), Executive Order No. 138 (2020), Executive Order No. 151 (2020), Executive Order No. 162 (2020), Executive Order No. 171 (2020), Executive Order No. 180 (2020), Executive Order No. 186 (2020), Executive Order No. 190 (2020), and Executive Order No. 200 (2020), and any subsequent Executive Order which may further extend such Public Health Emergency.

5. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

6. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order.

7. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

8. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

9. This Order shall take effect immediately and shall remain in effect unless otherwise revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

Dated December 4, 2020.

EXECUTIVE ORDER NO. 208

WHEREAS, beginning in the late morning of Wednesday, December 16, 2020, the State of New Jersey is expected to experience a significant winter storm causing hazardous weather conditions including heavy mixed precipitation, high winds, moderate tidal flooding, and total snow and ice accumulations of 12 to 18 inches in a substantial portion of the State; and

WHEREAS, the National Weather Service has issued a Winter Storm Warning for central, northern, and northwest New Jersey, and a High Wind Watch for coastal New Jersey; and

WHEREAS, this significant winter storm is expected to produce hazardous travel conditions due to accumulated snow and ice, especially during the evening commuting periods on Wednesday, December 16, 2020, and the morning and evening commuting periods on Thursday, December 17, 2020; and

WHEREAS, this significant winter storm is expected to produce hazardous travel conditions even for areas that receive little or no snowfall, and to make clearing snow and ice very difficult; and

WHEREAS, as part of the State's response to the significant winter storm, the Commissioner of the New Jersey Department of Transportation (the "Commissioner") has issued an Administrative Order(s) regarding vehicle travel restrictions pursuant to N.J.S.A. 27:1A-5, N.J.S.A. 27:3A-3, and N.J.S.A. 39:4-8.3; and

WHEREAS, winds in excess of 40 mph are expected which may cause downed power lines and trees, resulting in power outages, and will impede the normal operation of public and private entities; and

WHEREAS, these serious weather conditions will make it difficult or impossible for citizens to obtain the necessities of life, as well as essential services such as police, fire, and first aid; and

WHEREAS, this impending significant winter storm constitutes an imminent hazard that threatens and presently endangers the health, safety, and resources of the residents of the State; and

WHEREAS, this situation may become too large in scope to be handled in its entirety by the normal county and municipal operating services in some parts of this State, and this situation may spread to other parts of the State; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. App. A:9-33, et seq., N.J.S.A. 38A:3-6.1, N.J.S.A. 38A:2-4, and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, in order to protect the health, safety, and welfare of the people of the State of New Jersey DO DECLARE and PROCLAIM that a State of Emergency exists throughout the State of New Jersey, effective at 2:00 p.m. on Wednesday, December 16, 2020; and I hereby ORDER and DIRECT the following:

1. I authorize and empower the State Director of Emergency Management, who is the Superintendent of State Police, to implement the State Emergency Operations Plan and to direct the activation of county and municipal emergency operations plans, as necessary, and to coordinate the recovery effort from this Emergency with all governmental agencies, volunteer organizations, and the private sector.

2. I authorize and empower, in accordance with N.J.S.A. App. A:9-33, et seq., as supplemented and amended, the State Director of Emergency Management, through the police agencies under his control, and with consideration of any Administrative Order issued by the Commissioner, to determine and control the direction of the flow of vehicular traffic on any State or interstate highway, municipal or county road, and any access road, including the right to detour, reroute, or divert any or all traffic and to prevent ingress or egress from any area that, in the State Director's discretion, is deemed necessary for the protection of the health, safety, and welfare of the public, and to remove parked or abandoned vehicles from such roadways as conditions warrant.

3. I authorize and empower the Attorney General, pursuant to the provisions of N.J.S.A. 39:4-213, acting through the Superintendent of State Police, and with consideration of any Administrative Order issued by the Commissioner, to determine and control the direction of the flow of vehicular traffic on any State or interstate highway, municipal or county road, and any access road, including the right to detour, reroute, or divert any or all traffic, to prevent ingress or egress, and to determine the type of vehicle or vehicles to be operated on such roadways. I further authorize all law enforcement officers to enforce any such order of the Attorney General or Superintendent of State Police within their respective municipalities.

4. I authorize and empower the State Director of Emergency Management to order the evacuation of all persons, except for those emergency and governmental personnel whose presence the State Director deems necessary, from any area where their continued presence would present a danger to their health, safety, or welfare because of the conditions created by this emergency.

5. I authorize and empower the State Director of Emergency Management to utilize all facilities owned, rented, operated, and maintained by the State of New Jersey to house and shelter persons who may need to be evacuated from a residence, dwelling, building, structure, or vehicle during the course of this emergency. Individuals housed or sheltered pursuant to this Order are exempt from transient guest and seasonal tenant restrictions permitted by Administrative Order Nos. 2020 8-9 issued on April 4, 2020 and April 24, 2020, respectively, in response to the COVID-19 pandemic.

6. I authorize and empower the executive head of any agency or instrumentality of the State government with authority to promulgate rules to waive, suspend, or modify any existing rule, where the enforcement of which would be detrimental to the public welfare during this Emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary for the duration of this Order, subject to my prior approval and in consultation with the State Director of Emergency Management. Any such waiver, modification, or suspension shall be promulgated in accordance with N.J.S.A. App. A:9-45.

7. I authorize and empower the Adjutant General, in accordance with N.J.S.A. 38A:2-4 and N.J.S.A. 38A:3-6.1, to order to active duty such members of the New Jersey National Guard who, in the Adjutant General's judgment, are necessary to provide aid to those localities where there is a threat or danger to the public health,

safety, and welfare and to authorize the employment of any supporting vehicles, equipment, communications, or supplies as may be necessary to support the members so ordered.

8. In accordance with the N.J.S.A. App. A:9-34 and N.J.S.A. App. A:9-51, I reserve the right to utilize and employ all available resources of the State government and of each and every political subdivision of the State, whether of persons, properties, or instrumentalities, and to commandeer and utilize any personal services and any privately-owned property necessary to protect against this emergency.

9. In accordance with N.J.S.A. App. A:9-40, no municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will in any way interfere with or impede the achievement of the purposes of this Order.

10. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully with the State Director of Emergency Management in all matters concerning this State of Emergency.

11. In accordance with N.J.S.A. App. A:9-34, N.J.S.A. App. A:9-40.6, and N.J.S.A. 40A:14-156.4, no municipality or public or semipublic agency shall send public works, fire, police, emergency medical, or other personnel or equipment into any non-contiguous disaster-stricken municipality within this State, nor to any disaster-stricken municipality outside this State, unless and until such aid has been directed by the county emergency management coordinator or their deputies in consultation with the State Director of Emergency Management.

12. This Order shall take effect at 2:00 p.m., Eastern Standard Time, on Wednesday, December 16, 2020, and shall remain in effect until such time as it is determined by me that an emergency no longer exists.

Dated December 16, 2020.

