

# **LAWS = NEW JERSEY 2004**

**New Jersey State Library**



**ACTS**  
OF THE  
**First Annual Session**  
OF THE  
**Two Hundred and Eleventh Legislature**  
OF THE  
STATE OF NEW JERSEY



**2004**

**New Jersey State Library**





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

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<sup>1</sup> Died 5/25/04.

<sup>2</sup> Sworn in 6/10/04.

<sup>3</sup> Sworn again on 12/6/04 after  
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KEVIN J. O'TOOLE  
DAVID C. RUSSO

<sup>1</sup> Resigned 11/19/04.

<sup>2</sup> Sworn in 12/13/04.





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# LAWS

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# ACTS

ENACTED BY THE

## First Annual Session

OF THE

## Two Hundred and Eleventh Legislature

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### CHAPTER 1

AN ACT concerning the New Jersey Transit Corporation and amending P.L.1979, c.150 and P.L.1968, c.234.

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

1. Section 5 of P.L.1979, c.150 (C.27:25-5) is amended to read as follows:

**C.27:25-5 Powers and duties of corporation.**

5. In addition to the powers and duties conferred upon it elsewhere in this act, the corporation may do all acts necessary and reasonably incident to carrying out the objectives of this act, including but not in limitation thereof the following:

- a. Sue and be sued;
- b. Have an official seal and alter the same at pleasure;
- c. Make and alter bylaws for its organization and internal management and for the conduct of its affairs and business;
- d. Maintain an office at such place or places within the State as it may determine;
- e. Adopt, amend and repeal such rules and regulations as it may deem necessary to effectuate the purposes of this act, which shall have the force and effect of law; it shall publish the same and file them in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) with the Director of the Office of Administrative Law;
- f. Call to its assistance and avail itself of the service of such employees of any federal, State, county or municipal department or agency as it may require and as may be available to it for said purpose;
- g. Apply for, accept and expend money from any federal, State, county or municipal agency or instrumentality and from any private source; comply

with federal statutes, rules and regulations, and qualify for and receive all forms of financial assistance available under federal law to assure the continuance of, or for the support or improvement of public transportation and as may be necessary for that purpose to enter into agreements, including federally required labor protective agreements;

h. Plan, design, construct, equip, operate, improve and maintain, either directly or by contract with any public or private entity, public transportation services, capital equipment and facilities or any parts or functions thereof, and other transportation projects, or any parts or functions thereof, which may be funded under section 3 of the federal Urban Mass Transportation Act of 1964, Pub.L.88-365 (49 U.S.C. s.1602), or any successor or additional federal act having substantially the same or similar purposes or functions; the operation of the facilities of the corporation, by the corporation or any public or private entity, may include appropriate and reasonable limitations on competition in order that maximum service may be provided most efficiently to the public;

i. Apply for and accept, from appropriate regulatory bodies, authority to operate public transportation services where necessary;

j. Purchase, lease as lessee, or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property, or any interest therein, from any public or private entity, wherever situated;

k. Lease as lessor, sell or otherwise dispose of on terms which the corporation may prescribe, real and personal property, including tangible or intangible property and consumable goods, or any interest therein, to any public or private entity, in the exercise of its powers and the performance of its duties under this act. In order to provide or encourage adequate and efficient public transportation service, the corporation may lease or otherwise permit the use or occupancy of property without cost or at a nominal rental;

l. Restrict the rights of persons to enter upon or construct any works in or upon any property owned or leased by the corporation, except under such terms as the corporation may prescribe; perform or contract for the performance of all acts necessary for the management, maintenance and repair of real or personal property leased or otherwise used or occupied pursuant to this act;

m. Establish one or more operating divisions as deemed necessary. Upon the establishment of an operating division, there shall be established a geographically coincident advisory committee to be appointed by the Governor with the advice and consent of the Senate. The committee shall consist of county and municipal government representatives and concerned citizens, in the number and for such terms as may be fixed by the corporation, and shall advise the corporation as to the public transportation service provided in the operating division. At least two members of each advisory

committee shall be public transportation riders, including but not limited to urban transit users and suburban commuters as appropriate. One public member from the board of the corporation shall serve as a liaison to each advisory committee;

n. Set and collect fares and determine levels of service for service provided by the corporation either directly or by contract including, but not limited to, such reduced fare programs as deemed appropriate by the corporation; revenues derived from such service may be collected by the corporation and shall be available to the corporation for use in furtherance of any of the purposes of this act;

o. Set and collect rentals, fees, charges or other payments from the lease, use, occupancy or disposition of properties owned or leased by the corporation; such revenues shall be available to the corporation for use in furtherance of any of the purposes of this act;

p. Deposit corporate revenues in interest bearing accounts or in the State of New Jersey Cash Management Fund established pursuant to section 1 of P.L.1977, c.281 (C.52:18A-90.4);

q. Delegate to subordinate officers of the corporation such powers and duties as the corporation shall deem necessary and proper to carry out the purposes of this act;

r. Procure and enter into contracts for any type of insurance and indemnify against loss or damage to property from any cause, including loss of use and occupancy, against death or injury of any person, against employees' liability, against any act of any member, officer, employee or servant of the corporation, whether part-time, full-time, compensated or noncompensated, in the performance of the duties of his office or employment or any other insurable risk. In addition, the corporation may carry its own liability insurance and may also establish and utilize a wholly-owned insurance subsidiary or captive provided the subsidiary or captive is domiciled in the United States in a state which is accredited by the National Association of Insurance Commissioners and which licenses and regulates wholly-owned insurance subsidiaries or captives;

s. Promote the use of public transportation services, coordinate ticket sales and passenger information and sell, lease or otherwise contract for advertising in or on the equipment or facilities of the corporation;

t. Adopt and maintain employee benefit programs for employees of the corporation including, but not limited to, pension, deferred compensation, medical disability, and death benefits, and which programs may utilize insurance contracts, trust funds, and any other appropriate means of providing the stipulated benefits, and may involve new plans or the continuation of plans previously established by entities acquired by the corporation;

u. Own, vote, and exercise all other rights incidental to the ownership of shares of the capital stock of any incorporated entity acquired by the corporation pursuant to the powers granted by this act;

v. Enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the corporation, or to carry out any power expressly or implicitly given in this act;

w. Notwithstanding the provisions of section 17 of P.L.1979, c.150 (C.27:25-17) or any other law to the contrary, (1) issue operating grant anticipation notes which shall be secured and retired from operating assistance grants authorized under section 9 of the federal Urban Mass Transportation Act of 1964, Pub.L.88-365 (49 U.S.C. s.1602), or any successor or additional federal act having substantially the same or similar purposes or functions and (2) issue capital grant anticipation notes which shall be secured and retired from capital assistance grants authorized under section 3 or section 9 of the federal Urban Mass Transportation Act of 1964, Pub.L.88-365 (49 U.S.C. s.1602), or any successor or additional federal act having substantially the same or similar purposes or functions. As used in this subsection, "operating grant anticipation notes" or "capital grant anticipation notes" (hereinafter referred to as "notes") means credit obligations issued in anticipation of these grants. The notes shall be authorized by a resolution or resolutions of the corporation, and may be issued in one or more series and shall bear the date, or dates, bear interest at the rate or rates of interest per annum, be in the denomination or denominations, be in the form, carry the conversion or registration privileges, have the rank or priority, be executed in such manner as the resolution or resolutions require. The notes may be sold at public or private sale at the price or prices and in the manner that the corporation determines. The notes of the corporation, the sale or transfer thereof, and the income derived therefrom by the purchasers of the notes, shall, at all times, be free from taxation for State or local purposes, under any law of the State or any political subdivision thereof. Notes may be issued under the provisions of P.L.1979, c.150 (C.27:25-1 et seq.) without obtaining the consent of any department, division, commission, board, bureau or agency of the State, and without any other proceedings, conditions, or things which are specifically required by P.L.1979, c.150 (C.27:25-1 et seq.). The notes issued pursuant to P.L.1979, c.150 (C.27:25-1 et seq.) shall not in any way create or constitute any indebtedness, liability or obligation of the State or of any political subdivision thereof or of the corporation, except as provided herein.

The notes shall be payable solely from (1) note proceeds, to the extent not disbursed to the corporation, (2) grant payments if, as, and when received from the federal government, and (3) investment earnings on note proceeds,

to the extent not disbursed to the corporation. Each note shall contain on its face a statement to the effect that the corporation is obligated to pay the principal thereof or the interest thereon only from these grants to the corporation and from the proceeds of the notes and investment earnings on the proceeds of the notes, to the extent not disbursed to the corporation, and that neither the faith and credit nor the taxing power of the State or of any political subdivision thereof or of the corporation is pledged to the payment of the principal and interest on these notes. Neither the members of the corporation's board nor any person executing the transactions are personally liable on those notes nor are they otherwise liable for their actions; and

x. Enter into agreements with a public or private entity or consortia thereof to provide for the development of demonstration projects through the use of public-private partnerships pursuant to sections 1 through 9 of P.L.1997, c.136 (C.27:1D-1 through C.27:1D-9).

2. Section 6 of P.L.1968, c.234 (C.17:32-21) is amended to read as follows:

**C.17:32-21 Nonapplicability of act.**

6. The provisions of this act shall not be construed to apply to:

(a) The investigation, settlement or litigation of claims under any policy of insurance of any kind lawful when written in this State, or liquidation of the assets and liabilities of an insurer (other than the collection of new premiums) resulting from the operations of an insurer within this State which were lawful when conducted;

(b) Transactions involving any policy of insurance of any kind, subsequent to the issuance thereof, covering only subjects of insurance not resident, located or expressly to be performed in this State at the time of issuance, and lawfully solicited, written and delivered outside this State;

(c) The continuation and servicing of life insurance or accident or health insurance policies or annuity contracts remaining in force as to residents of this State when the insurer has withdrawn from this State and is not collecting new premiums within or from this State;

(d) The lawful transaction of contracts of reinsurance by insurers;

(e) Transactions involving group life insurance, group or blanket accident and health insurance, and group annuities where the master policy for such groups was lawfully issued and delivered in a state in which the insurer is duly admitted, and such policy conforms to the laws of the state in which it is delivered;

(f) Any life insurance company organized and operated without profit to any private shareholder or individual and exclusively for the purpose of aiding educational or scientific institutions organized and operated without profit to any private shareholder or individual, which issues residents of this

State directly from its home office without agents, representatives or other field operations in this State, contracts of insurance and annuity contracts only to or for the benefit of such institutions and to individuals engaged in the service of such institutions; nor shall this subsection apply to any life, accident and health or annuity contracts issued by such life insurance company, provided that any such life insurance company shall: (1) furnish to the commissioner a copy of any policy or contract form issued to residents of this State; (2) furnish to the commissioner a copy of its annual statement prepared pursuant to the laws of the state of domicile of such life insurance company, as well as such other reports, documents and financial material as may be requested by the commissioner; and (3) designate the commissioner as its true and lawful attorney upon whom may be served all lawful process in any action or proceeding against such life insurance company arising under any contract of insurance or annuity contract it has issued to, or which is held by, a resident of this State and process so served against such life insurance company shall have the same force and validity as if served upon said life insurance company; and provided further that the commissioner may, if in his judgment the interest of the public so requires, promulgate regulations affecting the contracts, investments, or other aspects of the operations of companies covered by this subparagraph (f), which shall be not more restrictive than the laws and regulations applicable to admitted life insurance companies;

(g) Insurance of vessels, crafts or hulls, cargoes, marine builder risks, marine protection and indemnity or other risks including strike and war risks commonly insured under ocean or wet marine forms of policy;

(h) Any wholly-owned insurance subsidiary or captive established by New Jersey Transit Corporation pursuant to subsection r. of section 5 of P.L.1979, c.150 (C.27:25-5).

3. This act shall take effect immediately.

Approved March 26, 2004.

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## CHAPTER 2

AN ACT authorizing the transfer of development rights by municipalities, amending P.L.1993, c.339, P.L.1983, c.32, and amending and supplementing P.L.1975, c.291 (C.40:55D-1 et seq.).

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



**C.40:55D-137 Short title.**

1. Sections 1 through 27 of this act shall be known and may be cited as the "State Transfer of Development Rights Act."

**C.40:55D-138 Findings, declarations relative to transfer of development rights by municipalities.**

2. The Legislature finds and declares that as the most densely populated state in the nation, the State of New Jersey is faced with the challenge of accommodating vital growth while maintaining the environmental integrity, preserving the natural resources, and strengthening the agricultural industry and cultural heritage of the Garden State; that the responsibility for meeting this challenge falls most heavily upon local government to appropriately shape the land use patterns so that growth and preservation become compatible goals; that until now municipalities in most areas of the State have lacked effective and equitable means by which potential development may be transferred from areas where preservation is most appropriate to areas where growth can be better accommodated and maximized; and that the tools necessary to meet the challenge of balanced growth in an equitable manner in New Jersey must be made available to local government as the architects of New Jersey's future.

The Legislature further finds and declares that the "Burlington County Transfer of Development Rights Demonstration Act," P.L.1989, c.86 (C.40:55D-113 et al.), was enacted in 1989 as a pilot transfer of development rights (TDR) program to demonstrate the feasibility of TDR as a land use planning tool; and that the Burlington County pilot program has been a success and should now be expanded to the remainder of the State of New Jersey in a manner that is fair and equitable to all landowners.

The Legislature therefore determines that it is in the public interest to authorize all municipalities in the State to establish and implement TDR programs.

**C.40:55D-139 Transfer of development potential within jurisdiction.**

3. a. The governing body of any municipality that fulfills the criteria set forth in section 4 of P.L.2004, c.2 (C.40:55D-140) may, by ordinance approved by the county planning board, provide for the transfer of development potential within its jurisdiction. The governing bodies of two or more municipalities that fulfill the criteria set forth in section 4 of P.L.2004, c.2 (C.40:55D-140) may, by substantially similar ordinances approved by their respective county planning boards, provide for a joint program for the transfer of development potential, including transfers from sending zones in one municipality to receiving zones in the other, regardless of whether or not those municipalities are situated within the same county. Any such program shall be carried out by the municipal planning board or boards.

A program may include the designation of one or more sending or receiving zones.

b. The Office of Smart Growth shall provide such technical assistance as may be requested by municipalities or a county planning board, and as may be reasonably within the capacity of the office to provide, in the preparation, implementation or review, as the case may be, of the master plan elements required to have been adopted by the municipality as a condition for adopting a development transfer ordinance pursuant to section 4 of P.L.2004, c.2 (C.40:55D-140), capital improvement program or development transfer ordinance.

**C.40:55D-140 Actions prior to adoption, amendment.**

4. Prior to the adoption or amendment of any development transfer ordinance, a municipality shall:

a. Adopt a development transfer plan element of its master plan pursuant to paragraph (14) of subsection b. of section 19 of P.L.1975, c.291 (C.40:55D-28) in accordance with the requirements of section 5 of P.L.2004, c.2 (C.40:55D-141);

b. Adopt a capital improvement program pursuant to section 20 of P.L.1975, c.291 (C.40:55D-29) for the receiving zone, which includes the location and cost of all infrastructure and a method of cost sharing if any portion of the cost is to be assessed against developers pursuant to section 30 of P.L.1975, c.291 (C.40:55D-42);

c. Adopt a utility service plan element of the master plan pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28) that specifically addresses providing necessary utility services within any designated receiving zone within a specified time period so that no development seeking to utilize development potential transfer is unreasonably delayed because utility services are not available;

d. Prepare a real estate market analysis pursuant to section 12 of P.L.2004, c.2 (C.40:55D-148) which examines the relationship between the development rights anticipated to be generated in the sending zones and the capacity of designated receiving zones to accommodate the necessary development; and

e. Either receive approval of: (1) its initial petition for endorsement of its master plan by the State Planning Commission pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) and regulations adopted pursuant thereto either individually, or as part of a county or regional plan, provided that the petition included the development transfer ordinance and supporting documentation, or (2) the development transfer ordinance and supporting documentation as an amendment to a previously approved petition for master plan endorse

ment by the State Planning Commission pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) and regulations adopted pursuant thereto.

**C.40:55D-141 Development transfer plan element, required inclusions.**

5. In order to serve as the basis for a development transfer ordinance pursuant to subsection a. of section 4 of P.L.2004, c.2 (C.40:55D-140), a development transfer plan element of a masterplan shall include:

- a. an estimate of the anticipated population and economic growth in the municipality for the succeeding 10 years;
- b. the identification and description of all prospective sending and receiving zones;
- c. an analysis of how the anticipated population growth estimated pursuant to subsection a. of this section is to be accommodated within the municipality in general, and the receiving zone or zones in particular;
- d. an estimate of existing and proposed infrastructure of the proposed receiving zone;
- e. a presentation of the procedure and method for issuing the instruments necessary to convey the development potential from the sending zone to the receiving zone; and
- f. explicit planning objectives and design standards to govern the review of applications for development in the receiving zone in order to facilitate their review by the approving authority.

**C.40:55D-142 Procedure for municipality located in pinelands area.**

6. a. Any municipality located in whole or in part in the pinelands area, as defined in the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), shall submit the proposed development transfer ordinance, development transfer and utility service plan elements of the master plan, real estate market analysis, and capital improvement program to the Pinelands Commission for review for those areas included in that proposed ordinance that are situated within the pinelands area. The Pinelands Commission shall determine whether the proposed ordinance is compatible with the provisions of the "Pinelands Development Credit Bank Act," P.L.1985, c.310 (C.13:18A-30 et seq.) and is otherwise consistent with the comprehensive management plan adopted by the Pinelands Commission pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.). If the commission determines that the proposed development transfer ordinance is not compatible or consistent, the commission shall make such recommendations as may be necessary to conform the proposed ordinance with the comprehensive management plan. The municipality shall not adopt the proposed ordinance unless the changes recommended by the Pinelands Commission have been included in the ordinance.

b. No development transfer ordinance that involves land in the pinelands area shall take effect unless it has been certified by the Pinelands Commission pursuant to the provisions of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.) and the comprehensive management plan.

**C.40:55D-143 Preparation, amendment of development transfer ordinance.**

7. A municipality which provides for the transfer of development as set forth in section 3 of P.L.2004, c.2 (C.40:55D-139) shall prepare or amend a development transfer ordinance that designates sending and receiving zones and is substantially consistent with or designed to effectuate the development transfer plan element of the master plan adopted pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28) and the capital improvement program adopted pursuant to section 20 of P.L.1975, c.291 (C.40:55D-29). A governing body that chooses to adopt an ordinance or amendment or revision thereto which in whole or in part is inconsistent with the development transfer plan element of the master plan or the capital improvement program may do so only by affirmative vote of a majority of the full authorized membership of the governing body, with the reasons of the governing body for so acting set forth in a resolution and recorded in its minutes when adopting such an ordinance.

In creating and establishing sending and receiving zones, the governing body of the municipality shall designate tracts of land of such size and number and with such boundaries, densities and permitted uses as may be necessary to carry out the purposes of P.L.2004, c.2 (C.40:55D-137 et al.).

The adoption or amendment of a development transfer ordinance shall be considered a change to the classifications or boundaries of a zoning district and therefore subject to the notification requirements of section 2 of P.L.1995, c.249 (C.40:55D-62.1).

**C.40:55D-144 Characteristics of sending zone.**

8. a. A sending zone shall be composed predominantly of land having one or more of the following characteristics:

(1) agricultural land, woodland, floodplain, wetlands, threatened or endangered species habitat, aquifer recharge area, recreation or park land, waterfront, steeply sloped land or other lands on which development activities are restricted or precluded by duly enacted local laws or ordinances or by laws or regulations adopted by federal or State agencies;

(2) land substantially improved or developed in a manner so as to present a unique and distinctive aesthetic, architectural, or historical point of interest in the municipality;

(3) other improved or unimproved areas that should remain at low densities for reasons of inadequate transportation, sewerage or other infra

structure, or for such other reasons as may be necessary to implement the State Development and Redevelopment Plan adopted pursuant to P.L.1985, c.398 (C.52:18A-196 et al.) and local or regional plans.

b. Notwithstanding subsection a. of this section, lands permanently restricted through development easements or conservation easements existing prior to the adoption of a development transfer ordinance may be included in a sending zone upon a finding by the municipal governing body that this inclusion is in the public interest.

c. The development transfer ordinance may assign bonus development potential to specified properties in the sending zone based on specified criteria in order to encourage the permanent protection of those lands pursuant to the development transfer ordinance.

**C.40:55D-145 Characteristics of receiving zone.**

9. a. A receiving zone shall be appropriate and suitable for development and shall be at least sufficient to accommodate all of the development potential of the sending zone, and at all times there shall be a reasonable likelihood that a balance is maintained between sending zone land values and the value of the transferable development potential.

b. The development potential of the receiving zone shall be realistically achievable, considering: (1) the availability of all necessary infrastructure; (2) all of the provisions of the zoning ordinance including those related to density, lot size and bulk requirements; and (3) given local land market conditions as of the date of the adoption of the development transfer ordinance.

c. The development potential of the receiving zone shall be consistent with the criteria established pursuant to subsection b. of section 13 of P.L.2004, c.2 (C.40:55D-149).

d. All infrastructure necessary to support the development of the receiving zone as set forth in the zoning ordinance shall either exist or be scheduled to be provided so that no development requiring the purchase of transferable development potential shall be unreasonably delayed because the necessary infrastructure will not be available due to any action or inaction by the municipality.

e. No density increases may be achieved in a receiving zone without the use of appropriate instruments of transfer.

**C.40:55D-146 Provisions of development transfer ordinance.**

10. Except as otherwise provided in this section, a development transfer ordinance shall provide that, on granting a variance under subsection d. of section 57 of P.L.1975, c.291 (C.40:55D-70) that increases the development potential of a parcel of property not in the designated receiving zone for which the variance has been granted by more than 5%, that parcel of property

shall constitute a receiving zone and the provisions of the ordinance for receiving zones shall apply with respect to the amount of development potential required to implement that variance.

This section shall not apply to any development that fulfills the definition of a minor site plan or minor subdivision.

**C.40:55D-147 Issuance of instruments, adoption of procedures relative to land use.**

11. a. A development transfer ordinance shall provide for the issuance of such instruments as may be necessary and the adoption of procedures for recording the permitted use of the land at the time of the recording, the separation of the development potential from the land, and the recording of the allowable residual use of the land upon separation of the development potential.

b. A development transfer ordinance shall specifically provide that upon the transfer of development potential from a sending zone, the owner of the property from which the development potential has been transferred shall cause a statement containing the conditions of the transfer and the terms of the restrictions of the use and development of the land to be attached to and recorded with the deed of the land in the same manner as the deed was originally recorded. These restrictions and conditions shall state that any development inconsistent therewith is expressly prohibited, shall run with the land, and shall be binding upon the landowner and every successor in interest thereto.

c. The restrictions shall be expressly enforceable by the municipality and the county in which the property is located, any interested party, and the State of New Jersey.

d. All development potential transfers shall be recorded in the manner of a deed in the book of deeds in the office of the county clerk or county register of deeds and mortgages, as appropriate. This recording shall specify the lot and block number of the parcel in the sending zone from which the development potential was transferred and the lot and block number of the parcel in the receiving zone to which the development potential was transferred.

e. All development potential transfers also shall be recorded with the State Transfer of Development Rights Bank in the Development Potential Transfer Registry as required pursuant to section 5 of P.L.1993, c.339 (C.4:1C-53).

**C.40:55D-148 Real estate market analysis.**

12. a. Prior to the final adoption of a development transfer ordinance or any significant amendment to an existing development transfer ordinance, the planning board shall conduct a real estate market analysis of the current and future land market which examines the relationship between the devel-

opment rights anticipated to be generated in the sending zone and the likelihood of their utilization in the designated receiving zone. The analysis shall include thorough consideration of the extent of development projected for the receiving zone and the likelihood of its achievement given current and projected market conditions in order to assure that the designated receiving zone has the capacity to accommodate the development rights anticipated to be generated in the sending zone. The real estate market analysis shall conform to rules and regulations adopted pursuant to subsection c. of this section.

b. Upon completion of the real estate market analysis and at a meeting of the planning board held prior to the meeting at which the development transfer ordinance receives first reading, the planning board shall hold a hearing on the real estate market analysis.

The hearing shall be held in accordance with the provisions of subsections a. through f. of section 6 of P.L.1975, c.291 (C.40:55D-10).

c. The Commissioner of Community Affairs, in consultation with the board of directors of the State Transfer of Development Rights Bank established pursuant to section 3 of P.L.1993, c.339 (C.4:1C-51), shall within 180 days of the enactment of P.L.2004, c.2 (C.40:55D-137 et al.), adopt rules and regulations which set forth the required contents of the real estate market analysis.

**C.40:55D-149 Submission by municipality prior to adoption of ordinance to county planning board.**

13. a. Prior to adoption of a development transfer ordinance or of any amendment of an existing development transfer ordinance, the municipality shall submit a copy of the proposed ordinance, copies of the development transfer and utility service plan elements of the master plan adopted pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28) and capital improvement program adopted pursuant to section 20 of P.L.1975, c.291 (C.40:55D-29), proposed municipal master plan changes necessary for the enactment of the development transfer ordinance, and the real estate market analysis to the county planning board. If the ordinance and master plan changes involve agricultural land, then the county agriculture development board shall also be provided information identical to that provided to the county planning board.

b. The county planning board, upon receiving the proposed development transfer ordinance and accompanying documentation, shall conduct a review of the proposed ordinance with regard to the following criteria:

- (1) consistency with the adopted master plan of the county;
- (2) support of regional objectives for agricultural land preservation, natural resource management and protection, historic or architectural conser

vation, or the preservation of other public values as enumerated in subsection a. of section 8 of P.L.2004, c.2 (C.40:55D-144);

(3) consistency with reasonable population and economic forecasts for the county; and

(4) sufficiency of the receiving zone to accommodate the development potential that may be transferred from sending zones and a reasonable assurance of marketability of any instruments of transfer that may be created.

**C.40:55D-150 Formal comments, recommendation of county planning board.**

14. a. Within 60 days after receiving a proposed development transfer ordinance and accompanying documentation transmitted pursuant to section 13 of P.L.2004, c.2 (C.40:55D-149), the county planning board shall submit to the municipality formal comments detailing its review and shall either recommend or not recommend enactment of the proposed development transfer ordinance. If enactment of the proposed ordinance is recommended, the municipality may proceed with adoption of the ordinance. Failure to submit recommendations within the 60-day period shall constitute recommendation of the ordinance.

b. The CADB shall review a proposed development transfer ordinance and accompanying documentation within 30 days of receipt thereof, and shall submit such written recommendations as it deems appropriate, to the county planning board.

c. If the county planning board does not recommend enactment, the reasons therefor shall be clearly stated in the formal comments. If the objections of the county planning board cannot be resolved to the satisfaction of both the municipality and the county planning board within an additional 30 days, the municipality shall petition the Office of Smart Growth to render a final determination pursuant to section 15 of P.L.2004, c.2 (C.40:55D-151).

**C.40:55D-151 Review by Office of Smart Growth.**

15. When the Office of Smart Growth receives a petition pursuant to subsection c. of section 14 of P.L.2004, c.2 (C.40:55D-150), it shall review the petition, the record of comment of the county planning board, any supporting documentation submitted by the municipality, and any comments received from property owners in the sending or receiving zones and other members of the public. Within 60 days after receipt of the petition, the Office of Smart Growth shall approve, approve with conditions, or disapprove the proposed development transfer ordinance, stating in writing the reasons therefor. The basis for review by the Office of Smart Growth shall be:

a. compliance of the proposed development transfer ordinance with the provisions of P.L.2004, c.2 (C.40:55D-137 et al.);



- b. accuracy of the information developed in the proposed development transfer ordinance, the development transfer and utility service plan elements of the master plan adopted pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28), the real estate market analysis and capital improvement program adopted pursuant to section 20 of P.L.1975, c.291 (C.40:55D-29);
- c. an assessment of the potential for successful implementation of the proposed development transfer ordinance; and
- d. consistency with any plan that applies to the municipality that has been endorsed by the State Planning Commission pursuant to P.L.1985, c.398 (C.52:18A-196 et al.) and its implementing regulations.

**C.40:55D-152 Approval of municipal petition; appeal.**

16. If the Office of Smart Growth determines, in response to a municipal petition submitted pursuant to subsection c. of section 14 of P.L.2004, c.2 (C.40:55D-150), that the proposed development transfer ordinance may be approved, the municipality may proceed with adoption of the proposed ordinance. If the Office of Smart Growth determines that the proposed ordinance may be approved with conditions, the Office of Smart Growth shall make such recommendations as may be necessary for the proposed ordinance to be approved. The municipality shall not adopt the proposed ordinance unless the changes recommended by the Office of Smart Growth have been included in the proposed ordinance. If the Office of Smart Growth determines that the development transfer ordinance should be disapproved, the municipality may not proceed with adoption of the proposed ordinance.

The decision by the Office of Smart Growth on the petition shall have the effect of a final agency action and any appeal of that decision shall be made directly to the Appellate Division of the Superior Court.

**C.40:55D-153 Transmission of record of transfer; assessment; taxation.**

17. a. The county clerk or county register of deeds and mortgages, as the case may be, shall transmit to the assessor of the municipality in which a development potential transfer has occurred a record of the transfer and all pertinent information required to value, assess, and tax the properties subject to the transfer in a manner consistent with subsection b. of this section.

b. Property from which and to which development potential has been transferred shall be assessed at its fair market value reflecting the development transfer. Development potential that has been removed from a sending zone but has not yet been employed in a receiving zone shall not be assessed for real property taxation. Nothing in P.L.2004, c.2 (C.40:55D-137 et al.) shall be construed to affect, or in any other way alter, the valuation assessment, or taxation of land that is valued, assessed, and taxed pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.).

c. Property in a sending or receiving zone that has been subject to a development potential transfer shall be newly valued, assessed, and taxed as of October 1 next following the development potential transfer.

d. Development potential that has been conveyed from a property pursuant to P.L.2004, c.2 (C.40:55D-137 et al.) shall not be subject to any fee imposed pursuant to P.L.1968, c.49 (C.46:15-5 et seq.).

**C.40:55D-154 Rebuttable presumption that development transfer ordinance is no longer reasonable.**

18. The absence of either of the following shall constitute a rebuttable presumption that a development transfer ordinance is no longer reasonable:

a. plan endorsement pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) or regulations adopted pursuant thereto is no longer in effect for that municipality; or

b. a sufficient percentage of the development potential has not been transferred in that municipality as provided in section 20 of P.L.2004, c.2 (C.40:55D-156).

If the ordinance of a municipality that is a participant of a joint program pursuant to section 3 of P.L.2004, c.2 (C.40:55D-139) is presumed to be no longer reasonable pursuant to this section, then the ordinances of all participating municipalities also shall be presumed to be no longer reasonable.

**C.40:55D-155 Review by planning board, governing body after three years.**

19. A development transfer ordinance and real estate market analysis shall be reviewed by the planning board and governing body of the municipality at the end of three years subsequent to its adoption. This review shall include an analysis of development potential transactions in both the private and public market, an update of current conditions in comparison to the development transfer plan element of the master plan adopted pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28) and capital improvement program adopted pursuant to section 20 of P.L.1975, c.291 (C.40:55D-29), and an assessment of the performance goals of the development transfer program, including an evaluation of the units constructed with and without the utilization of the development transfer ordinance. A report of findings from this review shall be submitted to the county planning board, the Office of Smart Growth and, when the sending zone includes agricultural land, the CADB for review and recommendations. Based on this review the municipality shall act to maintain and enhance the value of development transfer potential not yet utilized and, if necessary, amend the capital improvement program adopted pursuant to section 20 of P.L.1975, c.291 (C.40:55D-29), the development transfer plan element of the master plan adopted pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28) and the development transfer ordinance adopted pursuant to P.L.2004, c.2 (C.40:55D-137 et al.).

**C.40:55D-156 Review after five years.**

20. A development transfer ordinance and the real estate market analysis also shall be reviewed by the planning board and governing body of the municipality at the end of five years subsequent to its adoption. This review shall provide for the examination of the development transfer ordinance and the real estate market analysis to determine whether the program for development transfer and the permitted uses in the sending zone continue to remain economically viable, and, if not, an update of the development transfer plan element of the master plan adopted pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28) and capital improvement program adopted pursuant to section 20 of P.L.1975, c.291 (C.40:55D-29) shall be required. If at least 25% of the development potential has not been transferred at the end of this five-year period, the development transfer ordinance shall be presumed to be no longer reasonable, including any zoning changes adopted as part of the development transfer program, within 90 days after the end of the five-year period unless one of the following is met:

a. the municipality immediately takes action to acquire or provide for the private purchase of the difference between the development potential already transferred and 25% of the total development transfer potential created in the sending zone under the development transfer ordinance;

b. a majority of the property owners in a sending zone who own land from which the development potential has not yet been transferred agree that the development transfer ordinance should remain in effect;

c. the municipality can demonstrate either future success or can demonstrate that low levels of development potential transfer activity are due, not to ordinance failure, but to low levels of development demand in general. This demonstration shall require the concurrence of the county planning board and the Office of Smart Growth, and shall be the subject of a municipal public hearing conducted prior to a final determination regarding the future viability of the development transfer program; or

d. the municipality can demonstrate that less than 25% of the remaining development potential in the sending zone has been available for sale at market value during the five-year period.

**C.40:55D-157 Periodic reviews.**

21. Following review of a development transfer ordinance as provided in section 20 of P.L.2004, c.2 (C.40:55D-156), the planning board and the governing body of the municipality shall review the development transfer ordinance and real estate market analysis at least once every five years with every second review occurring in conjunction with the review and update of the master plan of the municipality pursuant to the provisions of section 76 of P.L.1975, c.291 (C.40:55D-89). This review shall provide for the

examination of the ordinance and the real estate market analysis to determine whether the program and uses permitted in the sending zone continue to be economically viable and, if not, an update of the development transfer plan element of the master plan adopted pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28) and capital improvement program adopted pursuant to section 20 of P.L.1975, c.291 (C.40:55D-29) shall be required.

If 25% of the remaining development transfer potential at the start of each five-year review period in the sending zone under the development transfer ordinance has not been transferred during the five-year period, the municipal governing body shall repeal the development transfer ordinance, including any zoning changes adopted as part of the development transfer program, within 90 days after the end of that five-year period unless the municipality meets one of the standards established pursuant to section 20 of P.L.2003, c.2 (C.40:55D-156).

**C.40:55D-158 Provision for purchase, sale, exchange of development potential.**

22. a. The governing body of any municipality that has adopted a development transfer ordinance, or the governing body of any county in which at least one municipality has adopted a development transfer ordinance, may provide for the purchase, sale, or exchange of the development potential that is available for transfer from a sending zone by the establishment of a development transfer bank. Alternatively, the governing body of any municipality which has adopted a development transfer ordinance and has not established a municipal development transfer bank may either utilize the State TDR Bank or a county development transfer bank for these purposes, provided that the county in which the municipality is situated has established such a bank.

b. Any development transfer bank established by a municipality or county shall be governed by a board of directors comprising five members appointed by the governing body of the municipality or county, as the case may be. The members shall have expertise in either banking, law, land use planning, natural resource protection, historic site preservation or agriculture. For the purposes of P.L.2004, c.2 (C.40:55D-137 et al.) and the "Local Bond Law," N.J.S.40A:2-1 et seq., a purchase by the bank shall be considered an acquisition of lands for public purposes.

**C.40:55D-159 Purchase by development transfer bank.**

23. a. A development transfer bank may purchase property in a sending zone if adequate funds have been provided for these purposes and the person from whom the development potential is to be purchased demonstrates possession of marketable title to the property, is legally empowered to restrict the use of the property in conformance with P.L.2004, c.2 (C.40:55D-137

et al.), and certifies that the property is not otherwise encumbered or transferred.

b. The development transfer bank may, for the purposes of its own development potential transactions, establish a municipal average of the value of the development potential of all property in a sending zone of a municipality within its jurisdiction, which value shall generally reflect market value prior to the effective date of the development transfer ordinance. The establishment of this municipal average shall not prohibit the purchase of development potential for any price by private sale or transfer, but shall be used only when the development transfer bank itself is purchasing the development potential of property in the sending zone. Several average values in any sending zone may be established for greater accuracy of valuation.

c. The development transfer bank may sell, exchange, or otherwise convey the development potential of property that it has purchased or otherwise acquired pursuant to the provisions of P.L.2004, c.2 (C.40:55D-137 et al.), but only in a manner that does not substantially impair the private sale or transfer of development potential.

d. When a sending zone includes agricultural land, a development transfer bank shall, when considering the purchase of development potential based upon values derived by municipal averaging, submit the municipal average arrived at pursuant to subsection b. of this section for review and comment to the CADB. The development transfer bank shall coordinate the development transfer program with the farmland preservation programs established pursuant to the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et al.) and the "Garden State Preservation Trust Act," sections 1 through 42 of P.L.1999, c.152 (C.13:8C-1 et seq.) to the maximum extent practicable and feasible.

e. A development transfer bank may apply for funds for the purchase of development potential under the provisions of sections 1 through 42 of P.L.1999, c.152 (C.13:8C-1 et seq.), or any other act providing funds for the purpose of acquiring and developing land for recreation and conservation purposes consistent with the provisions and conditions of those acts.

f. A development transfer bank may apply for matching funds for the purchase of development potential under the provisions of the "Garden State Preservation Trust Act," sections 1 through 42 of P.L.1999, c.152 (C.13:8C-1 et seq.) for the purpose of farmland preservation and agricultural development consistent with the provisions and conditions of that act and the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et al.). In addition, a development transfer bank may apply to the State Transfer of Development Rights Bank established pursuant to section 3 of P.L.1993, c.339 (C.4:1C-51) for either planning or development potential purchasing

funds, or both, as provided pursuant to section 4 of P.L.1993, c.339 (C.4:1C-52).

**C.40:55D-160 Sale of development potential associated with development easement.**

24. If the governing body of a county provides for the acquisition of a development easement under the provisions of the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et al.) or the "Garden State Preservation Trust Act," sections 1 through 42 of P.L.1999, c.152 (C.13:8C-1 et seq.), it may sell the development potential associated with the development easement subject to the terms and conditions of the development transfer ordinance adopted pursuant to P.L.2004, c.2 (C.40:55D-137 et al.); provided that if the development easement was purchased using moneys provided pursuant to the "Garden State Preservation Trust Act," sections 1 through 42 of P.L.1999, c.152 (C.13:8C-1 et seq.), a percentage of all revenues generated through the resale of the development potential shall be refunded to the State in an amount equal to the State's percentage contribution to the original development easement purchase. Notwithstanding the foregoing, such refund shall not be paid to the State in the event the State Treasurer determines that such refund would adversely affect the tax-exempt status of any bonds authorized pursuant to the "Garden State Preservation Trust Act," sections 1 through 42 of P.L.1999, c.152 (C.13:8C-1 et seq.). This repayment shall be made within 90 days after the end of the calendar year in which the sale occurs.

**C.40:55D-161 Right to farm benefits.**

25. Agricultural land involved in an approved development transfer ordinance shall be provided the right to farm benefits under the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et al.) and other benefits that may be provided pursuant to the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.).

**C.40:55D-162 Annual report by municipality to county; county to State.**

26. a. The governing body of a municipality that adopts a development transfer ordinance shall annually prepare and submit a report on activity undertaken pursuant to the development transfer ordinance to the county planning board.

b. The county planning board shall submit copies of these reports along with an analysis of the effectiveness of the ordinances in achieving the purposes of P.L.2004, c.2 (C.40:55D-137 et al.) to the State Planning Commission on July 1 of the third year next following enactment of P.L.2004, c.2 (C.40:55D-137 et al.) and annually thereafter.

**C.40:55D-163 Construction of act relative to Burlington County municipalities.**

27. a. Except as provided otherwise pursuant to subsections b. and c. of this section, the provisions of P.L.2004, c.2 (C.40:55D-137 et al.) shall not

apply or be construed to nullify any development transfer ordinance adopted by a municipality in Burlington County pursuant to P.L.1989, c.86 (C.40:55D-113 et al.) prior to the effective date of P.L.2004, c.2 (C.40:55D-137 et al.).

b. On or after the effective date of P.L.2004, c.2 (C.40:55D-137 et al.), any municipality in Burlington County may adopt a development transfer ordinance either pursuant to P.L.1989, c.86 (C.40:55D-113 et al.) or P.L.2004, c.2 (C.40:55D-137 et al.).

c. Any municipality in Burlington County may utilize a development transfer bank established by the municipality or county pursuant to P.L.2004, c.2 (C.40:55D-137 et al.), by the municipality or Burlington County pursuant to P.L.1989, c.86 (C.40:55D-113 et al.), or by the State pursuant to P.L.1993, c.339 (C.4:1C-49 et seq.) or P.L.2004, c.2 (C.40:55D-137 et al.).

28. Section 24 of P.L.1983, c.32 (C.4:1C-31) is amended to read as follows:

**C.4:1C-31 Development easement purchases.**

24. a. Any landowner applying to the board to sell a development easement pursuant to section 17 of P.L.1983, c.32 (C.4:1C-24) shall offer to sell the development easement at a price which, in the opinion of the landowner, represents a fair value of the development potential of the land for nonagricultural purposes, as determined in accordance with the provisions of P.L.1983, c.32.

b. Any offer shall be reviewed and evaluated by the board and the committee in order to determine the suitability of the land for development easement purchase. Decisions regarding suitability shall be based on the following criteria:

(1) Priority consideration shall be given, in any one county, to offers with higher numerical values obtained by applying the following formula:

$$\frac{\text{nonagricultural developmental value} - \text{agricultural value}}{\text{nonagricultural development value} - \text{agricultural value}} - \text{landowner's asking price}$$

(2) The degree to which the purchase would encourage the survivability of the municipally approved program in productive agriculture; and

(3) The degree of imminence of change of the land from productive agriculture to nonagricultural use.