EXECUTIVE ORDER NO. 209

WHEREAS, Executive Order No. 208, declaring a State of Emergency, was issued on December 16, 2020 because of a significant winter storm that arrived on that date with severe weather conditions impacting the State through the morning of December 17, 2020; and

WHEREAS, the severity of the conditions necessitating the declaration of a State of Emergency has eased;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The State of Emergency declared in Executive Order No. 208 (2020) is terminated effective at 1:00 p.m., Eastern Standard Time, on December 18, 2020.

Dated December 18, 2020.

EXECUTIVE ORDER NO. 210

WHEREAS, on March 9, 2020, through Executive Order No. 103, the facts and circumstances of which are adopted by reference herein, I declared both a Public Health Emergency and a State of Emergency throughout the State due to the public health hazard created by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, Executive Order No. 103 (2020) described both the symptoms and dangers presented by COVID-19 and the likelihood of community spread across the State, and it recognized the need to use all available statewide authorities to prepare for and respond to COVID-19 cases in New Jersey, to implement appropriate measures to mitigate the spread of COVID-19, and to prepare in the event of an increasing number of individuals requiring medical care or hospitalization; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act ("EHPA"), to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104- 133, 135-138, 140-166, 168-173, 175, 177-181, 183, 187, 189-198, 200, 203-204, and 207 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, N.J.S.A. 26:13-3(b) establishes that a Public Health Emergency declared by the Governor shall automatically terminate after 30 days, unless renewed for an additional 30 days through a declaration of the Governor; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on May 6, 2020, I issued Executive Order No. 138, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on June 4, 2020, I issued Executive Order No. 151, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on July 2, 2020, I issued Executive Order No. 162, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on August 1, 2020, I issued Executive Order No. 171, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on August 27, 2020, I issued Executive Order No. 181, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on September 25, 2020, I issued Executive Order No. 186, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on October 24, 2020, I issued Executive Order No. 191, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, on November 22, 2020, I issued Executive Order No. 200, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, 181, 186, 191, and 200 (2020), I declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, due to the significant emergency measures the State has taken in response to COVID-19, there was a decrease in the rate of reported new cases of COVID-19 in New Jersey, in the total number of individuals being admitted to hospitals for COVID-19, and in the rate of reproduction for COVID-19 infections in New Jersey; and

WHEREAS, given the progress the State had made based on these emergency measures and after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan (the "Plan") for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, in line with the Plan, the State had been able to relax a number of restrictions, each time tailored to the relative risk the activity presents, and additional restrictions on outdoor and indoor recreational and entertainment businesses were lifted over the past several months; and

WHEREAS, the fact that the spread of COVID-19 had been limited by the State's emergency measures did not in any way suggest that the ongoing Public Health Emergency had dissipated, because absent social distancing measures, public health experts anticipated that the spread of COVID-19 would again significantly increase; and

WHEREAS, since the Public Health Emergency was renewed on November 22, 2020, at which time there were over 302,039 positive cases of COVID-19 in New Jersey, the COVID-19 outbreak has continued to present a public health hazard in New Jersey, in the region, and across the United States; and

WHEREAS, as of December 21, 2020, according to the World Health Organization, there were over 75,479,471 confirmed cases of COVID-19 worldwide, with over 1,686,267 of those cases having resulted in death; and

WHEREAS, as of December 20, 2020, according to the Centers for Disease Control and Prevention (CDC), there were over 17,592,760 confirmed cases of COVID-19 in the United States, with over 315,260 of those cases having resulted in death; and

WHEREAS, as of December 20, 2020, there were over 432,592 positive cases of COVID-19 in New Jersey, with at least 16,286 of those cases having resulted in death; and

WHEREAS, there have been positive cases of COVID-19 in every county in New Jersey, and there have been deaths relating to COVID-19 in every county in New Jersey; and

WHEREAS, the State has experienced significant upticks in the rate of reported new cases across all counties, demonstrating the need for many of the State's current measures to remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, the renewal of the declaration of the ongoing Public Health Emergency is necessary to allow the State to continue with the Plan to allow for the methodical and strategic reopening of the State, consistent with the State's authority under the EHPA; and

WHEREAS, the renewal of the declaration of the ongoing Public Health Emergency is also necessary to ensure that the State can swiftly respond to take all appropriate actions should the rate of reported new cases of COVID-19 in New Jersey, number of individuals being admitted to hospitals for COVID-19, or rate of reproduction for COVID-19 infections in New Jersey continue to increase, as we are now seeing in numerous states across the country; and

WHEREAS, the spread of COVID-19 has greatly strained the resources and capabilities of county and municipal governments, including public health agencies, that provide essential services for containing and mitigating the spread of contagious diseases, and the situation is too large in scope to be handled entirely by the normal county and municipal operating services; and

WHEREAS, the facts as set forth above and in consultation with the Commissioner of DOH confirm that the spread of COVID-19 in New Jersey constitutes an ongoing public health hazard that threatens and presently endangers the health, safety, and welfare of the residents of one or more municipalities or counties of the State, and it is necessary and appropriate to take action against this public health hazard to protect and maintain the health, safety, and welfare of New Jersey residents and visitors; and

WHEREAS, the facts as set forth above and in consultation with the Commissioner of DOH confirm that there exists a Public Health Emergency in the State; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supple-

ments thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby DECLARE and PROCLAIM that the Public Health Emergency declared in Executive Order No. 103 (2020) pursuant to the EHPA, N.J.S.A. 26:13-1, et seq., continues to exist throughout the State of New Jersey, and I hereby ORDER and DIRECT:

1. All Executive Orders adopted in whole or in part based on the authority under the EHPA to respond to the Public Health Emergency presented by the COVID-19 outbreak remain in full force and effect.

2. All actions taken by any Executive Branch departments and agencies in whole or in part based on the authority under the EHPA to respond to the Public Health Emergency presented by the COVID-19 outbreak, or in whole or in part based on authority delegated by any Executive Orders described in Paragraph 1 of this Order, including but not limited to any Administrative Orders, remain in full force and effect.

3. For purposes of this Order, "Executive Branch departments and agencies" shall mean any of the principal departments in the Executive Branch of State government and any agency, authority, board, bureau, commission, division, institution, office, or other instrumentality within or created by any such department, and any independent State authority, commission, instrumentality, or agency over which the Governor exercises executive authority, as determined by the Attorney General.

4. This Order shall take effect immediately.

Dated December 21, 2020.

EXECUTIVE ORDER NO. 211

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, 180, 186, 191, 200, and 210 issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, August 1, 2020, August 27, 2020, September 25, 2020, October 24, 2020, November 22, 2020, and December 21, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act, N.J.S.A. App. A:9-33 et seq. and the Emergency Health Powers Act, N.J.S.A. 26:13-1 et seq., to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140 166, Nos. 168-173, No. 175, Nos. 177-181, No. 183, Nos. 186-187, Nos. 189-198, No. 200, Nos. 203-204, No. 207, and No. 210 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, as of December 21, 2020, according to the World Health Organization, there were over 75,479,000 confirmed cases of COVID-19 worldwide, with over 1,686,000 of those cases having resulted in death; and

WHEREAS, as of December 20, 2020, according to the Centers for Disease Control and Prevention (CDC), there were over 17,592,000 confirmed cases of COVID-19 in the United States, with over 315,000 of those cases having resulted in death; and

WHEREAS, as of December 20, 2020, there were over 432,000 positive cases of COVID-19 in New Jersey, with at least 16,286 of those cases having resulted in death; and

WHEREAS, there have been positive cases of COVID-19 in every county in New Jersey, and there have been deaths relating to COVID-19 in every county in New Jersey; and

WHEREAS, on March 19, 2020, I issued Executive Order No. 105, which declared that certain elections, including special school elections, set to take place in March and April were postponed until May 12, 2020, to be held concurrent with other elections scheduled for May 12, 2020, because allowing those elections to proceed as they were originally planned during this unprecedented COVID-19 health crisis would create hardships and health risks for voters, election officials, poll workers, and candidates alike; and

WHEREAS, pursuant to Executive Order No. 120 (2020), the primary election set to take place on June 2, 2020, was postponed until July 7, 2020 ("July Primary Election"), because preparing for the election to take place in June during the potential height of the COVID-19 emergency would have negatively impacted election officials' preparation efforts; and

WHEREAS, on May 15, 2020, I issued Executive Order No. 144, which declared that the July Primary Election would be conducted primarily via vote-by-mail ballots with a minimum number of polling places open in each municipality; and

WHEREAS, Executive Order No. 144 (2020) extended the N.J.S.A. 19:23-55 deadline to certify the results of the Primary Election under by five (5) days to

account for the revised timeframe that Boards of Elections had to receive vote-by-mail ballots, thereby extending the Primary Election certification deadline to July 24, 2020; and

WHEREAS, on July 13, 2020, I issued Executive Order No. 164, which postponed any election scheduled between July 7, 2020 and November 3, 2020, until November 3, 2020, and declared that no other elections may be held or proceed prior to November 3, 2020; and

WHEREAS, on August 14, 2020, I issued Executive Order No. 177, the facts and circumstances of which are adopted by reference herein, which established the voting procedures for the General Election on November 3, 2020 ("November General Election") and declared that the election would be conducted primarily by vote by mail; and

WHEREAS, Executive Order No. 177 (2020) also postponed the special school elections scheduled for December 8, 2020 until January 26, 2021, the authorized January 2021 special school election date; and

WHEREAS, on August 25, 2020, I issued Executive Order No. 179, making modifications to Executive Order No. 177 (2020) to ensure enough time to complete preparations for the November General Election and minimize voter confusion, the facts and circumstances of which are adopted by reference herein; and

WHEREAS, legislation subsequently codified the standards adopted by Executive Orders Nos. 177 and 179 (2020) and addressed other issues relating to upcoming elections; and

WHEREAS, on November 2, 2020, I issued Executive Order No. 193, postponing any run-off elections resulting from municipal elections held on the November General Election and required under N.J.S.A. 40:45-19 until December 15, 2020, in order to give county and municipal election officials enough time to send vote-by-mail ballots to all registered voters; and

WHEREAS, on November 25, 2020, I issued Executive Order No. 203 making modifications to Executive Order No. 193 (2020) to ensure enough time to complete preparations for the runoff elections required under N.J.S.A. 40:45-19 and postponing any special school elections scheduled for January 26, 2021 until the authorized March 2021 special school election date; and

WHEREAS, pursuant to N.J.S.A. 40A:14-72(a), fire district elections are held annually on either the third Saturday in February or at the time of the general election in November; and

WHEREAS, voters at fire district elections taking place on the third Saturday in February elect members to the board of fire commissioners and determine the amount of money to be raised for the ensuing year and such other matters as may be required; and

WHEREAS, a fire district holding its annual election at the time of the November General Election that seeks to exceed the property tax levy cap must submit a public question to the voters at an election to be held on the third Saturday in February pursuant to N.J.S.A. 40A:14-72(f); and

WHEREAS, according to N.J.S.A. 40A:14-70, the terms of office of fire commissioners serving in districts with February elections expire at noon on the first Tuesday in March; and

WHEREAS, State laws regarding vacancies in county and municipal offices generally require special elections within forty-five to sixty days of the occurrence of the vacancy (see, e.g., N.J.S.A. 40A:16-4, N.J.S.A. 40A:16-5, N.J.S.A. 40:16-14; and N.J.S.A. 40A:16-17); and

WHEREAS, special elections to fill vacancies in the office of mayor in Wrightstown in the County of Burlington and the office of councilperson in the Borough of Highland Park in the County of Middlesex are scheduled to occur on January 12, 2021 and January 19, 2021, respectively; and

WHEREAS, the Board of Education of the City of Clifton is proposing to schedule a special election for consideration of a bond proposal; and

WHEREAS, other boards of education may be required to schedule a special election to address matters that arise; and

WHEREAS, additional special elections may be required as several November General Election results are subject to ongoing recounts and election contests; and

WHEREAS, the COVID-19 Emergency continues to unfold alongside contemporaneous elections; and

WHEREAS, allowing upcoming elections to proceed during this unprecedented COVID-19 health crisis as they were originally planned will create hardships and health risks for voters, election officials, poll workers, and candidates alike; and

WHEREAS, the full participation of voters and candidates is critical to a robust democracy; and

WHEREAS, the New Jersey Secretary of State is legally obligated to ensure that all qualified voters within the State are able to fully exercise their constitutionally protected right to vote; and

WHEREAS, the COVID-19 Emergency and its impact are likely to extend for an as-yet-undetermined period of time; and

WHEREAS, failing to take proactive actions to mitigate the spread of the virus risks further infecting election officials; and

WHEREAS, states generally have discretion to dictate the time, manner, and place of elections in the absence of controlling federal law; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3 6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Any special school elections scheduled between January 12, 2021 and April 19, 2021 shall be postponed until April 20, 2021, to be held concurrently with the elections currently scheduled for that date.

2. Any fire district elections scheduled between January 12, 2021 and April 19, 2021 shall be postponed until April 20, 2021, to be held concurrently with the elections currently scheduled for that date.

3. The requirements of N.J.S.A. 40A:14-70 shall be suspended and the terms of office of board of fire commissioners shall extend until their successors are duly sworn in.

4. N.J.S.A. 40A:14-78.17 is revised to increase to thirty percent the maximum appropriations to be made under a temporary budget to cover the period between the beginning of the fiscal year and the adoption of the fire district budget.

5. The special election scheduled for January 12, 2021, in Wrightstown, in the County of Burlington, and the special election scheduled for January 19, 2021, in the Borough of Highland Park in the County of Middlesex shall be postponed until April 20, 2021, to be held concurrently with the elections currently scheduled for that date.

6. Any election scheduled for a date between January 12, 2021 and April 20, 2021, not specifically referenced herein shall be postponed until April 20, 2021. Further, no other elections may be held or proceed prior to April 20, 2021.

7. The closing dates for the filing of candidate petitions with the clerk of the board and the county clerk, the deadline to notify the county or municipal clerk of the need to conduct a referendum, and any other deadline not specifically referenced herein shall be set and determined with reference to the date of the election established by this Order.

8. This order shall take effect immediately.

Dated December 21, 2020.