The board and the committee shall reject any offer for the sale of development easements which is unsuitable according to the above criteria and which has not been approved by the board and the municipality.

c. Two independent appraisals paid for by the board shall be conducted for each parcel of land so offered and deemed suitable. The appraisals shall be conducted by independent, professional appraisers selected by the board and the committee from among members of recognized organizations of real estate appraisers. The appraisals shall determine the current overall value of the parcel for nonagricultural purposes, as well as the current market value of the parcel for agricultural purposes. The difference between the two values shall represent an appraisal of the value of the development easement. If Burlington County or a municipality therein has established a development transfer bank pursuant to the provisions of P.L.1989, c.86 (C.40:55D-113 et seq.) or if any county or any municipality in any county has established a development transfer bank pursuant to section 22 of P.L.2004, c.2 (C.40:55D-158), the municipal average of the value of the development potential of property in a sending zone established by the bank may be the value used by the board in determining the value of the development easement. If a development easement is purchased using moneys appropriated from the fund, the State shall provide no more than 80%, except 100% under emergency conditions specified by the committee pursuant to rules or regulations, of the cost of the appraisals conducted pursuant to this section.

d. Upon receiving the results of the appraisals, or in Burlington county or a municipality therein or elsewhere where a municipal average has been established under subsection c. of this section, upon receiving an application from the landowners, the board and the committee shall compare the appraised value, or the municipal average, as the case may be, and the landowner's offer and, pursuant to the suitability criteria established in subsection b. of this section:

(1) Approve the application to sell the development easement and rank the application in accordance with the criteria established in subsection b. of this section; or

(2) Disapprove the application, stating the reasons therefor.

e. Upon approval by the committee and the board, the secretary is authorized to provide the board, within the limits of funds appropriated therefor, an amount equal to no more than 80%, except 100% under emergency conditions specified by the committee pursuant to rules or regulations, of the purchase price of the development easement, as determined pursuant to the provisions of this section. The board shall provide its required share and accept the landowner's offer to sell the development easement. The acceptance shall cite the specific terms, contingencies and conditions of the purchase.



f. The landowner shall accept or reject the offer within 30 days of receipt thereof. Any offer not accepted within that time shall be deemed rejected.

g. Any landowner whose application to sell a development easement has been rejected for any reason other than insufficient funds may not reapply to sell a development easement on the same land within two years of the original application.

h. No development easement shall be purchased at a price greater than the appraised value determined pursuant to subsection c. of this section or the municipal average, as the case may be.

i. The appraisals conducted pursuant to this section or the fair market value of land restricted to agricultural use shall not be used to increase the assessment and taxation of agricultural land pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.).

j. (1) In determining the suitability of land for development easement purchase, the board and the committee may also include as additional factors for consideration the presence of a historic building or structure on the land and the willingness of the landowner to preserve that building or structure, but only if the committee first adopts, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations implementing this subsection. The committee may, by rule or regulation adopted pursuant to the "Administrative Procedure Act," assign any such weight it deems appropriate to be given to these factors.

(2) The provisions of paragraph (1) of this subsection may also be applied in determining the suitability of land for fee simple purchase for farmland preservation purposes as authorized by P.L.1983, c.31 (C.4:1C-1 et seq.), P.L.1983, c.32 (C.4:1C-11 et seq.), and P.L.1999, c.152 (C.13:8C-1 et seq.).

(3) (a) For the purposes of paragraph (1) of this subsection: "historic building or structure" means the same as that term is defined pursuant to subsection c. of section 2 of P.L.2001, c.405 (C.13:8C-40.2).

(b) For the purposes of paragraph (2) of this subsection, "historic building or structure" means the same as that term is defined pursuant to subsection c. of section 1 of P.L.2001, c.405 (C.13:8C-40.1).

29. Section 2 of P.L.1993, c.339 (C.4:1C-50) is amended to read as follows:

**C.4:1C-50 Definitions.**

2. As used in this act:

"Board" means the board of directors of the State Transfer of Development Rights Bank established pursuant to section 3 of P.L.1993, c.339 (C.4:1C-51);

"Development potential" means the maximum number of dwelling units or square feet of nonresidential floor area that may be constructed on a specified lot or in a specified zone under the master plan and land use regulations in effect on the date of the adoption of the development transfer ordinance, and in accordance with recognized environmental constraints;

"Development transfer" means the conveyance of development potential, or the permission for development, from one or more lots to one or more other lots by deed, easement, or other means as authorized by ordinance adopted pursuant to law;

"Instrument" means the easement, credit, or other deed restriction used to record a development transfer; and

"State Transfer of Development Rights Bank," "bank" or "State TDR Bank" means the bank established pursuant to section 3 of P.L.1993, c.339 (C.4:1C-51).

30. Section 4 of P.L.1993, c.339 (C.4:1C-52) is amended to read as follows:

**C.4:1C-52 Powers of board.**

4. The board shall have the following powers:

a. To purchase, or to provide matching funds for the purchase of 80% of, the value of development potential and to otherwise facilitate development transfers, from the owner of record of the property from which the development potential is to be transferred or from any person, or entity, public or private, holding the interest in development potential that is subject to development transfer; provided that, in the case of providing matching funds for the purchase of 80% of the value of development potential, the remaining 20% of that value is contributed by the affected municipality or county, or both, after public notice thereof in the New Jersey Register and in one newspaper of general circulation in the area affected by the purchase. The remaining 20% of the value of the development potential to be contributed by the affected municipality or county, or both, to match funds provided by the board, may be obtained by purchase from, or donation by, the owner of record of the property from which the development potential is to be transferred or from any person, or entity, public or private, holding the interest in development potential that is subject to development transfer. The value of development potential may be determined by either appraisal, municipal averaging based upon appraisal data, or by a formula supported by appraisal data. The board may also engage in development transfer by sale, exchange, or other method of conveyance, provided that in doing so, the board shall not substantially impair the private sale, exchange or other method of conveyance of development potential. The board may not, nor shall anything in this act be construed as permitting the board to, engage in

development transfer from one municipality to another, which transfer is not in accordance with the ordinances of both municipalities;

b. To adopt and, from time to time, amend or repeal suitable bylaws for the management of its affairs;

c. To adopt and use an official seal and alter that seal at its pleasure;

d. To apply for, receive, and accept, from any federal, State, or other public or private source, grants or loans for, or in aid of, the board's authorized purposes;

e. To enter into any agreement or contract, execute any legal document, and perform any act or thing necessary, convenient, or desirable for the purposes of the board or to carry out any power expressly given in this act;

f. To adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement the provisions of this act;

g. To call to its assistance and avail itself of the services of the employees of any State, county, or municipal department, board, commission, or agency as may be required and made available for these purposes;

h. To retain such staff as may be necessary in the career service and to appoint an executive director thereof. The executive director shall serve as a member of the senior executive or unclassified service and may be appointed without regard to the provisions of Title 11A of the New Jersey Statutes;

i. To review and analyze innovative techniques that may be employed to maximize the total acreage reserved through the use of perpetual easements;

j. To provide, through the State TDR Bank, a financial guarantee with respect to any loan to be extended to any person that is secured using development potential as collateral for the loan. Financial guarantees provided under this act shall be in accordance with procedures, terms and conditions, and requirements, including rights and obligations of the parties in the event of default on any loan secured in whole or in part using development potential as collateral, to be established by rule or regulation adopted by the board pursuant to the "Administrative Procedure Act";

k. To enter into agreement with the State Agriculture Development Committee for the purpose of acquiring development potential through the acquisition of development easements on farmland so that the board may utilize the existing processes, procedures, and capabilities of the State Agriculture Development Committee as necessary and appropriate to accomplish the goals and objectives of the board as provided for pursuant to this act;

l. To enter into agreements with other State agencies or entities providing services and programs authorized by law so that the board may utilize

the existing processes, procedures, and capabilities of those other agencies or entities as necessary and appropriate to accomplish the goals and objectives of the board as provided for pursuant to this act;

m. To provide planning assistance grants to municipalities for up to 50% of the cost of preparing, for development potential transfer purposes, a utility service plan element or a development transfer plan element of a master plan pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28), a real estate market analysis required pursuant to section 12 of P.L.2004, c.2 (C.40:55D-148), and a capital improvement program pursuant to section 20 of P.L.1975, c.291 (C.40:55D-29) and incurred by a municipality, or \$40,000, whichever is less, which grants shall be made utilizing moneys deposited into the bank pursuant to section 8 of P.L.1993, c.339;

n. To provide funding in the form of grants or loans for the purchase of development potential to development transfer banks established by a municipality or county pursuant to P.L.1989, c.86 (C.40:55D-113 et seq.) or section 22 of P.L.2004, c.2 (C.40:55D-158); and

o. To serve as a development transfer bank designated by the governing body of a municipality or county pursuant to section 22 of P.L.2004, c.2 (C.40:55D-158).

31. Section 8 of P.L.1993, c.339 is amended to read as follows:

8. a. There is appropriated to the State Transfer of Development Rights Bank from the "1989 Development Potential Transfer Bank Fund" established pursuant to section 23 of P.L.1989, c.183, the sum of \$20,000,000 for deposit into the State TDR Bank, which shall be expended in accordance with the provisions of P.L.1993, c.339 (C.4:1C-49 et al.).

b. Of the moneys appropriated pursuant to subsection a. of this section, not more than \$400,000 may be expended in total for administrative costs, staff assistance or professional services within the period of four years from the effective date of P.L.1993, c.339 (C.4:1C-49 et al.), and not more than \$1,500,000 may be expended for the purposes of subsection m. of section 4 of P.L.1993, c.339 (C.4:1C-52).

32. Section 3 of P.L.1975, c.291 (C.40:55D-3) is amended to read as follows:

**C.40:55D-3 Definitions; shall, may; A to C.**

3. For the purposes of this act, unless the context clearly indicates a different meaning:

The term "shall" indicates a mandatory requirement, and the term "may" indicates a permissive action.

"Administrative officer" means the clerk of the municipality, unless a different municipal official or officials are designated by ordinance or statute.

"Agricultural land" means "farmland" as defined pursuant to section 3 of P.L.1999, c.152 (C.13:8C-3).

"Applicant" means a developer submitting an application for development.

"Application for development" means the application form and all accompanying documents required by ordinance for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance or direction of the issuance of a permit pursuant to section 25 or section 27 of P.L.1975, c.291 (C.40:55D-34 or C.40:55D-36).

"Approving authority" means the planning board of the municipality, unless a different agency is designated by ordinance when acting pursuant to the authority of P.L.1975, c.291 (C.40:55D-1 et seq.).

"Board of adjustment" means the board established pursuant to section 56 of P.L.1975, c.291 (C.40:55D-69).

"Building" means a combination of materials to form a construction adapted to permanent, temporary, or continuous occupancy and having a roof.

"Cable television company" means a cable television company as defined pursuant to section 3 of P.L.1972, c.186 (C.48:5A-3).

"Capital improvement" means a governmental acquisition of real property or major construction project.

"Circulation" means systems, structures and physical improvements for the movement of people, goods, water, air, sewage or power by such means as streets, highways, railways, waterways, towers, airways, pipes and conduits, and the handling of people and goods by such means as terminals, stations, warehouses, and other storage buildings or transshipment points.

"Common open space" means an open space area within or related to a site designated as a development, and designed and intended for the use or enjoyment of residents and owners of the development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development.

"Conditional use" means a use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in the zoning ordinance, and upon the issuance of an authorization therefor by the planning board.

"Conventional" means development other than planned development.

"County agriculture development board" or "CADB" means a county agriculture development board established by a county pursuant to the provisions of section 7 of P.L.1983, c.32 (C.4:1C-14).

"County master plan" means a composite of the master plan for the physical development of the county in which the municipality is located, with the accompanying maps, plats, charts and descriptive and explanatory matter adopted by the county planning board pursuant to R.S.40:27-2 and R.S.40:27-4.

"County planning board" means the county planning board, as defined in section 1 of P.L.1968, c.285 (C.40:27-6.1), of the county in which the land or development is located.

33. Section 3.1 of P.L.1975, c.291 (C.40:55D-4) is amended to read as follows:

**C.40:55D-4 Definitions; D to L.**

3.1. "Days" means calendar days.

"Density" means the permitted number of dwelling units per gross area of land to be developed.

"Developer" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

"Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to this act.

"Development potential" means the maximum number of dwelling units or square feet of nonresidential floor area that may be constructed on a specified lot or in a specified zone under the master plan and land use regulations in effect on the date of the adoption of the development transfer ordinance, and in accordance with recognized environmental constraints.

"Development regulation" means a zoning ordinance, subdivision ordinance, site plan ordinance, official map ordinance or other municipal regulation of the use and development of land, or amendment thereto adopted and filed pursuant to this act.

"Development transfer" or "development potential transfer" means the conveyance of development potential, or the permission for development, from one or more lots to one or more other lots by deed, easement, or other means as authorized by ordinance.

"Development transfer bank" means a development transfer bank established pursuant to section 22 of P.L.2004, c.2 (C.40:55D-158) or the State TDR Bank.

"Drainage" means the removal of surface water or groundwater from land by drains, grading or other means and includes control of runoff during and after construction or development to minimize erosion and sedimentation, to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical, to lessen nonpoint pollution, to maintain the integrity of stream channels for their biological functions as well as for drainage, and the means necessary for water supply preservation or prevention or alleviation of flooding.

"Environmental commission" means a municipal advisory body created pursuant to P.L.1968, c.245 (C.40:56A-1 et seq.).

"Erosion" means the detachment and movement of soil or rock fragments by water, wind, ice and gravity.

"Final approval" means the official action of the planning board taken on a preliminarily approved major subdivision or site plan, after all conditions, engineering plans and other requirements have been completed or fulfilled and the required improvements have been installed or guarantees properly posted for their completion, or approval conditioned upon the posting of such guarantees.

"Floor area ratio" means the sum of the area of all floors of buildings or structures compared to the total area of the site.

"General development plan" means a comprehensive plan for the development of a planned development, as provided in section 4 of P.L.1987, c.129 (C.40:55D-45.2).

"Governing body" means the chief legislative body of the municipality. In municipalities having a board of public works, "governing body" means such board.

"Historic district" means one or more historic sites and intervening or surrounding property significantly affecting or affected by the quality and character of the historic site or sites.

"Historic site" means any real property, man-made structure, natural object or configuration or any portion or group of the foregoing of historical, archeological, cultural, scenic or architectural significance.

"Instrument" means the easement, credit, or other deed restriction used to record a development transfer.

"Interested party" means: (a) in a criminal or quasi-criminal proceeding, any citizen of the State of New Jersey; and (b) in the case of a civil proceeding in any court or in an administrative proceeding before a municipal agency, any person, whether residing within or without the municipality, whose right to use, acquire, or enjoy property is or may be affected by any

action taken under this act, or whose rights to use, acquire, or enjoy property under this act, or under any other law of this State or of the United States have been denied, violated or infringed by an action or a failure to act under this act.

"Land" includes improvements and fixtures on, above or below the surface.

"Local utility" means any sewerage authority created pursuant to the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.); any utilities authority created pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.); or any utility, authority, commission, special district or other corporate entity not regulated by the Board of Regulatory Commissioners under Title 48 of the Revised Statutes that provides gas, electricity, heat, power, water or sewer service to a municipality or the residents thereof.

"Lot" means a designated parcel, tract or area of land established by a plat or otherwise, as permitted by law and to be used, developed or built upon as a unit.

34. Section 3.2 of P.L.1975, c.291 (C.40:55D-5) is amended to read as follows:

**C.40:55D-5 Definitions; M to O.**

3.2. "Maintenance guarantee" means any security which may be accepted by a municipality for the maintenance of any improvements required by this act, including but not limited to surety bonds, letters of credit under the circumstances specified in section 16 of P.L.1991, c.256 (C.40:55D-53.5), and cash.

"Major subdivision" means any subdivision not classified as a minor subdivision.

"Master plan" means a composite of one or more written or graphic proposals for the development of the municipality as set forth in and adopted pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28).

"Mayor" means the chief executive of the municipality, whatever his official designation may be, except that in the case of municipalities governed by municipal council and municipal manager the term "mayor" shall not mean the "municipal manager" but shall mean the mayor of such municipality.

"Minor site plan" means a development plan of one or more lots which (1) proposes new development within the scope of development specifically permitted by ordinance as a minor site plan; (2) does not involve planned development, any new street or extension of any off-tract improvement which is to be prorated pursuant to section 30 of P.L.1975, c.291



(C.40:55D-42); and (3) contains the information reasonably required in order to make an informed determination as to whether the requirements established by ordinance for approval of a minor site plan have been met.

"Minor subdivision" means a subdivision of land for the creation of a number of lots specifically permitted by ordinance as a minor subdivision; provided that such subdivision does not involve (1) a planned development, (2) any new street or (3) the extension of any off-tract improvement, the cost of which is to be prorated pursuant to section 30 of P.L.1975, c.291 (C.40:55D-42).

"Municipality" means any city, borough, town, township or village.

"Municipal agency" means a municipal planning board or board of adjustment, or a governing body of a municipality when acting pursuant to this act and any agency which is created by or responsible to one or more municipalities when such agency is acting pursuant to this act.

"Municipal resident" means a person who is domiciled in the municipality.

"Nonconforming lot" means a lot, the area, dimension or location of which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

"Nonconforming structure" means a structure the size, dimension or location of which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.

"Nonconforming use" means a use or activity which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption, revision or amendment.

"Office of Smart Growth" means the Office of State Planning established pursuant to section 6 of P.L.1985, c.398 (C.52:18A-201).

"Official county map" means the map, with changes and additions thereto, adopted and established, from time to time, by resolution of the board of chosen freeholders of the county pursuant to R.S.40:27-5.

"Official map" means a map adopted by ordinance pursuant to article 5 of P.L.1975, c.291.

"Offsite" means located outside the lot lines of the lot in question but within the property, of which the lot is a part, which is the subject of a development application or the closest half of the street or right-of-way abutting the property of which the lot is a part.

"Off-tract" means not located on the property which is the subject of a development application nor on the closest half of the abutting street or right-of-way.

"Onsite" means located on the lot in question and excluding any abutting street or right-of-way.

"On-tract" means located on the property which is the subject of a development application or on the closest half of an abutting street or right-of-way.

"Open-space" means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space; provided that such areas may be improved with only those buildings, structures, streets and offstreet parking and other improvements that are designed to be incidental to the natural openness of the land.

35. Section 3.3 of P.L.1975, c.291 (C.40:55D-6) is amended to read as follows:

**C.40:55D-6 Definitions; P to R.**

3.3. "Party immediately concerned" means for purposes of notice any applicant for development, the owners of the subject property and all owners of property and government agencies entitled to notice under section 7.1 of P.L.1975, c.291 (C.40:55D-12).

"Performance guarantee" means any security, which may be accepted by a municipality, including but not limited to surety bonds, letters of credit under the circumstances specified in section 16 of P.L.1991, c.256 (C.40:55D-53.5), and cash.

"Planned commercial development" means an area of a minimum contiguous or noncontiguous size as specified by ordinance to be developed according to a plan as a single entity containing one or more structures with appurtenant common areas to accommodate commercial or office uses or both and any residential and other uses incidental to the predominant use as may be permitted by ordinance.

"Planned development" means planned unit development, planned unit residential development, residential cluster, planned commercial development or planned industrial development.

"Planned industrial development" means an area of a minimum contiguous or noncontiguous size as specified by ordinance to be developed according to a plan as a single entity containing one or more structures with appurtenant common areas to accommodate industrial uses and any other uses incidental to the predominant use as may be permitted by ordinance.

"Planned unit development" means an area with a specified minimum contiguous or noncontiguous acreage of 10 acres or more to be developed as a single entity according to a plan, containing one or more residential clusters or planned unit residential developments and one or more public, quasi-public, commercial or industrial areas in such ranges of ratios of nonresidential uses to residential uses as shall be specified in the zoning ordinance.

"Planned unit residential development" means an area with a specified minimum contiguous or noncontiguous acreage of five acres or more to be developed as a single entity according to a plan containing one or more residential clusters, which may include appropriate commercial, or public or quasi-public uses all primarily for the benefit of the residential development.

"Planning board" means the municipal planning board established pursuant to section 14 of P.L.1975, c.291 (C.40:55D-23).

"Plat" means a map or maps of a subdivision or site plan.

"Preliminary approval" means the conferral of certain rights pursuant to sections 34, 36 and 37 of P.L.1975, c.291 (C.40:55D-46; C.40:55D-48; and C.40:55D-49) prior to final approval after specific elements of a development plan have been agreed upon by the planning board and the applicant.

"Preliminary floor plans and elevations" means architectural drawings prepared during early and introductory stages of the design of a project illustrating in a schematic form, its scope, scale and relationship to its site and immediate environs.

"Public areas" means (1) public parks, playgrounds, trails, paths and other recreational areas; (2) other public open spaces; (3) scenic and historic sites; and (4) sites for schools and other public buildings and structures.

"Public development proposal" means a master plan, capital improvement program or other proposal for land development adopted by the appropriate public body, or any amendment thereto.

"Public drainage way" means the land reserved or dedicated for the installation of storm water sewers or drainage ditches, or required along a natural stream or watercourse for preserving the biological as well as drainage function of the channel and providing for the flow of water to safeguard the public against flood damage, sedimentation and erosion and to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical, and to lessen nonpoint pollution.

"Public open space" means an open space area conveyed or otherwise dedicated to a municipality, municipal agency, board of education, State or county agency, or other public body for recreational or conservational uses.

"Public utility" means any public utility regulated by the Board of Regulatory Commissioners and defined pursuant to R.S.48:2-13.

"Quorum" means the majority of the full authorized membership of a municipal agency.

"Receiving zone" means an area or areas designated in a master plan and zoning ordinance, adopted pursuant to P.L.1975, c.291 (C.40:55D-1 et seq.), within which development may be increased, and which is otherwise consistent with the provisions of section 9 of P.L.2004, c.2 (C.40:55D-145).

"Residential cluster" means a contiguous or noncontiguous area to be developed as a single entity according to a plan containing residential housing units which have a common or public open space area as an appurtenance.

"Residential density" means the number of dwelling units per gross acre of residential land area including streets, easements and open space portions of a development.

"Resubdivision" means (1) the further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law or (2) the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, but does not include conveyances so as to combine existing lots by deed or other instrument.

36. Section 3.4 of P.L.1975, c.291 (C.40:55D-7) is amended to read as follows:

**C.40:55D-7 Definitions; S to Z.**

3.4 "Sedimentation" means the deposition of soil that has been transported from its site of origin by water, ice, wind, gravity or other natural means as a product of erosion.

"Sending zone" means an area or areas designated in a master plan and zoning ordinance, adopted pursuant to P.L.1975, c.291 (C.40:55D-1 et seq.), within which development may be restricted and which is otherwise consistent with the provisions of section 8 of P.L.2004, c.2 (C.40:55D-144).

"Site plan" means a development plan of one or more lots on which is shown (1) the existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, flood plains, marshes and waterways, (2) the location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, screening devices, and (3) any other information that may be reasonably required in order to make an informed determination pursuant to an ordinance requiring review and approval of site plans by the planning board adopted pursuant to article 6 of this act.

"Standards of performance" means standards (1) adopted by ordinance pursuant to subsection 52d. regulating noise levels, glare, earthborne or sonic vibrations, heat, electronic or atomic radiation, noxious odors, toxic matters, explosive and inflammable matters, smoke and airborne particles, waste discharge, screening of unsightly objects or conditions and such other similar matters as may be reasonably required by the municipality or (2) required by applicable federal or State laws or municipal ordinances.

"State Transfer of Development Rights Bank," or "State TDR Bank," means the bank established pursuant to section 3 of P.L.1993, c.339 (C.4:1C-51).

"Street" means any street, avenue, boulevard, road, parkway, viaduct, drive or other way (1) which is an existing State, county or municipal roadway, or (2) which is shown upon a plat heretofore approved pursuant to law, or (3) which is approved by official action as provided by this act, or (4) which is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a planning board and the grant to such board of the power to review plats; and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street lines.

"Structure" means a combination of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land.

"Subdivision" means the division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered subdivisions within the meaning of this act, if no new streets are created: (1) divisions of land found by the planning board or subdivision committee thereof appointed by the chairman to be for agricultural purposes where all resulting parcels are 5 acres or larger in size, (2) divisions of property by testamentary or intestate provisions, (3) divisions of property upon court order, including but not limited to judgments of foreclosure, (4) consolidation of existing lots by deed or other recorded instrument and (5) the conveyance of one or more adjoining lots, tracts or parcels of land, owned by the same person or persons and all of which are found and certified by the administrative officer to conform to the requirements of the municipal development regulations and are shown and designated as separate lots, tracts or parcels on the tax map or atlas of the municipality. The term "subdivision" shall also include the term "resubdivision."

"Transcript" means a typed or printed verbatim record of the proceedings or reproduction thereof.

"Variance" means permission to depart from the literal requirements of a zoning ordinance pursuant to sections 47 and subsections 29.2b., 57c. and 57d. of this act.

"Zoning permit" means a document signed by the administrative officer (1) which is required by ordinance as a condition precedent to the commencement of a use or the erection, construction, reconstruction, alteration, conversion or installation of a structure or building and (2) which acknowledges that such use, structure or building complies with the provisions of the municipal zoning ordinance or variance therefrom duly authorized by a municipal agency pursuant to sections 47 and 57 of this act.

37. Section 19 of P.L.1975, c.291 (C.40:55D-28) is amended to read as follows:

**C.40:55D-28 Preparation; contents; modification.**

**19. Preparation; contents; modification.**

a. The planning board may prepare and, after public hearing, adopt or amend a master plan or component parts thereof, to guide the use of lands within the municipality in a manner which protects public health and safety and promotes the general welfare.

b. The master plan shall generally comprise a report or statement and land use and development proposals, with maps, diagrams and text, presenting, at least the following elements (1) and (2) and, where appropriate, the following elements (3) through (14):

(1) A statement of objectives, principles, assumptions, policies and standards upon which the constituent proposals for the physical, economic and social development of the municipality are based;

(2) A land use plan element (a) taking into account and stating its relationship to the statement provided for in paragraph (1) hereof, and other master plan elements provided for in paragraphs (3) through (14) hereof and natural conditions, including, but not necessarily limited to, topography, soil conditions, water supply, drainage, flood plain areas, marshes, and woodlands; (b) showing the existing and proposed location, extent and intensity of development of land to be used in the future for varying types of residential, commercial, industrial, agricultural, recreational, educational and other public and private purposes or combination of purposes; and stating the relationship thereof to the existing and any proposed zone plan and zoning ordinance; and (c) showing the existing and proposed location of any airports and the boundaries of any airport safety zones delineated pursuant to the "Air Safety and Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.); and (d) including a statement of the standards of population density and development intensity recommended for the municipality;

(3) A housing plan element pursuant to section 10 of P.L.1985, c.222 (C.52:27D-310), including, but not limited to, residential standards and proposals for the construction and improvement of housing;

(4) A circulation plan element showing the location and types of facilities for all modes of transportation required for the efficient movement of people and goods into, about, and through the municipality, taking into account the functional highway classification system of the Federal Highway Administration and the types, locations, conditions and availability of existing and proposed transportation facilities, including air, water, road and rail;

(5) A utility service plan element analyzing the need for and showing the future general location of water supply and distribution facilities, drainage and flood control facilities, sewerage and waste treatment, solid waste disposal and provision for other related utilities, and including any storm water management plan required pursuant to the provisions of P.L.1981, c.32 (C.40:55D-93 et seq.). If a municipality prepares a utility service plan element as a condition for adopting a development transfer ordinance pursuant to subsection c. of section 4 of P.L.2004, c.2 (C.40:55D-140), the plan element shall address the provision of utilities in the receiving zone as provided thereunder;

(6) A community facilities plan element showing the existing and proposed location and type of educational or cultural facilities, historic sites, libraries, hospitals, firehouses, police stations and other related facilities, including their relation to the surrounding areas;

(7) A recreation plan element showing a comprehensive system of areas and public sites for recreation;

(8) A conservation plan element providing for the preservation, conservation, and utilization of natural resources, including, to the extent appropriate, energy, open space, water supply, forests, soil, marshes, wetlands, harbors, rivers and other waters, fisheries, endangered or threatened species wildlife and other resources, and which systemically analyzes the impact of each other component and element of the master plan on the present and future preservation, conservation and utilization of those resources;

(9) An economic plan element considering all aspects of economic development and sustained economic vitality, including (a) a comparison of the types of employment expected to be provided by the economic development to be promoted with the characteristics of the labor pool resident in the municipality and nearby areas and (b) an analysis of the stability and diversity of the economic development to be promoted;

(10) A historic preservation plan element: (a) indicating the location and significance of historic sites and historic districts; (b) identifying the standards used to assess worthiness for historic site or district identification; and

(c) analyzing the impact of each component and element of the master plan on the preservation of historic sites and districts;

(11) Appendices or separate reports containing the technical foundation for the master plan and its constituent elements;

(12) A recycling plan element which incorporates the State Recycling Plan goals, including provisions for the collection, disposition and recycling of recyclable materials designated in the municipal recycling ordinance, and for the collection, disposition and recycling of recyclable materials within any development proposal for the construction of 50 or more units of single-family residential housing or 25 or more units of multi-family residential housing and any commercial or industrial development proposal for the utilization of 1,000 square feet or more of land;

(13) A farmland preservation plan element, which shall include: an inventory of farm properties and a map illustrating significant areas of agricultural land; a statement showing that municipal ordinances support and promote agriculture as a business; and a plan for preserving as much farmland as possible in the short term by leveraging monies made available by P.L.1999, c.152 (C.13:8C-1 et al.) through a variety of mechanisms including, but not limited to, utilizing option agreements, installment purchases, and encouraging donations of permanent development easements; and

(14) A development transfer plan element which sets forth the public purposes, the locations of sending and receiving zones and the technical details of a development transfer program based on the provisions of section 5 of P.L.2004, c.2 (C.40:55D-141).

c. The master plan and its plan elements may be divided into subplans and subplan elements projected according to periods of time or staging sequences.

d. The master plan shall include a specific policy statement indicating the relationship of the proposed development of the municipality, as developed in the master plan to (1) the master plans of contiguous municipalities, (2) the master plan of the county in which the municipality is located, (3) the State Development and Redevelopment Plan adopted pursuant to the "State Planning Act," sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.) and (4) the district solid waste management plan required pursuant to the provisions of the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) of the county in which the municipality is located.

38. Section 20 of P.L.1975, c.291 (C.40:55D-29) is amended to read as follows:

**C.40:55D-29 Preparation of capital improvement program.**

20. a. The governing body may authorize the planning board from time to time to prepare a program of municipal capital improvement projects



projected over a term of at least 6 years, and amendments thereto. Such program may encompass major projects being currently undertaken or future projects to be undertaken, with federal, State, county and other public funds or under federal, State or county supervision. The first year of such program shall, upon adoption by the governing body, constitute the capital budget of the municipality as required by N.J.S.40A:4-43 et seq. The program shall classify projects in regard to the urgency and need for realization, and shall recommend a time sequence for their implementation. The program may also contain the estimated cost of each project and indicate probable operating and maintenance costs and probable revenues, if any, as well as existing sources of funds or the need for additional sources of funds for the implementation and operation of each project. The program shall, as far as possible, be based on existing information in the possession of the departments and agencies of the municipality and shall take into account public facility needs indicated by the prospective development shown in the master plan of the municipality or as permitted by other municipal land use controls.

In preparing the program, the planning board shall confer, in a manner deemed appropriate by the board, with the mayor, the chief fiscal officer, other municipal officials and agencies, and the school board or boards.

Any such program shall include an estimate of the displacement of persons and establishments caused by each recommended project.

b. In addition to any of the requirements in subsection a. of this section, whenever the planning board is authorized and directed to prepare a capital improvements program, every municipal department, authority or agency shall, upon request of the planning board, transmit to said board a statement of all capital projects proposed to be undertaken by such municipal department, authority or agency, during the term of the program, for study, advice and recommendation by the planning board.

c. In addition to all of the other requirements of this section, any municipality that intends to provide for the transfer of development within its jurisdiction pursuant to section 3 of P.L.2004, c.2 (C.40:55D-139) shall include within its capital improvement program provision for those capital projects to be undertaken in the receiving zone or zones required as a condition for adopting a development transfer ordinance pursuant to subsection b. of section 4 of P.L.2004, c.2 (C.40:55D-140).

39. Section 52 of P.L.1975, c.291 (C.40:55D-65) is amended to read as follows:

**C.40:55D-65 Contents of zoning ordinance.**

52. A zoning ordinance may:

a. Limit and restrict buildings and structures to specified districts and regulate buildings and structures according to their type and the nature and

extent of their use, and regulate the nature and extent of the use of land for trade, industry, residence, open space or other purposes.

b. Regulate the bulk, height, number of stories, orientation, and size of buildings and the other structures; the percentage of lot or development area that may be occupied by structures; lot sizes and dimensions; and for these purposes may specify floor area ratios and other ratios and regulatory techniques governing the intensity of land use and the provision of adequate light and air, including, but not limited to the potential for utilization of renewable energy sources.

c. Provide districts for planned developments; provided that an ordinance providing for approval of subdivisions and site plans by the planning board has been adopted and incorporates therein the provisions for such planned developments in a manner consistent with article 6 of P.L.1975, c.291 (C.40:55D-37 et seq.). The zoning ordinance shall establish standards governing the type and density, or intensity of land use, in a planned development. Said standards shall take into account that the density, or intensity of land use, otherwise allowable may not be appropriate for a planned development. The standards may vary the type and density, or intensity of land use, otherwise applicable to the land within a planned development in consideration of the amount, location and proposed use of open space; the location and physical characteristics of the site of the proposed planned development; and the location, design and type of dwelling units and other uses. Such standards may provide for the clustering of development between noncontiguous parcels and may, in order to encourage the flexibility of density, intensity of land uses, design and type, authorize a deviation in various clusters from the density, or intensity of use, established for an entire planned development. The standards and criteria by which the design, bulk and location of buildings are to be evaluated shall be set forth in the zoning ordinance and all standards and criteria for any feature of a planned development shall be set forth in such ordinance with sufficient certainty to provide reasonable criteria by which specific proposals for planned development can be evaluated.

d. Establish, for particular uses or classes of uses, reasonable standards of performance and standards for the provision of adequate physical improvements including, but not limited to, off-street parking and loading areas, marginal access roads and roadways, other circulation facilities and water, sewerage and drainage facilities; provided that section 41 of P.L.1975, c.291 (C.40:55D-53) shall apply to such improvements.

e. Designate and regulate areas subject to flooding (1) pursuant to P.L.1972, c.185 (C.58:16A-55 et seq.) or (2) as otherwise necessary in the absence of appropriate flood hazard area designations pursuant to P.L.1962, c.19 (C.58:16A-50 et seq.) or floodway regulations pursuant to P.L.1972,

c.185 or minimum standards for local flood fringe area regulation pursuant to P.L.1972, c.185.

f. Provide for conditional uses pursuant to section 54 of P.L.1975, c.291 (C.40:55D-67).

g. Provide for senior citizen community housing.

h. Require as a condition for any approval which is required pursuant to such ordinance and the provisions of this chapter, that no taxes or assessments for local improvements are due or delinquent on the property for which any application is made.

i. Provide for historic preservation pursuant to section 5 of P.L.1991, c.199 (C.40:55D-65.1).

j. Provide for sending and receiving zones for a development transfer program established pursuant to P.L.2004, c.2 (C.40:55D-137 et al.).

40. This act shall take effect 180 days next following enactment, except that section 12 shall take effect immediately.

Approved March 29, 2004.

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### CHAPTER 3

AN ACT designating the third Saturday in June of each year as "Juneteenth Independence Day" in New Jersey.

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

1. The Legislature finds and declares that:

a. Juneteenth was first observed over 130 years ago, and is the oldest known celebration of the abolition of slavery in the United States;

b. Juneteenth commemorates June 19, 1865, the day General Gordon Granger rode into Galveston, Texas, with news that the Civil War had ended and the enslaved were free;

c. Word of freedom finally reached the slaves in Texas, two and a half years after the 1863 Emancipation Proclamation, and so the majority of slaves in the South were made aware of their freedom and jubilant celebrations evolved into a general celebration of freedom;

d. The celebration of Juneteenth symbolizes freedom, celebrates the abolition of slavery, and reminds all Americans of the significant contributions African-Americans have made to our society;

e. Juneteenth serves as a reminder to all Americans of the triumph of the human spirit over the cruelty of slavery, honors those African-Americans who survived the inhumane institution of bondage, and demonstrates pride in their legacy of resistance and perseverance;

f. Juneteenth was first given official State recognition when, in 1980, Texas made it an official state holiday, and a campaign exists to establish Juneteenth as a national holiday;

g. In modern times, Juneteenth continues to enjoy growing interest, recognition, and celebration among organizations and communities throughout the country, with Juneteenth-centered activities having been sponsored by such institutions as the Smithsonian Museum and the Henry Ford Museum;

h. In New Jersey, Juneteenth is celebrated in communities such as East Orange, Camden, Jersey City, Paterson, Pennington, Trenton and Willingboro;

i. It is proper and fitting for the State of New Jersey to designate the third Saturday in June of each year as "Juneteenth Independence Day" in New Jersey to honor and celebrate the emancipation of our ancestors.

**C.36:2-80 "Juneteenth Independence Day"; designated.**

2. The third Saturday in June of each year is hereby designated as "Juneteenth Independence Day" in New Jersey to commemorate and celebrate the emancipation of African-Americans and foster respect for all cultures.

**C.36:2-81 Annual observation, call by Governor.**

3. The Governor shall annually issue a proclamation and call upon public officials, private organizations and all citizens of this State to observe this emancipation celebration each year with appropriate events and activities.

4. a. Each board of education may offer instruction on "Juneteenth Independence Day" at an appropriate place in the curriculum.

b. The Commissioner of Education shall develop and make available to each board of education curriculum guidelines for the teaching of "Juneteenth Independence Day" within the public school curriculum. The guidelines shall include, but not be limited to, instruction on the historical and cultural significance of Juneteenth.

5. This act shall take effect immediately.

Approved April 4, 2004.

## CHAPTER 4

AN ACT concerning the purchase of agricultural and horticultural products and commodities and amending P.L.1999, c.32.

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

1. Section 1 of P.L.1999, c.32 (C.52:32-1.6) is amended to read as follows:

**C.52:32-1.6 Review, modification of bid, product specifications relative to purchase of "Jersey Fresh", "Jersey Grown" agricultural, horticultural products or commodities.**

1. a. The Director of the Division of Purchase and Property in the Department of the Treasury shall, upon consultation with the Department of Agriculture, review and modify all bid and product specifications relating to the purchase of agricultural and horticultural products and commodities, so that the specifications do not discriminate against, but encourage, the maximum purchase of "Jersey Fresh," "Jersey Grown," and other agricultural food products and commodities grown or raised in New Jersey. In purchasing any agricultural or horticultural products or commodities for use by the various agencies and departments of the State government, for the entities defined in section 1 of P.L.1959, c.40 (C.52:27B-56.1), or for any county, municipality or school district pursuant to P.L.1969, c.104 (C.52:25-16.1 et al.), the Director of the Division of Purchase and Property, to the maximum extent possible, shall make contracts available for "Jersey Fresh," "Jersey Grown," and other agricultural food products and commodities grown or raised in New Jersey, unless the director determines it to be inconsistent with the public interest or the cost to be unreasonable. The Department of Agriculture shall provide information regarding the location and time of year "Jersey Fresh," "Jersey Grown," and other agricultural food products and commodities grown or raised in New Jersey are available to the Division of Purchase and Property.

b. To the extent any agency or department of State government purchases agricultural or horticultural products or commodities other than through or by the Division of Purchase and Property, the agency or department shall follow guidelines therefor to be developed and issued by the Division of Purchase and Property in consultation with the Department of Agriculture. These guidelines shall encourage and promote to the maximum extent practicable the purchase of "Jersey Fresh," "Jersey Grown," and other agricultural food products and commodities grown or raised in New Jersey.

2. This act shall take effect immediately.

Approved April 7, 2004.

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## CHAPTER 5

AN ACT concerning domestic violence shelters and supplementing P.L.1979, c.337 (C.30:14-1 et seq.).

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

**C.30:14-13.1 Shelter, domestic violence victims; location, not public record.**

1. Information which may identify the location of a shelter for victims of domestic violence shall not be deemed to be a public record pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et seq.).

2. This act shall take effect immediately.

Approved April 7, 2004.

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## CHAPTER 6

AN ACT allocating certain previously appropriated, unexpended funds for remediating underground storage tanks and discharges therefrom to the support of brownfields development and to establish an underground storage tank inspection program, supplementing Title 13 of the Revised Statutes and amending P.L.2003, c.122.

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

**C.58:10B-4.1 Corporation business tax revenue, certain, deposited to Hazardous Discharge Site Remediation Fund; amount.**

1. a. Pursuant to the amendment of subparagraph (b) of paragraph 6 of Article VIII, Section II of the State Constitution, adopted at the 2003 general election and effective December 4, 2003, authorizing corporation business tax revenue previously dedicated under that subparagraph for the remediation of underground storage tanks and discharges therefrom to be used for hazardous discharge site remediation, the New Jersey Economic Development Authority shall deposit the amount determined under subsection b. of this

section into the Hazardous Discharge Site Remediation Fund, created pursuant to section 26 of P.L.1993, c.139 (C.58:10B-4), for the purposes of that fund.

b. The amount to be deposited under subsection a. of this section shall equal: (1) fifty percent of that portion of the monies dedicated pursuant to the provisions of subparagraph (b) of paragraph 6 of Article VIII, Section II of the State Constitution prior to the amendment of that subparagraph effective December 4, 2003 to provide funding, including the provision of loans or grants, for the upgrade, replacement, or closure of underground storage tanks that store or were used to store hazardous substances, and for the costs of remediating any discharge therefrom, previously appropriated by P.L.1997, c.235 to the New Jersey Economic Development Authority for deposit into the Petroleum Underground Storage Tank Remediation, Upgrade, and Closure Fund, and by P.L.1997, c.131; P.L.1998, c.45; P.L.1999, c.130; P.L.2000, c.53; P.L.2001, c.130; P.L.2002, c.138; and P.L.2003, c.122 to the Private Underground Storage Tank Remediation - Constitutional Dedication account in the Department of Environmental Protection, and remaining unexpended as of December 31, 2003, as shall be determined by the Director of the Division of Budget and Accounting, less (2) \$1,000,000.

**C.58:10A-30.1 Underground storage tank inspection program, established.**

2. There shall be established an underground storage tank inspection program in the Department of Environmental Protection pursuant to provisions of the amendment of subparagraph (b) of paragraph 6 of Article VIII, Section II of the State Constitution, adopted at the 2003 general election and effective December 4, 2003 providing therefor.

3. The following language provision is added to section 1 of P.L.2003, c.122, the fiscal year 2004 annual appropriation act:

**42 DEPARTMENT OF ENVIRONMENTAL  
PROTECTION**

***40 Community Development and Environmental Management***  
***44 Site Remediation and Waste Management***

**CAPITAL CONSTRUCTION**  
**29-4815 Environmental Remediation and Monitoring**

Of the unexpended balance from the amount appropriated to the Department of Environmental Protection for Private Underground Tank Remediation - Constitutional Dedication for the fiscal year ending June 30, 2004 by P.L.2003, c.122, there is allocated an amount not to exceed \$1,000,000, as shall be determined by the Director of the Division of Budget and

Accounting, to the department for the costs of the State underground storage tank inspection program, which costs may include the direct but not indirect program administrative costs incurred by the State for the employment of inspectors and a compliance and enforcement staff, and the purchase of vehicles and equipment necessary for the implementation thereof.

4. This act shall take effect immediately.

Approved April 14, 2004.

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## CHAPTER 7

AN ACT concerning teacher certification and supplementing chapter 26 of Title 18A of the New Jersey Statutes.

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

**C.18A:26-2.6 Instructional certificate; technology education endorsement, industrial arts, endorsement.**

1. a. The State Board of Education shall authorize a technology education endorsement to the instructional certificate. The endorsement shall authorize the holder to teach technology education in all public schools. Technology education shall include content which is aligned to the core curriculum content standards and which reflects the standards for technology literacy published by the International Technology Education Association.

b. The State board shall issue an endorsement for industrial arts after the effective date of this act.

This endorsement shall authorize the holder to teach industrial arts which includes: graphic arts, drafting, woodworking, metal working, arts and power mechanics.

c. Teachers holding an industrial arts endorsement prior to the effective date of this act and who are employed in a school district teaching technology education or courses as described in subsection a. of this section prior to that date or who have passed the Educational Testing Service Praxis test in technology education or any other test of subject matter knowledge designated by the State board shall, upon application to the State Board of Examiners, be issued a technology education endorsement. A teacher issued a technology education endorsement pursuant to this subsection shall have all of his service teaching technology education or courses as described in



subsection a. of this section under the industrial arts endorsement credited toward tenure and seniority as if rendered under the technology education endorsement.

d. Nothing in this act shall be construed to preclude an individual from holding both a technology education endorsement and an endorsement for industrial arts.

**C.18A:26-2.7 Rules.**

2. The State Board of Education shall promulgate rules pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the provisions of this act, including the development of the requirements for the technology education endorsement which shall be aligned with the core curriculum content standards.

3. This act shall take effect immediately.

Approved April 23, 2004.

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CHAPTER 8

AN ACT concerning refusal to submit to a breath test, amending P.L.1981, c.512 and R.S.39:4-50, and supplementing chapter 4 of Title 39 of the Revised Statutes.

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

1. Section 2 of P.L.1981, c.512 (C.39:4-50.4a) is amended to read as follows:

**C.39:4-50.4a Revocation for refusal to submit to breath test; penalties.**

2. a. Except as provided in subsection b. of this section, the municipal court shall revoke the right to operate a motor vehicle of any operator who, after being arrested for a violation of R.S.39:4-50, shall refuse to submit to a test provided for in section 2 of P.L.1966, c.142 (C.39:4-50.2) when requested to do so, for not less than seven months or more than one year unless the refusal was in connection with a second offense under this section, in which case the revocation period shall be for two years or unless the refusal was in connection with a third or subsequent offense under this section in which case the revocation shall be for ten years. A conviction or administrative determination of a violation of a law of a substantially similar nature in another jurisdiction, regardless of whether that jurisdiction is a

signatory to the Interstate Driver License Compact pursuant to P.L.1966, c.73 (C.39:5D-1 et seq.), shall constitute a prior conviction under this section.

The municipal court shall determine by a preponderance of the evidence whether the arresting officer had probable cause to believe that the person had been driving or was in actual physical control of a motor vehicle on the public highways or quasi-public areas of this State while the person was under the influence of intoxicating liquor or a narcotic, hallucinogenic, or habit-producing drug or marijuana; whether the person was placed under arrest, if appropriate, and whether he refused to submit to the test upon request of the officer; and if these elements of the violation are not established, no conviction shall issue. In addition to any other requirements provided by law, a person whose operator's license is revoked for refusing to submit to a test shall be referred to an Intoxicated Driver Resource Center established by subsection (f.) of R.S.39:4-50 and shall satisfy the same requirements of the center for refusal to submit to a test as provided for in section 2 of P.L.1966, c.142 (C.39:4-50.2) in connection with a first, second, third or subsequent offense under this section that must be satisfied by a person convicted of a commensurate violation of this section, or be subject to the same penalties as such a person for failure to do so. For a first offense, the revocation may be concurrent with or consecutive to any revocation imposed for a conviction under the provisions of R.S.39:4-50 arising out of the same incident. For a second or subsequent offense, the revocation shall be consecutive to any revocation imposed for a conviction under the provisions of R.S.39:4-50. In addition to issuing a revocation, except as provided in subsection b. of this section, the municipal court shall fine a person convicted under this section, a fine of not less than \$300 or more than \$500 for a first offense; a fine of not less than \$500 or more than \$1,000 for a second offense; and a fine of \$1,000 for a third or subsequent offense.

b. For a first offense, the fine imposed upon the convicted person shall be not less than \$600 or more than \$1,000 and the period of license suspension shall be not less than one year or more than two years; for a second offense, a fine of not less than \$1,000 or more than \$2,000 and a license suspension for a period of four years; and for a third or subsequent offense, a fine of \$2,000 and a license suspension for a period of 20 years when a violation of this section occurs while:

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

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

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

A map or true copy of a map depicting the location and boundaries of the area on or within 1,000 feet of any property used for school purposes which is owned by or leased to any elementary or secondary school or school board produced pursuant to section 1 of P.L.1997, c.101 (C.2C:35-7) may be used in a prosecution under paragraph (1) of this subsection.

It shall not be relevant to the imposition of sentence pursuant to paragraph (1) or (2) of this subsection that the defendant was unaware that the prohibited conduct took place while on or within 1,000 feet of any school property or while driving through a school crossing. Nor shall it be relevant to the imposition of sentence that no juveniles were present on the school property or crossing zone at the time of the offense or that the school was not in session.

2. R.S.39:4-50 is amended to read as follows:

**Driving while intoxicated.**

39:4-50. (a) Except as provided in subsection (g) of this section, a person who operates a motor vehicle while under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug, or operates a motor vehicle with a blood alcohol concentration of 0.08% or more by weight of alcohol in the defendant's blood or permits another person who is under the influence of intoxicating liquor, narcotic, hallucinogenic or habit-producing drug to operate a motor vehicle owned by him or in his custody or control or permits another to operate a motor vehicle with a blood alcohol concentration of 0.08% or more by weight of alcohol in the defendant's blood shall be subject:

(1) For the first offense:

(I) if the person's blood alcohol concentration is 0.08% or higher but less than 0.10%, or the person operates a motor vehicle while under the influence of intoxicating liquor, or the person permits another person who is under the influence of intoxicating liquor to operate a motor vehicle owned by him or in his custody or control or permits another person with a blood alcohol concentration of 0.08% or higher but less than 0.10% to operate a motor vehicle, to a fine of not less than \$250 nor more than \$400 and a period of detainment of not less than 12 hours nor more than 48 hours spent during two consecutive days of not less than six hours each day and served as prescribed by the program requirements of the Intoxicated Driver Resource Centers established under subsection (f) of this section and, in the discretion of the court, a term of imprisonment of not more than 30 days and

shall forthwith forfeit his right to operate a motor vehicle over the highways of this State for a period of three months;

(ii) if the person's blood alcohol concentration is 0.10% or higher, or the person operates a motor vehicle while under the influence of narcotic, hallucinogenic or habit-producing drug, or the person permits another person who is under the influence of narcotic, hallucinogenic or habit-producing drug to operate a motor vehicle owned by him or in his custody or control, or permits another person with a blood alcohol concentration of 0.10% or more to operate a motor vehicle, to a fine of not less than \$300 nor more than \$500 and a period of detainment of not less than 12 hours nor more than 48 hours spent during two consecutive days of not less than six hours each day and served as prescribed by the program requirements of the Intoxicated Driver Resource Centers established under subsection (f) of this section and, in the discretion of the court, a term of imprisonment of not more than 30 days and shall forthwith forfeit his right to operate a motor vehicle over the highways of this State for a period of not less than seven months nor more than one year;

(iii) For a first offense, a person also shall be subject to the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.).

(2) For a second violation, a person shall be subject to a fine of not less than \$500.00 nor more than \$1,000.00, and shall be ordered by the court to perform community service for a period of 30 days, which shall be of such form and on such terms as the court shall deem appropriate under the circumstances, and shall be sentenced to imprisonment for a term of not less than 48 consecutive hours, which shall not be suspended or served on probation, nor more than 90 days, and shall forfeit his right to operate a motor vehicle over the highways of this State for a period of two years upon conviction, and, after the expiration of said period, he may make application to the Chief Administrator of the New Jersey Motor Vehicle Commission for a license to operate a motor vehicle, which application may be granted at the discretion of the chief administrator, consistent with subsection (b) of this section. For a second violation, a person also shall be required to install an ignition interlock device under the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.) or shall have his registration certificate and registration plates revoked for two years under the provisions of section 2 of P.L.1995, c.286 (C.39:3-40.1).

(3) For a third or subsequent violation, a person shall be subject to a fine of \$1,000.00, and shall be sentenced to imprisonment for a term of not less than 180 days in a county jail or workhouse, except that the court may lower such term for each day, not exceeding 90 days, served participating in a drug or alcohol inpatient rehabilitation program approved by the Intoxicated Driver Resource Center and shall thereafter forfeit his right to operate a

motor vehicle over the highways of this State for 10 years. For a third or subsequent violation, a person also shall be required to install an ignition interlock device under the provisions of P.L.1999, c.417 (C.39:4-50.16 et al.) or shall have his registration certificate and registration plates revoked for 10 years under the provisions of section 2 of P.L.1995, c.286 (C.39:3-40.1).

As used in this section, the phrase "narcotic, hallucinogenic or habit-producing drug" includes an inhalant or other substance containing a chemical capable of releasing any toxic vapors or fumes for the purpose of inducing a condition of intoxication, such as any glue, cement or any other substance containing one or more of the following chemical compounds: acetone and acetate, amyl nitrite or amyl nitrate or their isomers, benzene, butyl alcohol, butyl nitrite, butyl nitrate or their isomers, ethyl acetate, ethyl alcohol, ethyl nitrite or ethyl nitrate, ethylene dichloride, isobutyl alcohol or isopropyl alcohol, methyl alcohol, methyl ethyl ketone, nitrous oxide, n-propyl alcohol, pentachlorophenol, petroleum ether, propyl nitrite or propyl nitrate or their isomers, toluene, toluol or xylene or any other chemical substance capable of causing a condition of intoxication, inebriation, excitement, stupefaction or the dulling of the brain or nervous system as a result of the inhalation of the fumes or vapors of such chemical substance.

Whenever an operator of a motor vehicle has been involved in an accident resulting in death, bodily injury or property damage, a police officer shall consider that fact along with all other facts and circumstances in determining whether there are reasonable grounds to believe that person was operating a motor vehicle in violation of this section.

A conviction of a violation of a law of a substantially similar nature in another jurisdiction, regardless of whether that jurisdiction is a signatory to the Interstate Driver License Compact pursuant to P.L.1966, c.73 (C.39:5D-1 et seq.), shall constitute a prior conviction under this subsection unless the defendant can demonstrate by clear and convincing evidence that the conviction in the other jurisdiction was based exclusively upon a violation of a proscribed blood alcohol concentration of less than 0.08%.

If the driving privilege of any person is under revocation or suspension for a violation of any provision of this Title or Title 2C of the New Jersey Statutes at the time of any conviction for a violation of this section, the revocation or suspension period imposed shall commence as of the date of termination of the existing revocation or suspension period. In the case of any person who at the time of the imposition of sentence is less than 17 years of age, the forfeiture, suspension or revocation of the driving privilege imposed by the court under this section shall commence immediately, run through the offender's seventeenth birthday and continue from that date for the period set by the court pursuant to paragraphs (1) through (3) of this

subsection. A court that imposes a term of imprisonment for a first or second offense under this section may sentence the person so convicted to the county jail, to the workhouse of the county wherein the offense was committed, to an inpatient rehabilitation program or to an Intoxicated Driver Resource Center or other facility approved by the chief of the Intoxicated Driving Program Unit in the Department of Health and Senior Services. For a third or subsequent offense a person shall not serve a term of imprisonment at an Intoxicated Driver Resource Center as provided in subsection (f).

A person who has been convicted of a previous violation of this section need not be charged as a second or subsequent offender in the complaint made against him in order to render him liable to the punishment imposed by this section on a second or subsequent offender, but if the second offense occurs more than 10 years after the first offense, the court shall treat the second conviction as a first offense for sentencing purposes and if a third offense occurs more than 10 years after the second offense, the court shall treat the third conviction as a second offense for sentencing purposes.

(b) A person convicted under this section must satisfy the screening, evaluation, referral, program and fee requirements of the Division of Alcoholism and Drug Abuse's Intoxicated Driving Program Unit, and of the Intoxicated Driver Resource Centers and a program of alcohol and drug education and highway safety, as prescribed by the chief administrator. The sentencing court shall inform the person convicted that failure to satisfy such requirements shall result in a mandatory two-day term of imprisonment in a county jail and a driver license revocation or suspension and continuation of revocation or suspension until such requirements are satisfied, unless stayed by court order in accordance with the Rules Governing the Courts of the State of New Jersey, or R.S.39:5-22. Upon sentencing, the court shall forward to the Division of Alcoholism and Drug Abuse's Intoxicated Driving Program Unit a copy of a person's conviction record. A fee of \$100.00 shall be payable to the Alcohol Education, Rehabilitation and Enforcement Fund established pursuant to section 3 of P.L.1983, c.531 (C.26:2B-32) to support the Intoxicated Driving Program Unit.

(c) Upon conviction of a violation of this section, the court shall collect forthwith the New Jersey driver's license or licenses of the person so convicted and forward such license or licenses to the chief administrator. The court shall inform the person convicted that if he is convicted of personally operating a motor vehicle during the period of license suspension imposed pursuant to subsection (a) of this section, he shall, upon conviction, be subject to the penalties established in R.S.39:3-40. The person convicted shall be informed orally and in writing. A person shall be required to acknowledge receipt of that written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written

notice shall not be a defense to a subsequent charge of a violation of R.S.39:3-40. In the event that a person convicted under this section is the holder of any out-of-State driver's license, the court shall not collect the license but shall notify forthwith the chief administrator, who shall, in turn, notify appropriate officials in the licensing jurisdiction. The court shall, however, revoke the nonresident's driving privilege to operate a motor vehicle in this State, in accordance with this section. Upon conviction of a violation of this section, the court shall notify the person convicted, orally and in writing, of the penalties for a second, third or subsequent violation of this section. A person shall be required to acknowledge receipt of that written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of this section.

(d) The chief administrator shall promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) in order to establish a program of alcohol education and highway safety, as prescribed by this act.

(e) Any person accused of a violation of this section who is liable to punishment imposed by this section as a second or subsequent offender shall be entitled to the same rights of discovery as allowed defendants pursuant to the Rules Governing the Courts of the State of New Jersey.

(f) The counties, in cooperation with the Division of Alcoholism and Drug Abuse and the commission, but subject to the approval of the Division of Alcoholism and Drug Abuse, shall designate and establish on a county or regional basis Intoxicated Driver Resource Centers. These centers shall have the capability of serving as community treatment referral centers and as court monitors of a person's compliance with the ordered treatment, service alternative or community service. All centers established pursuant to this subsection shall be administered by a counselor certified by the Alcohol and Drug Counselor Certification Board of New Jersey or other professional with a minimum of five years' experience in the treatment of alcoholism. All centers shall be required to develop individualized treatment plans for all persons attending the centers; provided that the duration of any ordered treatment or referral shall not exceed one year. It shall be the center's responsibility to establish networks with the community alcohol and drug education, treatment and rehabilitation resources and to receive monthly reports from the referral agencies regarding a person's participation and compliance with the program. Nothing in this subsection shall bar these centers from developing their own education and treatment programs; provided that they are approved by the Division of Alcoholism and Drug Abuse.

Upon a person's failure to report to the initial screening or any subsequent ordered referral, the Intoxicated Driver Resource Center shall promptly notify the sentencing court of the person's failure to comply.

Required detention periods at the Intoxicated Driver Resource Centers shall be determined according to the individual treatment classification assigned by the Intoxicated Driving Program Unit. Upon attendance at an Intoxicated Driver Resource Center, a person shall be required to pay a per diem fee of \$75.00 for the first offender program or a per diem fee of \$100.00 for the second offender program, as appropriate. Any increases in the per diem fees after the first full year shall be determined pursuant to rules and regulations adopted by the Commissioner of Health and Senior Services in consultation with the Governor's Council on Alcoholism and Drug Abuse pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

The centers shall conduct a program of alcohol and drug education and highway safety, as prescribed by the chief administrator.

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

(g) When a violation of this section occurs while:

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

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

(3) driving through a school crossing as defined in R.S.39:1-1 knowing that juveniles are present if the municipality has not designated the school crossing as such by ordinance or resolution, the convicted person shall: for a first offense, be fined not less than \$500 or more than \$800, be imprisoned for not more than 60 days and have his license to operate a motor vehicle suspended for a period of not less than one year or more than two years; for a second offense, be fined not less than \$1,000 or more than \$2,000, perform community service for a period of 60 days, be imprisoned for not less than 96 consecutive hours, which shall not be suspended or served on probation, nor more than 180 days, except that the court may lower such term for each day, not exceeding 90 days, served performing community service in such form and on such terms as the court shall deem appropriate under the circumstances and have his license to operate a motor vehicle suspended for a period of four years; and, for a third offense, be fined \$2,000, imprisoned for 180 days in a county jail or workhouse, except that the court may lower such term for each day, not exceeding 90 days, served participating in a drug or



alcohol inpatient rehabilitation program approved by the Intoxicated Driver Resource Center, and have his license to operate a motor vehicle suspended for a period of 20 years; the period of license suspension shall commence upon the completion of any prison sentence imposed upon that person.

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

It shall not be relevant to the imposition of sentence pursuant to paragraph (1) or (2) of this subsection that the defendant was unaware that the prohibited conduct took place while on or within 1,000 feet of any school property or while driving through a school crossing. Nor shall it be relevant to the imposition of sentence that no juveniles were present on the school property or crossing zone at the time of the offense or that the school was not in session.

(h) A court also may order a person convicted pursuant to subsection a. of this section, to participate in a supervised visitation program as either a condition of probation or a form of community service, giving preference to those who were under the age of 21 at the time of the offense. Prior to ordering a person to participate in such a program, the court may consult with any person who may provide useful information on the defendant's physical, emotional and mental suitability for the visit to ensure that it will not cause any injury to the defendant. The court also may order that the defendant participate in a counseling session under the supervision of the Intoxicated Driving Program Unit prior to participating in the supervised visitation program. The supervised visitation program shall be at one or more of the following facilities which have agreed to participate in the program under the supervision of the facility's personnel and the probation department:

(1) a trauma center, critical care center or acute care hospital having basic emergency services, which receives victims of motor vehicle accidents for the purpose of observing appropriate victims of drunk drivers and victims who are, themselves, drunk drivers;

(2) a facility which cares for advanced alcoholics or drug abusers, to observe persons in the advanced stages of alcoholism or drug abuse; or

(3) if approved by a county medical examiner, the office of the county medical examiner or a public morgue to observe appropriate victims of vehicle accidents involving drunk drivers.

As used in this section, "appropriate victim" means a victim whose condition is determined by the facility's supervisory personnel and the probation officer to be appropriate for demonstrating the results of accidents

involving drunk drivers without being unnecessarily gruesome or traumatic to the defendant.

If at any time before or during a visitation the facility's supervisory personnel and the probation officer determine that the visitation may be or is traumatic or otherwise inappropriate for that defendant, the visitation shall be terminated without prejudice to the defendant. The program may include a personal conference after the visitation, which may include the sentencing judge or the judge who coordinates the program for the court, the defendant, defendant's counsel, and, if available, the defendant's parents to discuss the visitation and its effect on the defendant's future conduct. If a personal conference is not practicable because of the defendant's absence from the jurisdiction, conflicting time schedules, or any other reason, the court shall require the defendant to submit a written report concerning the visitation experience and its impact on the defendant. The county, a court, any facility visited pursuant to the program, any agents, employees, or independent contractors of the court, county, or facility visited pursuant to the program, and any person supervising a defendant during the visitation, are not liable for any civil damages resulting from injury to the defendant, or for civil damages associated with the visitation which are caused by the defendant, except for willful or grossly negligent acts intended to, or reasonably expected to result in, that injury or damage.

The Supreme Court may adopt court rules or directives to effectuate the purposes of this subsection.

(i) In addition to any other fine, fee, or other charge imposed pursuant to law, the court shall assess a person convicted of a violation of the provisions of this section a surcharge of \$100, of which amount \$50 shall be payable to the municipality in which the conviction was obtained and \$50 shall be payable to the Treasurer of the State of New Jersey for deposit into the General Fund.

**C.39:4-50.2a Guidelines for DWI and breath test refusal prosecutions.**

3. In order to promote the uniform enforcement of R.S.39:4-50 and section 2 of P.L.1966, c.142 (C.39:4-50.2), the Attorney General shall promulgate guidelines concerning the prosecution of such violations. The guidelines shall be disseminated to county and municipal prosecutors within 120 days of the effective date of this act.

4. This act shall take effect immediately.

Approved April 26, 2004.

## CHAPTER 9

AN ACT concerning patient safety and supplementing Title 26 of the Revised Statutes.

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

**C.26:2H-12.23 Short title.**

1. This act shall be known and may be cited as the "Patient Safety Act."

**C.26:2H-12.24 Findings, declarations relative to patient safety.**

2. The Legislature finds and declares that:
  - a. Adverse events, some of which are the result of preventable errors, are inherent in all systems, and the health care literature demonstrates that the great majority of medical errors result from systems problems, not individual incompetence;
  - b. Well-designed systems have processes built in to minimize the occurrence of errors, as well as to detect those that do occur; they incorporate mechanisms to continually improve their performance;
  - c. To enhance patient safety, the goal is to craft a health care delivery system that minimizes, to the greatest extent feasible, the harm to patients that results from the delivery system itself;
  - d. An important component of a successful patient safety strategy is a feedback mechanism that allows detection and analysis not only of adverse events, but also of "near-misses";
  - e. To encourage disclosure of these events so that they can be analyzed and used for improvement, it is critical to create a non-punitive culture that focuses on improving processes rather than assigning blame. Health care facilities and professionals must be held accountable for serious preventable adverse events; however, punitive environments are not particularly effective in promoting accountability and increasing patient safety, and may be a deterrent to the exchange of information required to reduce the opportunity for errors to occur in the complex systems of care delivery. Fear of sanctions induces health care professionals and organizations to be silent about adverse events, resulting in serious under-reporting; and
  - f. By establishing an environment that both mandates the confidential disclosure of the most serious, preventable adverse events, and also encourages the voluntary, anonymous and confidential disclosure of less serious adverse events, as well as preventable events and near misses, the State seeks to increase the amount of information on systems failures, analyze the sources of these failures and disseminate information on effective practices for reducing systems failures and improving the safety of patients.

**C.26:2H-12.25 Definitions relative to patient safety; plans; reports; documentation, notification of adverse events, etc.**

3. a. As used in this act:

"Adverse event" means an event that is a negative consequence of care that results in unintended injury or illness, which may or may not have been preventable.

"Anonymous" means that information is presented in a form and manner that prevents the identification of the person filing the report.

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

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

"Event" means a discrete, auditable and clearly defined occurrence.

"Health care facility" or "facility" means a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) and a State psychiatric hospital operated by the Department of Human Services and listed in R.S.30:1-7.

"Health care professional" means an individual who, acting within the scope of his licensure or certification, provides health care services, and includes, but is not limited to, a physician, dentist, nurse, pharmacist or other health care professional whose professional practice is regulated pursuant to Title 45 of the Revised Statutes.

"Near-miss" means an occurrence that could have resulted in an adverse event but the adverse event was prevented.

"Preventable event" means an event that could have been anticipated and prepared against, but occurs because of an error or other system failure.

"Serious preventable adverse event" means an adverse event that is a preventable event and results in death or loss of a body part, or disability or loss of bodily function lasting more than seven days or still present at the time of discharge from a health care facility.

b. In accordance with the requirements established by the commissioner by regulation, pursuant to this act, a health care facility shall develop and implement a patient safety plan for the purpose of improving the health and safety of patients at the facility.

The patient safety plan shall, at a minimum, include:

(1) a patient safety committee, as prescribed by regulation;

(2) a process for teams of facility staff, which teams are comprised of personnel who are representative of the facility's various disciplines and have appropriate competencies, to conduct ongoing analysis and application of evidence-based patient safety practices in order to reduce the probability of adverse events resulting from exposure to the health care system across a range of diseases and procedures;

(3) a process for teams of facility staff, which teams are comprised of personnel who are representative of the facility's various disciplines and have appropriate competencies, to conduct analyses of near-misses, with particular attention to serious preventable adverse events and adverse events; and

(4) a process for the provision of ongoing patient safety training for facility personnel.

The provisions of this subsection shall not be construed to eliminate or lessen a hospital's obligation under current law or regulation to have a continuous quality improvement program.

c. A health care facility shall report to the department or, in the case of a State psychiatric hospital, to the Department of Human Services, in a form and manner established by the commissioner, every serious preventable adverse event that occurs in that facility.

d. A health care facility shall assure that the patient affected by a serious preventable adverse event or an adverse event specifically related to an allergic reaction, or, in the case of a minor or a patient who is incapacitated, the patient's parent or guardian or other family member, as appropriate, is informed of the serious preventable adverse event or adverse event specifically related to an allergic reaction, no later than the end of the episode of care, or, if discovery occurs after the end of the episode of care, in a timely fashion as established by the commissioner by regulation. The time, date, participants and content of the notification shall be documented in the patient's medical record in accordance with rules and regulations adopted by the commissioner. The content of the documentation shall be determined in accordance with the rules and regulations of the commissioner. If the patient's physician determines that the disclosure would seriously and adversely affect the patient's health, then the facility shall assure that the family member, if available, is notified in accordance with rules and regulations adopted by the commissioner. In the event that an adult patient is not informed of the serious preventable adverse event or adverse event specifically related to an allergic reaction, the facility shall assure that the physician includes a statement in the patient's medical record that provides the reason for not informing the patient pursuant to this section.

e. (1) A health care professional or other employee of a health care facility is encouraged to make anonymous reports to the department or, in the case of a State psychiatric hospital, to the Department of Human Services, in a form and manner established by the commissioner, regarding near-misses, preventable events and adverse events that are otherwise not subject to mandatory reporting pursuant to subsection c. of this section.

(2) The commissioner shall establish procedures for and a system to collect, store and analyze information voluntarily reported to the department

pursuant to this subsection. The repository shall function as a clearinghouse for trend analysis of the information collected pursuant to this subsection.

f. Any documents, materials or information received by the department, or the Department of Human Services, as applicable, pursuant to the provisions of subsections c. and e. of this section concerning serious preventable adverse events, near-misses, preventable events and adverse events that are otherwise not subject to mandatory reporting pursuant to subsection c. of this section, shall not be:

(1) subject to discovery or admissible as evidence or otherwise disclosed in any civil, criminal or administrative action or proceeding;

(2) considered a public record under P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et al.); or

(3) used in an adverse employment action or in the evaluation of decisions made in relation to accreditation, certification, credentialing or licensing of an individual, which is based on the individual's participation in the development, collection, reporting or storage of information in accordance with this section. The provisions of this paragraph shall not be construed to limit a health care facility from taking disciplinary action against a health care professional in a case in which the professional has displayed recklessness, gross negligence or willful misconduct, or in which there is evidence, based on other similar cases known to the facility, of a pattern of significant substandard performance that resulted in serious preventable adverse events.

The information received by the department, or the Department of Human Services, as applicable, shall be shared with the Attorney General in accordance with rules and regulations adopted pursuant to subsection j. of this section, and may be used by the department, the Department of Human Services and the Attorney General for the purposes of this act and for oversight of facilities and health care professionals; however, the departments and the Attorney General shall not use the information for any other purpose.

In using the information to exercise oversight, the department, Department of Human Services and Attorney General, as applicable, shall place primary emphasis on assuring effective corrective action by the facility or health care professional, reserving punitive enforcement or disciplinary action for those cases in which the facility or the professional has displayed recklessness, gross negligence or willful misconduct, or in which there is evidence, based on other similar cases known to the department, Department of Human Services or the Attorney General, of a pattern of significant substandard performance that has the potential for or actually results in harm to patients.

g. Any documents, materials or information developed by a health care facility as part of a process of self-critical analysis conducted pursuant to

subsection b. of this section concerning preventable events, near-misses and adverse events, including serious preventable adverse events, and any document or oral statement that constitutes the disclosure provided to a patient or the patient's family member or guardian pursuant to subsection d. of this section, shall not be:

(1) subject to discovery or admissible as evidence or otherwise disclosed in any civil, criminal or administrative action or proceeding; or

(2) used in an adverse employment action or in the evaluation of decisions made in relation to accreditation, certification, credentialing or licensing of an individual, which is based on the individual's participation in the development, collection, reporting or storage of information in accordance with subsection b. of this section. The provisions of this paragraph shall not be construed to limit a health care facility from taking disciplinary action against a health care professional in a case in which the professional has displayed recklessness, gross negligence or wilful misconduct, or in which there is evidence, based on other similar cases known to the facility, of a pattern of significant substandard performance that resulted in serious preventable adverse events.

h. Notwithstanding the fact that documents, materials or information may have been considered in the process of self-critical analysis conducted pursuant to subsection b. of this section, or received by the department or the Department of Human Services pursuant to the provisions of subsection c. or e. of this section, the provisions of this act shall not be construed to increase or decrease, in any way, the availability, discoverability, admissibility or use of any such documents, materials or information if obtained from any source or context other than those specified in this act.

i. The investigative and disciplinary powers conferred on the boards and commissions established pursuant to Title 45 of the Revised Statutes, the Director of the Division of Consumer Affairs in the Department of Law and Public Safety and the Attorney General under the provisions of P.L.1978, c.73 (C.45:1-14 et seq.) or any other law, rule or regulation, as well as the investigative and enforcement powers conferred on the department and the commissioner under the provisions of Title 26 of the Revised Statutes or any other law, rule or regulation, shall not be exercised in such a manner so as to unduly interfere with a health care facility's implementation of its patient safety plan established pursuant to this section. However, this act shall not be construed to otherwise affect, in any way, the exercise of such investigative, disciplinary and enforcement powers.

j. The commissioner shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt such rules and regulations necessary to carry out the provisions of this act. The regulations shall establish: criteria for a health care facility's patient safety plan and patient

safety committee; the time frame and format for mandatory reporting of serious preventable adverse events at a health care facility; the types of events that qualify as serious preventable adverse events and adverse events specifically related to an allergic reaction; the circumstances under which a health care facility is not required to inform a patient or the patient's family about a serious preventable adverse event or adverse event specifically related to an allergic reaction; and a system for the sharing of information received by the department and the Department of Human Services pursuant to subsections.c. and e. of this section with the Attorney General. In establishing the criteria for reporting serious preventable adverse events, the commissioner shall, to the extent feasible, use criteria for these events that have been or are developed by organizations engaged in the development of nationally recognized standards.

The commissioner shall consult with the Commissioner of Human Services with respect to rules and regulations affecting the State psychiatric hospitals and with the Attorney General with respect to rules and regulations regarding the establishment of a system for the sharing of information received by the department and the Department of Human Services pursuant to subsections c. and e. of this section with the Attorney General.

k. Nothing in this act shall be construed to increase or decrease the discoverability, in accordance with *Christy v. Salem*, No. A-6448-02T3 (Superior Court of New Jersey, Appellate Division, February 17, 2004)(2004 WL291160), of any documents, materials or information if obtained from any source or context other than those specified in this act.

4. This act shall take effect 180 days after the date of enactment.

Approved April 27, 2004.

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## CHAPTER 10

AN ACT concerning certain federal law enforcement officers and amending P.L.1983, c.268.

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

1. Section 1 of P.L.1983, c.268 (C.2A:154-5) is amended to read as follows:

**C.2A:154-5 Empowerment of federal law enforcement officers.**

1. The following persons employed as full-time law enforcement officers by the Federal Government, who are empowered to effect an arrest



with or without warrant for violations of the United States Code and who are authorized to carry firearms in the performance of their duties, shall be empowered to act as an officer for the arrest of offenders against the laws of this State where the person reasonably believes that a crime of the first, second or third degree is or is about to be committed or attempted in his presence:

- Federal Bureau of Investigation special agents;
- United States Secret Service special agents;
- Immigration and Naturalization Service special agents, investigators and patrol officers;
- United States Marshal Service deputies;
- Drug Enforcement Administration special agents;
- United States Postal inspectors;
- United States Postal police officers while in the performance of their official duties;
- United States Customs Service special agents, inspectors and patrol officers;
- United States General Services Administration special agents;
- United States Department of Agriculture special agents;
- Bureau of Alcohol, Tobacco and Firearms special agents;
- Internal Revenue Service special agents and inspectors;
- Department of the Interior special agents, investigators, park police and park rangers;
- Federal Reserve law enforcement officers while in the performance of their official duties; and
- United States Department of Defense police officers.

2. This act shall take effect immediately.

Approved May 5, 2004.

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## CHAPTER 11

AN ACT concerning access devices and amending N.J.S.2C:20-1.

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

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

**Definitions.**

2C:20-1. Definitions. In chapters 20 and 21, unless a different meaning plainly is required:

a. "Deprive" means: (1) to withhold or cause to be withheld property of another permanently or for so extended a period as to appropriate a substantial portion of its economic value, or with purpose to restore only upon payment of reward or other compensation; or (2) to dispose or cause disposal of the property so as to make it unlikely that the owner will recover it.

b. "Fiduciary" means an executor, general administrator of an intestate, administrator with the will annexed, substituted administrator, guardian, substituted guardian, trustee under any trust, express, implied, resulting or constructive, substituted trustee, executor, conservator, curator, receiver, trustee in bankruptcy, assignee for the benefit of creditors, partner, agent or officer of a corporation, public or private, temporary administrator, administrator, administrator pendente lite, administrator ad prosequendum, administrator ad litem or other person acting in a similar capacity.

c. "Financial institution" means a bank, insurance company, credit union, savings and loan association, investment trust or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.

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

e. "Movable property" means property the location of which can be changed, including things growing on, affixed to, or found in land, and documents, although the rights represented thereby have no physical location. "Immovable property" is all other property.

f. "Obtain" means: (1) in relation to property, to bring about a transfer or purported transfer of a legal interest in the property, whether to the obtainer or another; or (2) in relation to labor or service, to secure performance thereof.

g. "Property" means anything of value, including real estate, tangible and intangible personal property, trade secrets, contract rights, choses in action and other interests in or claims to wealth, admission or transportation tickets, captured or domestic animals, food and drink, electric, gas, steam or other power, financial instruments, information, data, and computer software, in either human readable or computer readable form, copies or originals.

h. "Property of another" includes property in which any person other than the actor has an interest which the actor is not privileged to infringe, regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the actor shall

not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security agreement.

i. "Trade secret" means the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula or improvement which is secret and of value. A trade secret shall be presumed to be secret when the owner thereof takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.

j. "Dealer in property" means a person who buys and sells property as a business.

k. "Traffic" means:

(1) To sell, transfer, distribute, dispense or otherwise dispose of property to another person; or

(2) To buy, receive, possess, or obtain control of or use property, with intent to sell, transfer, distribute, dispense or otherwise dispose of such property to another person.

l. "Broken succession of title" means lack of regular documents of purchase and transfer by any seller except the manufacturer of the subject property, or possession of documents of purchase and transfer by any buyer without corresponding documents of sale and transfer in possession of seller, or possession of documents of sale and transfer by seller without corresponding documents of purchase and transfer in possession of any buyer.

m. "Person" includes any individual or entity or enterprise, as defined herein, holding or capable of holding a legal or beneficial interest in property.

n. "Anything of value" means any direct or indirect gain or advantage to any person.

o. "Interest in property which has been stolen" means title or right of possession to such property.

p. "Stolen property" means property that has been the subject of any unlawful taking.

q. "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or group of individuals associated in fact, although not a legal entity, and it includes illicit as well as licit enterprises and governmental as well as other entities.

r. "Attorney General" includes the Attorney General of New Jersey, his assistants and deputies. The term shall also include a county prosecutor or his designated assistant prosecutor, if a county prosecutor is expressly authorized in writing by the Attorney General to carry out the powers conferred on the Attorney General by this chapter.

s. "Access device" means property consisting of any telephone calling card number, credit card number, account number, mobile identification number, electronic serial number, personal identification number, or any other data intended to control or limit access to telecommunications or other computer networks in either human readable or computer readable form, either copy or original, that can be used to obtain telephone service. Access device also means property consisting of a card, code or other means of access to an account held by a financial institution, or any combination thereof, that may be used by the account holder for the purpose of initiating electronic fund transfers.

t. "Defaced access device" means any access device, in either human readable or computer readable form, either copy or original, which has been removed, erased, defaced, altered, destroyed, covered or otherwise changed in any manner from its original configuration.

u. "Domestic companion animal" means any animal commonly referred to as a pet or one that has been bought, bred, raised or otherwise acquired, in accordance with local ordinances and State and federal law for the primary purpose of providing companionship to the owner, rather than for business or agricultural purposes.

v. "Personal identifying information" means any name, number or other information that may be used, alone or in conjunction with any other information, to identify a specific individual and includes, but is not limited to, the name, address, telephone number, date of birth, social security number, official State issued identification number, employer or taxpayer number, place of employment, employee identification number, demand deposit account number, savings account number, credit card number, mother's maiden name, unique biometric data, such as fingerprint, voice print, retina or iris image or other unique physical representation, or unique electronic identification number, address or routing code of the individual.

2. This act shall take effect immediately.

Approved May 5, 2004.

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## CHAPTER 12

AN ACT concerning newborn infant screening and supplementing P.L.1977, c.321 (C.26:2-110 et seq.).

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

**C.26:2-111.1 Option of additional screening for disorders in infants required; cost.**

1. a. A health care provider shall give an infant's parent or guardian the option of consenting to the performance of testing by qualified laboratories for disorders in infants for which testing is not required pursuant to P.L.1977, c.321 (C.26:2-110 et seq.), on a form and in a manner prescribed by the Commissioner of Health and Senior Services. The health care provider shall not be required to assume the cost of such testing.

As used in this section:

"Health care provider" means a health care professional licensed pursuant to Title 45 of the Revised Statutes or a health care facility licensed pursuant to Title 26 of the Revised Statutes that provides health care services to newborn infants.

"Qualified laboratory" means a clinical laboratory not operated by the Department of Health and Senior Services, which is certified by the Secretary of Health and Human Services pursuant to the federal "Clinical Laboratory Improvement Amendments of 1988," Pub.L.100-578 (42 U.S.C. s.263a) and reports its test results by using normal pediatric reference ranges.

b. (1) The Commissioner of Health and Senior Services shall prepare and make available electronically, on the Internet website of the Department of Health and Senior Services, information that explains the availability of testing performed by qualified laboratories for disorders in infants for which testing is not required pursuant to P.L.1977, c.321 (C.26:2-110 et seq.).

(2) A health care provider shall give an infant's parent or guardian a hard copy of the information prepared pursuant to paragraph (1) of this subsection and provide the parent or guardian with a reasonable opportunity to read the information when giving the parent or guardian the option of consenting to the performance of testing pursuant to subsection a. of this section.

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

3. This act shall take effect on the 180th day following enactment, but the Commissioner of Health and Senior Services may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved May 5, 2004.

## CHAPTER 13

AN ACT concerning bond requirements for perishable agricultural commodities and for milk and cream, and amending R.S.4:11-20 and R.S.4:12-4.

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

1. R.S.4:11-20 is amended to read as follows:

**Bond accompanying application; securities or letters of credit in lieu of bonds.**

4:11-20. A license shall not be issued unless and until the applicant has filed a good and sufficient surety bond executed in favor of the secretary in the secretary's official capacity, for the benefit of all growers with whom the applicant shall transact business, by a surety company duly authorized to transact business in this State in a sum at least equal to the estimated maximum monthly value of all agricultural commodities to be purchased or received or which may have been purchased or received by the applicant from a producer or producers during the preceding 12 months. The bond shall be executed upon a form prescribed by the secretary and shall be subject to the secretary's approval as to form and sufficiency. The applicant may in lieu of the bond deposit with the secretary securities approved by the department in an amount equal to the sum secured by the bond required to be filed as herein provided; or may in the alternative, obtain and deposit with the secretary an irrevocable letter of credit to equal the amount of the bond. The securities or letters of credit so deposited with the secretary shall constitute a separate fund and shall be held in trust for and applied exclusively to the payment of claims arising under the provisions of this article against the licensee making such deposit for the period for which the license is issued. All proceeds from surety bonds, money or securities shall be distributed to the grower-creditors by the secretary or returned to the licensee if no claims are made.

2. R.S.4:12-4 is amended to read as follows:

**Bond or deposit for protection of creditors.**

4:12-4. A license shall not be issued unless and until the applicant shall file with the secretary a good and sufficient surety bond, executed by a surety company duly authorized to transact business in this State, in a sum not less than one and one-half times the estimated maximum monthly value of the milk or cream to be purchased or received or which may have been purchased or received by the applicant from a producer or producers during the preceding 12 months.

The bond shall be approved as to form and sufficiency by the secretary, shall be given to the secretary in the secretary's official capacity and shall be conditioned for the faithful compliance by the licensee with the provisions of this article and for the payment of all amounts due to producers who have sold milk or cream to the licensee, during the period that the license is in force.

The applicant may, in lieu of a bond, deposit with the secretary money, or transferable United States Treasury bonds, notes, certificates, bills or other obligations issued or fully and unconditionally guaranteed by the United States Government both as to principal and interest in transferable bearer form, in an amount equal to the sum secured by the bond required to be filed.

The money or securities so deposited shall constitute a separate fund and shall be held in trust for, and applied exclusively to, the payment of claims against the licensee making the deposit, arising from the sale of milk or cream to the licensee, and all proceeds from the surety bonds, money or securities shall be distributed to the producer-creditors by the secretary.

3. This act shall take effect immediately.

Approved May 5, 2004.

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## CHAPTER 14

AN ACT concerning the environmental permitting of biotechnology activity related permits and supplementing Title 13 of the Revised Statutes.