EXECUTIVE ORDER NO. 212

WHEREAS, United States Capitol Police Officer and former New Jersey National Guard Citizen-Airman Staff Sergeant Brian D. Sicknick was born in 1978 and spent his formative years in South River, New Jersey; and

WHEREAS, Officer Sicknick was a graduate of the Middlesex County Vocational Technical High School in East Brunswick; and

WHEREAS, Officer Sicknick enlisted in the New Jersey Air National Guard in 1997 as a traditional drilling Guard member and eventually became a Staff Sergeant; and

WHEREAS, Officer Sicknick previously served as a Fire Team Member and Leader at the 108th Security Force Squadron, 108th Wing, located at Joint Base McGuire-Dix-Lakehurst; and

WHEREAS, during his time in the Air National Guard, Officer Sicknick was deployed to Saudi Arabia in 1999 in support of Operation Southern Watch and Kyrgyzstan in 2003 in support of Operation Enduring Freedom; and

WHEREAS, Officer Sicknick was honorably discharged from the Air National Guard in 2003 after six years of service; and

WHEREAS, in July 2008, Officer Sicknick became a police officer with the United States Capitol Police and most recently served in the department's First Responder's Unit; and

WHEREAS, Officer Sicknick was on duty guarding the U.S. Capitol on January 6, 2021, in Washington, D.C., while a violent mob stormed the Capitol and the surrounding area; and

WHEREAS, Officer Sicknick was killed in the line of duty after being physically attacked by the rioters, passing away at the age of 42; and

WHEREAS, four other individuals died during the assault on the Capitol; and

WHEREAS, Officer Sicknick gave his life defending the Capitol building, our elected representatives, and our democracy from a violent insurrection that sought to disrupt the peaceful transfer of power; and

WHEREAS, Officer Sicknick was a beloved member of the New Jersey community whose presence will be immensely missed by his family, his friends, his fellow servicemembers, and by the people of New Jersey whom are grateful for his service; and

WHEREAS, it is with immense sadness that we mourn Officer Sicknick's sudden passing, and extend our deepest sympathy and gratitude to his family, friends, and colleagues; and

WHEREAS, it is appropriate to honor the character, achievements, and cherished memory of Officer Sicknick and to mark his passing;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Monday, January 11, 2021, in recognition and mourning of United States Capitol Police Officer Brian D. Sicknick.

2. This Order shall take effect immediately.

Dated January 9, 2021.

EXECUTIVE ORDER NO. 213

WHEREAS, on Saturday, January 9, 2021, I ordered the flag of the United States of America and the flag of New Jersey to be flown at half-staff on Monday, January 11, 2021, in recognition and mourning of United States Capitol Police

Officer and former New Jersey National Guard Citizen-Airman Staff Sergeant Brian D. Sicknick, who was a New Jersey native; and

WHEREAS, since that time, media reports have indicated that funeral services will be held at the U.S. Capitol; and

WHEREAS, public funerals at the U.S. Capitol are held to mark a period of national mourning, and in such circumstances, it is proper protocol for flags to be lowered through the day of interment;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The flag of the United States of America and the flag of New Jersey shall be flown at half-staff at all State departments, offices, agencies, and instrumentalities during appropriate hours on Monday, January 11, 2021, and shall remain at half-staff through the day of Officer Sicknick's interment, in recognition and mourning of United States Capitol Police Officer Brian D. Sicknick.

2. This Order shall take effect immediately.

Dated January 10, 2021.

EXECUTIVE ORDER NO. 214

WHEREAS, on March 9, 2020, through Executive Order No. 103, the facts and circumstances of which are adopted by reference herein, I declared both a Public Health Emergency and a State of Emergency throughout the State due to the public health hazard created by Coronavirus disease 2019 ("COVID-19"); and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, 180, 186, 191, 200, and 210 issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, August 1, 2020, August 27, 2020, September 25, 2020, October 24, 2020, November 22, 2020, and December 21, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act, N.J.S.A. App. A:9-33 et seq., and the Emergency Health Powers Act, N.J.S.A. 26:13-1 et seq., to protect the public health, safety, and welfare against the emergency created by COVID-19, in-

cluding Executive Order Nos. 104-133, Nos. 135-138, Nos. 140 166, Nos. 168-173, No. 175, Nos. 177-181, No. 183, Nos. 186-187, Nos. 189- 198, No. 200, Nos. 203-204, No. 207, and Nos. 210-211 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, Executive Order No. 103 (2020) described both the symptoms and dangers presented by COVID-19 and the likelihood of community spread across the State, and it recognized the need to use all available statewide authorities to prepare for and respond to COVID-19 cases in New Jersey, to implement appropriate measures to mitigate the spread of COVID-19, and to prepare in the event of an increasing number of individuals requiring medical care or hospitalization; and

WHEREAS, to further protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 on March 16, 2020, which established statewide social mitigation strategies for combatting COVID-19, including the closure of all public, private, and parochial preschool program premises, and elementary and secondary schools, including charter and renaissance schools (collectively "school districts"); and

WHEREAS, on March 21, 2020, I issued Executive Order No. 107, affirming the closure of all school district buildings to students for as long as that Order remained in effect; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 117, which waived the graduation proficiency test requirement for any twelfth-grade student who was expected to graduate in the class of 2020 but had not satisfied said requirement; and

WHEREAS, Executive Order No. 117 also waived the statutory requirement mandating that student growth data be used as a measure of educator effectiveness in the evaluation of any educator for the 2019-2020 school year; and

WHEREAS, on August 13, 2020, I issued Executive Order No. 175, which permitted all school districts to reopen school buildings for in-person instruction subject to health and safety requirements specified therein; and

WHEREAS, Executive Order No. 175 (2020) also waived the requirement that student growth data based on standardized assessments and student growth percentiles be used as measures of educator effectiveness in the overall evaluation of any educator; and

WHEREAS, since the onset of the 2020-2021 school year, school districts have delivered education by way of all-remote instruction, in-person instruction, or a combination of the two forms ("hybrid"); and

WHEREAS, as of January 11, 2021, 337 districts are providing all-remote instruction, 351 districts are providing hybrid instruction, 79 districts are providing full in-person instruction, and 44 districts are providing a combination of instructional modalities across school buildings; and

WHEREAS, pursuant to N.J.S.A. 18A:7C-6, all students must demonstrate proficiency on a State test as a condition of graduation from high school; and

WHEREAS, pursuant to N.J.S.A. 18A:7C-3, any twelfth-grade student who has not met the graduation proficiency test requirement but who has met all of the credit, curriculum, and attendance requirements for graduation shall be eligible for graduation by way of a portfolio appeal submitted by the school district to the New Jersey Department of Education ("NJDOE"); and

WHEREAS, the modifications to school schedules, operations, and instructional modalities implemented pursuant to Executive Order No. 175 (2020) have resulted in a challenging school year that has been unlike any prior year for students, families, educators, and school district staff; and

WHEREAS, students expected to graduate in the class of 2021 have faced more challenges in accessing the State tests required for high school graduation pursuant to N.J.S.A. 18A:7C-6 than those students in previous graduating classes; and

WHEREAS, the NJDOE projects that a substantial number of students in the class of 2021 will utilize the portfolio appeal process to satisfy the statutory graduation proficiency test requirement in light of the disruption to the 2019-2020 and 2020-2021 school years caused by the COVID-19 Public Health Emergency; and