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

**C.13:1D-108.1 Biotechnology Permit Acceleration Task Force.**

1. a. There is created within the Department of Environmental Protection a Biotechnology Permit Acceleration Task Force. In addition to the activities specifically enumerated in this section, it shall be the function of the task force to develop and recommend rules and regulations and to take such other actions within the department designed to accelerate the commercialization of biotechnology related products and services. Upon the development and recommendations of rules and regulations by the task force, the Commissioner of Environmental Protection shall take all appropriate action to propose and adopt those rules and regulations. The development of rules and regulations by the task force shall be undertaken in consultation with the

New Jersey Commission on Science and Technology and the New Jersey Commerce and Economic Growth Commission.

b. The task force shall be responsible: (1) for the development of rules and regulations designed to shorten the time period for persons involved in biotechnology related activities to obtain permits from the department; (2) for the coordination of the review and approval of permits for biotechnology related activities in various divisions within the department; and (3) for the development of policies to decrease the application and review costs imposed by the department on persons who apply for permits for biotechnology related activities.

c. The task force shall be an internal working group within the department consisting of employees of the department. The task force shall be headed by an employee of the department of sufficient education and technical expertise to perform the functions of the position. The Commissioner of Environmental Protection shall vest in the task force sufficient authority to properly manage and expedite the permit approval process for biotechnology related permits. The commissioner shall assign sufficient and appropriate employees to the task force so as to allow the task force to perform its functions.

d. As used in this section "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.

2. This act shall take effect immediately.

Approved May 12, 2004.

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## CHAPTER 15

AN ACT designating the State Highway Route No. 70 bridge over the Manasquan River as the "September 11 Memorial Bridge," and making an appropriation.

WHEREAS, On September 11, 2001, terrorists attacked the United States by hijacking four commercial jets filled with passengers and crashing two of the jets into the World Trade Center towers in New York City, and crashing one into the Pentagon in our nation's capital, while the fourth jet crashed in Pennsylvania rather than into its intended target; and



WHEREAS, This unprovoked attack resulted in the deaths of thousands of innocent victims, including civilian and government workers, military personnel, airline passengers and crew members, firefighters, police officers, paramedics and other emergency workers, many of whom were from New Jersey; and

WHEREAS, Dedication of the State Highway Route No. 70 bridge over the Manasquan River in honor of the men and women from Ocean and Monmouth Counties who lost their lives on September 11, 2001 would be a fitting and permanent memorial to their sacrifice and would serve as a constant reminder, both now and for future generations, of America's spirit and commitment to freedom; now, therefore,

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

1. The Commissioner of Transportation is directed to designate the State Highway No. 70 bridge over the Manasquan River in Ocean and Monmouth Counties as the "September 11 Memorial Bridge" and to erect appropriate signs bearing the designation and the dedication of the bridge to the memory of the men and women from Ocean and Monmouth Counties who lost their lives on September 11, 2001.

2. There is appropriated from the General Fund, for the purposes of implementing section 1 of this act, \$2,500 to the Department of Transportation for the costs of appropriate signs in accordance with section 1 of this act.

3. This act shall take effect immediately.

Approved May 12, 2004.

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## CHAPTER 16

AN ACT concerning contractors engaged in home improvements and supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

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

**C.56:8-136 Short title.**

1. This act shall be known and may be cited as the "Contractors' Registration Act."

**C.56:8-137 Definitions relative to home improvement contractors.****2. As used in this act:**

"Contractor" means a person engaged in the business of making or selling home improvements and includes a corporation, partnership, association and any other form of business organization or entity, and its officers, representatives, agents and employees.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Home improvement" means the remodeling, altering, renovating, repairing, restoring, modernizing, moving, demolishing, or otherwise improving or modifying of the whole or any part of any residential or non-commercial property. Home improvement shall also include insulation installation, and the conversion of existing commercial structures into residential or non-commercial property.

"Home improvement contract" means an oral or written agreement for the performance of a home improvement between a contractor and an owner, tenant or lessee, of a residential or noncommercial property, and includes all agreements under which the contractor is to perform labor or render services for home improvements, or furnish materials in connection therewith.

"Residential or non-commercial property" means any single or multi-unit structure used in whole or in part as a place of residence, and all structures appurtenant thereto, and any portion of the lot or site on which the structure is situated which is devoted to the residential use of the structure.

**C.56:8-138 Registration for contractors; application, fee.**

3. a. No person shall offer to perform, or engage, or attempt to engage in the business of making or selling home improvements unless registered with the Division of Consumer Affairs in accordance with the provisions of this act.

b. Every contractor shall annually register with the director. Application for registration shall be on a form provided by the division and shall be accompanied by a reasonable fee, set by the director in an amount sufficient to defray the division's expenses incurred in administering and enforcing this act.

c. Every contractor required to register under this act shall file an amended registration within 20 days after any change in the information required to be included thereon. No fee shall be required for the filing of an amendment.

**C.56:8-139 Act applicable to contractors who publicly advertise.**

4. Except for persons exempted pursuant to section 5 of this act, any person who advertises in print or puts out any sign or card or other device after the effective date of this act which would indicate to the public that he is a contractor in New Jersey, or who causes his name or business name to be included in a classified advertisement or directory in New Jersey after the effective date of this act under a classification for home improvements covered by this act, is subject to the provisions of this act. This section shall not be construed to apply to simple residential alphabetical listings in standard telephone directories.

**C.56:8-140 Inapplicability of act.**

5. The provisions of this act shall not apply to:

a. Any person required to register pursuant to "The New Home Warranty and Builders' Registration Act," P.L.1977, c.467 (C.46:3B-1 et seq.);

b. Any person performing a home improvement upon a residential or non-commercial property he owns, or that is owned by a member of his family, a bona fide charity, or other non-profit organization;

c. Any person regulated by the State as an architect, professional engineer, landscape architect, land surveyor, electrical contractor, master plumber, or any other person in any other related profession requiring registration, certification, or licensure by the State, who is acting within the scope of practice of his profession;

d. Any person who is employed by a community association or cooperative corporation;

e. Any public utility as defined under R.S.48:2-13;

f. Any person licensed under the provisions of section 16 of P.L.1960, c.41 (C.17:16C-77); and

g. Any home improvement retailer with a net worth of more than \$50,000,000, or employee of that retailer.

**C.56:8-141 Additional requirements; refusal to issue or suspend or revoke registration; grounds.**

6. In addition to any other procedure, condition or information required by this act:

a. Every applicant shall file a disclosure statement with the director stating whether the applicant has been convicted of any crime, which for the purposes of this act shall mean a violation of any of the following provisions of the "New Jersey Code of Criminal Justice," Title 2C of the New Jersey Statutes, or the equivalent under the laws of any other jurisdiction:

(1) Any crime of the first degree;

(2) Any crime which is a second or third degree crime and is a violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes; or

(3) Any other crime which is a violation of N.J.S.2C:5-1, 2C:5-2, 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, 2C:14-2, 2C:15-1, subsection a. or b. of 2C:17-1, subsection a. or b. of 2C:17-2, 2C:18-2, 2C:20-4, 2C:20-5, 2C:20-7, 2C:20-9, 2C:21-2 through 2C:21-4, 2C:21-6, 2C:21-7, 2C:21-12, 2C:21-14, 2C:21-15, or 2C:21-19, chapter 27 or 28 of Title 2C of the New Jersey Statutes, N.J.S.2C:30-2, 2C:30-3, 2C:35-5, 2C:35-10, 2C:37-1 through 2C:37-4.

b. The director may refuse to issue or may suspend or revoke any registration issued by him upon proof that the applicant or holder of the registration:

(1) Has obtained a registration through fraud, deception or misrepresentation;

(2) Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;

(3) Has engaged in gross negligence, gross malpractice or gross incompetence;

(4) Has engaged in repeated acts of negligence, malpractice or incompetence;

(5) Has engaged in professional or occupational misconduct as may be determined by the director;

(6) Has been convicted of any crime involving moral turpitude or any crime relating adversely to the activity regulated by this act. For the purpose of this subsection a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;

(7) Has had his authority to engage in the activity regulated by the director revoked or suspended by any other state, agency or authority for reasons consistent with this section;

(8) Has violated or failed to comply with the provisions of any act or regulation administered by the director;

(9) Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare.

c. An applicant whose registration is denied, suspended, or revoked pursuant to this section shall, upon a written request transmitted to the director within 30 calendar days of that action, be afforded an opportunity for a hearing in a manner provided for contested cases pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

d. An applicant shall have the continuing duty to provide any assistance or information requested by the director, and to cooperate in any inquiry, investigation, or hearing conducted by the director.

e. If any of the information required to be included in the disclosure statement changes, or if additional information should be added after the

filing of the statement, the applicant shall provide that information to the director, in writing, within 30 calendar days of the change or addition.

f. Notwithstanding the provisions of paragraph (6) of subsection b. of this section, no individual shall be disqualified from registration or shall have registration revoked on the basis of any conviction disclosed if the individual has affirmatively demonstrated to the director clear and convincing evidence of the individual's rehabilitation. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

(1) The nature and responsibility of the position which the convicted individual would hold;

(2) The nature and seriousness of the offense;

(3) The circumstances under which the offense occurred;

(4) The date of the offense;

(5) The age of the individual when the offense was committed;

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

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

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

**C.56:8-142 Proof of commercial general liability insurance; requirements.**

7. a. Every registered contractor who is engaged in home improvements shall secure, maintain and file with the director proof of a certificate of commercial general liability insurance in a minimum amount of \$500,000 per occurrence.

b. Every proof of a commercial general liability insurance policy required to be filed with the director shall provide that cancellation or nonrenewal of the policy shall not be effective unless and until at least 10 days' notice of intention to cancel or nonrenew has been received in writing by the director.

**C.56:8-143 Refusal to issue, renew, revocation, suspension of registration; procedures.**

8. a. The director may refuse to issue or renew, and may revoke, any registration for failure to comply with, or violation of, the provisions of this act or for any other good cause shown within the meaning and purpose of this act. A refusal or revocation shall not be made except upon reasonable notice to, and opportunity to be heard by, the applicant or registrant.

b. The director, in lieu of revoking a registration, may suspend the registration for a reasonable period of time, or assess a penalty in lieu of

suspension, or both, and may issue a new registration, notwithstanding the revocation of a prior registration, if the applicant is found to have become entitled to the new registration.

**C.56:8-144 Display of registration number; requirements.**

9. a. All registrants shall prominently display their registration numbers within their places of business, in all advertisements distributed within this State, on business documents, contracts and correspondence with consumers of home improvement services in this State, and on all commercial vehicles registered in this State and leased or owned by registrants and used by registrants for the purpose of providing home improvements, except for vehicles leased or rented to customers of registrants by a registrant or any agent or representative thereof.

b. Any invoice, contract or correspondence given by a registrant to a consumer shall prominently contain the toll-free telephone number provided pursuant to section 14 of this act.

**C.56:8-145 Applicability of act to out-of-State contractors.**

10. The provisions of this act shall apply to any person engaging in any of the activities regulated by this act in this State, including persons whose residence or principal place of business is located outside of this State.

**C.56:8-146 Violations, fourth degree crime.**

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

b. In addition to any other penalty provided by law, a person who knowingly violates any of the provisions of this act is guilty of a crime of the fourth degree.

**C.56:8-147 Superseding of municipal ordinance, regulation.**

12. a. This act shall supersede any municipal ordinance or regulation that provides for the licensing or registration of contractors or for the protection of homeowners by bonds or warranties required to be provided by contractors, exclusive of those required by water, sewer, utility, or land use ordinances or regulations.

b. No municipality shall issue a construction permit for any home improvement to any contractor who is not registered pursuant to the provisions of this act.

**C.56:8-148 Municipal powers preserved.**

13. This act shall not deny to any municipality the power to inspect a contractor's work or equipment, the work of a contractor who performs improvements to commercial property, or the power to regulate the standards and manners in which the contractor's work shall be done.

**C.56:8-149 Public information campaign, toll free number.**

14. a. The director shall establish and undertake a public information campaign to educate and inform contractors and the consumers of this State of the provisions of this act. The public information campaign shall include, but not be limited to, the preparation, printing and distribution of booklets, pamphlets or other written pertinent information.

b. The director shall provide a toll-free telephone number for consumers making inquiries regarding contractors.

**C.56:8-150 Applicability of C.56:8-1 et seq.**

15. Nothing in this act shall limit the application of P.L.1960, c.39 (C.56:8-1 et seq.), or any regulations promulgated thereunder, in regard to the registration or regulation of contractors.

**C.56:8-151 Contracts, certain, required to be in writing; contents.**

16. a. Every home improvement contract for a purchase price in excess of \$500, and all changes in the terms and conditions of the contract, shall be in writing. The contract shall be signed by all parties thereto, and shall clearly and accurately set forth in legible form and in understandable language all terms and conditions of the contract, including but not limited to:

(1) The legal name, business address, and registration number of the contractor;

(2) A copy of the certificate of commercial general liability insurance required of a contractor pursuant to section 7 of this act and the telephone number of the insurance company issuing the certificate; and

(3) The total price or other consideration to be paid by the owner, including the finance charges.

b. A home improvement contract may be cancelled by a consumer for any reason at any time before midnight of the third business day after the consumer receives a copy of it. In order to cancel a contract the consumer shall notify the contractor of the cancellation in writing, by registered or certified mail, return receipt requested, or by personal delivery, to the address specified in the contract. All moneys paid pursuant to the cancelled contract shall be fully refunded within 30 days of receipt of the notice of cancellation. If the consumer has executed any credit or loan agreement through the contractor to pay all or part of the contract, the agreement or note shall be cancelled without penalty to the consumer and written notice of that cancellation shall be mailed to the consumer within 30 days of receipt of the notice of cancellation. The contract shall contain a conspicuous notice printed in at least 10-point bold-faced type as follows:

**"NOTICE TO CONSUMER**

YOU MAY CANCEL THIS CONTRACT AT ANY TIME BEFORE MIDNIGHT OF THE THIRD BUSINESS DAY AFTER RECEIVING A COPY OF THIS CONTRACT. IF YOU WISH TO CANCEL THIS CONTRACT, YOU MUST EITHER:

1. SEND A SIGNED AND DATED WRITTEN NOTICE OF CANCELLATION BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED; OR
2. PERSONALLY DELIVER A SIGNED AND DATED WRITTEN NOTICE OF CANCELLATION TO:

(Name of Contractor)  
(Address of Contractor)  
(Phone Number of Contractor)

If you cancel this contract within the three-day period, you are entitled to a full refund of your money. Refunds must be made within 30 days of the contractor's receipt of the cancellation notice."

**C.56:8-152 Rules, regulations.**

17. The director, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate rules and regulations to effectuate the purposes of this act.

18. This act shall take effect on the 180th day following enactment.

Approved May 13, 2004.

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**CHAPTER 17**

AN ACT concerning medical professional liability, insurance reform and patient protection and revising parts of the statutory law.

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

**C.2A:53A-37 Short title.**

1. This act shall be known and may be cited as the "New Jersey Medical Care Access and Responsibility and Patients First Act."

**C.2A:53A-38 Findings, declarations relative to medical professional liability, insurance reform and patient protection.**

2. The Legislature finds and declares that:



a. One of the most vital interests of the State is to ensure that high-quality health care continues to be available in this State and that the residents of this State continue to have access to a full spectrum of health care providers, including highly trained physicians in all specialties;

b. The State's health care system and its residents' access to health care providers are threatened by a dramatic escalation in medical malpractice liability insurance premiums, which is creating a crisis of affordability in the purchase of necessary liability coverage for our health care providers;

c. One particularly alarming result of rising premiums is that there are increasing reports of doctors retiring or moving to other states where insurance premiums are lower, dropping high-risk patients and procedures, and practicing defensive medicine in a manner that may significantly increase the cost of health care for all our citizens;

d. The reasons for the steep increases in the cost of medical malpractice liability insurance are complex and involve issues related to: the State's tort liability system; the State's health care system, which includes issues related to patient safety and medical error reporting; and the State's regulation and requirements concerning medical malpractice liability insurers;

e. It is necessary and appropriate for the State to take meaningful and prompt action to address the various interrelated aspects of these issues that are impacted by, or impact on, the State's health care system; and

f. To that end, this act provides for a comprehensive set of reforms affecting the State's tort liability system, health care system and medical malpractice liability insurance carriers to ensure that health care services continue to be available and accessible to residents of the State and to enhance patient safety at health care facilities.

3. N.J.S.2A:14-2 is amended to read as follows:

**Actions for injury caused by wrongful act, appointment of guardian ad litem.**

2A:14-2. a. Every action at law for an injury to the person caused by the wrongful act, neglect or default of any person within this State shall be commenced within two years next after the cause of any such action shall have accrued; except that an action by or on behalf of a minor that has accrued for medical malpractice for injuries sustained at birth shall be commenced prior to the minor's 13th birthday.

b. In the event that an action by or on behalf of a minor that has accrued for medical malpractice for injuries sustained at birth is not commenced by the minor's parent or guardian prior to the minor's 12th birthday, the minor or a person 18 years of age or older designated by the minor to act on the minor's behalf may commence such an action. For this purpose, the

minor or designated person may petition the court for the appointment of a guardian ad litem to act on the minor's behalf.

4. N.J.S.2A:14-21 is amended to read as follows:

**Disabilities affecting limitations; action on behalf of minor.**

2A:14-21. If any person entitled to any of the actions or proceedings specified in N.J.S.2A:14-1 to 2A:14-8 or N.J.S.2A:14-16 to 2A:14-20 or to a right or title of entry under N.J.S.2A:14-6 is or shall be, at the time of any such cause of action or right or title accruing, under the age of 21 years, or insane, such person may commence such action or make such entry, within such time as limited by those statutes, after his coming to or being of full age or of sane mind. Notwithstanding the provisions of this section to the contrary, an action by or on behalf of a minor that has accrued for medical malpractice for injuries sustained at birth shall be commenced prior to the minor's 13th birthday, as provided in N.J.S.2A:14-2.

**C.2A:53A-39 Judge may refer medical malpractice action to complementary dispute resolution mechanism.**

5. The judge presiding over a medical malpractice action, or the judge's designee, shall, within 30 days after the discovery end date, determine whether referral to a complementary dispute resolution mechanism may encourage early disposition or settlement of the action. If the judge makes such a determination, the matter shall be referred to complementary dispute resolution pursuant to Rule 1:40 of the Rules Governing the Courts of the State of New Jersey.

Nothing in this section shall be construed to limit the authority of the judge to refer an action to complementary dispute resolution prior to the discovery end date.

**C.2A:53A-40 Affidavit of noninvolvement.**

6. a. A health care provider named as a defendant in a medical malpractice action may cause the action against that provider to be dismissed upon the filing of an affidavit of noninvolvement with the court. The affidavit of noninvolvement shall set forth, with particularity, the facts that demonstrate that the provider was misidentified or otherwise not involved, individually or through its servants or employees, in the care and treatment of the claimant, and was not obligated, either individually or through its servants or employees, to provide for the care and treatment of the claimant, and could not have caused the alleged malpractice, either individually or through its servants or employees, in any way.

b. A codefendant or claimant shall have the right to challenge an affidavit of noninvolvement by filing a motion and submitting an affidavit

that contradicts the assertions of noninvolvement made by the health care provider in the affidavit of noninvolvement.

c. If the court determines that a health care provider named as a defendant falsely files or makes false or inaccurate statements in an affidavit of noninvolvement, the court, upon motion or upon its own initiative, shall immediately reinstate the claim against that provider. Reinstatement of a party pursuant to this subsection shall not be barred by any statute of limitations defense that was not valid at the time the original action was filed.

In any action in which the health care provider is found by the court to have knowingly filed a false or inaccurate affidavit of noninvolvement, the court shall impose upon the person who signed the affidavit or represented the party, or both, an appropriate sanction, including, but not limited to, an order to pay to the other party or parties the amount of the reasonable expenses incurred as a result of the filing of the false or inaccurate affidavit, including a reasonable attorney fee. The court shall also refer the matter to the Attorney General and the appropriate professional licensing board for further review.

d. If the court determines that a plaintiff falsely objected to a health care provider's affidavit of noninvolvement, or knowingly provided an inaccurate statement regarding a health care provider's affidavit, the court shall impose upon the plaintiff or the plaintiff's counsel, or both, an appropriate sanction, including, but not limited to, an order to pay to the other party or parties the amount of the reasonable expenses incurred as a result of the submission of the false objection or inaccurate statement, including a reasonable attorney fee. The court shall also refer the matter to the Attorney General and the appropriate professional licensing board for further review.

e. As used in this section, "health care provider" means an individual or entity, which, acting within the scope of its licensure or certification, provides health care services, and includes, but is not limited to: a physician, dentist, nurse, pharmacist or other health care professional whose professional practice is regulated pursuant to Title 45 of the Revised Statutes; and a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.)

**C.2A:53A-41 Requirements for person giving expert testimony, executing affidavit.**

7. In an action alleging medical malpractice, a person shall not give expert testimony or execute an affidavit pursuant to the provisions of P.L.1995, c.139 (C.2A:53A-26 et seq.) on the appropriate standard of practice or care unless the person is licensed as a physician or other health care professional in the United States and meets the following criteria:

a. If the party against whom or on whose behalf the testimony is offered is a specialist or subspecialist recognized by the American Board of Medical Specialties or the American Osteopathic Association and the care or treat-

ment at issue involves that specialty or subspecialty recognized by the American Board of Medical Specialties or the American Osteopathic Association, the person providing the testimony shall have specialized at the time of the occurrence that is the basis for the action in the same specialty or subspecialty, recognized by the American Board of Medical Specialties or the American Osteopathic Association, as the party against whom or on whose behalf the testimony is offered, and if the person against whom or on whose behalf the testimony is being offered is board certified and the care or treatment at issue involves that board specialty or subspecialty recognized by the American Board of Medical Specialties or the American Osteopathic Association, the expert witness shall be:

(1) a physician credentialed by a hospital to treat patients for the medical condition, or to perform the procedure, that is the basis for the claim or action; or

(2) a specialist or subspecialist recognized by the American Board of Medical Specialties or the American Osteopathic Association who is board certified in the same specialty or subspecialty, recognized by the American Board of Medical Specialties or the American Osteopathic Association, and during the year immediately preceding the date of the occurrence that is the basis for the claim or action, shall have devoted a majority of his professional time to either:

(a) the active clinical practice of the same health care profession in which the defendant is licensed, and, if the defendant is a specialist or subspecialist recognized by the American Board of Medical Specialties or the American Osteopathic Association, the active clinical practice of that specialty or subspecialty recognized by the American Board of Medical Specialties or the American Osteopathic Association; or

(b) the instruction of students in an accredited medical school, other accredited health professional school or accredited residency or clinical research program in the same health care profession in which the defendant is licensed, and, if that party is a specialist or subspecialist recognized by the American Board of Medical Specialties or the American Osteopathic Association, an accredited medical school, health professional school or accredited residency or clinical research program in the same specialty or subspecialty recognized by the American Board of Medical Specialties or the American Osteopathic Association; or

(c) both.

b. If the party against whom or on whose behalf the testimony is offered is a general practitioner, the expert witness, during the year immediately preceding the date of the occurrence that is the basis for the claim or action, shall have devoted a majority of his professional time to:

(1) active clinical practice as a general practitioner; or active clinical practice that encompasses the medical condition, or that includes performance of the procedure, that is the basis of the claim or action; or

(2) the instruction of students in an accredited medical school, health professional school, or accredited residency or clinical research program in the same health care profession in which the party against whom or on whose behalf the testimony is licensed; or

(3) both.

c. A court may waive the same specialty or subspecialty recognized by the American Board of Medical Specialties or the American Osteopathic Association and board certification requirements of this section, upon motion by the party seeking a waiver, if, after the moving party has demonstrated to the satisfaction of the court that a good faith effort has been made to identify an expert in the same specialty or subspecialty, the court determines that the expert possesses sufficient training, experience and knowledge to provide the testimony as a result of active involvement in, or full-time teaching of, medicine in the applicable area of practice or a related field of medicine.

d. Nothing in this section shall limit the power of the trial court to disqualify an expert witness on grounds other than the qualifications set forth in this section.

e. In an action alleging medical malpractice, an expert witness shall not testify on a contingency fee basis.

f. An individual or entity who threatens to take or takes adverse action against a person in retaliation for that person providing or agreeing to provide expert testimony, or for that person executing an affidavit pursuant to the provisions of P.L.1995, c.139 (C.2A:53A-26 et seq.), which adverse action relates to that person's employment, accreditation, certification, credentialing or licensure, shall be liable to a civil penalty not to exceed \$10,000 and other damages incurred by the person and the party for whom the person was testifying as an expert.

8. Section 2 of P.L.1995, c.139 (C.2A:53A-27) is amended to read as follows:

**C.2A:53A-27 Affidavit of lack of care in action for professional, medical malpractice or negligence; requirements.**

2. In any action for damages for personal injuries, wrongful death or property damage resulting from an alleged act of malpractice or negligence by a licensed person in his profession or occupation, the plaintiff shall, within 60 days following the date of filing of the answer to the complaint by the defendant, provide each defendant with an affidavit of an appropriate li-

censed person that there exists a reasonable probability that the care, skill or knowledge exercised or exhibited in the treatment, practice or work that is the subject of the complaint, fell outside acceptable professional or occupational standards or treatment practices. The court may grant no more than one additional period, not to exceed 60 days, to file the affidavit pursuant to this section, upon a finding of good cause.

In the case of an action for medical malpractice, the person executing the affidavit shall meet the requirements of a person who provides expert testimony or executes an affidavit as set forth in section 7 of P.L.2004, c.17 (C.2A:53A-41). In all other cases, the person executing the affidavit shall be licensed in this or any other state; have particular expertise in the general area or specialty involved in the action, as evidenced by board certification or by devotion of the person's practice substantially to the general area or specialty involved in the action for a period of at least five years. The person shall have no financial interest in the outcome of the case under review, but this prohibition shall not exclude the person from being an expert witness in the case.

**C.2A:53A-42 Procedure to evaluate award by judge following verdict.**

9. A judge presiding over an action alleging medical malpractice, in which the jury has rendered a verdict in favor of the complaining party, shall, upon a motion by any party for additur or remittitur on the issue of the quantum of damages, consider the evidence in the light most favorable to the non-moving party and determine whether the award is clearly inadequate or excessive in view of the nature of the medical condition or injury that is the cause of action or because of passion or prejudice by the jury.

**C.2A:62A-1.3 Immunity from civil liability for certain health care professionals, certain situations.**

10. a. If an individual's actual health care facility duty, including on-call duty, does not require a response to a patient emergency situation, a health care professional who, in good faith, responds to a life-threatening emergency or responds to a request for emergency assistance in a life-threatening emergency within a hospital or other health care facility, is not liable for civil damages as a result of an act or omission in the rendering of emergency care. The immunity granted pursuant to this section shall not apply to acts or omissions constituting gross negligence, recklessness or willful misconduct.

b. The provisions of subsection a. of this section shall not apply to a health care professional if a provider-patient relationship existed before the emergency, or if consideration in any form is provided to the health care professional for the service rendered.

c. The provisions of subsection a. of this section do not diminish a general hospital's responsibility to comply with all Department of Health and

Senior Services licensure requirements concerning medical staff availability at the hospital.

d. A health care professional shall not be liable for civil damages for injury or death caused in an emergency situation occurring in the health care professional's private practice or in a health care facility on account of a failure to inform a patient of the possible consequences of a medical procedure when the failure to inform is caused by any of the following:

- (1) the patient was unconscious;
- (2) the medical procedure was undertaken without the consent of the patient because the health care professional reasonably believed that the medical procedure should be undertaken immediately and that there was insufficient time to fully inform the patient; or
- (3) the medical procedure was performed on a person legally incapable of giving informed consent, and the health care professional reasonably believed that the medical procedure should be undertaken immediately and that there was insufficient time to obtain the informed consent of the person authorized to give such consent for the patient.

The provisions of this subsection shall apply only to actions for damages for an injury or death arising as a result of a health care professional's failure to inform, and not to actions for damages arising as a result of a health care professional's negligence in rendering or failing to render treatment.

e. As used in this section:

- (1) "Health care professional" means a physician, dentist, nurse or other health care professional whose professional practice is regulated pursuant to Title 45 of the Revised Statutes and an emergency medical technician or mobile intensive care paramedic certified by the Commissioner of Health and Senior Services pursuant to Title 26 of the Revised Statutes; and
- (2) "Health care facility" means a health care facility licensed by the Department of Health and Senior Services pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) and a psychiatric hospital operated by the Department of Human Services and listed in R.S.30:1-7.

11. Section 1 of P.L.1995, c.69 (C.45:9-19.16) is amended to read as follows:

**C.45:9-19.16 Physicians, report out-of-State disciplinary, criminal actions.**

1. a. A physician licensed by the State Board of Medical Examiners, or a physician who is an applicant for a license from the State Board of Medical Examiners, shall notify the board within 10 days of:

- (1) any action taken against the physician's medical license by any other state licensing board or any action affecting the physician's privileges to

practice medicine by any out-of-State hospital, health care facility, health maintenance organization or other employer;

(2) any pending or final action by any criminal authority for violations of law or regulation, or any arrest or conviction for any criminal or quasi-criminal offense pursuant to the laws of the United States, this State or another state, including, but not limited to:

(a) criminal homicide pursuant to N.J.S.2C:11-2;

(b) aggravated assault pursuant to N.J.S.2C:12-1;

(c) sexual assault, criminal sexual contact or lewdness pursuant to N.J.S.2C:14-2 through 2C:14-4; or

(d) an offense involving any controlled dangerous substance or controlled substance analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes.

b. A physician who is in violation of this section is subject to disciplinary action and civil penalties pursuant to sections 8, 9 and 12 of P.L.1978, c.73 (C.45:1-21 to 22 and 45:1-25).

c. The State Board of Medical Examiners shall notify all physicians licensed by the board of the requirements of this section within 30 days of the date of enactment of this act.

12. Section 13 of P.L.1989, c.300 (C.45:9-19.13) is amended to read as follows:

**C.45:9-19.13 Notification to health care facility of status of license, permit, registration of licensee.**

13. a. In any case in which the State Board of Medical Examiners refuses to issue, suspends, revokes or otherwise conditions the license, registration, or permit of a physician, podiatrist or medical resident or intern, the board shall, within 30 days of its action, notify each licensed health care facility, psychiatric hospital operated by the Department of Human Services and listed in R.S.30:1-7, and health maintenance organization with which the person is affiliated and every board licensee in the State with which the person is directly associated in his private medical practice.

b. If, during the course of an investigation of a physician, the board requests information from a health care facility, psychiatric hospital operated by the Department of Human Services or health maintenance organization regarding that physician, and the board subsequently makes a finding of no basis for disciplinary action, the board shall, within 30 days of making that finding, notify the health care facility, State psychiatric hospital or health maintenance organization of its determination.

**C.17:30D-18 Conflicts of interest; violations; penalties.**

13. a. On or after the effective date of P.L.2004, c.17 (C.2A:53A-37 et al.) and except as provided in subsection d. of this section, no person who



is an officer, director or board member of a professional association for health care providers shall serve concurrently as an officer, director or board member of a State-domiciled medical malpractice liability insurer that is licensed in the State and offering medical malpractice liability insurance policies on that effective date.

b. As used in this section, "health care provider" means an individual or entity, which, acting within the scope of its licensure or certification, provides health care services, and includes, but is not limited to, a physician, dentist, nurse or other health care professional whose professional practice is regulated pursuant to Title 45 of the Revised Statutes, and a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

c. A person or professional association who violates the provisions of this section shall be liable for a civil penalty of \$10,000 for each violation. The penalty shall be sued for and collected by the Commissioner of Banking and Insurance in a summary proceeding in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

d. In the case of an officer, director or board member of a medical malpractice liability insurer who is an officer, director or board member of a professional association for health care providers on the effective date of P.L.2004, c.17 (C.2A:53A-37 et al.), the officer, director or board member shall have 180 days to comply with the requirements of this section.

**C.17:30D-19 "Medical Malpractice Liability Insurance Purchasing Alliance;" definitions.**

14. Physicians may join together, by means of a joint contract under the procedures established by this section, to form a "Medical Malpractice Liability Insurance Purchasing Alliance" for the purpose of negotiating a reduced premium for its members in the purchase of medical malpractice liability insurance. The joint contract shall be executed by all members of the purchasing alliance.

a. As used in this section:

"Board" means a medical malpractice liability insurance purchasing alliance board of directors provided for in this section.

"Commissioner" means the Commissioner of Banking and Insurance.

"Medical Malpractice Liability Insurance Purchasing Alliance," "purchasing alliance" or "alliance" means a purchasing alliance established pursuant to this section.

"Member" means a physician who is a member of a medical malpractice liability insurance purchasing alliance as provided for in this section.

b. The purchasing alliance, which may be a corporation, shall be governed by a board of directors, elected by the members of the purchasing alliance. No person may serve as an officer or director of an alliance who has a prior record of administrative, civil or criminal violations within the

financial services industry. The directors shall serve for terms of three years, and shall serve until their successors are elected and qualified. Each director shall serve without compensation, except for reimbursement for actual expenses incurred by that director.

c. The board shall adopt bylaws for the operation of the purchasing alliance, which shall be effective upon ratification by a two-thirds majority of the members. The bylaws shall include, but not be limited to:

(1) the establishment of procedures for the organization and administration of the alliance; and

(2) procedures for the qualifications and admission of the members of the alliance.

The bases for denial of membership shall include, but not be limited to:

(a) performance of an act or practice that constitutes fraud or intentional misrepresentation of material fact;

(b) previous denial of membership in the alliance; or

(c) previous expulsion from the alliance;

(3) procedures for the withdrawal of members from the alliance;

(4) procedures for the expulsion of members from the alliance.

The bases for expulsion shall include, but not be limited to:

(a) failure to pay membership or other fees required by the purchasing alliance;

(b) failure to pay premiums in accordance with the terms of the medical malpractice liability insurance policy or the terms of the joint contract; or

(c) performance of an act or practice that constitutes fraud or intentional misrepresentation of material fact; and

(5) procedures for the termination of the alliance.

d. In addition to the other powers authorized under this section, a purchasing alliance shall have the authority to:

(1) set reasonable fees for membership in the alliance that will finance reasonable and necessary costs incurred in administering the purchasing alliance;

(2) negotiate premium rates for medical malpractice liability insurance with insurers on behalf of the members of the alliance, provided that negotiations are conducted by a person other than a member of the alliance or an employee of a member of the alliance;

(3) provide premium collection services for insurance purchased through the alliance for members;

(4) contract with third parties for any services necessary to carry out the powers and duties authorized or required pursuant to this section; and

(5) establish procedures for keeping confidential all communications between the members of the purchasing alliance and for prohibiting the

dissemination and discussion of pricing information and other business-related information between and among members of the alliance.

e. A purchasing alliance established pursuant to the provisions of this section shall not:

(1) assume risk for the cost or provision of medical malpractice liability insurance;

(2) exclude a member who agrees to pay fees for membership and the premium for medical malpractice liability insurance coverage and who abides by the bylaws of the alliance;

(3) engage in any trade practice or activity prohibited pursuant to P.L.1947, c.379 (C.17:29B-1 et seq.);

(4) represent more than 35% of the physicians in a county or other relevant geographic service area; or

(5) require a member to purchase medical malpractice liability insurance only through the alliance.

f. Within 30 days after its organization, the purchasing alliance board shall file with the commissioner a certificate that shall list: the members of the alliance; the names of the directors, chairman, treasurer and secretary of the alliance; the address at which communications for the alliance are to be received; a copy of the certificate of incorporation of the alliance, if any; and a copy of the joint contract executed by all of the members. Any change in the information required by the provisions of this section shall be filed with the commissioner within 30 days of the change.

g. The commissioner, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations necessary to effectuate the provisions of this section.

**C.17:30D-20 Provisions concerning settlements of medical malpractice liability insurance policy.**

15. a. A medical malpractice liability insurance policy, which is made, issued or delivered pursuant to Subtitle 3 of Title 17 of the Revised Statutes in this State on or after the effective date of P.L.2004, c.17 (C.2A:53A-37 et al.), may contain a provision that provides a person insured under the policy with the exclusive right to require the insurer to obtain the consent of the insured to settle any claim filed against the insured; except that, if the policy contains that provision, the insurer shall offer an endorsement, to be included in the policy at the option of the insured, providing the insurer with the right to settle a claim filed under the policy without first having obtained the insured's consent. The insurer shall establish a premium for the endorsement, which premium shall reflect any savings or reduced costs attributable to the endorsement.

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

adopt rules and regulations necessary to effectuate the provisions of this section.

**C.17:30D-21 Offering of deductibles in medical malpractice liability insurance policy.**

16. a. Every insurer authorized to transact medical malpractice liability insurance in this State shall offer medical malpractice liability insurance policies with a deductible, at the option of the insured, in an amount of at least \$5,000 per claim and up to \$1,000,000 per claim, and may require the insured to provide collateral for the deductible amount to the insurer.

b. Every insurer authorized to transact medical malpractice liability insurance in this State shall provide an appropriate premium reduction for any deductible chosen pursuant to subsection a. of this section.

c. In the case of a policy with any deductible, the insurer shall be responsible for payment of the deductible and shall be reimbursed for that amount by the insured.

**C.17:30D-22 Increase of premium prohibited, certain circumstances.**

17. Notwithstanding any other law or regulation to the contrary, an insurer authorized to transact medical malpractice liability insurance in this State shall not increase the premium of any medical malpractice liability insurance policy based on a claim of medical negligence or malpractice against the insured if the insured is dismissed from an action alleging medical malpractice within 180 days of the filing of the last responsive pleading.

**C.17:30D-23 Certification as to adequacy of rates.**

18. Each annual statement made after the effective date of P.L.2004, c.17 (C.2A:53A-37 et al.), pursuant to the provisions of section 16 of P.L.1982, c.114 (C.17:29AA-16), by an insurer writing medical malpractice in this State, shall include a certification by the chief executive officer or chief financial officer that the rates for every category, subcategory, or risk classification are adequate to cover expected losses and expenses of the insurer and to ensure the safety and soundness of the insurer.

**C.17:30D-24 Mailing of notice of renewal, nonrenewal.**

19. Notwithstanding the provisions of section 1 of P.L.1968, c.131 (C.17:29C-1) to the contrary, each notice of renewal or nonrenewal by an insurer authorized to transact medical malpractice liability insurance in this State shall be mailed or delivered by the insurer to the insured not less than 60 days prior to the expiration of the policy and, in the case of a nonrenewal, shall contain the reason for the nonrenewal.

20. Section 13 of P.L.1982, c.114 (C.17:29AA-13) is amended to read as follows:

**C.17:29AA-13 Rate, policy form noncompliance; order of commissioner; provisions for medical malpractice.**

13. a. If the commissioner finds, after a hearing, that a rate or policy form in effect for any rating organization or insurer, whether or not a member or subscriber of a rating organization is not in compliance with the standards of this act, he shall issue an order specifying in what respects it so fails, and stating when, within a reasonable period thereafter, such rate or form shall be deemed no longer effective. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

b. If the commissioner finds, after a hearing, that a rate in effect for any insurer writing medical malpractice liability insurance is not in compliance with the provisions of P.L.1982, c.114 (C.17:29AA-1 et seq.), the commissioner shall issue an order specifying in what respects it so fails, and stating when such rate shall no longer be deemed effective. The order may provide for the retroactive adjustment of rates and require the payment or credit of interest to insureds covered during the adjusted rate period. Interest shall be calculated at the percentage of interest prescribed in the Rules Governing the Courts of the State of New Jersey for judgments, awards and orders for the payment of money.

**C.17:30D-25 Annual review of capitalization, reserve requirements.**

21. Subject to standards adopted by the National Association of Insurance Commissioners, the Commissioner of Banking and Insurance shall, within 180 days after the effective date of P.L.2004, c.17 (C.2A:53A-37 et al.) and annually thereafter, review the current capitalization and reserve requirements applicable to insurers authorized or admitted to transact medical malpractice liability insurance in this State, as those requirements are established by statute or regulation, or both.

Based upon the findings of that review, the commissioner shall adopt regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to modify those requirements, as the commissioner determines necessary in order to ensure the solvency of those insurers and the availability and affordability of medical malpractice liability insurance in this State. If the commissioner determines that legislation is necessary to effect any such modification, the commissioner shall notify the Governor and the Legislature within the 180-day period provided in this section.

**C.17:30D-26 Option of installments for premium payments.**

22. Every insurer authorized to transact medical malpractice liability insurance in this State shall offer its insureds the option to make premium

payments in installments, as prescribed by the Commissioner of Banking and Insurance by regulation.

23. Section 2 of P.L.1983, c.247 (C.17:30D-17) is amended to read as follows:

**C.17:30D-17 Insurer to notify Medical Practitioner Review Panel of malpractice settlement, judgment, award.**

2. a. Any insurer or insurance association authorized to issue medical malpractice liability insurance in the State shall notify the Medical Practitioner Review Panel established pursuant to section 8 of P.L.1989, c.300 (C.45:9-19.8) in writing of any medical malpractice claim settlement, judgment or arbitration award involving any practitioner licensed by the State Board of Medical Examiners and insured by the insurer or insurance association. Any practitioner licensed by the board who is not covered by medical malpractice liability insurance issued in this State, who has coverage through a self-insured health care facility or health maintenance organization, or has medical malpractice liability insurance which has been issued by an insurer or insurance association from outside the State, shall notify the review panel in writing of any medical malpractice claim settlement, judgment or arbitration award to which the practitioner is a party. The review panel or board, as the case may be, shall not presume that the judgment or award is conclusive evidence in any disciplinary proceeding and the fact of a settlement is not admissible in any disciplinary proceeding.

In any malpractice action against a practitioner, a settlement prohibiting a complaint against the practitioner or the providing of information to the review panel or board concerning the underlying facts or circumstances of the action is void and unenforceable.

b. An insurer or insurance association authorized to issue medical malpractice liability insurance in the State shall notify the review panel in writing of any termination or denial of coverage to a practitioner or surcharge assessed on account of the practitioner's practice method or medical malpractice claims history.

c. The form of notification shall be prescribed by the Commissioner of Banking and Insurance, shall contain such information as may be required by the board and the review panel, and shall be made within seven days of the settlement, judgment or award or the final action for a termination or denial of, or surcharge on, the medical malpractice liability insurance. Upon request of the board, the review panel or the commissioner, an insurer or insurance association shall provide all records regarding the defense of a malpractice claim, the processing of the claim and the legal proceeding; except that nothing in this subsection shall be construed to authorize disclo-

sure of any confidential communication which is otherwise protected by statute, court rule or common law.

An insurer or insurance association, or any employee thereof, shall be immune from liability for furnishing information to the review panel and the board in fulfillment of the requirements of this section unless the insurer or insurance association, or any employee thereof, knowingly provided false information.

d. An insurer, insurance association or practitioner who fails to notify the review panel as required pursuant to this section shall be subject to such penalties as the Commissioner of Banking and Insurance may determine pursuant to section 12 of P.L.1975, c.301 (C.17:30D-12). In addition to, or in lieu of suspension or revocation, the commissioner may assess a fine which shall not exceed \$1,000 for the first offense and \$2,000 for the second and each subsequent offense, which may be recovered in a summary proceeding, brought in the name of the State in a court of competent jurisdiction pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

e. A practitioner who fails to notify the review panel as required pursuant to this section shall be subject to disciplinary action and civil penalties pursuant to sections 8, 9 and 12 of P.L.1978, c.73 (C.45:1-21 to 45:1-22 and 45:1-25).

f. An insurer or insurance association shall make available to the review panel or the board, upon request, any records of termination or denial of coverage to a practitioner or surcharge assessed on account of the practitioner's practice method or medical malpractice claims history, which occurred up to five years prior to the effective date of P.L.1989, c.300 (C.45:9-19.4 et al.).

g. For the purposes of this section, "practitioner" means a person licensed to practice: medicine and surgery under chapter 9 of Title 45 of the Revised Statutes or a medical resident or intern; or podiatry under chapter 5 of Title 45 of the Revised Statutes.

h. Any insurer or insurance association authorized to issue medical malpractice liability insurance in the State shall notify the Commissioner of Banking and Insurance, in a form and manner specified by the commissioner, of any medical malpractice claim settlement, judgment or arbitration award involving any practitioner licensed by the State Board of Medical Examiners and insured by the insurer or insurance association. The notification shall include the specialty or area of professional practice of the practitioner and the amount of the settlement, judgment or arbitration award, but shall not include the name or other identifying information of the practitioner.

**C.17:30D-27 Definitions relative to medical malpractice judgments; payment.**

24. a. As used in this section:

"Annuity" means an annuity issued by an insurer licensed or authorized to do business in this State which is a qualified assignment under section 130 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.130.

"Judgment creditor" means a claimant who is the recipient of an award for economic or noneconomic damages, or both, that is the result of an action filed against a health care provider for medical malpractice, which award is subject to the provisions of subsection b. of this section.

"Judgment debtor" means a health care provider who, as a defendant in an action brought for medical malpractice, is required to pay the claimant an award that is subject to the provisions of this section.

"Noneconomic damages" means damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium, hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

"Structured payment agreement" means an agreement made to settle a claim or lawsuit or respond to a judgment in an action brought for medical malpractice by an injured person whereby a series of periodic payments, rather than a lump sum payment, is made over time to a claimant, in accordance with the needs of the claimant or the claimant's family, either through the purchase of an annuity or the establishment of a trust fund, or by another means approved by the court.

b. (1) Unless otherwise agreed to by the parties, in any judgment resulting from a medical malpractice action brought by a claimant for medical malpractice in which the noneconomic damages are less than or equal to \$1,000,000, the court shall enter a judgment ordering that all of the money damages, both economic and noneconomic, be paid immediately.

(2) Unless otherwise agreed to by the parties, in any judgment resulting from a medical malpractice action brought by a claimant for medical malpractice in which the noneconomic damages exceed \$1,000,000, the court shall enter a judgment ordering that 50% of the noneconomic damages be paid immediately, with the costs and attorney's fees to be paid from that amount. The remaining 50% of the judgment shall be paid over 60 months in the form of a structured payment agreement by any person, organization, group, or insurer that is contractually liable to pay the judgment.

c. The structured payment agreement shall specify: the recipient of the payments; the dollar amount of the payments; the interval between payments; the number of payments or the period of time over which payments are to be made; and the persons to whom money damages are owed, if any, in the event of the judgment creditor's death.



d. In the event of the judgment creditor's death, any amounts due and owing pursuant to subsection b. of this section shall be paid to the judgment creditor's estate.

e. The judgment debtor or the judgment debtor's insurer shall be required to: post a bond or security; or, as otherwise provided by regulation of the Department of Banking and Insurance, assure full payment of the noneconomic damages awarded. A bond shall not be deemed adequate unless it is written by a company authorized to do business in this State and is rated A-, or better, by A.M. Best Company or such other company as is approved by the Department of Banking and Insurance. If the judgment debtor is unable to adequately assure full payment of the judgment, the judgment, reduced to present value, shall be paid to the claimant in a lump sum. No bond may be canceled or be subject to cancellation unless at least 60 days' advance written notice is filed with the court and the claimant. Upon termination of periodic payments, the security, or so much as remains, shall be returned to the judgment debtor.

f. Upon the purchase of an annuity, establishment of a trust, or approval of another arrangement for periodic payments by a court, any obligation of the judgment debtor with respect to the judgment shall cease.

25. Section 1 of P.L.1997, c.365 (C.45:9-19.17) is amended to read as follows:

**C.45:9-19.17 Medical malpractice liability insurance, letter of credit required for physician, regulations.**

1. a. A physician who maintains a professional medical practice in this State and has responsibility for patient care is required to be covered by medical malpractice liability insurance issued by a carrier authorized to write medical malpractice liability insurance policies in this State, in the sum of \$1,000,000 per occurrence and \$3,000,000 per policy year and unless renewal coverage includes the premium retroactive date, the policy shall provide for extended reporting endorsement coverage for claims made policies, also known as "tail coverage," or, if such liability coverage is not available, by a letter of credit for at least \$500,000.

The physician shall notify the State Board of Medical Examiners of the name and address of the insurance carrier or the institution issuing the letter of credit, pursuant to section 7 of P.L.1989, c.300 (C.45:9-19.7).

b. A physician who is in violation of this section is subject to disciplinary action and civil penalties pursuant to sections 8, 9 and 12 of P.L.1978, c.73 (C.45:1-21 to 22 and 45:1-25).

c. The State Board of Medical Examiners may, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), establish

by regulation, minimum amounts for medical malpractice liability insurance coverage and lines of credit in excess of those amounts required pursuant to subsection a. of this section.

d. The State Board of Medical Examiners shall notify all physicians licensed by the board of the requirements of this section within 30 days of the date of enactment of P.L.2004, c.17.

**C.17:30D-28 Definitions relative to Medical Liability Insurance Premium Assistance Fund.**

26. For the purposes of sections 27 and 28 of P.L.2004, c.17 (C.17:30D-29 and 17:30D-30):

"Commissioner" means the Commissioner of Banking and Insurance.

"Fund" means the Medical Malpractice Liability Insurance Premium Assistance Fund established pursuant to section 27 of P.L.2004, c.17 (C.17:30D-29).

"Health care provider" means a physician, podiatrist, dentist and chiropractor licensed pursuant to the provisions of Title 45 of the Revised Statutes, a nurse licensed pursuant to the provisions of Title 45 of the Revised Statutes who is employed by a licensed hospital, long-term care facility or assisted living facility in this State and any person who purchases professional liability insurance on behalf of or for a practitioner, including professional liability insurance protection which is provided for hospital employed physicians through hospital funding supplemented by purchased commercial insurance coverage.

"Practitioner" means a physician, podiatrist, dentist and chiropractor and a nurse employed by a licensed hospital, long-term care facility or assisted living facility in this State.

**C.17:30D-29 Medical Malpractice Liability Insurance Premium Assistance Fund.**

27. a. There is established a Medical Malpractice Liability Insurance Premium Assistance Fund within the Department of the Treasury as a nonlapsing, revolving fund.

b. The fund shall be comprised of the following revenue:

(1) an annual surcharge of \$3 per employee for all employers who are subject to the New Jersey "unemployment compensation law," R.S.43:21-1 et seq., collected by the comptroller for the New Jersey Unemployment Compensation Fund and paid over to the State Treasurer for deposit in the fund annually, as provided by the commissioner, which surcharge may, at the option of the employer, be treated as a payroll deduction to each covered employee;

(2) an annual charge of \$75 to be imposed by the State Board of Medical Examiners on every physician and podiatrist licensed by the board pursuant to the provisions of R.S.45:9-1 et seq., collected by the board and remitted to the State Treasurer for deposit into the fund;

(3) an annual charge of \$75 to be imposed by the State Board of Chiropractic Examiners on every chiropractor licensed by the board pursuant to the provisions of P.L.1989, c.153 (C.45:9-41.17 et seq.), collected by the board and remitted to the State Treasurer for deposit into the fund;

(4) an annual charge of \$75 to be imposed by the New Jersey State Board of Dentistry on every dentist licensed pursuant to the provisions of R.S. 45:6-1 et seq., collected by the board and remitted to the State Treasurer for deposit into the fund;

(5) an annual charge of \$75 to be imposed by the New Jersey State Board of Optometrists on every optometrist licensed by the board pursuant to the provisions of R.S.45:12-1 et seq., collected by the board and remitted to the State Treasurer for deposit into the fund; and

(6) an annual fee of \$75 to be assessed by the State Treasurer and payable by each person licensed to practice law in this State, for deposit into the fund.

The provisions of paragraphs (2) through (5) of this subsection shall not apply to physicians, podiatrists, chiropractors, dentists or optometrists who: are statutorily or constitutionally barred from the practice of their respective profession; can show that they do not maintain a bona fide office for the practice of their profession in this State; are completely retired from the practice of their profession; are on full-time duty with the armed forces, VISTA or the Peace Corps and not engaged in practice; or have not practiced their profession for at least one year.

The provisions of paragraph (6) of this subsection shall not apply to attorneys who: are constitutionally or statutorily barred from the practice of law; can show that they do not maintain a bona fide office for the practice of law in this State; are completely retired from the practice of law; are on full-time duty with the armed forces, VISTA or the Peace Corps and not engaged in practice; are ineligible to practice law because they have not made their New Jersey Lawyers' Fund for Client Protection payment; or have not practiced law for at least one year.

c. The State Treasurer shall deposit all moneys collected by him pursuant to this section into the fund. Monies credited to the fund may be invested in the same manner as assets of the General Fund and any investment earnings on the fund shall accrue to the fund and shall be available subject to the same terms and conditions as other monies in the fund.

d. The fund shall be administered by the Department of Banking and Insurance in accordance with the provisions of P.L.2004, c.17 (C.2A:53A-37 et al.).

e. The monies in the fund are specifically dedicated and shall be utilized exclusively for the following purposes:

(1) \$17 million shall be allocated annually for the purpose of providing relief towards the payment of medical malpractice liability insurance premiums to health care providers in the State who have experienced or are experiencing a liability insurance premium increase in an amount as established by the commissioner by regulation and meet the criteria established pursuant to section 28 of P.L.2004, c.17 (C.17:30D-30);

(2) \$6.9 million shall be allocated annually to the Health Care Subsidy Fund established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58) for the purpose of providing payments to hospitals in accordance with the formula used for the distribution of charity care subsidies that are provided pursuant to P.L.1992, c.160 (C.26:2H-18.51 et al.);

(3) \$1 million shall be allocated annually for a student loan expense reimbursement program for obstetrician/gynecologists, to be established pursuant to section 29 of P.L.2004, c.17 (C.18A:71C-49); and

(4) \$1.2 million shall be allocated annually to the Division of Medical Assistance and Health Services in the Department of Human Services for the purposes provided in section 30 of P.L.2004, c.17 (C.30:4J-7).

f. The fund and the annual surcharge, charges and fee provided for in subsection b. of this section shall expire three years after the effective date of P.L.2004, c.17 (C.2A:53A-37 et al.).

g. The commissioner, in consultation with the Commissioner of Health and Senior Services, shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to carry out the purposes of sections 26 through 29 of P.L.2004, c.17 (C.17:30D-28 through C.17:30D-30 and C.18A:71C-49); except that, notwithstanding any provision of P.L.1968, c.410 to the contrary, the commissioner may adopt, immediately upon filing with the Office of Administrative Law, such regulations as the commissioner deems necessary to implement the provisions of sections 26 through 29 of P.L.2004, c.17 (C.17:30D-28 through C.17:30D-30 and C.18A:71C-49), which shall be effective for a period not to exceed six months and may thereafter be amended, adopted or readopted by the commissioner in accordance with the requirements of P.L.1968, c.410.

**C.17:30D-30 Responsibilities of commissioner.**

28. a. In order to carry out the purposes of section 27 of P.L.2004, c.17 (C.17:30D-29), the commissioner shall, at a minimum:

(1) establish a program to provide medical malpractice liability insurance premium subsidies to health care providers from monies that are contained in the fund;

(2) establish a methodology and procedures for determining eligibility for, and providing subsidies from, the fund;

(3) maintain confidential records on each health care provider who receives assistance from the fund;

(4) take all necessary action to recover the cost of the subsidy provided to a health care provider that the commissioner determines to have been incorrectly provided; and

(5) provide for subsidies to all practitioners who are members of specialties and subspecialties who qualify for relief under subsection b. of this section, including those whose professional liability insurance protection is provided by hospital funding supplemented by purchased commercial insurance coverage.

b. The commissioner shall certify classes of practitioners by specialty and subspecialty for each type of practitioner, whose average medical malpractice premium, as a class, on or after December 31, 2002, is in excess of an amount per year as determined by the commissioner by regulation. In certifying classes eligible for the subsidy, the commissioner, in consultation with the Commissioner of Health and Senior Services, may also consider if access to care is threatened by the inability of a significant number of practitioners, as applicable, in a particular specialty or subspecialty, to continue practicing in a geographic area of the State.

(1) In order to be eligible for a subsidy from the fund, a practitioner shall have received a medical malpractice liability insurance premium increase in an amount as determined by the commissioner by regulation, for one or more of the following: upon renewal on or after January 1, 2004, from the amount paid by that practitioner in calendar year 2003; upon renewal on or after January 1, 2005, from the amount paid by that practitioner in calendar year 2004; and upon renewal on or after January 1, 2006, from the amount paid by that practitioner in calendar year 2005; or

(2) In the case of a health care provider providing professional liability insurance protection through self-insured hospital funding supplemented with purchased commercial insurance coverage, in order to be eligible for a subsidy from the fund, that provider shall have increased its total professional liability funding obligation in an amount as determined by the commissioner by regulation, for one or more of the following: upon renewal on or after January 1, 2004, from the professional liability funding obligation paid by that provider in calendar year 2003; upon renewal on or after January 1, 2005, from the professional liability funding obligation paid by that provider in calendar year 2004; and upon renewal on or after January 1, 2006, from the professional liability funding obligation paid by that provider in calendar year 2005.

(3) The amount of the subsidy shall be an amount, as determined by the commissioner by regulation, of the increase from the preceding year's premium or self-insured professional liability funding obligation; except that

no health care provider shall receive a subsidy in any year that is greater than an amount as determined by the commissioner by regulation.

c. A practitioner who has been subject to a disciplinary action or civil penalty by the practitioner's respective licensing board pursuant to section 8, 9 or 12 of P.L.1978, c.73 (C.45:1-21, 22 or 25), when that action or penalty relates to the practitioner's provision of, or failure to provide, treatment or care to a patient, is not eligible for a subsidy from the fund.

d. (1) A practitioner who receives a subsidy from the fund shall be required to practice in that practitioner's specialty or subspecialty in this State for a period of at least two years after receipt of the subsidy.

(2) A practitioner who fails to comply with the provisions of paragraph (1) of this subsection shall be required to repay to the commissioner the amount of the subsidy, in whole or in part as determined by the commissioner.

e. The commissioner may waive the criteria for eligibility for a subsidy established pursuant to this section, if the commissioner determines that access to care for a particular specialty is threatened because of an inability of a sufficient number of practitioners in that specialty or subspecialty to practice in a geographic area of the State.

f. The State Board of Medical Examiners, the State Board of Chiropractic Examiners, the New Jersey State Board of Dentistry and the New Jersey Board of Nursing shall each provide to the commissioner, on a quarterly basis, the names of the practitioners who have been subject to a disciplinary action or civil penalty by the practitioner's respective licensing board.

g. For the purposes of section 29 of P.L.2004, c.17 (C.18A:71C-49), the commissioner, in consultation with the State Board of Medical Examiners, shall provide to the Higher Education Student Assistance Authority the names of obstetrician/gynecologists licensed by the board who may qualify for the student loan reimbursement program established pursuant to P.L.2004, c.17. A physician who has been subject to a disciplinary action or civil penalty by the board, as provided in subsection c. of this section, shall not be eligible for the program.

**C.18A:71C-49 OB/GYN student loan expense reimbursement program.**

29. a. There is established a student loan expense reimbursement program within the Higher Education Student Assistance Authority for obstetrician/gynecologists who agree to practice in State designated underserved areas as established pursuant to section 1 of P.L.1999, c.46 (C.18A:71C-35). Any loans provided through the NJCLASS Loan Program pursuant to P.L.1999, c.46 (C.18A:71C-21 et seq.) or a student loan program

of the federal government shall be eligible for reimbursement under this program.

The authority shall implement the program in consultation with the Commissioners of Banking and Insurance and Health and Senior Services and the State Board of Medical Examiners.

b. (1) An obstetrician/gynecologist who receives a payment under the student loan expense reimbursement program shall be required to practice as an obstetrician/gynecologist in an underserved area in this State for a period of at least four years after receipt of the payment.

(2) An obstetrician/gynecologist who fails to comply with the provisions of paragraph (1) of this subsection shall be required to repay to the Higher Education Student Assistance Authority the amount of the payment, in whole or in part as determined by the authority.

c. 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 this section, including, but not limited to: eligibility for the program, procedures for application, selection of participants, establishment and nullification of contracts established with participants under the program, and reports to the program by participants.

**C.30:4J-7 Eligibility for Family Care Health Coverage Program, women, certain.**

30. Within the limits of funds appropriated pursuant to section 27 of P.L.2004, c.17 (C.17:30D-29) and such other funds as may be available for this purpose, the FamilyCare Health Coverage Program established pursuant to P.L.2000, c.71 (C.30:4J-1 et seq.) shall enroll into the program women whose eligibility under the Medicaid New Jersey Care pregnant women program or the "New Jersey Standardized Parent Service Package," Demonstration Population 3, Medicaid expansion for uninsured pregnant woman, has expired and whose family income does not exceed 100% of the federal poverty level.

The Commissioner of Human Services shall establish a presumptive eligibility process to provide for an efficient transition into the FamilyCare Health Coverage Program from the Medicaid program pursuant to this section.

31. There is established the "Medical Care Availability Task Force."

a. The task force shall consist of 17 members as follows:

(1) the Commissioners of Banking and Insurance, Health and Senior Services, and Human Services, and the Director of the Administrative Office of the Courts, or their designees, who shall serve ex officio; and

(2) 13 public members, who shall include: one person appointed upon the recommendation of an organization that represents physicians; one

person appointed upon the recommendation of an organization that represents osteopathic physicians and surgeons; one person appointed upon the recommendation of an organization that represents dentists; one person appointed upon the recommendation of an organization that represents hospitals; one person appointed upon the recommendation of an organization that represents teaching hospitals; one person appointed upon the recommendation of an organization that represents trial lawyers; one person appointed upon the recommendation of an organization that represents attorneys; one person appointed upon the recommendation of an organization that represents medical malpractice insurers; one person appointed upon the recommendation of an organization that represents managed care carriers; and four persons who represent the interests of health care consumers.

Of the 13 public members, five shall be appointed by the Governor, with the advice and consent of the Senate; four shall be appointed by the President of the Senate; and four shall be appointed by the Speaker of the General Assembly. The Governor, the President of the Senate, and the Speaker of the General Assembly shall consult with each other on the appointment of the public members.

b. Vacancies in the membership of the task force shall be filled in the same manner provided for the original appointments. The public members of the task force shall serve without compensation but may be reimbursed for traveling and other miscellaneous expenses necessary to perform their duties, within the limits of funds made available to the task force for its purposes.

c. (1) The task force shall organize as soon as practicable, but no later than the 30th day after the appointment of its members, and shall select a chairperson and vice-chairperson from among the members. The chairperson shall appoint a secretary who need not be a member of the task force.

(2) The task force may meet at the call of the chairperson and hold hearings at the times and in the places it may deem appropriate and necessary to fulfill its charge. The task force shall be entitled to call to its assistance, and avail itself of the services of, the employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for its purposes.

(3) The Department of Banking and Insurance shall provide staff services to the task force.

d. The purpose of the task force shall be to study the following issues:

(1) the advantages and disadvantages of establishing limitations on noneconomic damages for medical malpractice judgments and on extending current limitations on liability that apply to nonprofit hospitals to employees, other than physicians, of those hospitals;



(2) the impact of third party reimbursement policies by insurers and health maintenance organizations on access to health care services in the context of the current affordability crisis in the State affecting health care providers in the purchase of necessary liability coverage;

(3) the advantages and disadvantages of adopting additional changes to the statute of limitations regarding medical malpractice actions;

(4) the advantages and disadvantages of establishing additional procedures for mediation of actions alleging medical malpractice and for screening for frivolous medical malpractice lawsuits; and

(5) the advantages and disadvantages of establishing a pre-suit procedure.

e. The task force shall present a report of its findings and recommendations to the Governor and the Legislature no later than 24 months after the date of its initial meeting, and shall be authorized to periodically issue a summary of its deliberations prior to the presentation of its report.

**C.17:30D-31 Rules, regulations.**

32. The Commissioner of Banking and Insurance shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to carry out the purposes of sections 13, 16 through 19, 21, 22 and 24 of this act.

33. This act shall take effect on the 30th day after enactment and shall apply to causes of action for medical malpractice that accrue on or after that effective date; except that section 9 shall take effect upon action by the court, sections 14 through 16 and section 22 shall take effect on the 180th day after the date of enactment, sections 17 and 19 shall take effect on the 90th day after the date of enactment, and the amendatory provisions of sections 3 and 4 shall apply to injuries sustained at birth on or after the effective date of this act. Section 29 shall expire three years after the effective date.

Approved June 7, 2004.

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CHAPTER 18

AN ACT concerning the licensing of home inspectors and amending P.L.1997, c.323 and P.L.1999, c.76.

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

1. Section 12 of P.L.1997, c.323 (C.45:8-72) is amended to read as follows:

**C.45:8-72 Licensing of individuals currently engaged in practice of home inspection; criteria.**

12. The committee shall issue to any individual upon application a home inspector license, provided that the applicant meets the requirements of subsections a., b., and d. of section 8 of this act and: a. has been engaged in the practice of home inspections for compensation for not less than three years prior to December 30, 2005 and has performed not less than 300 home inspections for compensation prior to December 30, 2005; or b. has performed not less than 400 home inspections for compensation prior to December 30, 2005.

2. Section 1 of P.L.1999, c.76 (C.56:8-19.1) is amended to read as follows:

**C.56:8-19.1 Exemption from consumer fraud law, certain real estate licensees, circumstances.**

1. Notwithstanding any provision of P.L.1960, c.39 (C.56:8-1 et seq.) to the contrary, there shall be no right of recovery of punitive damages, attorney fees, or both, under section 7 of P.L.1971, c.247 (C.56:8-19), against a real estate broker, broker-salesperson or salesperson licensed under R.S.45:15-1 et seq. for the communication of any false, misleading or deceptive information provided to the real estate broker, broker-salesperson or salesperson, by or on behalf of the seller of real estate located in New Jersey, if the real estate broker, broker-salesperson or salesperson demonstrates that he:

a. Had no actual knowledge of the false, misleading or deceptive character of the information; and

b. Made a reasonable and diligent inquiry to ascertain whether the information is of a false, misleading or deceptive character. For purposes of this section, communications by a real estate broker, broker-salesperson or salesperson which shall be deemed to satisfy the requirements of a "reasonable and diligent inquiry" include, but shall not be limited to, communications which disclose information:

(1) provided in a report or upon a representation by a person, licensed or certified by the State of New Jersey, including, but not limited to, an appraiser, home inspector, plumber or electrical contractor, or an unlicensed home inspector until December 30, 2005, of a particular physical condition pertaining to the real estate derived from inspection of the real estate by that person;

(2) provided in a report or upon a representation by any governmental official or employee, if the particular information of a physical condition is

likely to be within the knowledge of that governmental official or employee;  
or

(3) that the real estate broker, broker-salesperson or salesperson obtained from the seller in a property condition disclosure statement, which form shall comply with regulations promulgated by the director in consultation with the New Jersey Real Estate Commission, provided that the real estate broker, broker-salesperson or salesperson informed the buyer that the seller is the source of the information and that, prior to making that communication to the buyer, the real estate broker, broker-salesperson or salesperson visually inspected the property with reasonable diligence to ascertain the accuracy of the information disclosed by the seller.

Nothing in this section shall be interpreted to affect the obligations of a real estate broker, broker-salesperson or salesperson pursuant to the "New Residential Construction Off-Site Conditions Disclosure Act," P.L.1995, c.253 (C.46:3C-1 et seq.), or any other law or regulation.

3. This act shall take effect immediately.

Approved June 10, 2004.

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## CHAPTER 19

AN ACT concerning certain campaign contributions by certain business entities and county political party committees, supplementing P.L.1973, c.83 (C.19:44A-1 et seq.), and amending P.L.1973, c.83.

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

**C.19:44A-20.2 Contributors to State committee of Governor's political party; eligibility for State contracts.**

1. Notwithstanding the provisions of any other law to the contrary:

a State agency in the Executive Branch shall not enter into a contract having an anticipated value in excess of \$17,500, as determined in advance and certified in writing by the State agency, with a business entity, except a contract that is awarded pursuant to a fair and open process, if, during the preceding one-year period, that business entity has made a contribution, reportable by the recipient under P.L.1973, c.83 (C.19:44A-1 et seq.), to the State committee of the political party of which the Governor, serving when the contract is awarded, is a member or to any candidate committee of that Governor; and

a business entity that has entered into a contract having an anticipated value in excess of \$17,500 with a State agency in the Executive Branch,

except a contract that is awarded pursuant to a fair and open process, shall not make a contribution, reportable by the recipient under P.L.1973, c.83 (C.19:44A-1 et seq.), to the State committee of the political party of which the Governor, serving when the contract is awarded, is a member or to any candidate committee of that Governor, during the term of that contract.

No such committee shall accept such a contribution from a business entity during the term of its contract with a State agency in the Executive Branch.

**C.19:44A-20.3 Contributors to State committee of presiding officer's political party; eligibility for contracts in Legislative branch.**

2. Notwithstanding the provisions of any other law to the contrary:

a State agency in the Legislative Branch shall not enter into a contract having an anticipated value in excess of \$17,500, as determined in advance and certified in writing by the State agency, with a business entity, that requires approval by a presiding officer of either or both houses of the Legislature, except a contract that is awarded pursuant to a fair and open process, if, during the preceding one-year period, that business entity has made a contribution, reportable by the recipient under P.L.1973, c.83 (C.19:44A-1 et seq.), to the State committee of the political party of which that presiding officer, serving when the contract is awarded, is a member or to a legislative leadership committee or any candidate committee established by that presiding officer; and

a business entity that has entered into a contract having an anticipated value in excess of \$17,500 with a State agency in the Legislative Branch, that requires approval by a presiding officer of either or both houses of the Legislature, except a contract that is awarded pursuant to a fair and open process, shall not make a contribution, reportable by the recipient under P.L.1973, c.83 (C.19:44A-1 et seq.), to the State committee of the political party of which that presiding officer is a member or to a legislative leadership committee or any candidate committee established by that presiding officer, during the term of that contract.

No such committee shall accept such a contribution from a business entity during the term of its contract with a State agency in the Legislative Branch.

**C.19:44A-20.4 Contributors to county committee of political party of elective officers; eligibility for county contracts.**

3. Notwithstanding the provisions of any other law to the contrary:

a county, or any agency or instrumentality thereof, shall not enter into a contract having an anticipated value in excess of \$17,500, as determined in advance and certified in writing by the county, agency or instrumentality, with a business entity, except a contract that is awarded pursuant to a fair

and open process, if, during the preceding one-year period, that business entity has made a contribution that is reportable by the recipient under P.L.1973, c.83 (C.19:44A-1 et seq.), to any county committee of a political party in that county if a member of that political party is serving in an elective public office of that county when the contract is awarded or to any candidate committee of any person serving in an elective public office of that county when the contract is awarded; and

a business entity that has entered into a contract having an anticipated value in excess of \$17,500 with a county, or any agency or instrumentality thereof, except a contract that is awarded pursuant to a fair and open process, shall not make such a contribution, reportable by the recipient under P.L.1973, c.83 (C.19:44A-1 et seq.), to any county committee of a political party in that county if a member of that political party is serving in an elective public office of that county when the contract is awarded or to any candidate committee of any person serving in an elective public office of that county when the contract is awarded, during the term of that contract.

No such committee shall accept such a contribution from a business entity during the term of its contract with the county.

**C.19:44A-20.5 Contributors to municipal committee of political party of elective officers; eligibility for municipal contracts.**

4. Notwithstanding the provisions of any other law to the contrary:

a municipality, or any agency or instrumentality thereof, shall not enter into a contract having an anticipated value in excess of \$17,500, as determined in advance and certified in writing by the municipality, agency or instrumentality, with a business entity, except a contract that is awarded pursuant to a fair and open process, if, during the preceding one-year period, that business entity has made a contribution that is reportable by the recipient under P.L.1973, c.83 (C.19:44A-1 et seq.), to any municipal committee of a political party in that municipality if a member of that political party is serving in an elective public office of that municipality when the contract is awarded or to any candidate committee of any person serving in an elective public office of that municipality when the contract is awarded; and

a business entity that has entered into a contract having an anticipated value in excess of \$17,500 with a municipality, or any agency or instrumentality thereof, except a contract that is awarded pursuant to a fair and open process, shall not make such a contribution, reportable by the recipient under P.L.1973, c.83 (C.19:44A-1 et seq.), to any municipal committee of a political party in that municipality if a member of that political party is serving in an elective public office of that municipality when the contract is awarded or to any candidate committee of any person serving in an elective

public office of that municipality when the contract is awarded, during the term of that contract.

No such committee shall accept such a contribution from a business entity during the term of its contract with the municipality.

**C.19:44A-20.6 Certain contributions deemed as contributions by business entity.**

5. When a business entity is a natural person, a contribution by that person's spouse or child, residing therewith, shall be deemed to be a contribution by the business entity. When a business entity is other than a natural person, a contribution by any person or other business entity having an interest therein shall be deemed to be a contribution by the business entity.

**C.19:44A-20.7 Definitions relative to certain campaign contributions.**

6. As used in sections 1 through 12 of this act:

"business entity" means any natural or legal person, business corporation, professional services corporation, limited liability company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of this State or of any other state or foreign jurisdiction;

"interest" means the ownership or control of more than 10% of the profits or assets of a business entity or 10% of the stock in the case of a business entity that is a corporation for profit, as appropriate;

"fair and open process" means, at a minimum, that the contract shall be: publicly advertised in newspapers or on the Internet website maintained by the public entity in sufficient time to give notice in advance of the contract; awarded under a process that provides for public solicitation of proposals or qualifications and awarded and disclosed under criteria established in writing by the public entity prior to the solicitation of proposals or qualifications; and publicly opened and announced when awarded. The decision of a public entity as to what constitutes a fair and open process shall be final.

"State agency in the Executive Branch" 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 and any independent State authority, board, commission, instrumentality or agency.

"State agency in the Legislative Branch" means the Legislature of the State and any office, board, bureau or commission within or created by the Legislative Branch.

**C.19:44A-20.8 Business entity to provide written certification, ELEC reports.**

7. a. Prior to awarding any contract, except a contract that is not awarded pursuant to a fair and open process, a State agency in the Executive

or Legislative Branches, a county, or a municipality shall require the business entity to which the contract is to be awarded to provide a written certification that it has not made a contribution that would bar the award of a contract pursuant to this act.

b. A business entity shall have a continuing duty to report to the Election Law Enforcement Commission any contributions that constitute a violation of this act that are made during the duration of a contract.

**C.19:44A-20.9 Repayment of contribution.**

8. If a business entity makes a contribution that would cause it to be ineligible to receive a public contract or, in the case of a contribution made during the term of a public contract, that would constitute a violation of this act, the business entity may request, in writing, within 60 days of the date on which the contribution was made, that the recipient thereof repay the contribution and, if repayment is received within those 60 days, the business entity would again be eligible to receive a contract or would no longer be in violation, as appropriate.

**C.19:44A-20.10 Violations by business entities, penalties.**

9. A business entity which is determined by the Election Law Enforcement Commission to have willfully and intentionally made a contribution or failed to reveal a contribution in violation of this act may be liable to a penalty of up to the value of its contract with the public entity and may be debarred by the State Treasurer from contracting with any public entity for up to five years.

**C.19:44A-20.11 Penalty for acceptance of unlawful contribution.**

10. Any person who is determined by the Election Law Enforcement Commission to have willfully and intentionally accepted a contribution in violation of the provisions of sections 1 through 4 of this act shall be liable to a penalty for each such violation equal to the penalties set forth in subsection e. of section 22 of P.L.1973, c.83 (C.19:44A-22).

**C.19:44A-20.12 Construction of act relative to public exigency.**

11. Nothing contained in this act shall be construed as prohibiting the awarding of a contract when the public exigency requires the immediate delivery of goods or performance of emergency services as determined by the State Treasurer.

12. Nothing contained in this act shall be construed as affecting the eligibility of any business entity to perform a public contract because that entity made a contribution to any committee during the one-year period immediately preceding the effective date of this act.

**C.19:44A-11.3a Limitations on receipt of contributions, certain, between county committees; violations, penalties.**

13. In addition to any other applicable limit prescribed by law, between January 1 and June 30 of each year, a county committee of a political party shall not make a contribution to any other county committee of a political party, nor shall any such county committee accept a contribution from any other county committee during that time period. In addition to any other penalty provided by law, a county committee that willfully and intentionally violates this section, or willfully and intentionally makes a contribution to any candidate or committee with the intent, condition, understanding or belief that the candidate or committee has made or shall make a contribution to another county committee, shall be liable to a penalty equal to four times the amount of the contribution.

14. Section 22 of P.L.1973, c.83 (C.19:44A-22) is amended to read as follows:

**C.19:44A-22 Violations; civil penalties; forfeiture.**

22. a. (1) Except as provided in subsection e. or f., any person, including any candidate, treasurer, candidate committee or joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee, charged with the responsibility under the terms of this act for the preparation, certification, filing or retention of any reports, records, notices or other documents, who fails, neglects or omits to prepare, certify, file or retain any such report, record, notice or document at the time or during the time period, as the case may be, and in the manner prescribed by law, or who omits or incorrectly states or certifies any of the information required by law to be included in such report, record, notice or document, any person who proposes to undertake or undertakes a public solicitation, testimonial affair or other activity relating to contributions or expenditures in any way regulated by the provisions of this act who fails to comply with those regulatory provisions, and any other person who in any way violates any of the provisions of this act shall, in addition to any other penalty provided by law, be liable to a penalty of not more than \$3,000.00 for the first offense and not more than \$6,000.00 for the second and each subsequent offense.

(2) No person shall willfully and intentionally agree with another person to make a contribution to a candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee with the intent, or upon the condition, understanding or belief, that the recipient candidate or committee shall make or have made a contribution to another such candidate or committee, but this paragraph shall not be construed to



prohibit a county or municipal committee of a political party from making a contribution or contributions to any candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee. A finding of a violation of this paragraph shall be made only upon clear and convincing evidence. A person who violates the provisions of this paragraph shall be liable to a penalty equal to four times the amount of the contribution which that person agreed to make to the recipient candidate or committee.

b. Upon receiving evidence of any violation of this section, the Election Law Enforcement Commission shall have power to hold, or to cause to be held under the provisions of subsection d. of this section, hearings upon such violation and, upon finding any person to have committed such a violation, to assess such penalty, within the limits prescribed in subsection a. of this section, as it deems proper under the circumstances, which penalty shall be paid forthwith into the State Treasury for the general purposes of the State.

c. In assessing any penalty under this section, the Election Law Enforcement Commission may provide for the remission of all or any part of such penalty conditioned upon the prompt correction of any failure, neglect, error or omission constituting the violation for which said penalty was assessed.

d. The commission may designate a hearing officer to hear complaints of violations of this act. Such hearing officer shall take testimony, compile a record and make factual findings, and shall submit the same to the commission, which shall have power to assess penalties within the limits and under the conditions prescribed in subsections b. and c. of this section. The commission shall review the record and findings of the hearing officer, but it may also seek such additional testimony as it deems necessary. The commission's determination shall be by majority vote of the entire authorized membership thereof.

e. Any person who willfully and intentionally makes or accepts any contribution in violation of section 4 of P.L.1974, c.26 (C.19:44A-29) or section 18, 19 or 20 of P.L.1993, c.65 (C.19:44A-11.3, C.19:44A-11.4 or C.19:44A-11.5), shall be liable to a penalty of:

(1) Not more than \$5,000.00 if the cumulative total amount of those contributions is less than or equal to \$5,000.00;

(2) Not more than \$75,000.00 if the cumulative total amount of those contributions was more than \$5,000.00 but less than \$75,000; and

(3) Not more than \$100,000.00 if the cumulative total amount of those contributions is equal to or more than \$75,000.00.

f. In addition to any penalty imposed pursuant to subsection e. of this section, a person holding any elective public office shall forfeit that public

office if the Election Law Enforcement Commission determines that the cumulative total amount of the illegal contributions was more than \$50,000.00 and that the violation had a significant impact on the outcome of the election.

g. Any penalty prescribed in this section shall be enforced in a summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

15. This act shall take effect on January 1, 2006.

Approved June 16, 2004.

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## CHAPTER 20

AN ACT concerning the financial disclosure of lobbying activities conducted through advertisements and direct mail and amending P.L.1971, c.183 and P.L.1981, c.150.

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

1. Section 3 of P.L.1971, c.183 (C.52:13C-20) is amended to read as follows:

**C.52:13C-20 Definitions.**

3. For the purposes of this act, as amended and supplemented, unless the context clearly requires a different meaning:

a. The term "person" includes an individual, partnership, committee, association, corporation, and any other organization or group of persons.

b. The term "legislation" includes all bills, resolutions, amendments, nominations and appointments pending or proposed in either House of the Legislature, and all bills and resolutions which, having passed both Houses, are pending approval by the Governor.

c. The term "Legislature" includes the Senate and General Assembly of the State of New Jersey and all committees and commissions established by the Legislature or by either House thereof.

d. The term "lobbyist" means any person, partnership, committee, association, corporation, labor union or any other organization that employs, engages or otherwise uses the services of any legislative agent to influence legislation or regulation.

e. The term "Governor" includes the Governor or the Acting Governor.

f. The term "communication with a member of the Legislature," "with legislative staff," "with the Governor," "with the Governor's staff," or "with an officer or staff member of the Executive Branch" means any communication, oral or in writing or any other medium, addressed, delivered, distributed or disseminated, respectively, to a member of the Legislature, to legislative staff, to the Governor, to the Governor's staff, or to an officer or staff member of the Executive Branch, as distinguished from communication to the general public including but not limited to a member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch. If any person shall obtain, reproduce or excerpt any communication or part thereof which in its original form was not a communication under this subsection and shall cause such excerpt or reproduction to be addressed, delivered, distributed or disseminated to a member of the Legislature, to legislative staff, to the Governor, to the Governor's staff, or to an officer or staff member of the Executive Branch, such communication, reproduction or excerpt shall be deemed a communication with the member of the Legislature, with legislative staff, with the Governor, with the Governor's staff, or with an officer or staff member of the Executive Branch by such person.

g. The term "legislative agent" means any person who receives or agrees to receive, directly or indirectly, compensation, in money or anything of value including reimbursement of his expenses where such reimbursement exceeds \$100.00 in any three-month period, to influence legislation or to influence regulation, or both, by direct or indirect communication, or by making or authorizing, or causing to be made or authorized, any expenditures providing a benefit, to a member of the Legislature, legislative staff, the Governor, the Governor's staff, or any officer or staff member of the Executive Branch, or who holds himself out as engaging in the business of influencing legislation or regulation by such means, or who incident to his regular employment engages in influencing legislation or regulation by such means; provided, however, that a person shall not be deemed a legislative agent who, in relation to the duties or interests of his employment or at the request or suggestion of his employer, communicates with a member of the Legislature, with legislative staff, with the Governor, with the Governor's staff, or with an officer or staff member of the Executive Branch concerning any legislation or regulation, if such communication is an isolated, exceptional or infrequent activity in relation to the usual duties of his employment.

h. The term "influence legislation" means to make any attempt, whether successful or not, to secure or prevent the initiation of any legislation, or to secure or prevent the passage, defeat, amendment or modification thereof by the Legislature, or the approval, amendment or

disapproval thereof by the Governor in accordance with his constitutional authority.

i. The term "statement" includes a notice of representation or a report required by this act, as amended and supplemented.

j. (Deleted by amendment, P.L.1991, c.243).

k. The term "member of the Legislature" includes any member or member-elect of, or any person who shall have been selected to fill a vacancy in, the Senate or General Assembly, and any other person who is a member or member-designate of any committee or commission established by the Legislature or by either House thereof.

l. The term "legislative staff" includes all staff, assistants and employees of the Legislature or any of its members in the member's official capacity, whether or not they receive compensation from the State of New Jersey.

m. The term "Governor's staff" includes the members of the Governor's Cabinet, the Secretary to the Governor, the Counsel to the Governor and all professional employees in the office of the Counsel to the Governor, and all other employees of the Office of the Governor.

n. The term "officer or staff member of the Executive Branch" means any assistant or deputy head of a principal department in the Executive Branch of State Government, including all assistant and deputy commissioners; the members and chief executive officer of any authority, board, commission or other agency or instrumentality in or of such a principal department; and any officer of the Executive Branch of State Government other than the Governor who is not included among the foregoing or among the Governor's staff, but who is empowered by law to issue, promulgate or adopt administrative rules and regulations, and any person employed in the office of such an officer who is involved with the development, issuance, promulgation or adoption of such rules and regulations in the regular course of employment.

o. The term "regulation" includes any administrative rule or regulation affecting the rights, privileges, benefits, duties, obligations, or liabilities of any one or more persons subject by law to regulation as a class, but does not include an administrative action (1) to issue, renew or deny, or, in an adjudicative action, to suspend or revoke, a license, order, permit or waiver under any law or administrative rule or regulation, (2) to impose a penalty, or (3) to effectuate an administrative reorganization within a single principal department of the Executive Branch of State Government.

p. The term "influence regulation" means to make any attempt, whether successful or not, to secure or prevent the proposal of any regulation or to secure or prevent the consideration, amendment, issuance, promulgation, adoption or rejection thereof by an officer or any authority,

board, commission or other agency or instrumentality in or of a principal department of the Executive Branch of State Government empowered by law to issue, promulgate or adopt administrative rules and regulations.

q. The term "expenditures providing a benefit" or "expenditures providing benefits" means any expenditures for entertainment, food and beverage, travel and lodging, honoraria, loans, gifts or any other thing of value, except for (1) any money or thing of value paid for past, present, or future services in regular employment, whether in the form of a fee, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of recompense, or any combination thereof, or (2) any dividends or other income paid on investments, trusts, and estates.

r. The term "commission" means the Election Law Enforcement Commission established pursuant to section 5 of P.L.1973, c.83 (C.19:44A-5).

s. The term "communication with the general public" means any communication:

(1) disseminated to the general public through direct mail or in the form of a paid advertisement in a newspaper, magazine, or other printed publication of general circulation or aired on radio, television, or other broadcast medium, and

(2) which explicitly supports or opposes a particular item or items of legislation or regulation, or the content of which can reasonably be understood, irrespective of whether the communication is addressed to the general public or to persons in public office or employment, as intended to influence legislation or to influence regulation.