WHEREAS, the modifications to school schedules, operations, and instructional modalities implemented pursuant to Executive Order No. 175 (2020) may present substantive and procedural difficulties for districts in the compilation of complete portfolio appeals; and

WHEREAS, pursuant to N.J.S.A. 18A:6-123(b)(3), student growth towards locally-determined academic goals ("student growth objectives"), must serve as a measure of educator effectiveness in overall educator evaluations; and

WHEREAS, pursuant to N.J.S.A. 18A:6-123(b)(6), educator performance must be linked to student achievement, which involves student growth objectives; and

WHEREAS, N.J.A.C. 6A:10-4.2(e) details the procedures necessary for developing and measuring student growth objectives; and

WHEREAS, the variety and variability of instructional modalities necessary for the delivery of education during the 2020-2021 school year make it challenging for school and district administrators to effectively utilize student growth objectives as a measure of educator effectiveness; and

WHEREAS, the challenges in attempting to use locally-determined academic goals, particularly in remote learning situations, to extract valid evidence of educator performance render it inappropriate to utilize student growth objectives as a required measure of educator effectiveness; and

WHEREAS, N.J.S.A. 18A:16-1.1c dictates that a vacant teaching position shall not be filled in any school year by one or more individuals holding a certificate of eligibility or a certificate of eligibility with advanced standing issued by the State Board of Examiners and working in an area not authorized by their credentials for a total amount of time exceeding 20 school days; and

WHEREAS, N.J.S.A. 18A:16-1.1d dictates that a vacant teaching position shall not be filled in any school year by one or more individuals holding a standard in-

structional certificate issued by the State Board of Examiners and working in an area not authorized by their credentials for a total amount of time exceeding 40 school days; and

WHEREAS, the COVID-19 Public Health Emergency has led to an increase in teaching vacancies throughout the State that have interfered with the continuity of instruction; and

WHEREAS, it is necessary to relax the limitation imposed on the service of substitute teachers to allow for staffing flexibility; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The statutory graduation proficiency test requirement mandated by N.J.S.A. 18A:7C-1 et seq. is waived for any twelfth-grade student who has not yet met said graduation proficiency test requirement but who has met all of the credit, curriculum, and attendance requirements for graduation.

2. For the 2020-2021 school year, the requirements of N.J.S.A. 18A:6-123(b)(3) and (6) are waived and student growth data shall not be used as a measure of educator effectiveness in the overall summative evaluation of any educator. All other requirements concerning the development and measurement of student growth objectives enumerated in N.J.A.C. 6A:10-4.2(e) shall remain in effect.

3. For the duration of the COVID-19 Public Health Emergency, individuals holding either a certificate of eligibility or a certificate of eligibility with advanced standing working in an area not authorized by their credentials may fill vacant teaching positions for up to 40 school days and shall not be subject to the time limitation in N.J.S.A. 18A:16-1.1c. Such individuals, as well as those employed as substitutes pursuant to N.J.S.A. 18A:16-1.1d, may serve for an additional 20 school days upon a school district's written application to the Commissioner of Education or her designee demonstrating the following:

a) The district's efforts and inability to hire an appropriately certified teacher for the position within the 40-day period; and

b) The individual(s) serving as substitute(s) are subject to periodic monitoring by a supervisor.

The Commissioner of Education shall issue guidance clarifying the requirements enumerated in Paragraph 3, Sections (a) and (b).

4. This Order shall take effect immediately.

Dated January 11, 2021.

AMENDMENTS ADOPTED IN 2020 TO THE 1947 CONSTITUTION

AMENDMENTS ADOPTED IN 2020 TO THE 1947 CONSTITUTION

ARTICLE IV, SECTION III, PARAGRAPH 4

Amend Article IV, Section III by adding paragraph 4 to read as follows:

4. Notwithstanding the provisions of paragraphs 1, 2, and 3 of this Section III, when the receipt by the Governor of the official decennial census of the United States for New Jersey occurs after February 15 of the year ending in one, following the year in which the census is taken, the commission shall certify the establishment of Senate and Assembly districts and the apportionment of Senators and members of the General Assembly to the Secretary of State after the November general election of that year ending in one, but not later than March 1 of the year ending in two. The commission shall begin conducting its business upon the receipt by the Governor of the official decennial census of the United States for New Jersey, and the eleventh member of the commission shall be appointed by the Chief Justice of the Supreme Court of New Jersey within one month of the Governor's receipt of that census data. Such establishment and apportionment shall be used for the election of members of the Senate and General Assembly beginning with elections conducted in the year ending in three, and elections thereafter, and shall remain unaltered until the following decennial census of the United States for New Jersey shall have been received by the Governor.

The Senate and Assembly districts certified to the Secretary of State by the previous Apportionment Commission for the previous decade shall remain in effect in that year ending in one and in the year ending in two, and shall be used for legislative elections in those years.

For the election of members of the Senate and General Assembly occurring in November of that year ending in one, members shall be elected by the legally qualified voters of their district as drawn by the previous Apportionment Commission for the previous decade, for terms beginning at noon of the second Tuesday in January next following their election and ending at noon of the second Tuesday in January two years thereafter.

Adopted November 3, 2020.
Effective December 3, 2020.

ARTICLE IV, SECTION VII, PARAGRAPH 13

Amend Article IV, Section VII by adding paragraph 13 to read as follows:

13. The growth, cultivation, processing, manufacturing, preparing, packaging, transferring, and retail purchasing and consumption of cannabis, or products created from or which include cannabis, by persons 21 years of age or older, and not by persons under 21 years of age, shall be lawful and subject to regulation by the Cannabis Regulatory Commission created by P.L.2019, c.153 (C.24:6I-5.1 et al.), or any successor to that commission.

(1) The commission's or successor's regulatory authority concerning legalized cannabis shall be authorized by law enacted by the Legislature.

(2) The receipts from retail purchases of cannabis or products created from or which include cannabis shall only be subject to the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et. seq.), as amended and supplemented, or any other subsequent law of similar effect; provided, however, that a municipality, subject to authorization by law enacted by the Legislature, may adopt an ordinance to impose an additional municipal tax on the sale, or any other form of transfer, of cannabis or products created from or which include cannabis by an authorized party located in a municipality. The municipal tax rate shall not exceed two percent of the receipts from each sale of cannabis or products created from or which include cannabis by an authorized party or the equivalent value from any other form of transfer by an authorized party.

As used in this paragraph:

"Cannabis" means all parts of the plant Genus Cannabis L., whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds. "Cannabis" does not include: cannabis dispensed and consumed for medical purposes pursuant to any law enacted by the Legislature; hemp or hemp products subject to regulation under the "New Jersey Hemp Farming Act," P.L.2019, c.238 (C.4:28-6 et al.), or any successor enactment thereto; or unregulated cannabis, referred to as marijuana, and products created from or which include marijuana.

Adopted November 3, 2020.
Effective December 3, 2020.