2. Section 2 of P.L.1981, c.150 (C.52:13C-22.1) is amended to read as follows:

**C.52:13C-22.1 Annual reports.**

2. Each legislative agent or lobbyist shall make and certify the correctness of a full annual report to the Election Law Enforcement Commission, of those moneys, loans, paid personal services or other things of value contributed to it and those expenditures made, incurred or authorized by it for the purpose of communication with or providing benefits to any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch or communication with the general public, during the previous year. The report shall include, but not be limited to, the following expenditures which relate to communication with, or providing benefits to, any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer

or staff member of the Executive Branch, or communication with the general public: media, including advertising; entertainment; food and beverage; travel and lodging; honoraria; loans; gifts; and salary, fees, allowances or other compensation paid to a legislative agent. The expenditures shall be reported whether made to the intended recipient of the communication or benefit, to a legislative agent or a lobbyist, or in the case of a communication to the general public, to the publisher of that communication. The expenditures shall be reported in the aggregate by category, except that if the aggregate expenditures on behalf of a member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch exceed \$25.00 per day, they shall be detailed separately as to the name of the member of the Legislature, member of legislative staff, the Governor, member of the Governor's staff, or officer or staff member of the Executive Branch, date and type of expenditure, amount of expenditure and to whom paid. Where the aggregate expenditures for the purpose of communication with or providing benefits to any one member of the Legislature, member of legislative staff, the Governor, the Governor's staff, or officer or staff member of the Executive Branch exceed \$200.00 per year, the expenditures, together with the name of the intended recipient of the communication or benefits, shall be stated in detail including the type of each expenditure, amount of expenditure and to whom paid. Where those expenditures in the aggregate, or where the aggregate expenditures for the purpose of communication with the general public, with respect to any specific occasion are in excess of \$100.00, the report shall include the date and type of expenditure, amount of expenditure and to whom paid. The Election Law Enforcement Commission may, in its discretion, permit joint reports by legislative agents. No legislative agent shall be required to file a report unless all moneys, loans, paid personal services or other things of value contributed to it for the purpose of communication with or making expenditures providing a benefit to a member of the Legislature, legislative staff, the Governor, the Governor's staff, or officer or staff member of the Executive Branch or for the purpose of communication with the general public exceed \$2,500.00 in any year or unless all expenditures made, incurred or authorized by it for the purpose of communication with or providing benefits to a member of the Legislature, legislative staff, the Governor, the Governor's staff, or officer or staff member of the Executive Branch or for the purpose of communication with the general public exceed \$2,500.00 in any year.

Any lobbyist who receives contributions or makes expenditures to influence legislation or regulation shall be required to file and certify the correctness of a report of such contributions or expenditures if the contributions or expenditures made, incurred or authorized by it for the purpose of

communication with or providing benefits to a member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch exceed, in the aggregate, \$2,500.00 in any year. Any lobbyist required to file a report pursuant to this section may designate a legislative agent in its employ or otherwise engaged or used by it to file a report on its behalf; provided such designation is made in writing by the lobbyist, is acknowledged in writing by the designated legislative agent and is filed with the Election Law Enforcement Commission on or before the date on which the report of the lobbyist is due for filing, and further provided that any violation of this act shall subject both the lobbyist and the designated legislative agent to the penalties provided in this act.

Any person other than a legislative agent or lobbyist who receives contributions or makes expenditures for the purpose of communication with the general public shall be required to file and certify the correctness of a report of such contributions or expenditures in the same manner as legislative agents under the provisions of this section if the contributions or expenditures made, incurred or authorized by the person for the purpose of communication with the general public exceed in the aggregate \$2,500 in any year.

This section shall not be construed to authorize any person to make or authorize, or to cause to be made or authorized, any expenditure providing a benefit, or to provide a benefit, the provision or receipt of which is prohibited under the "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.) or any code of ethics promulgated thereunder, or under any other law or any executive order, rule or regulation.

3. Section 10 of P.L.1971, c.183 (C.52:13C-27) is amended to read as follows:

**C.52:13C-27 Act not applicable to certain activities.**

10. This act shall not apply to the following activities:

- a. the publication or dissemination, in the ordinary course of business, of news items, advertising which does not constitute communication with the general public, editorials or other comments by a newspaper, book publisher, regularly published periodical, or radio or television station, including an owner, editor or employee thereof;
- b. acts of an officer or employee of the Government of this State or any of its political subdivisions, or of the Government of the United States or of any State or territory thereof or any of their political subdivisions, in carrying out the duties of their public office or employment;
- c. acts of bona fide religious groups acting solely for the purpose of protecting the public right to practice the doctrines of such religious groups;

d. acts of a duly organized national, State or local committee of a political party;

e. acts of a person in testifying before a legislative committee or commission, at a public hearing duly called by the Governor on legislative proposals or on legislation passed and pending his approval, or before any officer or body empowered by law to issue, promulgate or adopt administrative rules and regulations in behalf of a nonprofit organization incorporated as such in this State who receives no compensation therefor beyond the reimbursement of necessary and actual expenses, and who makes no other communication with a member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch in connection with the subject of his testimony; and

f. acts of a person in communicating with or providing benefits to a member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch if such communication or provision of benefits is undertaken by him as a personal expression and not incident to his employment, even if it is upon a matter relevant to the interests of a person by whom or which he is employed, and if he receives no additional compensation or reward, in money or otherwise, for or as a result of such communication or provision of benefits.

4. This act shall take effect immediately.

Approved June 16, 2004.

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## CHAPTER 21

AN ACT concerning certain political contributions and supplementing P.L.1973, c.83 (C.19:44A-1 et seq.).

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

**C.19:44A-19.1 Candidates for Governor, Legislature, solicitations on State property; prohibited, certain circumstances.**

1. a. For the purposes of this section, the terms "contribution", "candidate", "candidate committee", and "joint candidates committee", shall have the meanings prescribed for those terms by section 3 of P.L.1973, c.83 (C.19:44A-3); and the term "property" means buildings used for the discharge of official government functions, business, duties, or purposes.

b. (1) No candidate for the office of Governor or the office of member of the Legislature, or any holder of that elective public office, or their agent



or representative, while located on any property exclusively owned or leased by the State, or any agency of the State, shall, directly or indirectly, solicit any contribution to or on behalf of any candidate for the office of Governor or any candidate for the office of member of the Senate or General Assembly, or any candidate for another elective public office held or sought by a candidate for or holder of the office of member of the Legislature, or the candidate committee or joint candidates committee of any such candidate.

The provisions of this subsection shall not apply to any casual or inadvertent communication otherwise made in connection with, but without intent to solicit, such a contribution.

(2) No person, while located on any property exclusively owned or leased by the State, or any agency of the State, shall, directly or indirectly, make any contribution to or on behalf of any candidate for the office of Governor or any candidate for the office of member of the Senate or General Assembly, or any candidate for another elective public office held or sought by a candidate for or holder of the office of member of the Legislature, or the candidate committee or joint candidates committee of any such candidate.

c. Any candidate for the office of Governor or the office of member of the Legislature or any holder of that elective public office, or their agent or representative, or any person, who is determined by the Election Law Enforcement Commission to have violated this act shall be liable to a penalty of not less than \$5,000 for each violation. Any penalty imposed pursuant to this section may be recovered by a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

d. In the event property exclusively owned or leased by the State, or any agency of the State, or part thereof, is made available, through rent, reservation or otherwise, for the exclusive use of any group for a non-governmental purpose as a meeting location, the prohibition in subsection b. of this section shall not apply and the solicitation or making of contributions or funds of any nature from any or among or by the members of the group during the time the group is using the property made available as a meeting location is permitted.

2. This act shall take effect immediately.

Approved June 16, 2004.

## CHAPTER 22

AN ACT concerning the training of campaign treasurers and organizational treasurers by the Election Law Enforcement Commission and amending P.L.1973, c.83.

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

1. Section 6 of P.L.1973, c.83 (C.19:44A-6) is amended to read as follows:

**C.19:44A-6 Appointment of officers, other employees; duties of ELEC.**

6. a. The commission shall appoint a full-time executive director, legal counsel and hearing officers, all of whom shall serve at the pleasure of the commission and shall not have tenure by reason of the provisions of chapter 16 of Title 38 of the Revised Statutes. The commission shall also appoint such other employees as are necessary to carry out the purposes of this act, which employees shall be in the classified service of the civil service and shall be appointed in accordance with and shall be subject to the provisions of Title 11, Civil Service.

b. It shall be the duty of the commission to enforce the provisions of this act, to conduct hearings with regard to possible violations and to impose penalties; and for the effectual carrying out of its enforcement responsibilities the commission shall have the authority to initiate a civil action in any court of competent jurisdiction for the purpose of enforcing compliance with the provisions of this act or enjoining violations thereof or recovering any penalty prescribed by this act. The commission shall promulgate such regulations and official forms and perform such duties as are necessary to implement the provisions of this act. Without limiting the generality of the foregoing, the commission is authorized and empowered to:

- (1) Develop forms for the making of the required reports;
- (2) Prepare and publish a manual for all candidates, political committees and continuing political committees, prescribing the requirements of the law, including uniform methods of bookkeeping and reporting and requirements as to the length of time that any person required to keep any records pursuant to the provisions of this act shall retain such records, or any class or category thereof, or any other documents, including canceled

checks, deposit slips, invoices and other similar documents, necessary for the compilation of such records;

(3) Develop a filing, coding and cross-indexing system;

(4) Permit copying or photo-copying of any report required to be submitted pursuant to this act as requested by any person;

(5) Prepare and make available for public inspection summaries of all said reports grouped according to candidates, parties and issues, containing the total receipts and expenditures, and the date, name, address and amount contributed by each contributor;

(6) Prepare and publish, prior to May 1 of each year, an annual report to the Legislature;

(7) Ascertain whether candidates, committees, organizations or others have failed to file reports or have filed defective reports; extend, for good cause shown, the dates upon which reports are required to be filed; give notice to delinquents to correct or explain defects; and make available for public inspection a list of such delinquents;

(8) Ascertain the total expenditures for candidates and determine whether they have exceeded the limits set forth in this act; notify candidates, committees or others if they have exceeded or are about to exceed the limits imposed;

(9) Hold public hearings, investigate allegations of any violations of this act, and issue subpoenas for the production of documents and the attendance of witnesses;

(10) Forward to the Attorney General or to the appropriate county prosecutor information concerning any violations of this act which may become the subject of criminal prosecution or which may warrant the institution of other legal proceedings by the Attorney General.

c. The commission shall take such steps as may be necessary or appropriate to furnish timely and adequate information, in appropriate printed summaries and in such other form as it may see fit, to every candidate or prospective candidate for public office who becomes or is likely to become subject to the provisions of this act, and to every treasurer and depository duly designated under the provisions of this act, informing them of their actual or prospective obligations and responsibilities under this act. Such steps shall include, but not be limited to, furnishing to every person on whose behalf petitions of nomination are filed for any public office a copy of such printed summary as aforesaid, which shall be furnished to such person by the commission through the public official charged with

the responsibility of receiving and accepting such petitions of nomination, at the time when such petitions are filed. The commission shall also make available copies of such printed summary to any other person requesting the same. The commission shall also take such steps as it may deem necessary or effectual to disseminate among the general public such information as may serve to guide all persons who may become subject to the provisions of this act by reason of their participation in election campaigns or in the dissemination of political information, for the purpose of facilitating voluntary compliance with the provisions and purposes of this act. In the dissemination of such information, the commission shall to the greatest extent practicable enlist the cooperation of commercial purveyors, within and without the State, of materials and services commonly used for political campaign purposes.

d. If the nomination for or election to any public office or party position becomes void under the terms of subsection c. of section 21 of this act, the withholding or revocation of his certificate of election, the omission of his name from the ballot or the vacation of the office into which he has been inducted as a result of such void election, as the case may be, shall be subject to the provisions of chapter 3, articles 2 and 3, of this Title (R.S.19:3-7 et seq.).

e. The commission shall be assigned suitable quarters for the performance of its duties hereunder.

f. The commission through its legal counsel is authorized to render advisory opinions as to whether a given set of facts and circumstances would constitute a violation of any of the provisions of this act, or whether a given set of facts and circumstances would render any person subject to any of the reporting requirements of this act.

Unless an extension of time is consented to by any person requesting an advisory opinion, the commission shall render its advisory opinion within 10 days of receipt of the request therefor. Failure of the commission to reply to a request for an advisory opinion within the time so fixed or agreed to shall preclude it from instituting proceedings for imposition of a penalty upon any person for a violation of this act arising out of the particular facts and circumstances set forth in such request, except as such facts and circumstances may give rise to a violation when taken in conjunction with other facts and circumstances not set forth in such request.

g. The commission shall establish a training program for campaign treasurers and organizational treasurers and shall make the training program

available through its Internet site within one year of the effective date of this act, P.L.2004, c.22.

2. Section 9 of P.L.1973, c.83 (C.19:44A-9) is amended to read as follows:

**C.19:44A-9 Candidate, joint candidates committees; reports; requirements.**

9. a. Unless already established, each candidate, as defined in paragraph (1) of subsection c. of section 3 of P.L.1973, c.83 (C.19:44A-3), shall, no later than the date on which that candidate first receives any contribution or makes or incurs any expenditures in connection with an election, establish (1) a candidate committee, (2) a joint candidates committee, or (3) both, for the purpose of receiving contributions and making expenditures. No person serving as the chairman of a political party committee or a legislative leadership committee shall be eligible to be appointed or to serve as the chairman of a candidate committee or joint candidates committee, other than a candidate committee or joint candidates committee established to further the nomination for election or the election of that person as a candidate for public office. Subsequent to an election, a candidate, whether or not successful in that election, shall maintain a candidate committee or a joint candidates committee so long as contributions are received or expenditures made by that former candidate. An elected officeholder who receives contributions and who has not maintained a candidate committee or a joint candidates committee shall establish a candidate committee, a joint candidates committee, or both, in a timely manner for the purpose of receiving contributions and making expenditures.

b. (1) The candidate or candidates, as the case may be, shall file with the Election Law Enforcement Commission a certificate of organization on a form prescribed by the commission. The certificate shall identify the name of the committee, which shall be the sole name under which the committee receives contributions, makes expenditures and otherwise does business and which shall include the surname or surnames, as appropriate, of the candidate or candidates, except that in the case of a joint candidates committee, the name of the committee need not include such surnames if it identifies the legislative district, county, municipality or other jurisdiction in which the candidates jointly seek nomination for election or election and, in any case in which they seek nomination for election or election as the candidates of a political party, the name of that party, provided that no joint candidates committee so named shall take the same name as that of any

committee of a political party or another joint candidates committee. In the case of a candidate committee, the name of the committee shall identify the office sought by the candidate. The certificate shall provide for the initial appointment by the candidate, or candidates, of a campaign treasurer and for the designation by the candidate, or candidates, of that treasurer of the candidate committee, or joint candidates committee, as the campaign treasurer of the candidate, or candidates, for the purposes of subsection a. of section 8 of P.L.1973, c.83 (C.19:44A-8) and shall generally identify and be signed by the candidate, or candidates, and the chairman and the treasurer of the candidate committee or joint candidates committee, as the case may be. No person serving as the chairman of a political party committee or a legislative leadership committee shall be eligible to be appointed or to serve as the treasurer of a candidate committee or joint candidates committee, other than a candidate committee or joint candidates committee established to further the nomination for election or the election of that person as a candidate for public office. The certificate shall be filed prior to or simultaneously with the filing of a notification of the designation of a campaign depository as provided under subsection c. of this section. Upon the filing of such a certificate of organization and until the termination of the committee, the candidate committee or joint candidates committee shall file the reports which the campaign treasurer or treasurers of the candidate or candidates would otherwise be required to file under subsection a. of section 16 of P.L.1973, c.83 (C.19:44A-16).

(2) Each campaign treasurer of a candidate committee or a joint candidates committee for a candidate, or candidates, for the Senate, the General Assembly or the office of Governor shall be a trained treasurer, pursuant to subsection g. of section 6 of P.L.1973, c.83 (C.19:44A-6), or shall acquire such training within 90 days of designation as a campaign treasurer. Any other campaign treasurer of a candidate committee or a joint candidates committee may be a trained treasurer.

c. Each candidate, or the candidates comprising a joint candidates committee, shall designate a campaign depository. Any bank authorized by law to transact business in the State may be designated as the campaign depository. Notification of the designation of the campaign depository shall be made by the candidate's, candidates' or committee's filing the name and address of such depository with the Election Law Enforcement Commission no later than the tenth day after receipt by the candidate or the committee of any contribution on behalf of the candidate or candidates or after the making

or incurring by the candidate or candidates of any expenditure on behalf of that candidacy, whichever comes first.

d. Each candidate and campaign treasurer shall certify the correctness of each report filed by the candidate committee or joint candidates committee with the commission and that each report conforms with the limitations on contributions and expenditures provided for in sections 18, 19 and 20 of P.L.1993, c.65 (C.19:44A-11.3, C.19:44A-11.4 and C.19:44A-11.5).

e. A campaign treasurer of a candidate or candidates may appoint deputy campaign treasurers as required and may designate additional campaign depositories in each county in which the campaign is conducted. The candidate or candidates shall file the names and addresses of deputy campaign treasurers and additional campaign depositories with the Election Law Enforcement Commission.

f. A candidate or candidates may remove a campaign treasurer or deputy campaign treasurer. In the case of the death, resignation or removal of a campaign treasurer, the candidate or candidates shall appoint a successor as soon as practicable and shall file the name and address of that person with the Election Law Enforcement Commission within three days. A candidate may serve as his or her own campaign treasurer. One of the candidates in a joint candidates committee may serve as the campaign treasurer of the entire committee.

g. An individual who is a candidate for two or more public offices in an election or in separate elections shall establish separate candidate committees or separate joint candidates committees or both for each office contested.

h. (1) On and after the 366th day following the effective date of P.L.1993, c.65, no candidate shall establish, authorize the establishment of, maintain, or participate directly or indirectly in the management or control of, any political committee or any continuing political committee. Within one year after the enactment of this act, every candidate who maintains, or who participates either directly or indirectly in the management or control of, one or more political committees or one or more continuing political committees, or both, shall wind up or cause to be wound up the affairs of those committees in accordance with the provisions of section 8 of P.L.1973, c.83 (C.19:44A-8) and transfer all of the funds therein into a candidate committee or a joint candidates committee. All funds thus transferred shall be subject to the provisions of section 17 of P.L.1993, c.65 (C.19:44A-11.2).

(2) The person or persons having control over a legislative leadership committee shall not be required to wind up the affairs of that committee but shall be required to conform to the requirements of paragraph (1) of this subsection with regard to any other political committees or continuing political committees under the control of the person or persons and used by that person for the purpose of receiving contributions and making expenditures.

3. Section 10 of P.L.1973, c.83 (C.19:44A-10) is amended to read as follows:

**C.19:44A-10 Treasurers, depositories; requirements.**

10. Each political party committee shall, on or before July 1 in each year, designate a single organizational treasurer and an organizational depository and shall, not later than the tenth day after the designation of the organizational depository file the name and address of that depository, and of the organizational treasurer, with the Election Law Enforcement Commission.

Every political committee may designate a chairman of the committee, but no person serving as the chairman of a political party committee or a legislative leadership committee shall be eligible to be appointed or to serve as the chairman of a political committee. Every political committee shall, not later than the date on which it first receives any contribution or makes or incurs any expenditure in the furtherance or aid of the election or defeat of any candidate or the passage or defeat of any public question, appoint a single campaign treasurer and designate a campaign depository, but no person serving as the chairman of a political party committee or a legislative leadership committee shall be eligible to be appointed or to serve as the campaign treasurer of a political committee. Not later than the tenth day after the initial designation of the campaign depository, the committee shall file the name and address of the depository, and of the campaign treasurer, with the Election Law Enforcement Commission.

Every continuing political committee shall, not later than the date on which it first receives any contribution or makes or incurs any expenditure in the furtherance or aid of the election or defeat of any candidate or the passage or defeat of any public question, appoint a single organizational treasurer and designate an organizational depository, provided that no person who is the chairman of a political party committee or a legislative leadership committee shall be eligible to be appointed or to serve as the



organizational treasurer of a continuing political committee. Not later than the tenth day after the initial designation of the organizational depository, the committee shall file the name and address of the depository, and of the organizational treasurer, with the Election Law Enforcement Commission.

Every legislative leadership committee shall, not later than the date on which it first receives any contribution or makes or incurs any expenditure in the furtherance or aid of the election or defeat of any candidate or the passage or defeat of any public question, appoint a single organizational treasurer and designate an organizational depository. Not later than the tenth day after the initial designation of the organizational depository, the committee shall file the name and address of the depository, and of the organizational treasurer, with the Election Law Enforcement Commission.

Each organizational treasurer of a State political party committee or a legislative leadership committee shall be a trained treasurer, pursuant to subsection g. of section 6 of P.L.1973, c.83 (C.19:44A-6), or shall acquire such training within 90 days of appointment as an organizational treasurer. An organizational treasurer of any other political party committee or a continuing political committee and a campaign treasurer of a political committee may be a trained treasurer.

An organizational treasurer of a political party committee, a continuing political committee, or a legislative leadership committee and a campaign treasurer of a political committee may appoint deputy organizational or campaign treasurers as may be required and may designate additional organizational or campaign depositories. Such committees shall file the names and addresses of such deputy treasurers and additional depositories with the Election Law Enforcement Commission not later than the fifth day after their appointment or designation, respectively.

Any political party committee, any political committee, any continuing political committee and any legislative leadership committee may remove its organizational or campaign treasurer or deputy treasurer. In the case of the death, resignation or removal of its organizational or campaign treasurer, the committee shall appoint a successor as soon as practicable and shall file his name and address with the Election Law Enforcement Commission within three days.

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

Approved June 16, 2004.

## CHAPTER 23

AN ACT prohibiting members of the Legislature from acting on certain legislation and amending P.L.1971, c.182.

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

1. Section 7 of P.L.1971, c.182 (C.52:13D-18) is amended to read as follows:

**C.52:13D-18 Vote, other action by legislator or immediate family member with personal interest; prohibition.**

7. a. No member of the Legislature shall participate by voting or any other action, on the floor of the General Assembly or the Senate, or in committee or elsewhere, in the enactment or defeat of legislation in which he has a personal interest.

b. A member of the Legislature shall be deemed to have a personal interest in any legislation within the meaning of this section if, by reason of his participation in the enactment or defeat of any legislation, he has reason to believe that he, or a member of his immediate family, will derive a direct monetary gain or suffer a direct monetary loss. No member of the Legislature shall be deemed to have a personal interest in any legislation within the meaning of this section if, by reason of his participation in the enactment or defeat of any legislation, no benefit or detriment could reasonably be expected to accrue to him, or a member of his immediate family, as a member of a business, profession, occupation or group, to any greater extent than any such benefit or detriment could reasonably be expected to accrue to any other member of such business, profession, occupation or group.

2. This act shall take effect immediately.

Approved June 16, 2004.

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CHAPTER 24

AN ACT concerning the memberships of the Executive Commission on Ethical Standards and the Joint Legislative Committee on Ethical Standards and amending P.L.1971, c.182.

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

1. Section 10 of P.L.1971, c.182 (C.52:13D-21) is amended to read as follows:

**C.52:13D-21 Executive Commission on Ethical Standards; membership; powers, duties, penalties.**

10. (a) The Executive Commission on Ethical Standards created pursuant to P.L.1967, chapter 229 is continued and established in the Department of Law and Public Safety and shall constitute the first commission under P.L.1971, c.182 (C.52:13D-12 et al.).

(b) (1) The commission shall be composed of nine members as follows: seven members appointed by the Governor from among State officers and employees serving in the Executive Branch; and two public members appointed by the Governor, not more than one of whom shall be of the same political party.

Each member appointed from the Executive Branch shall serve at the pleasure of the Governor during the term of office of the Governor appointing the member and until the member's successor is appointed and qualified. The public members shall serve for terms of four years and until the appointment and qualification of their successors, but of the public members first appointed pursuant to P.L.2003, c.160, one shall serve for a term of two years and one shall serve for a term of four years. The Governor shall designate one member to serve as chairman and one member to serve as vice-chairman of the commission.

(2) Commencing with the third Tuesday in January of the year in which the Governor takes office, next following enactment of P.L.2004, c.24, the commission shall be composed of eight members as follows: four members appointed by the Governor from among State officers and employees serving in the Executive Branch; and four public members appointed by the Governor, not more than two of whom shall be of the same political party.

Each member appointed from the Executive Branch shall serve at the pleasure of the Governor during the term of office of the Governor appointing the member and until the member's successor is appointed and qualified. The public members shall serve for terms of four years. The Governor shall designate one member to serve as chairman and one member to serve as vice-chairman of the commission.

The members of the Executive Commission on Ethical Standards who were appointed by the Governor from among the State officers and employees serving in the Executive Branch serving on the third Tuesday in January of the year in which the Governor takes office, next following enactment of P.L.2004, c.24, are terminated as of that day. A member terminated pursuant to this paragraph shall be eligible for reappointment.

(3) Vacancies in the membership of the commission shall be filled in the same manner as the original appointments but, in the case of public members, for the unexpired term only. None of the public members shall be State officers or employees or special State officers or employees, except by reason of their service on the commission. A public member may be reappointed for subsequent terms on the commission.

(c) Each member of the said commission shall serve without compensation but shall be entitled to be reimbursed for all actual and necessary expenses incurred in the performance of the member's duties.

(d) The Attorney General shall act as legal adviser and counsel to the said commission. The Attorney General shall upon request advise the commission in the rendering of advisory opinions by the commission, in the approval and review of codes of ethics adopted by State agencies in the Executive Branch and in the recommendation of revisions in codes of ethics or legislation relating to the conduct of State officers and employees in the Executive Branch.

(e) The said commission may, within the limits of funds appropriated or otherwise made available to it for the purpose, employ such other professional, technical, clerical or other assistants, excepting legal counsel, and incur such expenses as may be necessary for the performance of its duties.

(f) The said commission, in order to perform its duties pursuant to the provisions of P.L.1971, c.182 (C.52:13D-12 et al.), shall have the power to conduct investigations, hold hearings, compel the attendance of witnesses and the production before it of such books and papers as it may deem necessary, proper and relevant to the matter under investigation. The members of the said commission and the persons appointed by the commission for such purpose are hereby empowered to administer oaths and examine witnesses under oath.

(g) The said commission is authorized to render advisory opinions as to whether a given set of facts and circumstances would, in its opinion, constitute a violation of the provisions of P.L.1971, c.182 (C.52:13D-12 et

al.) or of a code of ethics promulgated pursuant to the provisions of P.L.1971, c.182 (C.52:13D-12 et al.).

(h) The said commission shall have jurisdiction to initiate, receive, hear and review complaints regarding violations, by any State officer or employee or special State officer or employee in the Executive Branch, of the provisions of P.L.1971, c.182 (C.52:13D-12 et al.) or of any code of ethics promulgated pursuant to the provisions of P.L.1971, c.182 (C.52:13D-12 et al.). Any complaint regarding a violation of a code of ethics may be referred by the commission for disposition in accordance with subsection (d) of section 12 of P.L.1971, c.182 (C.52:13D-23).

(i) Any State officer or employee or special State officer or employee found guilty by the commission of violating any provision of P.L.1971, c.182 (C.52:13D-12 et al.) or of a code of ethics promulgated pursuant to the provisions of P.L.1971, c.182 (C.52:13D-12 et al.) shall be fined not less than \$100.00 nor more than \$500.00, which penalty may be collected in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and may be suspended from office or employment by order of the commission for a period of not in excess of one year. If the commission finds that the conduct of such officer or employee constitutes a willful and continuous disregard of the provisions of P.L.1971, c.182 (C.52:13D-12 et al.) or of a code of ethics promulgated pursuant to the provisions of P.L.1971, c.182 (C.52:13D-12 et al.), it may order such person removed from office or employment and may further bar such person from holding any public office or employment in this State in any capacity whatsoever for a period of not exceeding five years from the date on which the person was found guilty by the commission.

(j) The remedies provided herein are in addition to all other criminal and civil remedies provided under the law.

2. Section 11 of P.L.1971, c.182 (C.52:13D-22) is amended to read as follows:

**C.52:13D-22 Joint Legislative Committee on Ethical Standards; membership; powers, duties; penalties.**

11. (a) The Joint Legislative Committee on Ethical Standards created pursuant to the provisions of P.L.1967, chapter 229, as continued and established pursuant to P.L.1971, c.182, is continued and established in the Legislative Branch of State Government with the addition of the public members as set forth in this section.

(b) (1) The Joint committee shall be composed of 12 members as follows: four members of the Senate appointed by the President thereof, no more than two of whom shall be of the same political party; four members of the General Assembly, appointed by the Speaker thereof, no more than two of whom shall be of the same political party; and four public members, one appointed by the President of the Senate, one appointed by the Speaker of the General Assembly, one appointed by the Minority Leader of the Senate and one appointed by the Minority Leader of the General Assembly.

(2) Commencing with the second Tuesday in January of the next even numbered year following the effective date of P.L.2004, c.24, the Joint committee shall be composed of sixteen members as follows: four members of the Senate, appointed by the President thereof, no more than two of whom shall be of the same political party; four members of the General Assembly, appointed by the Speaker thereof, no more than two of whom shall be of the same political party; and eight public members, two appointed by the President of the Senate, two appointed by the Speaker of the General Assembly, two appointed by the Minority Leader of the Senate and two appointed by the Minority Leader of the General Assembly.

(3) No public member shall be a lobbyist or legislative agent as defined by the "Legislative Activities Disclosure Act of 1971," P.L.1971, c.183 (C.52:13C-18 et seq.), a full-time State employee or an officer or director of any entity which is required to file a statement with the Election Law Enforcement Commission, and no former lobbyist or legislative agent shall be eligible to serve as a public member for one year following the cessation of all activity by that person as a legislative agent or lobbyist.

The legislative members shall serve until the end of the two-year legislative term during which the members are appointed. The public members shall serve for terms of two years and until the appointment and qualification of their successors.

The terms of the public members shall run from the second Tuesday in January of an even-numbered year to the second Tuesday in January of the next even-numbered year, regardless of the original date of appointment.

Vacancies in the membership of the Joint committee shall be filled in the same manner as the original appointments, but for the unexpired term only. Public members of the Joint committee shall serve without compensation, but shall be entitled to be reimbursed for all actual and necessary expenses incurred in the performance of their duties.

(c) The Joint committee shall organize as soon as may be practicable after the appointment of its members, by the selection of a chairman and vice chairman from among its membership and the appointment of a secretary, who need not be a member of the Joint committee.

(d) The Legislative Counsel in the Office of Legislative Services shall act as legal adviser to the Joint committee. The Legislative Counsel shall, upon request, assist and advise the Joint committee in the rendering of advisory opinions by the Joint committee, in the approval and review of codes of ethics adopted by State agencies in the Legislative Branch, and in the recommendation of revisions in codes of ethics or legislation relating to the conduct of members of the Legislature or State officers and employees in the Legislative Branch.

(e) The Joint committee may, within the limits of funds appropriated or otherwise available to it for the purpose, employ other professional, technical, clerical or other assistants, excepting legal counsel, and incur expenses as may be necessary to the performance of its duties.

(f) The Joint committee shall have all the powers granted pursuant to chapter 13 of Title 52 of the Revised Statutes.

(g) The Joint committee is authorized to render advisory opinions as to whether a given set of facts and circumstances would, in its opinion, constitute a violation of the provisions of this act, of a code of ethics promulgated pursuant to the provisions of this act or of any rule of either or both Houses which gives the Joint committee jurisdiction and the authority to investigate a matter.

(h) The Joint committee shall have jurisdiction to initiate, receive, hear and review complaints regarding violations of the provisions of this act or of a code of ethics promulgated pursuant to the provisions of this act. It shall further have such jurisdiction as to enforcement of the rules of either or both Houses of the Legislature governing the conduct of the members or employees thereof as those rules may confer upon the Joint committee. A complaint regarding a violation of a code of ethics promulgated pursuant to the provisions of this act may be referred by the Joint committee for disposition in accordance with subsection 12(d) of this act.

(i) Any State officer or employee or special State officer or employee in the Legislative Branch found guilty by the Joint committee of violating any provisions of this act, of a code of ethics promulgated pursuant to the provisions of this act or of any rule of either or both Houses which gives the Joint committee jurisdiction and the authority to investigate a matter shall

be fined not less than \$500.00 nor more than \$1,500.00, which penalty may be collected in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and may be reprimanded and ordered to pay restitution where appropriate and may be suspended from office or employment by order of the Joint committee for a period not in excess of one year. If the Joint committee finds that the conduct of such officer or employee constitutes a willful and continuous disregard of the provisions of this act, of a code of ethics promulgated pursuant to the provisions of this act or of any rule of either or both Houses which gives the Joint committee jurisdiction and the authority to investigate a matter, it may order such person removed from office or employment and may further bar such person from holding any public office or employment in this State in any capacity whatsoever for a period of not exceeding five years from the date on which the person was found guilty by the Joint committee.

(j) A member of the Legislature who shall be found guilty by the Joint committee of violating the provisions of this act, of a code of ethics promulgated pursuant to the provisions of this act or of any rule of either or both Houses which gives the Joint committee jurisdiction and the authority to investigate a matter shall be fined not less than \$500.00 nor more than \$1,500.00, which penalty may be collected in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and shall be subject to such further action as may be determined by the House of which such person is a member. In such cases the Joint committee shall report its findings to the appropriate House and shall recommend to the House such further action as the Joint committee deems appropriate, but it shall be the sole responsibility of the House to determine what further action, if any, shall be taken against such member.

3. This act shall take effect immediately.

Approved June 16, 2004.

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## CHAPTER 25

AN ACT concerning certain penalties for violations of the "New Jersey Conflicts of Interest Law" and amending P.L.1971, c.182.



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

1. Section 10 of P.L.1971, c.182 (C.52:13D-21) is amended to read as follows:

**C.52:13D-21 Executive Commission on Ethical Standards; membership; powers, duties, penalties.**

10. (a) The Executive Commission on Ethical Standards created pursuant to P.L.1967, c.229, is continued and established in the Department of Law and Public Safety and shall constitute the first commission under P.L.1971, c.182 (C.52:13D-12 et al.).

(b)(1) The commission shall be composed of nine members as follows: seven members appointed by the Governor from among State officers and employees serving in the Executive Branch; and two public members appointed by the Governor, not more than one of whom shall be of the same political party.

Each member appointed from the Executive Branch shall serve at the pleasure of the Governor during the term of office of the Governor appointing the member and until the member's successor is appointed and qualified. The public members shall serve for terms of four years and until the appointment and qualification of their successors, but of the public members first appointed pursuant to P.L.2003, c.160, one shall serve for a term of two years and one shall serve for a term of four years. The Governor shall designate one member to serve as chairman and one member to serve as vice-chairman of the commission.

(2) Commencing with the third Tuesday in January of the year in which the Governor takes office, next following enactment of P.L.2004, c.24, the commission shall be composed of eight members as follows: four members appointed by the Governor from among State officers and employees serving in the Executive Branch; and four public members appointed by the Governor, not more than two of whom shall be of the same political party.

Each member appointed from the Executive Branch shall serve at the pleasure of the Governor during the term of office of the Governor appointing the member and until the member's successor is appointed and qualified. The public members shall serve for terms of four years. The Governor shall designate one member to serve as chairman and one member to serve as vice-chairman of the commission.

The members of the Executive Commission on Ethical Standards who were appointed by the Governor from among the State officers and employees serving in the Executive Branch serving on the third Tuesday in January of the year in which the Governor takes office, next following enactment of P.L.2004, c.24, are terminated as of that day. A member terminated pursuant to this paragraph shall be eligible for reappointment.

(3) Vacancies in the membership of the commission shall be filled in the same manner as the original appointments but, in the case of public members, for the unexpired term only. None of the public members shall be State officers or employees or special State officers or employees, except by reason of their service on the commission. A public member may be reappointed for subsequent terms on the commission.

(c) Each member of the commission shall serve without compensation but shall be entitled to be reimbursed for all actual and necessary expenses incurred in the performance of the member's duties.

(d) The Attorney General shall act as legal adviser and counsel to the commission. The Attorney General shall upon request advise the commission in the rendering of advisory opinions by the commission, in the approval and review of codes of ethics adopted by State agencies in the Executive Branch and in the recommendation of revisions in codes of ethics or legislation relating to the conduct of State officers and employees in the Executive Branch.

(e) The commission may, within the limits of funds appropriated or otherwise made available to it for the purpose, employ such other professional, technical, clerical or other assistants, excepting legal counsel, and incur such expenses as may be necessary for the performance of its duties.

(f) The commission, in order to perform its duties pursuant to the provisions of P.L.1971, c.182 (C.52:13D-12 et al.), shall have the power to conduct investigations, hold hearings, compel the attendance of witnesses and the production before it of such books and papers as it may deem necessary, proper and relevant to the matter under investigation. The members of the commission and the persons appointed by the commission for that purpose are hereby empowered to administer oaths and examine witnesses under oath.

(g) The commission is authorized to render advisory opinions as to whether a given set of facts and circumstances would, in its opinion, constitute a violation of the provisions of P.L.1971, c.182 (C.52:13D-12 et

al.) or of a code of ethics promulgated pursuant to the provisions of P.L.1971, c.182 (C.52:13D-12 et al.).

(h) The commission shall have jurisdiction to initiate, receive, hear and review complaints regarding violations, by any State officer or employee or special State officer or employee in the Executive Branch, of the provisions of P.L.1971, c.182 (C.52:13D-12 et al.) or of any code of ethics promulgated pursuant to the provisions of P.L.1971, c.182 (C.52:13D-12 et al.). Any complaint regarding a violation of a code of ethics may be referred by the commission for disposition in accordance with subsection (d) of section 12 of P.L.1971, c.182 (C.52:13D-23).

(i) Any State officer or employee or special State officer or employee found guilty by the commission of violating any provision of P.L.1971, c.182 (C.52:13D-12 et al.) or of a code of ethics promulgated pursuant to the provisions of P.L.1971, c.182 (C.52:13D-12 et al.) shall be fined not less than \$500 nor more than \$10,000, which penalty may be collected in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and may be suspended from office or employment by order of the commission for a period of not in excess of one year. If the commission finds that the conduct of the officer or employee constitutes a willful and continuous disregard of the provisions of P.L.1971, c.182 (C.52:13D-12 et al.) or of a code of ethics promulgated pursuant to the provisions of P.L.1971, c.182 (C.52:13D-12 et al.), it may order that person removed from office or employment and may further bar the person from holding any public office or employment in this State in any capacity whatsoever for a period of not exceeding five years from the date on which the person was found guilty by the commission.

(j) The remedies provided herein are in addition to all other criminal and civil remedies provided under the law.

2. Section 11 of P.L.1971, c.182 (C.52:13D-22) is amended to read as follows:

**C.52:13D-22 Joint Legislative Committee on Ethical Standards; membership; powers, duties; penalties.**

11. (a) The Joint Legislative Committee on Ethical Standards created pursuant to the provisions of P.L.1967, c.229, as continued and established pursuant to P.L.1971, c.182, is continued and established in the Legislative Branch of State Government with the addition of the public members as set forth in this section.

(b)(1) The joint committee shall be composed of 12 members as follows: four members of the Senate appointed by the President thereof, no more than two of whom shall be of the same political party; four members of the General Assembly, appointed by the Speaker thereof, no more than two of whom shall be of the same political party; and four public members, one appointed by the President of the Senate, one appointed by the Speaker of the General Assembly, one appointed by the Minority Leader of the Senate and one appointed by the Minority Leader of the General Assembly.

(2) Commencing with the second Tuesday in January of the next even numbered year following the effective date of P.L.2004, c.24, the Joint committee shall be composed of sixteen members as follows: four members of the Senate, appointed by the President thereof, no more than two of whom shall be of the same political party; four members of the General Assembly, appointed by the Speaker thereof, no more than two of whom shall be of the same political party; and eight public members, two appointed by the President of the Senate, two appointed by the Speaker of the General Assembly, two appointed by the Minority Leader of the Senate and two appointed by the Minority Leader of the General Assembly.

(3) No public member shall be a lobbyist or legislative agent as defined by the "Legislative Activities Disclosure Act of 1971," P.L.1971, c.183 (C.52:13C-18 et seq.), a full-time State employee or an officer or director of any entity which is required to file a statement with the Election Law Enforcement Commission, and no former lobbyist or legislative agent shall be eligible to serve as a public member for one year following the cessation of all activity by that person as a legislative agent or lobbyist.

The legislative members shall serve until the end of the two-year legislative term during which the members are appointed. The public members shall serve for terms of two years and until the appointment and qualification of their successors.

The terms of the public members shall run from the second Tuesday in January of an even-numbered year to the second Tuesday in January of the next even-numbered year, regardless of the original date of appointment.

Vacancies in the membership of the joint committee shall be filled in the same manner as the original appointments, but for the unexpired term only. Public members of the joint committee shall serve without compensation, but shall be entitled to be reimbursed for all actual and necessary expenses incurred in the performance of their duties.

(c) The joint committee shall organize as soon as may be practicable after the appointment of its members, by the selection of a chairman and vice chairman from among its membership and the appointment of a secretary, who need not be a member of the joint committee.

(d) The Legislative Counsel in the Office of Legislative Services shall act as legal adviser to the joint committee. The Legislative Counsel shall, upon request, assist and advise the joint committee in the rendering of advisory opinions by the joint committee, in the approval and review of codes of ethics adopted by State agencies in the Legislative Branch, and in the recommendation of revisions in codes of ethics or legislation relating to the conduct of members of the Legislature or State officers and employees in the Legislative Branch.

(e) The joint committee may, within the limits of funds appropriated or otherwise available to it for the purpose, employ other professional, technical, clerical or other assistants, excepting legal counsel, and incur expenses as may be necessary to the performance of its duties.

(f) The joint committee shall have all the powers granted pursuant to chapter 13 of Title 52 of the Revised Statutes.

(g) The joint committee is authorized to render advisory opinions as to whether a given set of facts and circumstances would, in its opinion, constitute a violation of the provisions of this act, of a code of ethics promulgated pursuant to the provisions of this act or of any rule of either or both Houses which gives the joint committee jurisdiction and the authority to investigate a matter.

(h) The joint committee shall have jurisdiction to initiate, receive, hear and review complaints regarding violations of the provisions of this act or of a code of ethics promulgated pursuant to the provisions of this act. It shall further have such jurisdiction as to enforcement of the rules of either or both Houses of the Legislature governing the conduct of the members or employees thereof as those rules may confer upon the joint committee. A complaint regarding a violation of a code of ethics promulgated pursuant to the provisions of this act may be referred by the joint committee for disposition in accordance with subsection 12(d) of this act.

(i) Any State officer or employee or special State officer or employee in the Legislative Branch found guilty by the joint committee of violating any provisions of this act, of a code of ethics promulgated pursuant to the provisions of this act or of any rule of either or both Houses which gives the joint committee jurisdiction and the authority to investigate a matter shall

be fined not less than \$500.00 nor more than \$10,000, which penalty may be collected in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and may be reprimanded and ordered to pay restitution where appropriate and may be suspended from office or employment by order of the joint committee for a period not in excess of one year. If the joint committee finds that the conduct of the officer or employee constitutes a willful and continuous disregard of the provisions of this act, of a code of ethics promulgated pursuant to the provisions of this act or of any rule of either or both Houses which gives the joint committee jurisdiction and the authority to investigate a matter, it may order that person removed from office or employment and may further bar the person from holding any public office or employment in this State in any capacity whatsoever for a period of not exceeding five years from the date on which the person was found guilty by the joint committee.

(j) A member of the Legislature who shall be found guilty by the joint committee of violating the provisions of this act, of a code of ethics promulgated pursuant to the provisions of this act or of any rule of either or both Houses which gives the joint committee jurisdiction and the authority to investigate a matter shall be fined not less than \$500.00 nor more than \$10,000, which penalty may be collected in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and shall be subject to such further action as may be determined by the House of which the person is a member. In such cases the joint committee shall report its findings to the appropriate House and shall recommend to the House such further action as the joint committee deems appropriate, but it shall be the sole responsibility of the House to determine what further action, if any, shall be taken against such member.

3. This act shall take effect immediately, but any increased penalties shall apply only to violations occurring on or after the effective date of this act.

Approved June 16, 2004.

## CHAPTER 26

AN ACT requiring the disclosure of certain information by individuals seeking the office of Governor or the office of member of the Legislature and amending various sections of the statutory law.

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

1. R.S.19:13-8 is amended to read as follows:

**Candidate nominated by petition, conditions for acceptance of nomination.**

19:13-8. A candidate nominated for an office in a petition shall manifest his acceptance of such nomination by a written acceptance thereof, signed by his hand, upon or annexed to such petition, to which shall be annexed the oath of allegiance prescribed in section 41:1-1 of the Revised Statutes duly taken and subscribed by him before an officer authorized to take oaths in this State, or if the same person be named for the same office in more than one petition, annexed to one of such petitions. Such acceptance shall certify that the candidate is a resident of and a legal voter in the jurisdiction of the office for which the nomination is made. No candidate so named shall sign such acceptance if he has signed an acceptance for the primary nomination or any other petition of nomination under this chapter for such office. In addition, no candidate named in a petition for the office of member of the House of Representatives shall sign an acceptance if the candidate has signed an acceptance for the primary nomination or any other petition of nomination for the office of member of the House of Representatives in another congressional district in the same calendar year.

Each candidate filing an acceptance of nomination for election to the office of Governor or the office of member of the Senate or General Assembly shall annex to such petitions a statement signed by the candidate that he or she:

- a. has not been convicted of any offense graded by Title 2C of the New Jersey Statutes as a crime of the first, second, third or fourth degree, or any offense in any other jurisdiction which, if committed in this State, would constitute such a crime; or
- b. has been so convicted, in which case, the candidate shall disclose on the statement the crime for which convicted, the date and place of the conviction and the penalties imposed for the conviction. Such a candidate

may, as an alternative, submit with the statement a copy of an official document that provides such information. If the candidate has been convicted of more than one criminal offense, such information about each conviction shall be provided. Records expunged pursuant to chapter 52 of Title 2C of the New Jersey Statutes shall not be subject to disclosure.

If the same person is nominated for the same office in more than one petition, the statement shall be annexed to one of such petitions.

2. R.S.19:13-20 is amended to read as follows:

**Vacancy procedure.**

19:13-20. In the event of a vacancy, howsoever caused, among candidates nominated at primaries, which vacancy shall occur not later than the 51st day before the general election, or in the event of inability to select a candidate because of a tie vote at such primary, a candidate shall be selected in the following manner:

a. (1) In the case of an office to be filled by the voters of the entire State, the candidate shall be selected by the State committee of the political party wherein such vacancy has occurred.

(2) In the case of an office to be filled by the voters of a single and entire county, the candidate shall be selected by the county committee in such county of the political party wherein such vacancy has occurred.

(3) In the case of an office to be filled by the voters of a portion of the State comprising all or part of two or more counties, the candidate shall be selected by those members of the county committees of the party wherein the vacancy has occurred who represent those portions of the respective counties which are comprised in the district from which the candidate is to be elected.

(4) In the case of an office to be filled by the voters of a portion of a single county, the candidate shall be selected by those members of the county committee of the party wherein the vacancy has occurred who represent those portions of the county which are comprised in the district from which the candidate is to be elected.

At any meeting held for the selection of a candidate under this subsection, a majority of the persons eligible to vote thereat shall be required to be present for the conduct of any business, and no person shall be entitled to vote at that meeting who is appointed to the State committee or county committee after the seventh day preceding the date of the meeting.



In the case of a meeting held to select a candidate for other than a Statewide office, the chairman of the meeting shall be chosen by majority vote of the persons present and entitled to vote thereat. The chairman so chosen may propose rules to govern the determination of credentials and the procedures under which the meeting shall be conducted, and those rules shall be adopted upon a majority vote of the persons entitled to vote upon the selection. If a majority vote is not obtained for those rules, the delegates shall determine credentials and conduct the business of the meeting under such other rules as may be adopted by a majority vote. All contested votes taken at the selection meeting shall be by secret ballot.

b. (1) Whenever in accordance with subsection a. of this section members of two or more county committees are empowered to select a candidate to fill a vacancy, it shall be the responsibility of the chairmen of said county committees, acting jointly not later in any case than the seventh day following the occurrence of the vacancy, to give notice to each of the members of their respective committees who are so empowered of the date, time and place of the meeting at which the selection will be made, that meeting to be held at least one day following the date on which the notice is given.

(2) Whenever in accordance with the provisions of subsection a. of this section members of a county committee are empowered to select a candidate to fill a vacancy, it shall be the responsibility of the chairman of such county committee, not later in any case than the seventh day following the occurrence of the vacancy, to give notice to each of the members of the committee who are so empowered of the date, time and place of the meeting at which the selection will be made, that meeting to be held at least one day following the date on which the notice is given.

(3) A county committee chairman or chairmen who call a meeting pursuant to paragraph (1) or (2) of this subsection shall not be entitled to vote upon the selection of a candidate at such meeting unless he or they are so entitled pursuant to subsection a.

(4) Whenever in accordance with the provisions of subsection a. of this section the State committee of a political party is empowered to select a candidate to fill a vacancy, it shall be the responsibility of the chairman of that State committee to give notice to each of the members of the committee of the date, time and place of the meeting at which the selection will be made, that meeting to be held at least one day following the date on which the notice is given.

c. Whenever a selection is to be made pursuant to this section to fill a vacancy resulting from inability to select a candidate because of a tie vote at a primary election, the selection shall be made from among those who have thus received the same number of votes at the primary.

d. A selection made pursuant to this section shall be made not later than the 48th day preceding the date of the general election, and a statement of such selection shall be filed with the Attorney General or the appropriate county clerk, as the case may be, not later than said 48th day, and in the following manner:

(1) A selection made by a State committee of political party shall be certified to the Attorney General by the State chairman of the political party.

(2) A selection made by a county committee of a political party, or a portion of the members thereof, shall be certified to the county clerk of the county by the county chairman of such political party; except that when such selection is of a candidate for the Senate or General Assembly or the United States House of Representatives the county chairman shall certify the selection to the State chairman of such political party, who shall certify the same to the Attorney General.

(3) A selection made by members of two or more county committees of a political party acting jointly shall be certified by the chairmen of said committees, acting jointly, to the State chairman of such political party, who shall certify the same to the Attorney General.

e. A statement filed pursuant to subsection d. of this section shall state the residence and post office address of the person so selected, and shall certify that the person so selected is qualified under the laws of this State to be a candidate for such office, and is a member of the political party filling the vacancy. Accompanying the statement the person endorsed therein shall file a certificate stating that he is qualified under the laws of this State to be a candidate for the office mentioned in the statement, that he consents to stand as a candidate at the ensuing general election and that he is a member of the political party named in said statement, and further that he is not a member of, or identified with, any other political party or any political organization espousing the cause of candidates of any other political party, to which shall be annexed the oath of allegiance prescribed in R.S.41:1-1 duly taken and subscribed by him before an officer authorized to take oaths in this State. The person so selected shall be the candidate of the party for such office at the ensuing general election. Each candidate for the office of Governor or the office of member of the Senate or General Assembly filing

a certification shall annex thereto a statement signed by the candidate that he or she:

(1) has not been convicted of any offense graded by Title 2C of the New Jersey Statutes as a crime of the first, second, third or fourth degree, or any offense in any other jurisdiction which, if committed in this State, would constitute such a crime; or

(2) has been so convicted, in which case, the candidate shall disclose on the statement the crime for which convicted, the date and place of the conviction and the penalties imposed for the conviction. Such a candidate may, as an alternative, submit with the statement a copy of an official document that provides such information. If the candidate has been convicted of more than one criminal offense, such information about each conviction shall be provided. Records expunged pursuant to chapter 52 of Title 2C of the New Jersey Statutes shall not be subject to disclosure.

3. R.S.19:23-12 is amended to read as follows:

**Committee on vacancies.**

19:23-12. The signers to petitions for "Choice for President," delegates and alternates to national conventions, for Governor, United States Senator, member of the House of Representatives, State Senator, member of the General Assembly and any county office may name three persons in their petition as a committee on vacancies.

This committee shall have power in case of death or resignation or otherwise of the person indorsed as a candidate in said petition to fill such vacancy by filing with the Attorney General in the case of officers to be voted for by the voters of the entire State or a portion thereof involving more than one county thereof or any congressional district, and with the county clerk in the case of officers to be voted for by the voters of the entire county or any county election district, a certificate of nomination to fill the vacancy.

Such certificate shall set forth the cause of the vacancy, the name of the person nominated and that he is a member of the same political party as the candidate for whom he is substituted, the office for which he is nominated, the name of the person for whom the new nominee is to be substituted, the fact that the committee is authorized to fill vacancies and such further information as is required to be given in any original petition of nomination.

The certificate so made shall be executed and sworn to by the members of such committee, and shall upon being filed at least 48 days before election have the same force and effect as the original petition of nomination

for the primary election for the general election and there shall be annexed thereto the oath of allegiance prescribed in R.S. 41:1-1 duly taken and subscribed by the person so nominated before an officer authorized to take oaths in this State. The name of the candidate submitted shall be immediately certified to the proper municipal clerks. In addition, a person so nominated for the office of Governor or the office of member of the Senate or General Assembly shall annex to the certificate a statement signed by the candidate that he or she:

a. has not been convicted of any offense graded by Title 2C of the New Jersey Statutes as a crime of the first, second, third or fourth degree, or any offense in any other jurisdiction which, if committed in this State, would constitute such a crime; or

b. has been so convicted, in which case, the candidate shall disclose on the statement the crime for which convicted, the date and place of the conviction and the penalties imposed for the conviction. Such a candidate may, as an alternative, submit with the statement a copy of an official document that provides such information. If the candidate has been convicted of more than one criminal offense, such information about each conviction shall be provided. Records expunged pursuant to chapter 52 of Title 2C of the New Jersey Statutes shall not be subject to disclosure.

4. R.S.19:23-15 is amended to read as follows:

**Acceptance, statement by candidates to accompany petitions.**

19:23-15. Accompanying the petition and attached thereto each person indorsed therein shall file a certificate, stating that he is qualified for the office mentioned in the petition; that he consents to stand as a candidate for nomination at the ensuing primary election, and that if nominated, he agrees to accept the nomination. Such acceptance shall certify that the candidate is a resident of and a legal voter in the jurisdiction of the office for which the nomination is to be made and there shall be annexed thereto the oath of allegiance prescribed in section 41:1-1 of the Revised Statutes duly taken and subscribed by the person so nominated before an officer authorized to take oaths in this State.

No candidate who has accepted the nomination by a direct petition of nomination for the general election shall sign an acceptance to a petition of nomination for such office for the primary election. In addition, no candidate named in a petition for the office of member of the House of Representatives shall sign an acceptance if the candidate has signed an

acceptance for the primary nomination or any other petition of nomination for the office of member of the House of Representatives in another congressional district in the same calendar year.

Each person indorsed as a candidate for nomination for election to the office of Governor or the office of member of the Senate or General Assembly shall annex to such petitions a statement signed by the candidate that he or she:

a. has not been convicted of any offense graded by Title 2C of the New Jersey Statutes as a crime of the first, second, third or fourth degree, or any offense in any other jurisdiction which, if committed in this State, would constitute such a crime; or

b. has been so convicted, in which case, the candidate shall disclose on the statement the crime for which convicted, the date and place of the conviction and the penalties imposed for the conviction. Such a candidate may, as an alternative, submit with the statement a copy of an official document that provides such information. If the candidate has been convicted of more than one criminal offense, such information about each conviction shall be provided. Records expunged pursuant to chapter 52 of Title 2C of the New Jersey Statutes shall not be subject to disclosure.

If the same person is nominated for the same office in more than one petition, the statement shall be annexed to one of such petitions.

5. R.S.19:23-16 is amended to read as follows:

**Person nominated by petition; filing of certificate.**

19:23-16. Any person nominated at the primary by having his name written or pasted upon the primary ballot shall file a certificate stating that he is qualified for the office for which he has been nominated, that he is a resident of and a legal voter in the jurisdiction of the office for which the nomination is made and that he consents to stand as a candidate at the ensuing general election to which shall be annexed the oath of allegiance prescribed in section 41:1-1 of the Revised Statutes duly taken and subscribed by the person so nominated before an officer authorized to take oaths in this State.

In addition, a person so nominated for the office of Governor or the office of member of the Senate or General Assembly shall annex to the certificate a statement signed by the candidate that he or she:

a. has not been convicted of any offense graded by Title 2C of the New Jersey Statutes as a crime of the first, second, third or fourth degree, or any

offense in any other jurisdiction which, if committed in this State, would constitute such a crime; or

b. has been so convicted, in which case, the candidate shall disclose on the statement the crime for which convicted, the date and place of the conviction and the penalties imposed for the conviction. Such a candidate may, as an alternative, submit with the statement a copy of an official document that provides such information. If the candidate has been convicted of more than one criminal offense, such information about each conviction shall be provided. Records expunged pursuant to chapter 52 of Title 2C of the New Jersey Statutes shall not be subject to disclosure.

Such acceptance shall be filed within seven days after the holding of the primary with the county clerk in the case of county and municipal offices and with the Attorney General for all other offices.

6. This act shall take effect immediately.

Approved June 16, 2004.

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## CHAPTER 27

AN ACT expanding the definition of lobbyist and legislative agent and amending various parts of the statutory law.

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

1. Section 1 of P.L.1971, c.183 (C.52:13C-18) is amended to read as follows:

**C.52:13C-18 Declaration of intent.**

1. The Legislature affirms that the preservation of responsible government requires that the fullest opportunity be afforded to the people of the State to petition their government for the redress of grievances and to express freely to individual legislators, committees of the Legislature and the Governor their opinion on legislation and current issues, to Executive Branch officers and agencies their opinion on rules and regulations developed and promulgated by those officers and agencies in the exercise of powers delegated to them by law, and to the Governor and Executive

Branch officers and agencies their opinion on matters involving the administration of various governmental processes by the Governor and those officers and agencies in the exercise of powers delegated to them by law.

The Legislature finds, however, that the preservation and maintenance of the integrity of the legislative process, the regulatory process and governmental process, including the development and promulgation of rules and regulations or administration of various governmental processes to effectuate the implementation of statutory law, requires the identification in certain instances of persons and groups who seek to influence the content, introduction, passage or defeat of legislation, the proposal, adoption, amendment, or repeal of rules and regulations or the administration of various governmental processes, and, where it is not otherwise apparent or readily ascertainable, the nature of the interest which those persons and groups seek to advance or protect through such activity.

It is in the public interest to closely monitor the activities of governmental affairs agents and lobbyists with respect to their involvement in influencing legislative, regulatory and governmental processes to ensure the integrity of government.

Therefore, it is the purpose of this act, as amended by P.L.2004, c.27, to require adequate disclosure in certain instances in order to make available to the Legislature, governmental officials and the public information relative to the activities of persons who seek to influence the content, introduction, passage or defeat of legislation, the proposal, adoption, amendment or repeal of rules and regulations or the administration of various governmental processes by such means.

2. Section 2 of P.L.1971, c.183 (C.52:13C-19) is amended to read as follows:

**C.52:13C-19 Short title.**

2. This act shall be known as the "Legislative and Governmental Process Activities Disclosure Act."

3. Section 3 of P.L.1971, c.183 (C.52:13C-20) is amended to read as follows:

**C.52:13C-20 Definitions.**

3. For the purposes of this act, as amended and supplemented, unless the context clearly requires a different meaning:

a. The term "person" includes an individual, partnership, committee, association, corporation, and any other organization or group of persons.

b. The term "legislation" includes all bills, resolutions, amendments, nominations and appointments pending or proposed in either House of the Legislature, and all bills and resolutions which, having passed both Houses, are pending approval by the Governor.

c. The term "Legislature" includes the Senate and General Assembly of the State of New Jersey and all committees and commissions established by the Legislature or by either House thereof.

d. The term "lobbyist" means any person, partnership, committee, association, corporation, labor union or any other organization that employs, engages or otherwise uses the services of any governmental affairs agent to influence legislation, regulation or governmental processes.

e. The term "Governor" includes the Governor or the Acting Governor.

f. The term "communication with a member of the Legislature," "with legislative staff," "with the Governor," "with the Governor's staff," or "with an officer or staff member of the Executive Branch" means any communication, oral or in writing or any other medium, addressed, delivered, distributed or disseminated, respectively, to a member of the Legislature, to legislative staff, to the Governor, to the Governor's staff, or to an officer or staff member of the Executive Branch, as distinguished from communication to the general public including but not limited to a member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch. If any person shall obtain, reproduce or excerpt any communication or part thereof which in its original form was not a communication under this subsection and shall cause such excerpt or reproduction to be addressed, delivered, distributed or disseminated to a member of the Legislature, to legislative staff, to the Governor, to the Governor's staff, or to an officer or staff member of the Executive Branch, such communication, reproduction or excerpt shall be deemed a communication with the member of the Legislature, with legislative staff, with the Governor, with the Governor's staff, or with an officer or staff member of the Executive Branch by such person.



g. The term "governmental affairs agent" means any person who receives or agrees to receive, directly or indirectly, compensation, in money or anything of value including reimbursement of his expenses where such reimbursement exceeds \$100.00 in any three-month period, to influence legislation, to influence regulation or to influence governmental processes, or all of the above, by direct or indirect communication with, or by making or authorizing, or causing to be made or authorized, any expenditures providing a benefit to, a member of the Legislature, legislative staff, the Governor, the Governor's staff, or any officer or staff member of the Executive Branch, or who holds himself out as engaging in the business of influencing legislation, regulation or governmental processes, by such means, or who incident to his regular employment engages in influencing legislation, regulation or governmental processes, by such means; provided, however, that a person shall not be deemed a governmental affairs agent who, in relation to the duties or interests of his employment or at the request or suggestion of his employer, communicates with a member of the Legislature, with legislative staff, with the Governor, with the Governor's staff, or with an officer or staff member of the Executive Branch concerning any legislation, regulation or governmental process, if such communication is an isolated, exceptional or infrequent activity in relation to the usual duties of his employment.

h. The term "influence legislation" means to make any attempt, whether successful or not, to secure or prevent the initiation of any legislation, or to secure or prevent the passage, defeat, amendment or modification thereof by the Legislature, or the approval, amendment or disapproval thereof by the Governor in accordance with his constitutional authority.

i. The term "statement" includes a notice of representation or a report required by this act, as amended and supplemented.

j. (Deleted by amendment, P.L.1991, c.243).

k. The term "member of the Legislature" includes any member or member-elect of, or any person who shall have been selected to fill a vacancy in, the Senate or General Assembly, and any other person who is a member or member-designate of any committee or commission established by the Legislature or by either House thereof.

l. The term "legislative staff" includes all staff, assistants and employees of the Legislature or any of its members in the member's official

capacity, whether or not they receive compensation from the State of New Jersey.

m. The term "Governor's staff" includes the members of the Governor's Cabinet, the Secretary to the Governor, the Counsel to the Governor and all professional employees in the office of the Counsel to the Governor, and all other employees of the Office of the Governor.

n. The term "officer or staff member of the Executive Branch" means any assistant or deputy head of a principal department in the Executive Branch of State Government, including all assistant and deputy commissioners; the members and chief executive officer of any authority, board, commission or other agency or instrumentality in or of such a principal department; and any officer of the Executive Branch of State Government other than the Governor who is not included among the foregoing or among the Governor's staff, but who is empowered by law to issue, promulgate or adopt administrative rules and regulations or to administer governmental processes, and any person employed in the office of such an officer who is involved with the development, issuance, promulgation or adoption of such rules and regulations or administration of governmental processes in the regular course of employment.

o. The term "regulation" includes any administrative rule or regulation affecting the rights, privileges, benefits, duties, obligations, or liabilities of any one or more persons subject by law to regulation as a class, but does not include an administrative action (1) to issue, renew or deny, or, in an adjudicative action, to suspend or revoke, a license, order, permit or waiver under any law or administrative rule or regulation, (2) to impose a penalty, or (3) to effectuate an administrative reorganization within a single principal department of the Executive Branch of State Government.

p. The term "influence regulation" means to make any attempt, whether successful or not, to secure or prevent the proposal of any regulation or to secure or prevent the consideration, amendment, issuance, promulgation, adoption or rejection thereof by an officer or any authority, board, commission or other agency or instrumentality in or of a principal department of the Executive Branch of State Government empowered by law to issue, promulgate or adopt administrative rules and regulations.

q. The term "expenditures providing a benefit" or "expenditures providing benefits" means any expenditures for entertainment, food and beverage, travel and lodging, honoraria, loans, gifts or any other thing of value, except for (1) any money or thing of value paid for past, present, or

future services in regular employment, whether in the form of a fee, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of recompense, or any combination thereof, or (2) any dividends or other income paid on investments, trusts, and estates.

r. The term "commission" means the Election Law Enforcement Commission established pursuant to section 5 of P.L.1973, c.83 (C.19:44A-5).

s. The term "communication with the general public" means any communication:

(1) disseminated to the general public through direct mail or in the form of a paid advertisement in a newspaper, magazine, or other printed publication of general circulation or aired on radio, television, or other broadcast medium, and

(2) which explicitly supports or opposes a particular item or items of legislation or regulation, or the content of which can reasonably be understood, irrespective of whether the communication is addressed to the general public or to persons in public office or employment, as intended to influence legislation or to influence regulation.

t. The terms "influence governmental processes", "influencing governmental processes" or "influence governmental process" means to make any attempt, whether successful or not, to assist a represented entity or group to engage in communication with, or to secure information from, an officer or staff member of the Executive Branch, or any authority, board, commission or other agency or instrumentality in or of a principal department of the Executive Branch of State Government, empowered by law to administer a governmental process or perform other functions that relate to such processes.

u. The term "governmental process" means:

- promulgation of executive orders;
- rate setting;
- development, negotiation, award, modification or cancellation of public contracts;
- issuance, denial, modification, renewal, revocation or suspension of permits, licenses or waivers;
- procedures for bidding;
- imposition or modification of fines and penalties;
- procedures for purchasing;
- rendition of administrative determinations; and

award, denial, modification, renewal or termination of financial assistance, grants and loans.

v. The term "public contract" means a contract the cost or price of which is to be paid with or out of State funds or the funds of an independent authority created by the State or by the Legislature.

4. Section 4 of P.L.1971, c.183 (C.52:13C-21) is amended to read as follows:

**C.52:13C-21 Notice of representation; filing, contents, separate notices.**

4. a. Any person who, on or after the effective date of P.L.1991, c.243 or on or after the effective date of P.L.2004, c.27 for the purpose of influencing governmental processes, is employed, retained or engages himself as a governmental affairs agent shall, prior to any communication with, or the making of any expenditures providing a benefit to, a member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch, and in any event within 30 days of the appropriate effective date or of such employment, retainer or engagement, whichever occurs later, file a signed notice of representation with the Election Law Enforcement Commission in such detail as the commission may prescribe, identifying himself and persons by whom he is employed or retained, and the persons in whose interests he is working, and the general nature of his proposed services as a governmental affairs agent for such persons, which notice shall contain the following information:

(1) his name, business address and regular occupation;

(2) the name, business address and occupation or principal business of the person from whom he receives compensation for acting as a governmental affairs agent;

(3) (a) the name, business address and occupation or principal business of any person in whose interest he acts as a governmental affairs agent in consideration of the aforesaid compensation, if such person is other than the person from whom said compensation is received; and

(b) if a person, identified under paragraph (2) of this subsection as one from whom the governmental affairs agent receives compensation, is a membership organization or corporation whose name or occupation so identified does not, either explicitly or by virtue of the nature of the principal business in which the organization or its members, or the corporation or its shareholders, is commonly known to be engaged, clearly reveal the primary specific economic, social, political, or other interest which the organization

or corporation may reasonably be understood to seek to advance or protect through its employment, retainer, or engagement of the governmental affairs agent, a description of that primary economic, social, political, or other interest and a list of the persons having organizational or financial control of the organization or corporation, including the names, mailing addresses and occupations, respectively, of those persons. The commission shall promulgate rules and regulations to govern the content of any information required to be disclosed under this subparagraph and shall take such steps as are reasonably necessary to ensure that all such information is, in accordance with those rules and regulations, both accurate and complete.

Any list of governmental affairs agents and their principals required to be published quarterly under subsection h. of section 6 of P.L.1971, c.183 (C.52:13C-23) shall include, for each such principal for whom it is not otherwise apparent, the primary specific interest which the principal may reasonably be understood to seek to advance or protect through its engagement of the governmental affairs agent and the category of persons required to file additional information, as that interest and such category shall have been determined under subparagraph (b) of this paragraph;

(4) whether the person from whom he receives said compensation employs him solely as a governmental affairs agent, or whether he is a regular employee performing services for his employer which include but are not limited to the influencing of legislation, regulation or governmental processes;

(5) the length of time for which he will be receiving compensation from the person aforesaid for acting as a governmental affairs agent, if said length of time can be ascertained at the time of filing;

(6) the type of legislation, regulation or governmental process or the particular legislation, regulation or governmental process in relation to which he is to act as governmental affairs agent in consideration of the aforesaid compensation, and any particular legislation, regulation or governmental process, or type of legislation, regulation or governmental process which he is to promote or oppose;

(7) a full and particular description of any agreement, arrangement or understanding according to which his compensation, or any portion thereof, is or will be contingent upon the success of any attempt to influence legislation, regulation or governmental processes.

b. Any governmental affairs agent who receives compensation from more than one person for his services as a governmental affairs agent shall

file a separate notice of representation with respect to each such person; except that a governmental affairs agent whose fee for acting as such in respect to the same legislation, regulation or governmental process or type of legislation, regulation or governmental process is paid or contributed to by more than one person may file a single statement, in which he shall detail the name, business address and occupation or principal business of each person so paying or contributing.

5. Section 4 of P.L.1981, c.150 (C.52:13C-21a) is amended to read as follows:

**C.52:13C-21a Nonresident governmental affairs agent, lobbyist, filing of consent to service of process.**

4. Any governmental affairs agent or lobbyist not a resident of this State, or not a corporation of this State or authorized to do business in this State, shall file with the Election Law Enforcement Commission, before attempting to influence legislation, regulation or governmental process, or within 30 days of the effective date of P.L.2004, c.27, as appropriate, its consent to service of process at an address within this State, or by regular mail at an address outside this State.

6. Section 3 of P.L.2003, c.255 (C.52:13C-21b) is amended to read as follows:

**C.52:13C-21b Restriction on offer of gifts, etc. to certain State officers or employees.**

3. Except as expressly authorized in section 13 of P.L.1971, c.182 (C.52:13D-24) or when the lobbyist or governmental affairs agent is a member of the immediate family of the officer or staff member of the Executive Branch or member of the Legislature or legislative staff, no lobbyist or governmental affairs agent shall offer or give or agree to offer or give, directly or indirectly, any compensation, reward, employment, gift, honorarium or other thing of value to an officer or staff member of the Executive Branch or member of the Legislature or legislative staff, totaling more than \$250.00 in a calendar year. The \$250.00 limit on any compensation, reward, gift, honorarium or other thing of value shall also apply to each member of the immediate family of a member of the Legislature, as defined in section 2 of P.L.1971, c.182 (C.52:13D-13) to be a spouse, child, parent, or sibling of the member residing in the same household as the member of the Legislature.

b. The prohibition in subsection a. of this section on offering or giving, or agreeing to offer or give, any compensation, reward, gift, honorarium or other thing of value shall not apply if it is in the course of employment, by an employer other than the State, of an individual covered in subsection a. of this section or a member of the immediate family. The prohibition in subsection a. of this section on offering or giving, or agreeing to offer or give, any compensation, reward, gift, honorarium or other thing of value shall not apply if receipt is from a member of the immediate family when the family member received such in the course of his or her employment.

c. Subsection a. of this section shall not apply if an officer or staff member of the Executive Branch or member of the Legislature or legislative staff who accepted any compensation, reward, gift, honorarium or other thing of value offered or given by a lobbyist or governmental affairs agent makes a full reimbursement, within 90 days of acceptance, to the lobbyist or governmental affairs agent in an amount equal to the money accepted or the fair market value of that which was accepted if other than money. As used in this subsection, "fair market value" means the actual cost of the compensation, reward, gift, honorarium or other thing of value accepted.

d. A violation of this section shall not constitute a crime or offense under the laws of this State.

7. Section 1 of P.L.1977, c.92 (C.52:13C-21.1) is amended to read as follows:

**C.52:13C-21.1 Employment of unregistered governmental affairs agent.**

1. Any person who knowingly employs another person to serve as a governmental affairs agent who is not registered as required by section 4 of the act of which this act is a supplement, except upon the condition that such person register as a governmental affairs agent as provided by law or who continues to employ any such person who has not registered within the time required by law, shall, upon conviction, be guilty of a crime of the fourth degree.

8. Section 1 of P.L.1977, c.90 (C.52:13C-21.2) is amended to read as follows:

**C.52:13C-21.2 Representation of adverse interest, fourth degree crime.**

1. Any governmental affairs agent who knowingly represents an interest adverse to any of his employer's without first obtaining such

employer's written consent thereto, after full disclosure to such employer of such adverse interest, shall, upon conviction, be guilty of a crime of the fourth degree.

9. Section 1 of P.L.1977, c.91 (C.52:13C-21.3) is amended to read as follows:

**C.52:13C-21.3 Introduction of legislation for purposes of later employment, fourth degree crime.**

1. Any governmental affairs agent who knowingly causes, influences, or otherwise secures the introduction of any legislation or amendment thereto for the purpose of thereafter being employed to prevent the passage thereof, shall upon conviction be guilty of a crime of the fourth degree.

10. Section 5 of P.L.1971, c.183 (C.52:13C-22) is amended to read as follows:

**C.52:13C-22 Quarterly reports; contents.**

5. a. Every governmental affairs agent shall file with the commission a signed quarterly report of his activity in attempting to influence legislation, regulation or governmental processes during each such quarter.

b. The quarterly reports required under this section shall be made in the form and manner prescribed by the commission and shall be filed between the first and tenth days of each calendar quarter for such activity during the preceding calendar quarter. The commission may, in its discretion, permit joint reports by persons subject to this act.

c. Each such quarterly report shall

(1) describe the particular items of legislation, regulation, or governmental process and any general category or type of legislation, regulation or governmental process regarding which the governmental affairs agent acted as a governmental affairs agent during the quarter, and any particular items or general types of legislation, regulation, or governmental processes which he actively promoted or opposed during the quarter; and

(2) supply any information necessary to make the notice of representation filed by the governmental affairs agent pursuant to section 4 of P.L.1971, c.183 (C.52:13C-21), current and accurate as of the final day of the calendar quarter covered by the report.

11. Section 2 of P.L.1981, c.150 (C.52:13C-22.1) is amended to read as follows:



**C.52:13C-22.1 Annual reports.**

2. Each governmental affairs agent or lobbyist shall make and certify the correctness of a full annual report to the Election Law Enforcement Commission, of those moneys, loans, paid personal services or other things of value contributed to it and those expenditures made, incurred or authorized by it for the purpose of communication with or providing benefits to any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch, or a communication with the general public, during the previous year. The report shall include, but not be limited to, the following expenditures which relate to communication with, or providing benefits to, any member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch, or communication with the general public: media, including advertising; entertainment; food and beverage; travel and lodging; honoraria; loans; gifts; and salary, fees, allowances or other compensation paid to an agent. The expenditures shall be reported whether made to the intended recipient of the communication or benefit, to a governmental affairs agent or a lobbyist, or in the case of a communication to the general public, to the publisher of that communication. The expenditures shall be reported in the aggregate by category, except that if the aggregate expenditures on behalf of a member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch exceed \$25.00 per day, they shall be detailed separately as to the name of the member of the Legislature, member of legislative staff, the Governor, member of the Governor's staff, or officer or staff member of the Executive Branch, date and type of expenditure, amount of expenditure and to whom paid. Where the aggregate expenditures for the purpose of communication with or providing benefits to any one member of the Legislature, member of legislative staff, the Governor, the Governor's staff, or officer or staff member of the Executive Branch exceed \$200.00 per year, the expenditures, together with the name of the intended recipient of the communication or benefits, shall be stated in detail including the type of each expenditure, amount of expenditure and to whom paid. Where those expenditures in the aggregate, or where the aggregate expenditures for the purpose of communication with the general public, with respect to any specific occasion are in excess of \$100.00, the report shall include the date and type of expenditure, amount of expenditure and to whom paid. The Election Law Enforcement

Commission may, in its discretion, permit joint reports by governmental affairs agents. No governmental affairs agent shall be required to file a report unless all moneys, loans, paid personal services or other things of value contributed to it for the purpose of communication with or making expenditures providing a benefit to a member of the Legislature, legislative staff, the Governor, the Governor's staff, or officer or staff member of the Executive Branch or for the purpose of communication with the general public exceed \$2,500.00 in any year or unless all expenditures made, incurred or authorized by it for the purpose of communication with or providing benefits to a member of the Legislature, legislative staff, the Governor, the Governor's staff, or officer or staff member of the Executive Branch or for the purpose of communication with the general public exceed \$2,500.00 in any year.

Any lobbyist who receives contributions or makes expenditures to influence legislation or regulation shall be required to file and certify the correctness of a report of such contributions or expenditures if the contributions or expenditures made, incurred or authorized by it for the purpose of communication with or providing benefits to a member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch exceed, in the aggregate, \$2,500.00 in any year. Any lobbyist required to file a report pursuant to this section may designate a governmental affairs agent in its employ or otherwise engaged or used by it to file a report on its behalf; provided such designation is made in writing by the lobbyist, is acknowledged in writing by the designated governmental affairs agent and is filed with the Election Law Enforcement Commission on or before the date on which the report of the lobbyist is due for filing, and further provided that any violation of this act shall subject both the lobbyist and the designated governmental affairs agent to the penalties provided in this act.

Any person other than a governmental affairs agent or lobbyist who receives contributions or makes expenditures for the purpose of communication with the general public shall be required to file and certify the correctness of a report of such contributions or expenditures in the same manner as governmental affairs agents under the provisions of this section if the contributions or expenditures made, incurred or authorized by the person for the purpose of communication with the general public exceed in the aggregate \$2,500 in any year.

This section shall not be construed to authorize any person to make or authorize, or to cause to be made or authorized, any expenditure providing a benefit, or to provide a benefit, the provision or receipt of which is prohibited under the "New Jersey Conflicts of Interest Law," P.L.1971, c.182 (C.52:13D-12 et seq.) or any code of ethics promulgated thereunder, or under any other law or any executive order, rule or regulation.

12. Section 7 of P.L.1991, c.243 (C.52:13C-22.1a) is amended to read as follows:

**C.52:13C-22.1a Governmental affairs agent, disclosure of certain service.**

7. A person who is registered as a governmental affairs agent and who, on or after the effective date of P.L.1991, c.243 (C.52:13C-18 et al.) or on or after P.L.2004, c.27 for the purpose of influencing governmental processes, serves or shall serve as a member of any independent State authority, county improvement authority or municipal utilities authority, or as a member from New Jersey on an inter-state or bi-state authority, or as a member of any board or commission established by statute or resolution or by executive order of the Governor or by the Legislature or by any agency, department or other instrumentality of the State shall disclose such service, including the name of the authority, board or commission and the date upon which his term as a member thereof expires, in the annual report required to be made under section 2 of P.L.1981, c.150 (C.52:13C-22.1).

13. Section 1 of P.L.1996, c.144 (C.52:13C-22.4) is amended to read as follows:

**C.52:13C-22.4 Report of benefits to recipients.**

1. a. Each governmental affairs agent and lobbyist shall provide to each member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch who receives a benefit that is required to be reported to the commission pursuant to section 2 of P.L.1981, c.150 (C.52:13C-22.1), a full written and certified report describing the benefit, including a description of the benefit, the amount of the benefit, the date it was provided and to whom it was paid.

b. The reports shall be transmitted to the member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch by each governmental affairs agent or lobbyist no later than February 1 of each year and shall cover benefits provided in the immediately preceding calendar year. In the event that a

governmental affairs agent or lobbyist provides more than one benefit to a member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch during a calendar year, the reports describing those benefits required pursuant to subsection a. of this section may be combined into one report or filed as separate reports.

14. Section 6 of P.L.1971, c.183 (C.52:13C-23) is amended to read as follows:

**C.52:13C-23 Duties of the commission.**

6. The commission shall:

a. permit public inspection of all statements filed pursuant to this act, as amended and supplemented;

b. compile and summarize information contained in statements filed pursuant to this act, as amended and supplemented, and report the same to the Legislature and the Governor;

c. ascertain whether any persons have failed to file statements as required by this act, as amended and supplemented, or have filed incomplete or inaccurate statements, and give notice to such persons to file such statements as will conform to the requirements of this act, as amended and supplemented;

d. investigate violations of this act, as amended and supplemented, report to the Legislature and the Governor thereon, and notify the Attorney General of any possible criminal violations of this act, as amended and supplemented, that may warrant further investigation and action;

e. make such recommendations to the Legislature and the Governor as will tend to further the objectives of this act, as amended and supplemented, and take such other action as shall be necessary and proper to effectuate the purposes of this act, as amended and supplemented;

f. report to the Legislature and the Governor annually on the administration of this act, as amended and supplemented;

g. develop and prescribe methods and forms for statements required to be filed by this act, as amended and supplemented, and require the use of such forms by persons subject to this act, as amended and supplemented;

h. compile and publish quarterly a list of all governmental affairs agents then registered, together with the information contained in their notices of representation and last quarterly report, which compilation shall

be distributed to all members of the Legislature and the Governor, and published in the New Jersey Register;

i. prepare and publish a summary and explanation of the registration and reporting requirements of this act, as amended and supplemented, for the use and guidance of those persons who may be required to file statements under this act, as amended and supplemented;

j. in accordance with a fee schedule adopted by the commission as a rule or regulation, establish and charge reasonable fees for the filing of notices of representation and quarterly and annual reports pursuant to this act, as amended and supplemented, provided that such fees shall not apply to the organizations which qualify under subsection (b) of section 9 of chapter 30 of the laws of 1966, as amended (C.54:32B-9), and provided further that the amount of such fees shall not exceed the cost to the commission of processing and maintaining those notices and reports and of compiling, summarizing and publishing the information contained therein as prescribed by this act, as amended and supplemented; and

k. during periods when the Legislature is in session, report monthly to the members of the Legislature and the Governor and his staff all new notices of representation, notices of termination and other notices filed pursuant to this act, as amended and supplemented, during the preceding month.

15. Section 11 of P.L.1991, c.244 (C.52:13C-23.1) is amended to read as follows:

**C.52:13C-23.1 Violations, penalties.**

11. Upon receiving evidence of any violation of P.L.1971, c.183 (C.52:13C-18 et seq.), as amended and supplemented, the commission shall have power to bring complaint proceedings, to issue subpoenas for the production of witnesses and documents, and to hold or to cause to be held by the Office of Administrative Law, hearings upon such complaint. In addition to any other penalty provided by law, any person who is found to have committed such a violation shall be liable for a civil penalty not in excess of \$1,000, which penalty may be collected in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

16. Section 7 of P.L.1971, c.183 (C.52:13C-24) is amended to read as follows:

**C.52:13C-24 Records of governmental affairs agent.**

7. Any person engaged in activity which makes him subject to filing a statement under this act shall keep and preserve all records of his receipts, disbursements and other financial transactions in the course of and as a part of his activities as a governmental affairs agent. Such records shall be preserved for a period of three calendar years next succeeding the calendar year in which they were made. The provisions of this section shall not apply to any governmental affairs agent with respect to any quarterly period within which the total of his compensation including reimbursement of expenses is less than \$500.00.

17. Section 8 of P.L.1971, c.183 (C.52:13C-25) is amended to read as follows:

**C.52:13C-25 Governmental affairs agent's responsibilities.**

8. a. Every governmental affairs agent shall file a notice of termination report within 30 days after his activity shall cease, on such form as the commission shall prescribe, and any person who engages a governmental affairs agent may file a notice of termination after such agent ceases to represent such person.

b. A governmental affairs agent who receives or agrees to receive compensation for acting as such from any person not named in the notice of representation filed pursuant to section 4 of P.L.1971, c.183 (C.52:13C-21) shall, within 15 days of receiving or agreeing to receive such compensation, file an appropriate notification thereof in writing with the commission.

c. A governmental affairs agent shall notify the commission in writing of any material change in the information supplied by him in the notice of representation filed pursuant to section 4 of P.L.1971, c.183 (C.52:13C-21) within 15 days of the effective date of such change.