ARTICLE VII, SECTION I, PARAGRAPH 3

Amend Article VII, Section I, paragraph 3 to read as follows:

3. a. Any citizen and resident of this State now or hereafter honorably discharged or released under honorable circumstances from active service in any branch of the Armed Forces of the United States shall be entitled, annually to a deduction from the amount of any tax bill for taxes on real and personal property, or both, including taxes attributable to a residential unit held by a stockholder in a cooperative or mutual housing corporation in the sum of $250 in each tax year, or if the amount of any such tax bill shall be less than $250, to a cancellation thereof. The deduction or cancellation shall not be altered or repealed. Any person hereinabove described who has been or shall be declared by the United States Department of Veterans Affairs, or its successor, to have a service-connected disability, shall be entitled to such further deduction from taxation as from time to time may be provided by law. The surviving spouse of any citizen and resident of this State who has met or shall meet his or her death on active duty in any such service shall be entitled, during her widowhood or his widowerhood, as the case may be, and while a resident of this State, to the deduction or cancellation in this subsection provided for honorably discharged veterans and to such further deduction as from time to time may be provided by law. The surviving spouse of any citizen and resident of this State who has had or shall hereafter have active service in any branch of the Armed Forces of the United States and who died or shall die while on active duty in any branch of the Armed Forces of the United States, or who has been or may hereafter be honorably discharged or released under honorable circumstances from active service in any branch of the Armed Forces of the United States shall be entitled, during her widowhood or his widowerhood, as the case may be, and while a resident of this State, to the deduction or cancellation in this subsection provided for honorably discharged veterans and to such further deductions as from time to time may be provided by law.

b. A continuing care retirement community shall receive a veterans' property tax deduction on behalf of eligible veterans. The amount of the property tax deduction shall be the dollar amount of the deduction multiplied by the number of eligible veterans receiving the property tax deduction immediately prior to moving into the continuing care retirement community. A person otherwise eligible for the veterans' deduction who is a resident of a continuing care retirement community shall receive the amount of the deduction to the extent of the share of the taxes assessed against the real property of the continuing care retirement community that is attributable to the

unit that the resident occupies. The continuing care retirement community shall provide that amount as a payment or credit to the resident. That payment or credit shall be made to the resident no later than 30 days after the continuing care retirement community receives the property tax bill on which the credit appears. A veterans' property tax deduction shall not be paid on behalf of any eligible veteran who resides in a continuing care retirement community that is property tax-exempt. A resident receiving a payment or credit pursuant to this subsection shall not receive a veterans' property tax deduction on any other residence owned in whole or in part by the resident, or any residence in which the resident's spouse is living.

The surviving spouse of any citizen and resident of this State who has met or shall meet his or her death on active duty in any such service shall be entitled, during her widowhood or his widowerhood, as the case may be, and while a resident of this State, to the deduction in this subsection provided for honorably discharged veterans. The surviving spouse of any citizen and resident of this State who has had or shall hereafter have active service in any branch of the Armed Forces of the United States and who died or shall die while on active duty in any branch of the Armed Forces of the United States, or who has been or may hereafter be honorably discharged or released under honorable circumstances from active service in any branch of the Armed Forces of the United States shall be entitled, during her widowhood or his widowerhood, as the case may be, and while a resident of this State, to the deduction in this subsection provided for honorably discharged veterans.

Adopted November 3, 2020.
Effective December 3, 2020.

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Public health emergency credits; awarded to inmates, parolees, certain, during public health emergency; C.30:4-123.100 et al., amends C.30:4-123.55e, Ch.111.
Reentry benefits, acquirement, released incarceration inmates; assistance, C.30:1B-6.15 et seq., amends C.30:1B-6.2, Ch.45.
Youthful age of defendant, mitigating factor, sentencing; established, amends N.J.S.2C:44-1, Ch.110.

ELECTIONS
Ballot drop boxes, establishment, county boards of election, required; mail-in ballot, procedures, revised, C.19:63-16.1 et al., amends R.S.19:34-13, Ch.72.
Ballot receipt, election certification deadlines, extended; messenger, bearer ballots limits, certain, increased; public awareness, increase, voting by mail information, certain, required, amends R.S.19:8-6 et al., Ch.71.
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Public office holder, candidate, political contributions for child care expenses, office, campaign activities; allowed, amends C.19:44A-11.2, Ch.102.
"The Ballot Cure Act", established; voting procedures, various, modified, established, C.19:63-17.1 et seq., amends C.19:12-7.1 et al., repeals C.19:63-18, Ch.70.

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Indoor dining, resumption; temporarily paused, E.O.158; resumption allowed, E.O.183.
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EXECUTIVE ORDERS (continued)
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Non-essential construction projects, ceased; retail businesses, industries, mitigation requirements, additional, imposed, E.O.122.
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Public employment retirees, return to work, allowed; COVID response, E.O.115.
Recreational businesses, outdoor activities, certain, allowed; social distancing, required, E.O.147.
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School district elections, certain; statutory deadlines, extended, E.O.116.
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FOOD AND BEVERAGES
Food access information, 2-1-1 system display, executive branch departments, during public health emergencies; required, C.26:13-17.1, Ch.14.
Retail food stores, return of purchases, circumstances, certain; limited, C.56:8-222 et seq., Ch.16.
Single-use plastic, paper carryout bags, polystyrene foam food service products, provision, sale, prohibited; single-use plastic straws, limits, C.13:1E-99.126 et seq., amends C.13:1E-217, Ch.117.
Third-party food takeout, service fees, delivery applications; limited during COVID-19 state of emergency, Ch.42.

GAMES AND GAMBLING
Account wager system, out-of-State New Jersey residents; horse race wagers, allowed, amends C.5:5-142 et al., Ch.119.
Raffles, large sporting venues; remote conducting, permitted, amends C.5:8-51.6, Ch.124.

HEALTH
Childbirth woman, accompanying individual; hospital to permit, required, C.26:2H-12.6h, Ch.32.
"COVID-19 Fiscal Mitigation Act"; FY2020, 2021 duration, modified; filing, payment deadline taxpayers, certain, clarified, Ch.19.
COVID-19 specimen collection; all licensed health care facilities, laboratories, authorized; staffing ratio requirements, waived, allowed, amends C.26:13-9, Ch.13.
COVID-19, telehealth, telemedicine response; requirements, certain, established, Ch.3.
COVID-19 testing, telemedicine, telehealth; health insurance, Medicaid coverage, required, Ch.7.
COVID-19 tests, administration by pharmacies, authorized; health benefits, Medicaid coverage, required, C.45:14-67.8, Ch.101.
Environmental, public health stressors, overburdened communities, evaluation; review, permit applications, certain, C.13:1D-157 et seq., Ch.92.
Health benefits, boards of education, eligible employers, nonparticipants in SEHBP, provided; employee contribution, modified, amends C.52:14-17.46.14 et al., Ch.137.
Health benefits plans, entities, certain, annual assessment, payment; required, C.17B:27A-65 et seq., Ch.61.
Health care professions, facilities, civil, criminal immunity, provided; issuance, temporary licenses, certifications, states of emergency, facilitated, Ch.18.
Health service corporation; reorganization, provided, C.17:48E-46.1 et seq., amends C.17:48E-49 et al., Ch.145.
Hospitals, COVID-19 demographic data; reports, required, Ch.28.

HEALTH (continued)
Long-Term Care Emergency Operations Center, established; infectious disease outbreak, disaster response, electronic health record system, C.26:2H-12.90 et seq., amends C.26:2H-12.87, Ch.87.
Long-term care facility staff, minimum wage; nursing homes, direct care ratio requirements; nursing home care rate study, required, C.30:4D-7cc, amends C.34:11-56a1 et al., Ch.89.
Minimum direct care staff-to-resident ratios, nursing homes; established, C.30:13-18 et al., Ch.112.
"New Jersey Health Care Transparency Act", C.45:1-67 et seq., Ch.133.
New Jersey Task Force on Long-Term Care Quality and Safety; established, Ch.88.
Physical examination, student-athletes, school-sponsored athletics, 2020-2021 year, certain; delayed, Ch.63.
Prescription refills, certain; Medicaid, health insurance coverage during states of emergency, required, C.30:4D-6p et al., Ch.30.
Public health emergency credits; awarded to inmates, parolees, certain, during public health emergency; C.30:4-123.100 et al., amends C.30:4-123.55e, Ch.111.
Rate adjustment, temporary, nursing facilities, certain, authorized; appropriates $62.3 million, Ch.90.
Resident isolation prevention policies, implementation; licensure condition, long-term care facilities, required, C.26:2H-12.97 et seq., Ch.113.
Revises requirements for health care service firms to report financial information to Division of Consumer Affairs, amends C.34:8-45.1 et al., Ch.132.
State School Nurse Consultant, position; established, C.18A:4-35.1 et seq., Ch.85.
Telemedicine, telehealth, COVID-19, laws, certain; duration, extended, Ch.47.

HISTORICAL AFFAIRS
Harriet Tubman Museum, Howell House, Cape May; recognized, C.52:9A-17 et seq., Ch.91.

HOLIDAYS AND OBSERVANCES
August 31, "Overdose Awareness Day"; designated, C.36:2-394 et seq., J.R. 2.
Juneteenth Day, third Friday in June, State, public holiday; designated, amends C.11A:6-24.1 et al., Ch.76.
October, first week of October, Manufacturing Week; designated, C.36:2-398 et seq., J.R. 5.
September, "Safe Haven Awareness Month"; designated, C.36:2-400, J.R. 6.
September, "Sickle Cell Awareness Month"; designated, C.36:2-396 et seq., J.R. 4.

HOTELS
Hotels, New Jersey; Department of Health sanitization guidelines, establishment, required, C.55:13A-29 et seq., Ch.37.

HOUSING
Affordable housing units; online marketing, C.52:27D-321.3 et seq., Ch.51.
Affordable residential rental units, conversion to forms of ownership housing, certain; prohibition by qualified municipalities, permitted, C.2A:18-61.48a, amends C.2A:18-61.41 et al., Ch.40.
Equine-related farm employees, housing; established, C.4:1C-9.3, amends C.4:1C-3 et al., Ch.154.

HOUSING (continued)
Eviction, foreclosure; prohibited during emergency circumstances, certain, C.2A:18-59.3, Ch.1.
Rent payment, credit card; landlord allowance, required during pandemic, Ch.149.

HUMAN SERVICES
Family cap, Work First New Jersey program; repealed, repeals C.44:10-61, Ch.99.
Notarial acts, remote; allowed during pandemic, Ch.26.

INSURANCE
"Dominick Marino PFRS Enhanced Benefits for Surviving Spouses Act"; amends C.43:16A-10, Ch.151.
Net written HMO premiums, charity care support; annual assessment, increased, C.26:2J-47, Ch.96.
Resident isolation prevention policies, implementation; licensure condition, long-term care facilities, required, C.26:2H-12.97 et seq., Ch.113.
Stranger-originated life insurance; act, practice, arrangement, prohibited, C.17B:30B-18 et seq., Ch.105.

JOINT RESOLUTIONS
August 31, "Overdose Awareness Day"; designated, C.36:2-394 et seq., J.R. 2.
Broadband access, COVID-19 affected; measure temporary, FCC, urged, J.R. 1.
September, "Sickle Cell Awareness Month"; designated, C.36:2-396 et seq., J.R. 4.
Sexual assault, misconduct, harassment, State correctional facilities; study commission, created, J.R. 3.
October, first week of October, Manufacturing Week; designated, C.36:2-398 et seq., J.R. 5.
September, "Safe Haven Awareness Month"; designated, C.36:2-400, J.R. 6.

LABOR
Apprenticeship mentoring program, women, minorities, persons with disabilities; establishment, required, C.34:15D-5.1 et seq., Ch.58.
Employment, retention, benefits during COVID-19 health hazard; public employees, certain, provided, C.18A:66-175.1 et al., Ch.115.
Employee termination, penalties by employer, times of emergency; prohibited, C.34:11D-12 et seq., Ch.9.
Essential employees, employment, contraction of coronavirus; work-related, compensable, rebuttable, C.34:15-31.11 et seq., Ch.84.
"Millville Dallas Airmotive Plant Job Loss Notification Act" mass layoffs, COVID-19 pandemic; severance requirements, excluded, amends C.34:21-1, Ch.22.
"New Jersey Fair Play Act"; student-athlete, compensation for use of name, image, likeness, C.18A:3B-86 et seq., Ch.83.
Skilled, trained workforce, high-risk chemical manufacturing, processing facilities, construction, certain; use by owner, operator, exemptions; advanced safety training, C.34:11-56.72 et seq., Ch.65.

LEGISLATURE
Legislative sessions, State business, conduct of, emergency or exigency periods; locations outside of Trenton, electronic means, allowed, amends R.S.52:1-1 et al., Ch.2.

LOCAL GOVERNMENTS
County, municipal budgets; adoption deadlines, extension, circumstances, certain, permitted, C.40A:4-5.1, Ch.12.
Local government deadlines, adjusted; conducting public meetings remotely; payments, property taxes, acceptance, C.52:27D-18.4 et seq., amends C.40A:5-44 et al, Ch.34.

MILITARY AND VETERANS
New Jersey Global War on Terrorism Medal; created, C.38A:15-10, Ch.147.

MOTOR VEHICLES
Driver's license, identification card photo, use for longer than eight years, authorized; senior citizens, persons with medical conditions, appointment times, appointment times during pandemic, amends C.39:3-10f et al., Ch.77.
Driver's permit, use; 60-day motor vehicle operation during COVID-19 health emergency; road test, individuals who passed, amends C.52:14-17.46.14 et al., Ch.136.
Driver's permit, written examination; law enforcement video, viewing, required, amends R.S.39:3-10, Ch.148.Electric vehicle charging stations, common interest communities; installation, concerns, C.45:22A-48.4, Ch.108.
Electric vehicle charging stations, option, new home construction, certain; developers, required, C.52:27D-141.10 et seq., Ch.80.
Motor vehicle lease; maintenance fees, not to exceed cost of vehicle, C.56:12-93.1, amends C.56:12-87, Ch.86.
Vehicle registration, new State driver's license, acquisition; deadline, temporarily extended during pandemic, Ch.78.

PENSIONS AND RETIREMENT
School Employees' Health Benefit Program (SEHBP), nonparticipating eligible employers; plan provisions, certain, for public education employees, public education retirees, certain; required, C.52:14-17.46.13 et al., Ch.44.

POLICE
Body cameras, worn by law enforcements officers; regulated use, C.40A:14-118.5, Ch.129.
Body cameras, worn by law enforcement officers; required, C.40A:14-118.3 et seq., Ch.128.
Cultural diversity training materials, implicit bias incorporation, required; law enforcement officer in-service training, mandatory, amends C.52:17B-77.13 et seq., Ch.68.
Law enforcement officers, internal affairs, personnel files; law enforcement agency provision to other agencies, circumstances, certain; required, C.52:17B-247, Ch.52.
Minority recruitment, selection programs, law enforcement agencies, required; reporting, required, C.52:17B-4.9 et seq., Ch.107.
State Police Retirement System (SPRS); mandatory retirement, delayed if during state of emergency; State Police member appointment eligibility, SPRS enrollment; extended, C.53:5A-8.3 et al., Ch.46.

PUBLIC BODIES
Public bodies, conduct meetings, provide notice, electronic means, emergency periods; allowed, C.10:4-9.3, Ch.11.

PUBLIC EMPLOYEES
Accidental disability, accidental death benefits, PFRS, SPRS, PERS members, certain, COVID-19 contractors, SARS-CoV-2 positive testers; eligibility, extended, C.43:16A-7.4 et al., Ch.54.
Armed Services combat zone pay; gross income taxation, excluded, C.54A:6-32, Ch.93.
Board of Public Utilities, member; service in unsalaried State government office, allowed, amends R.S.48:2-8, Ch.36.
"Daniel's Law"; personal information disclosure, active, formerly active, and retired judicial officers, prosecutors, and law enforcement officers, family members, prohibited; crime, civil action, established, C.56:8-166.2 et seq., amends C.47:1A-1.1 et al., Ch.125.
"Employee Job-Sharing Furlough Protection Act"; workers' benefits, certain, statutory changes, Ch.57.
Non-profit organizations, State agencies; pandemic modifications, scope of work, contractual scope of work, terms and conditions, Ch.121.
Junior Firefighters' Auxiliary, members; training, duties, revised, amends N.J.S.40A:14-95 et al., Ch.126.

PUBLIC RECORDS
Public agency, required response, government record, period of emergency; deadline, modified, amends C.47:1A-5, Ch.10.

PUBLIC UTILITIES
Water, sewer utility payments, certain; interest, lien enforcement, waived, local units, authorities, permitted, C.40:62-83.2, amends C.40:14B-41 et al., Ch.39.

REAL PROPERTY
Association assessment payment requirements, planned real estate developments; clarified, C.45:22A-45.3 et seq., Ch.100.

SCHOOLS
Allocates Amistad Commission; chairperson, executive director, appointment, required; public school instruction, African American contributions, American society, required, C.52:16A-86.1 et al., amends C.52:16A-87, Ch.153.
Audit, annual, school district; deadline, extended for 2019-2020; submission date, established, Ch.130.
"Bridge Year Pilot Program"; established, Ch.41.
Financial aid, parental provision of application, Higher Education Student Assistance Authority; required, C.18A:71B-2.5, Ch.82.
"Hunger-Free Students' Bill of Rights Act", C.18A:33-21a et seq., amends C.18A:33-21, Ch.29.
New Jersey Better Educational Savings Trust (NJBEST) Program scholarship; awarding in any semester, attendance, enrollment, amends N.J.S.18A:71B-42, Ch.81.
New Jersey Quality Single Accountability Continuum review; schools, certain, postponed, C.18A:7A-11.1, Ch.143.
Physical examination, student-athletes, school-sponsored athletics, 2020-2021 year, certain; delayed, Ch.63.
Piscataway Regional Day School; land improvements, sale and conveyance to Educational Services Commission, Ch.103.

SCHOOLS (continued)
School graduation exercises, July/August 2020; persons, certain, insurance coverage, ensured, Ch.56.
School meals, meal vouchers, students, certain, during COVID-10 epidemic; school districts, required, C.18A:33-27.2 et seq., Ch.6.
School staff, non-teaching, certain; grievance procedures, binding arbitration, amends C.34:13A-29 et al., Ch.66.
School year, 180-day minimum requirement; virtual, remote instruction, circumstances, certain, permitted, C.18A:46-21.1, amends C.18A:7F-9, Ch.27.
State School Nurse Consultant, position; established, C.18A:4-35.1 et seq., Ch.85.
Subcontracting agreements, public school districts, county colleges; collective bargaining, displace employee rights, terms, conditions, C.34:13A-44 et seq., Ch.79.

STATE GOVERNMENT
Economic Development Authority, grants, periods of emergency, economic disruption, authorized; business documentation submission deadlines, extended, permitted, amends C.34:1B-5 et al., Ch.8.
"New Jersey Economic Recovery Act of 2020", C.34:1B-269 et al., amends Ch.156.
Permits, approvals, deadlines, certain; extended during pandemic, C.40:55D-136.7 et seq., Ch.53.
State financial aid, students; pandemic relief, provided, C.18A:71B-2.4 et al., Ch.31.

TAXATION
Corporate business tax; revisions, clarifications, simplification, various, C.54:10A-5.46 et al., amends C.34:1B-7.42a et al., Ch.118.
Corporate business tax; surtax imposed until December 31, 2023, amends C.54:10A-5.41, Ch.95.
Earn income tax credit program; eligibility expanded, 21 and older, qualification, amends C.54A:4-7, Ch.98.
Employer unemployment benefit taxes; reduced, delayed during pandemic, C.43:21-7.9, amends R.S.43:21-7, Ch.150.
Gross income tax rate, incomes between $1,000,000 and $5,000,000, increased; rebates to eligible taxpayers, C.54A:9-30, amends N.J.S.54A:2-1, Ch.94.
Property tax appeals, 2020, certain; time period, extended, Ch.35.
Urban Transit Hub Tax Credit program and Economic Redevelopment and Growth Grant Program; document submission, certain, deadline, extended, amends C.34:1B-209 et al., Ch.138.

TECHNOLOGY
"Electronic Construction Procurement Act", C.52:34A-1 et al., Ch.59.

TRANSPORTATION
Access Link paratransit service, operation, state of emergency, circumstances, certain; required, C.27:25-5d, Ch.62.
Access Link paratransit service users, motor bus, rail passenger, discounted fare program; automatic eligibility, enrollment, C.27:1A-74, amends C.27:1A-65 et al., Ch.64.
Paratransit services; best practices program, established; service provider coordination, regional coordinating councils, C.27:25-35 et seq., Ch.114.
Transportation programs, services, certain; advertisement, amends C.27:1A-65 et al., Ch.155.

UNEMPLOYMENT COMPENSATION
Extended unemployment benefits; eligibility, amends C.43:21-24.13, Ch.131.
Unemployment benefits eligibility, undeniable; education employees, conditions, certain, amends R.S.43:21-4, Ch.122.

WORKER'S COMPENSATION
Workers' compensation, pending but unsettled cases; P.L.2019, c.387, effective date, revised, amends R.S. 34:15-13, Ch.116.