18. Section 10 of P.L.1971, c.183 (C.52:13C-27) is amended to read as follows:

**C.52:13C-27 Act not applicable to certain activities.**

10. This act shall not apply to the following activities:

a. the publication or dissemination, in the ordinary course of business, of news items, advertising which does not constitute communication with the general public, editorials or other comments by a newspaper, book

publisher, regularly published periodical, or radio or television station, including an owner, editor or employee thereof;

b. acts of an officer or employee of the Government of this State or any of its political subdivisions, or of the Government of the United States or of any State or territory thereof or any of their political subdivisions, in carrying out the duties of their public office or employment;

c. acts of bona fide religious groups acting solely for the purpose of protecting the public right to practice the doctrines of such religious groups;

d. acts of a duly organized national, State or local committee of a political party;

e. acts of a person in testifying before a legislative committee or commission, at a public hearing duly called by the Governor on legislative proposals or on legislation passed and pending his approval, or before any officer or body empowered by law to issue, promulgate or adopt administrative rules and regulations in behalf of a nonprofit organization incorporated as such in this State who receives no compensation therefor beyond the reimbursement of necessary and actual expenses, and who makes no other communication with a member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch in connection with the subject of his testimony;

f. acts of a person in communicating with or providing benefits to a member of the Legislature, legislative staff, the Governor, the Governor's staff, or an officer or staff member of the Executive Branch if such communication or provision of benefits is undertaken by him as a personal expression and not incident to his employment, even if it is upon a matter relevant to the interests of a person by whom or which he is employed, and if he receives no additional compensation or reward, in money or otherwise, for or as a result of such communication or provision of benefits;

g. with regard to influencing governmental processes as defined in subsections t. and u. of section 3 of P.L.1971, c.183 (C.52:13C-20) any communications, matters or acts of an attorney falling within the attorney-client privilege while engaging in the practice of law to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer; and

h. with regard to influencing governmental processes as defined in subsections t. and u. of section 3 of P.L.1971, c.183 (C.52:13C-20) any communications, matters or acts involving collective negotiations, or the interpretation or violation of collective negotiation agreements, of a labor

organization of any kind which exists or is constituted for the purpose, in whole or in part, of collective bargaining, or of dealing with employers concerning the grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment.

19. Section 11 of P.L.1971, c.183 (C.52:13C-28) is amended to read as follows:

**C.52:13C-28 Wearing of name tag.**

11. Every governmental affairs agent who, for the purpose of influencing legislation, is in the State House, the State House Annex, or any other State building or other location when and where an authorized meeting of a legislative committee is being held shall at all times wear a descriptive name tag of a type prescribed by the commission.

20. Section 12 of P.L.1971, c.183 (C.52:13C-29) is amended to read as follows:

**C.52:13C-29 Legislative employees as governmental affairs agents, fourth degree crime.**

12. All staff, assistants and employees of the Legislature who receive for their services a stated salary or similar compensation from the State of New Jersey are forbidden to act as governmental affairs agents or to seek, receive or agree to receive, directly or indirectly, compensation, in money or any thing of value, for influencing or purporting to influence legislation. Whoever violates this section is guilty of a crime of the fourth degree.

21. Section 13 of P.L.1971, c.183 (C.52:13C-30) is amended to read as follows:

**C.52:13C-30 Willful falsification; fourth degree crime.**

13. Any person who knowingly and willfully falsifies all or any part of any statement, notice or report under this act shall, upon conviction, be guilty of a crime of the fourth degree.

22. Section 14 of P.L.1971, c.183 (C.52:13C-31) is amended to read as follows:

**C.52:13C-31 False communication relative to legislation; fourth degree crime.**

14. Any person who shall transmit, utter or publish to the Legislature or the Governor or his staff any communication relating to any legislation or be a party to the preparation thereof, knowing such communication or any



signature thereto is false, forged, counterfeit, or fictitious, shall upon conviction, be guilty of a crime of the fourth degree.

23. Section 16 of P.L.1971, c.183 (C.52:13C-33) is amended to read as follows:

**C.52:13C-33 Failure to file notice of representation, report; fourth degree crime.**

16. Any governmental affairs agent required to file a notice of representation or report or maintain any record under this act who fails to file such a notice or report or maintain such record shall, upon conviction, be guilty of a crime of the fourth degree.

24. Section 19 of P.L.1971, c.183 (C.52:13C-36) is amended to read as follows:

**C.52:13C-36 Powers of the commission.**

19. a. When it shall appear to the commission that a person required to file any statement under this act, as amended and supplemented, has failed to file such required statement, or has filed a statement false, inaccurate or incomplete in any material matter, or has otherwise violated the provisions of this act, as amended and supplemented; or when the commission believes it to be in the public interest that an investigation should be made to ascertain whether a person has in fact violated any of the provisions of this act, as amended and supplemented, it may apply to the Superior Court for an order or orders directing:

(1) That any such person or persons make available to the commission's inspection, or to the inspection of any of its authorized deputies or agents, such records as are required to be kept by that person pursuant to section 7 of P.L.1971, c.183 (C.52:13C-24); or

(2) That any such person file a statement or report in writing under oath concerning the facts and circumstances upon which the commission's belief in the necessity of an investigation is based; or

(3) That any person submit to examination under oath by the commission in connection with said circumstances, and produce any and all records, books and other documents which may be specified by order of the court; or

(4) That the commission may impound any record, book or other documents specified by order of the court.

b. Such application by the commission shall set forth all the facts and circumstances upon which its belief in the necessity of an investigation is based. The court may proceed on such application in a summary manner;

and if the court determines that from the evidence submitted it appears that a person required to file any statement under this act, as amended and supplemented, has failed to file such statement, or has filed a statement false, inaccurate or incomplete in any material respect, or has otherwise violated any of the provisions of this act, as amended and supplemented, or that it is in the public interest that an investigation be held to determine whether such violation has occurred, the court shall issue such order pursuant to subsection a. of this section as it may deem necessary and proper.

c. The commission shall hold as confidential all statements, books, records, testimony and other information or sources of information coming into its possession or knowledge as a result of an investigation pursuant to this section and shall not disclose or divulge any such materials or information to anyone except the court under whose order such material or information comes into its knowledge or possession, unless the court shall order its disclosure to a grand jury of this State or other appropriate authorities for the purposes of enforcing the provisions of this act, as amended and supplemented, or any other law.

d. If any person shall refuse to testify or produce any book, paper or other document in any proceeding under this section as ordered by the court on the grounds that the testimony or evidence, documentary or otherwise, which is required of him may tend to incriminate him, convict him of a crime, or subject him to a penalty or forfeiture, and shall, notwithstanding, be directed to testify or to produce such book, paper or document, he shall comply with such direction. A person who is entitled by law to assert such privilege, and does so assert, and thereafter complies with such direction, shall not thereafter be prosecuted or subjected to any penalty or forfeiture in any criminal proceeding which arises out of and relates to the subject matter of the proceeding. No person so testifying shall be exempt from prosecution or punishment for perjury on false swearing committed by him in giving such testimony.

e. In any action brought under this section, the court may award to the State all costs of investigation and trial, including a reasonable attorney's fee to be fixed by the court. If costs are awarded in such an action brought against a governmental affairs agent, the judgment may be awarded against the governmental affairs agent, and the governmental affairs agent's employer or employers joined as defendants, jointly, severally, or both. If the defendant prevails, he shall be awarded all costs of trial, and may be

awarded a reasonable attorney's fee to be fixed by the court and paid by the State of New Jersey.

25. Section 11 of P.L.1971, c.182 (C.52:13D-22) is amended to read as follows:

**C.52:13D-22 Joint Legislative Committee on Ethical Standards; membership; powers; duties; penalties.**

11. (a) The Joint Legislative Committee on Ethical Standards created pursuant to the provisions of P.L.1967, c.229, as continued and established pursuant to P.L.1971, c.182, is continued and established in the Legislative Branch of State Government with the addition of the public members as set forth in this section.

(b) (1) The joint committee shall be composed of 12 members as follows: four members of the Senate appointed by the President thereof, no more than two of whom shall be of the same political party; four members of the General Assembly, appointed by the Speaker thereof, no more than two of whom shall be of the same political party; and four public members, one appointed by the President of the Senate, one appointed by the Speaker of the General Assembly, one appointed by the Minority Leader of the Senate and one appointed by the Minority Leader of the General Assembly.

(2) Commencing with the second Tuesday in January of the next even numbered year following the effective date of P.L.2004, c.24, the Joint committee shall be composed of sixteen members as follows: four members of the Senate, appointed by the President thereof, no more than two of whom shall be of the same political party; four members of the General Assembly, appointed by the Speaker thereof, no more than two of whom shall be of the same political party; and eight public members, two appointed by the President of the Senate, two appointed by the Speaker of the General Assembly, two appointed by the Minority Leader of the Senate and two appointed by the Minority Leader of the General Assembly.

(3) No public member shall be a lobbyist or governmental affairs agent as defined by the "Legislative and Governmental Process Activities Disclosure Act," P.L.1971, c.183 (C.52:13C-18 et seq.), a full-time State employee or an officer or director of any entity which is required to file a statement with the Election Law Enforcement Commission, and no former lobbyist or governmental affairs agent shall be eligible to serve as a public member for one year following the cessation of all activity by that person as a governmental affairs agent or lobbyist.

The legislative members shall serve until the end of the two-year legislative term during which the members are appointed. The public members shall serve for terms of two years and until the appointment and qualification of their successors.

The terms of the public members shall run from the second Tuesday in January of an even-numbered year to the second Tuesday in January of the next even-numbered year, regardless of the original date of appointment.

Vacancies in the membership of the joint committee shall be filled in the same manner as the original appointments, but for the unexpired term only. Public members of the joint committee shall serve without compensation, but shall be entitled to be reimbursed for all actual and necessary expenses incurred in the performance of their duties.

(c) The joint committee shall organize as soon as may be practicable after the appointment of its members, by the selection of a chairman and vice chairman from among its membership and the appointment of a secretary, who need not be a member of the joint committee.

(d) The Legislative Counsel in the Office of Legislative Services shall act as legal adviser to the joint committee. The Legislative Counsel shall, upon request, assist and advise the joint committee in the rendering of advisory opinions by the joint committee, in the approval and review of codes of ethics adopted by State agencies in the Legislative Branch, and in the recommendation of revisions in codes of ethics or legislation relating to the conduct of members of the Legislature or State officers and employees in the Legislative Branch.

(e) The joint committee may, within the limits of funds appropriated or otherwise available to it for the purpose, employ other professional, technical, clerical or other assistants, excepting legal counsel, and incur expenses as may be necessary to the performance of its duties.

(f) The joint committee shall have all the powers granted pursuant to chapter 13 of Title 52 of the Revised Statutes.

(g) The joint committee is authorized to render advisory opinions as to whether a given set of facts and circumstances would, in its opinion, constitute a violation of the provisions of this act, of a code of ethics promulgated pursuant to the provisions of this act or of any rule of either or both Houses which gives the joint committee jurisdiction and the authority to investigate a matter.

(h) The joint committee shall have jurisdiction to initiate, receive, hear and review complaints regarding violations of the provisions of this act or

of a code of ethics promulgated pursuant to the provisions of this act. It shall further have such jurisdiction as to enforcement of the rules of either or both Houses of the Legislature governing the conduct of the members or employees thereof as those rules may confer upon the joint committee. A complaint regarding a violation of a code of ethics promulgated pursuant to the provisions of this act may be referred by the joint committee for disposition in accordance with subsection 12(d) of this act.

(i) Any State officer or employee or special State officer or employee in the Legislative Branch found guilty by the joint committee of violating any provisions of this act, of a code of ethics promulgated pursuant to the provisions of this act or of any rule of either or both Houses which gives the joint committee jurisdiction and the authority to investigate a matter shall be fined not less than \$500.00 nor more than \$10,000, which penalty may be collected in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and may be reprimanded and ordered to pay restitution where appropriate and may be suspended from office or employment by order of the joint committee for a period not in excess of one year. If the joint committee finds that the conduct of the officer or employee constitutes a willful and continuous disregard of the provisions of this act, of a code of ethics promulgated pursuant to the provisions of this act or of any rule of either or both Houses which gives the joint committee jurisdiction and the authority to investigate a matter, it may order that person removed from office or employment and may further bar the person from holding any public office or employment in this State in any capacity whatsoever for a period of not exceeding five years from the date on which he was found guilty by the joint committee.

(j) A member of the Legislature who shall be found guilty by the joint committee of violating the provisions of this act, of a code of ethics promulgated pursuant to the provisions of this act or of any rule of either or both Houses which gives the joint committee jurisdiction and the authority to investigate a matter shall be fined not less than \$500.00 nor more than \$10,000, which penalty may be collected in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), and shall be subject to such further action as may be determined by the House of which the person is a member. In such cases the joint committee shall report its findings to the appropriate House and shall recommend to the House such further action as the joint committee deems

appropriate, but it shall be the sole responsibility of the House to determine what further action, if any, shall be taken against such member.

26. Section 2 of P.L.2003, c.255 (C.52:13D-24.1) is amended to read as follows:

**C.52:13D-24.1 Restriction on acceptance of gifts, etc. from lobbyist, governmental affairs agent.**

2. a. Except as expressly authorized in section 13 of P.L.1971, c.182 (C.52:13D-24) or when the lobbyist or governmental affairs agent is a member of the immediate family of the officer or staff member of the Executive Branch or member of the Legislature or legislative staff, no officer or staff member of the Executive Branch or member of the Legislature or legislative staff may accept, directly or indirectly, any compensation, reward, employment, gift, honorarium or other thing of value from each lobbyist or governmental affairs agent, as defined in the "Legislative and Governmental Process Activities Disclosure Act," P.L.1971, c.183 (C.52:13C-18 et seq.), totaling more than \$250.00 in a calendar year. The \$250.00 limit on acceptance of compensation, reward, gift, honorarium or other thing of value shall also apply to each member of the immediate family of a member of the Legislature, as defined in section 2 of P.L.1971, c.182 (C.52:13D-13) to be a spouse, child, parent, or sibling of the member residing in the same household as the member of the Legislature.

b. The prohibition in subsection a. of this section on accepting any compensation, reward, gift, honorarium or other thing of value shall not apply if received in the course of employment, by an employer other than the State, of an individual covered in subsection a. of this section or a member of the immediate family. The prohibition in subsection a. of this section on accepting any compensation, reward, gift, honorarium or other thing of value shall not apply if acceptance is from a member of the immediate family when the family member received such in the course of his or her employment.

c. Subsection a. of this section shall not apply if an officer or staff member of the Executive Branch or member of the Legislature or legislative staff who accepted any compensation, reward, gift, honorarium or other thing of value provided by a lobbyist or governmental affairs agent makes a full reimbursement, within 90 days of acceptance, to the lobbyist or governmental affairs agent in an amount equal to the money accepted or the fair market value of that which was accepted if other than money. As used

in this subsection, "fair market value" means the actual cost of the compensation, reward, gift, honorarium or other thing of value accepted.

d. A violation of this section shall not constitute a crime or offense under the laws of this State.

27. This act shall take effect immediately.

Approved June 16, 2004.

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## CHAPTER 28

AN ACT concerning the reporting requirements for campaign contributions, amending and supplementing P.L.1973, c.83 (C.19:44A-1 et seq.) and amending P.L.1993, c.65.

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

**C.19:44A-11.8 Additional reporting requirements on currency contributions.**

1. Any candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee, or other person or group required to report a contribution to the commission pursuant to P.L.1973, c.83 (C.19:44A-1 et seq.) shall, in addition to the reporting requirements set forth in that act, unless specifically required in another provision of that act, file a report with the commission on any contribution accepted in currency, regardless of the amount of that contribution. The report shall be in the manner required by the commission. Such report shall include the name and mailing address of each contributor, the occupation of the contributor and the amount of the currency contribution, and the name and mailing address of the contributor's employer. If the currency is contributed in response to a public solicitation, such report shall also include the name and mailing address of each individual that contributed currency to the solicitation, the occupation of the individual and the amount of the contribution, and the name and mailing address of the individual's employer.

2. Section 22 of P.L.1993, c.65 (C.19:44A-7.2) is amended to read as follows:

**C.19:44A-7.2 Adjustment of amounts for office other than Governor.**

22. a. Not later than December 1 of each year preceding any year in which a general election is to be held to fill the office of Governor for a four-year term, the Election Law Enforcement Commission shall adjust the amounts, set forth in subsection b. of this section, which shall be applicable under P.L.1973, c.83 (C.19:44A-1 et al.) to primary and general elections for any public office other than the office of Governor, to limitations on contributions to and from political committees, continuing political committees, candidate committees, joint candidates committees, political party committees and legislative leadership committees and to other amounts, at a percentage which shall be the same as the percentage of change that the commission applies to the amounts used for the primary and general elections for the office of Governor held in the third year preceding the year in which that December 1 occurs, pursuant to section 19 of P.L.1980, c.74 (C.19:44A-7.1), and any amount so adjusted shall be rounded in the same manner as provided in that section.

b. The amounts subject to adjustment as provided under this section shall be:

(1) the minimum amount raised or expended by any two or more persons acting jointly who qualify as a political committee and the minimum amount contributed or expected to be contributed in any calendar year by any group of two or more persons acting jointly who qualify as a continuing political committee as defined in section 3 of P.L.1973, c.83 (C.19:44A-3);

(2) (Deleted by amendment, P.L.2004, c.28);

(3) the minimum amount of a contribution to a political committee, continuing political committee, legislative leadership committee or a political party committee received during the period between the 13th day prior to the election and the date of the election, the minimum amount of an expenditure by a political committee during that period, and the minimum amount of an expenditure by a continuing political committee during the period beginning after March 31 and ending on the date of the primary election and the period beginning after September 30 and ending on the date of the general election which triggers an obligation to report that contribution to the commission pursuant to section 8 of P.L.1973, c.83 (C.19:44A-8), and the minimum amount of a contribution to a candidate, candidate committee or joint candidates committee received during the period between the 13th day prior to the election and the date of the election



which triggers an obligation to report that contribution to the commission pursuant to section 16 of P.L.1973, c.83 (C.19:44A-16);

(4) the maximum amount which may be expended by the campaign organizations of two or more candidates forming a joint candidates committee without being required to file contribution reports, pursuant to section 8 of P.L.1973, c.83 (C.19:44A-8);

(5) the maximum amount that a person, not acting in concert with any other person or group, may spend to support or defeat a candidate or to aid the passage or defeat of a public question without being required to report all such expenditures and expenses to the commission pursuant to section 11 of P.L.1973, c.83 (C.19:44A-11) and the maximum amount that a person, not acting in concert with any other person or group, may raise through a public solicitation and expend to finance any lawful activity in support of or in opposition to any candidate or public question or to seek to influence the content, introduction, passage or defeat of legislation pursuant to section 19 of P.L.1973, c.83 (C.19:44A-19);

(6) the maximum amount that may be expended, in the aggregate, on behalf of a candidate without requiring that candidate to file contribution reports with the commission and the maximum amount that may be expended, in the aggregate, on behalf of a candidate seeking election to a public office of a school district, without requiring that candidate to file contribution reports with the commission pursuant to section 16 of P.L.1973, c.83 (C.19:44A-16);

(7) the maximum amount of penalty which may be imposed by the commission on any person who fails to comply with the regulatory provisions of P.L.1973, c.83 (C.19:44A-1 et al.) for a first offense or a second and subsequent offenses, pursuant to section 22 of P.L.1973, c.83 (C.19:44A-22);

(8) the maximum amount of penalty which may be imposed by the commission on any corporation or labor organization which provides any of its employees any additional increment of salary for the express purpose of making a contribution to a candidate, candidate committee, joint candidates committee, political party committee, legislative leadership committee, political committee or continuing political committee for a first or a second and subsequent offenses, pursuant to section 15 of P.L.1993, c.65 (C.19:44A-20.1);

(9) the maximum amount of contributions permitted to be made by an individual, a corporation or labor organization to a candidate, candidate

committee or joint candidates committee, the maximum amount of contributions permitted to be made by a political committee or a continuing political committee to a candidate, candidate committee or joint candidates committee other than the committee of a candidate for nomination or election to the office of Governor and the maximum amount of contributions permitted to be made by one candidate, candidate committee or joint candidates committee, other than the committee of a candidate for nomination or election to the office of Governor, to another candidate, candidate committee or joint candidates committee other than the committee of a candidate for nomination or election to the office of Governor pursuant to section 18 of P.L.1993, c.65 (C.19:44A-11.3);

(10) the maximum amount of contributions permitted to be made by an individual, corporation, labor organization, political committee, continuing political committee, candidate committee or joint candidates committee or any other group to any political party committee or any legislative leadership committee pursuant to section 19 of P.L.1993, c.65 (C.19:44A-11.4);

(11) the maximum amount of contributions permitted to be made by a candidate, candidate committee or joint candidates committee to a political committee or a continuing political committee and the maximum amount of contributions permitted to be made by one political committee or continuing political committee to another political committee or continuing political committee pursuant to section 20 of P.L.1993, c.65 (C.19:44A-11.5);

(12) the amount of filing fees which may be collected from a candidate committee, a joint candidates committee, a continuing political committee, a political party committee, a legislative leadership committee, or any other person pursuant to section 6 of P.L.1973, c.83 (C.19:44A-6) (as that section shall have been amended by P.L.1983, c.579).

c. Not later than December 15 of each year preceding any year in which a general election is to be held to fill the office of Governor for a four-year term, the commission shall report to the Legislature and make public its adjustment of limits in accordance with the provisions of this section. Whenever, following the transmittal of that report, the commission shall have notice that a person has declared as a candidate for nomination for election or for election to any public office in a forthcoming primary or general election, it shall promptly notify that candidate of the amounts of those adjusted limits.

3. Section 8 of P.L.1973, c.83 (C.19:44A-8) is amended to read as follows:

**C.19:44A-8 Contributions, expenditures, reports, requirements.**

8. a. (1) Each political committee shall make a full cumulative report, upon a form prescribed by the Election Law Enforcement Commission, of all contributions in the form of moneys, loans, paid personal services, or other things of value made to it and all expenditures made, incurred, or authorized by it in furtherance of the nomination, election or defeat of any candidate, or in aid of the passage or defeat of any public question, or to provide political information on any candidate or public question, during the period ending 48 hours preceding the date of the report and beginning on the date on which the first of those contributions was received or the first of those expenditures was made, whichever occurred first. The cumulative report, except as hereinafter provided, shall contain the name and mailing address of each person or group from whom moneys, loans, paid personal services or other things of value have been contributed since 48 hours preceding the date on which the previous such report was made and the amount contributed by each person or group, and where the contributor is an individual, the report shall indicate the occupation of the individual and the name and mailing address of the individual's employer. In the case of any loan reported pursuant to this subsection, the report shall contain the name and mailing address of each person who has cosigned such loan since 48 hours preceding the date on which the previous such report was made, and where an individual has cosigned such loans, the report shall indicate the occupation of the individual and the name and mailing address of the individual's employer. The cumulative report shall also contain the name and address of each person, firm or organization to whom expenditures have been paid since 48 hours preceding the date on which the previous such report was made and the amount and purpose of each such expenditure. The cumulative report shall be filed with the Election Law Enforcement Commission on the dates designated in section 16 hereof.

The campaign treasurer of the political committee reporting shall certify to the correctness of each report.

Each campaign treasurer of a political committee shall file written notice with the commission of a contribution in excess of \$500 received during the period between the 13th day prior to the election and the date of the election, and of an expenditure of money or other thing of value in excess of \$500 made, incurred or authorized by the political committee to

support or defeat a candidate in an election, or to aid the passage or defeat of any public question, during the period between the 13th day prior to the election and the date of the election. The notice of a contribution shall be filed in writing or by telegram within 48 hours of the receipt of the contribution and shall set forth the amount and date of the contribution, the name and mailing address of the contributor, and where the contributor is an individual, the individual's occupation and the name and mailing address of the individual's employer. The notice of an expenditure shall be filed in writing or by telegram within 48 hours of the making, incurring or authorization of the expenditure and shall set forth the name and mailing address of the person, firm or organization to whom or which the expenditure was paid and the amount and purpose of the expenditure.

(2) When a political committee or an individual seeking party office makes or authorizes an expenditure on behalf of a candidate, it shall provide immediate written notification to the candidate of the expenditure.

b. (1) A group of two or more persons acting jointly, or any corporation, partnership, or any other incorporated or unincorporated association including a political club, political action committee, civic association or other organization, which in any calendar year contributes or expects to contribute at least \$2,500.00 to the aid or promotion of the candidacy of an individual, or of the candidacies of individuals, for elective public office or the passage or defeat of a public question or public questions and which expects to make contributions toward such aid or promotion, or toward such passage or defeat, during a subsequent election shall certify that fact to the commission, and the commission, upon receiving that certification and on the basis of any information as it may require of the group, corporation, partnership, association or other organization, shall determine whether the group, corporation, partnership, association or other organization is a continuing political committee for the purposes of this act. If the commission determines that the group, corporation, partnership, association or other organization is a continuing political committee, it shall so notify that continuing political committee.

No person serving as the chairman of a political party committee or a legislative leadership committee shall be eligible to be appointed or to serve as the chairman of a continuing political committee.

(2) A continuing political committee shall file with the Election Law Enforcement Commission, not later than April 15, July 15, October 15 and January 15 of each calendar year, a cumulative quarterly report of all

moneys, loans, paid personal services or other things of value contributed to it during the period ending on the 15th day preceding that date and commencing on January 1 of that calendar year or, in the case of the cumulative quarterly report to be filed not later than January 15, of the previous calendar year, and all expenditures made, incurred, or authorized by it during the period, whether or not such expenditures were made, incurred or authorized in furtherance of the election or defeat of any candidate, or in aid of the passage or defeat of any public question or to provide information on any candidate or public question.

The cumulative quarterly report shall contain the name and mailing address of each person or group from whom moneys, loans, paid personal services or other things of value have been contributed and the amount contributed by each person or group, and where an individual has made such contributions, the report shall indicate the occupation of the individual and the name and mailing address of the individual's employer. In the case of any loan reported pursuant to this subsection, the report shall contain the name and address of each person who cosigns such loan, and where an individual has cosigned such loans, the report shall indicate the occupation of the individual and the name and mailing address of the individual's employer. The report shall also contain the name and address of each person, firm or organization to whom expenditures have been paid and the amount and purpose of each such expenditure. The treasurer of the continuing political committee reporting shall certify to the correctness of each cumulative quarterly report.

Each continuing political committee shall provide immediate written notification to each candidate of all expenditures made or authorized on behalf of the candidate.

If any continuing political committee submitting cumulative quarterly reports as provided under this subsection receives a contribution from a single source of more than \$500 after the final day of a quarterly reporting period and on or before a primary, general, municipal, school or special election which occurs after that final day but prior to the final day of the next reporting period it shall, in writing or by telegram, report that contribution to the commission within 48 hours of the receipt thereof, including in that report the amount and date of the contribution; the name and mailing address of the contributor; and where the contributor is an individual, the individual's occupation and the name and mailing address of the individual's employer. If any continuing political committee makes or authorizes an

expenditure of money or other thing of value in excess of \$500, or incurs any obligation therefor, to support or defeat a candidate in an election, or to aid the passage or defeat of any public question, after March 31 and on or before the day of the primary election, or after September 30 and on or before the day of the general election, it shall, in writing or by telegram, report that expenditure to the commission within 48 hours of the making, authorizing or incurring thereof.

A continuing political committee which ceases making contributions toward the aiding or promoting of the candidacy of an individual, or of the candidacies of individuals, for elective public office in this State or the passage or defeat of a public question or public questions in this State shall certify that fact in writing to the commission, and that certification shall be accompanied by a final accounting of any fund relating to such aiding or promoting including the final disposition of any balance in such fund at the time of dissolution. Until that certification has been filed, the committee shall continue to file the quarterly reports as provided under this subsection.

c. Each political party committee and each legislative leadership committee shall file with the Election Law Enforcement Commission, not later than April 15, July 15, October 15 and January 15 of each calendar year, a cumulative quarterly report of all moneys, loans, paid personal services or other things of value contributed to it during the period ending on the 15th day preceding that date and commencing on January 1 of that calendar year or, in the case of the cumulative quarterly report to be filed not later than January 15, of the previous calendar year, and all expenditures made, incurred, or authorized by it during the period, whether or not such expenditures were made, incurred or authorized in furtherance of the election or defeat of any candidate, or in aid of the passage or defeat of any public question or to provide information on any candidate or public question.

The cumulative quarterly report shall contain the name and mailing address of each person or group from whom moneys, loans, paid personal services or other things of value have been contributed and the amount contributed by each person or group, and where an individual has made such contributions, the report shall indicate the occupation of the individual and the name and mailing address of the individual's employer. In the case of any loan reported pursuant to this subsection, the report shall contain the name and address of each person who cosigns such loan, and where an individual has cosigned such loans, the report shall indicate the occupation of the individual and the name and mailing address of the individual's

employer. The report shall also contain the name and address of each person, firm or organization to whom expenditures have been paid and the amount and purpose of each such expenditure. The treasurer of the political party committee or legislative leadership committee reporting shall certify to the correctness of each cumulative quarterly report.

If a political party committee or a legislative leadership committee submitting cumulative quarterly reports as provided under this subsection receives a contribution from a single source of more than \$500 after the final day of a quarterly reporting period and on or before a primary, general, municipal, school or special election which occurs after that final day but prior to the final day of the next reporting period it shall, in writing or by telegram, report that contribution to the commission within 48 hours of the receipt thereof, including in that report the amount and date of the contribution; the name and mailing address of the contributor; and where the contributor is an individual, the individual's occupation and the name and mailing address of the individual's employer.

d. In any report filed pursuant to the provisions of this section the organization or committee reporting may exclude from the report the name of and other information relating to any contributor whose contributions during the period covered by the report did not exceed \$300, provided, however, that (1) such exclusion is unlawful if any person responsible for the preparation or filing of the report knew that it was made with respect to any person whose contributions relating to the same election or issue and made to the reporting organization or committee aggregate, in combination with the contribution in respect of which such exclusion is made, more than \$300 and (2) any person who knowingly prepares, assists in preparing, files or acquiesces in the filing of any report from which the identification of a contributor has been excluded contrary to the provisions of this section is subject to the provisions of section 21 of this act, but (3) nothing in this proviso shall be construed as requiring any committee or organization reporting pursuant to this act to report the amounts, dates or other circumstantial data regarding contributions made to any other organization or political committee, political party committee or campaign organization of a candidate.

Any report filed pursuant to the provisions of this section shall include an itemized accounting of all receipts and expenditures relative to any testimonial affairs held since the date of the most recent report filed, which accounting shall include the name and mailing address of each contributor in excess of \$300 to such testimonial affair and the amount contributed by each; in the

case of an individual contributor, the occupation of the individual and the name and mailing address of the individual's employer; the expenses incurred; and the disposition of the proceeds of such testimonial affair.

The \$300 limits established in this subsection shall remain as stated in this subsection without further adjustment by the commission in the manner prescribed by section 22 of P.L.1993, c.65 (C.19:44A-7.2).

e. A political committee shall be exempt from any requirement to file reports pursuant to this section of contributions received or expenditures made in behalf of two or more joint candidates in any election if the committee files with the Election Law Enforcement Commission a sworn statement to the effect that the total amount to be expended on behalf of their candidacies shall not exceed \$4,000.00; provided, that if a committee which has filed such a sworn statement receives contributions from any one source aggregating more than \$300, it shall forthwith report that fact, including the name and mailing address of the source; where the source is an individual, the occupation of the individual and the name and mailing address of the individual's employer; and the aggregate total of contributions from the source to the commission. Any sworn statement under this subsection may be filed with the notice of designation by a political committee of a campaign treasurer and campaign depository under section 10 of P.L.1973, c.83 (C.19:44A-10), if that committee knows or has reason to believe, at the time when the notice of designation is given, that the total amount to be so expended shall not exceed \$4,000.00.

The \$300 limit established in this subsection shall remain as stated in this subsection without further adjustment by the commission in the manner prescribed by section 22 of P.L.1993, c.65 (C.19:44A-7.2).

4. Section 11 of P.L.1973, c.83 (C.19:44A-11) is amended to read as follows:

**C.19:44A-11 Procedures for contributions, expenditures; requirements.**

11. No contribution of money or other thing of value, nor obligation therefor, including but not limited to contributions, loans or obligations of a candidate himself or of his family, shall be made or received, and no expenditure of money or other thing of value, nor obligation therefor, including expenditures, loans or obligations of a candidate himself or of his family, shall be made or incurred, directly or indirectly, to support or defeat a candidate in any election, or to aid the passage or defeat of any public question, except through:



- a. The duly appointed campaign treasurer or deputy campaign treasurers of the candidate committee or joint candidates committee;
- b. The duly appointed organizational treasurer or deputy organizational treasurers of a political party committee or a continuing political committee;
- c. The duly appointed campaign treasurer or deputy campaign treasurers of a political committee; or
- d. The duly appointed organizational treasurer or deputy organizational treasurer of a legislative leadership committee.

It shall be lawful, however, for any person, not acting in concert with any other person or group, to expend personally from his own funds a sum which is not to be repaid to him for any purpose not prohibited by law, or to contribute his own personal services and personal traveling expenses, to support or defeat a candidate or to aid the passage or defeat of a public question; provided, however, that any person making such expenditure shall be required to report his or her name and mailing address and the amount of all such expenditures and expenses, except personal traveling expenses, if the total of the money so expended, exclusive of such traveling expenses, exceeds \$500, and also, where the person is an individual, to report the individual's occupation and the name and mailing address of the individual's employer, to the Election Law Enforcement Commission at the same time and in the same manner as a political committee subject to the provisions of section 8 of this act.

No contribution of money shall be made in currency, except contributions in response to a public solicitation, provided that cumulative currency contributions of up to \$200 may be made to a candidate committee or joint candidates committee, a political committee, a continuing political committee, a legislative leadership committee or a political party committee if the contributor submits with the currency contribution a written statement of a form as prescribed by the commission, indicating the contributor's name, mailing address and occupation and the amount of the contribution, including the contributor's signature and the name and mailing address of the contributor's employer. Adjustments to the \$200 limit established in this paragraph which have been made by the Election Law Enforcement Commission, pursuant to section 22 of P.L.1993, c.65 (C.19:44A-7.2), prior to the effective date of P.L.2004, c.28 are rescinded. The \$200 limit established in this paragraph shall remain as stated in this paragraph without further adjustment by the commission in the manner prescribed by section 22 of P.L.1993, c.65 (C.19:44A-7.2).

Any anonymous contribution received by a campaign treasurer or deputy campaign treasurer shall not be used or expended, but shall be returned to the donor, if his identity is known, and if no donor is found, the contribution shall escheat to the State.

No person, partnership or association, either directly or through an agent, shall make any loan or advance, the proceeds of which that person, partnership or association knows or has reason to know or believe are intended to be used by the recipient thereof to make a contribution or expenditure, except by check or money order identifying the name, mailing address and occupation or business of the maker of the loan, and, if the maker is an individual, the name and mailing address of that individual's employer; provided, however, that such loans or advances to a single individual, up to a cumulative amount of \$50 in any calendar year, may be made in currency.

5. Section 16 of P.L.1973, c.83 (C.19:44A-16) is amended to read as follows:

**C.19:44A-16 Candidates' reports of contributions and expenditures.**

16. a. The campaign treasurer of each candidate committee and joint candidates committee shall make a full cumulative report, upon a form prescribed by the Election Law Enforcement Commission, of all contributions in the form of moneys, loans, paid personal services or other things of value, made to him or to the deputy campaign treasurers of the candidate committee or joint candidates committee, and all expenditures paid out of the election fund of the candidate or candidates, during the period ending with the second day preceding the date of the cumulative report and beginning on the date of the first of those contributions, the date of the first of those expenditures, or the date of the appointment of the campaign treasurer, whichever occurred first. The report shall also contain the name and mailing address of each person or group from whom moneys, loans, paid personal services or other things of value were contributed after the second day preceding the date of the previous cumulative report and the amount contributed by each person or group, and where an individual has made such contributions, the report shall indicate the occupation of the individual and the name and mailing address of the individual's employer. In the case of any loan reported pursuant to this section, the report shall further contain the name and mailing address of each person who cosigns such loan, the occupation of the person and the name and mailing address

of the person's employer. If no moneys, loans, paid personal services or other things of value were contributed, the report shall so indicate, and if no expenditures were paid or incurred, the report shall likewise so indicate. The campaign treasurer and the candidate or several candidates shall certify the correctness of the report.

b. During the period between the appointment of the campaign treasurer and the election with respect to which contributions are accepted or expenditures made by him, the campaign treasurer shall file his cumulative campaign report (1) on the 29th day preceding the election, and (2) on the 11th day preceding the election; and after the election he shall file his report on the 20th day following such election. Concurrent with the report filed on the 20th day following an election, or at any time thereafter, the campaign treasurer of a candidate committee or joint candidates committee may certify to the Election Law Enforcement Commission that the election fund of such candidate committee or joint candidates committee has wound up its business and been dissolved, or that business regarding the late election has been wound up but the candidate committee or joint candidates committee will continue for the deposit and use of contributions in accordance with section 17 of P.L.1993, c.65 (C.19:44A-11.2). Certification shall be accompanied by a final accounting of such election fund, or of the transactions relating to such election, including the final disposition of any balance remaining in such fund at the time of dissolution or the arrangements which have been made for the discharge of any obligations remaining unpaid at the time of dissolution. Until the candidate committee or joint candidates committee is dissolved, each such treasurer shall continue to file reports in the form and manner herein prescribed.

The Election Law Enforcement Commission shall promulgate regulations providing for the termination of post-election campaign reporting requirements applicable to political committees, candidate committees and joint candidates committees. The requirements to file quarterly reports after the first post-election report may be waived by the commission, notwithstanding that the certification has not been filed, if the commission determines under any regulations so promulgated that the outstanding obligations of the political committee, candidate committee or joint candidates committee do not exceed 10% of the expenditures of the campaign fund with respect to the election or \$1,000.00, whichever is less, or are likely to be discharged or forgiven.

A candidate committee or joint candidates committee shall file with the Election Law Enforcement Commission, not later than April 15, July 15, October 15 of each calendar year in which the candidate or candidates in control of the committee does or do not run for election or reelection and January 15 of each calendar year in which the candidate or candidates does or do run for election or reelection, a cumulative quarterly report of all moneys, loans, paid personal services or other things of value contributed to it or to the candidate or candidates during the period ending on the 15th day preceding that date and commencing on January 1 of that calendar year or, in the case of the cumulative quarterly report to be filed not later than January 15, of the previous calendar year, and all expenditures made, incurred, or authorized by it or the candidate or candidates during the period, whether or not such expenditures were made, incurred or authorized in furtherance of the election or defeat of any candidate, or in aid of the passage or defeat of any public question or to provide information on any candidate or public question. The commission may by regulation require any such candidate committee or joint candidates committee to file during any calendar year one or more additional cumulative reports of such contributions received and expenditures made as may be necessary to ensure that no more than five months shall elapse between the last day of a period covered by one such report and the last day of the period covered by the next such report.

The commission, on any form it shall prescribe for the reporting of expenditures by a candidate committee or joint candidates committee, shall provide for the grouping together of all expenditures under the category of "campaign expenses" under paragraph (1) of subsection a. of section 17 of P.L.1993, c.65, identified as such, and for the grouping together, separately, of all other expenditures under the categories prescribed by paragraphs (2) through (6) of that subsection. The cumulative quarterly report due on April 15 in a year immediately after the year in which the candidate or candidates does or do run for election or reelection shall contain a report of all of the contributions received and expenditures made by the candidate or candidates since the 18th day after that election.

The cumulative quarterly report shall contain the name and mailing address of each person or group from whom moneys, loans, paid personal services or other things of value have been contributed and the amount contributed by each person or group, and where an individual has made such contributions, the report shall indicate the occupation of the individual

and the name and mailing address of the individual's employer. In the case of any loan reported pursuant to this section, the report shall contain the name and address of each person who cosigns such loan, and where an individual has cosigned such loans, the report shall indicate the occupation of the individual and the name and mailing address of his employer. The report shall also contain the name and address of each person, firm or organization to whom expenditures have been paid and the amount and purpose of each such expenditure. The treasurer of the candidate committee or joint candidates committee and the candidate or candidates shall certify to the correctness of each cumulative quarterly report.

c. In the case of an election of a candidate for an office elected by a municipal or countywide constituency or a school district a duplicate copy of the campaign treasurer's report, duly certified, shall be filed at the same time with the county clerk of the county in which the candidate resides and the county clerk shall retain a written record of that filing for a period of not less than four years following the date of the election.

d. There shall be no obligation to file the reports required by this section on behalf of a candidate if such candidate files with the Election Law Enforcement Commission a sworn statement to the effect that the total amount to be expended in behalf of his candidacy by the candidate committee, by any political party committee, by any political committee, or by any person shall not in the aggregate exceed \$2,000.00 or \$4,000 for any joint candidates committee containing two candidates or \$6,000 for any joint candidates committee containing three or more candidates. The sworn statement may be submitted at the time when the name and address of the campaign treasurer and depository is filed with the Election Law Enforcement Commission, provided that in any case the sworn statement is filed no later than the 29th day before an election. If a candidate who has filed such a sworn statement receives contributions from any one source aggregating more than \$300 he shall forthwith make report of the same, including the name and mailing address of the source and the aggregate total of contributions therefrom, and where the source is an individual, the occupation of the individual and the name and mailing address of the individual's employer, to the Election Law Enforcement Commission. The \$300 limit established in this subsection shall remain as stated in this subsection without further adjustment by the commission in the manner prescribed by section 22 of P.L.1993, c.65 (C.19:44A-7.2).

e. There shall be no obligation imposed upon a candidate seeking election to a public office of a school district to file either the reports required under subsection b. of this section or the sworn statement referred to in subsection d. of this section, if the total amount expended and to be expended in behalf of his candidacy by the candidate committee, any political committee, any continuing political committee, or a political party committee or by any person, does not in the aggregate exceed \$2,000.00 per election or \$4,000 for any joint candidates committee containing two candidates or \$6,000 for any joint candidates committee containing three or more candidates; provided, that if such candidate receives contributions from any one source aggregating more than \$300, he shall forthwith make a report of the same, including the name and mailing address of the source, the aggregate total of contributions therefrom, and where the source is an individual, the occupation of the individual and the name and mailing address of the individual's employer, to the commission.

The \$300 limit established in this subsection shall remain as stated in this subsection without further adjustment by the commission in the manner prescribed by section 22 of P.L.1993, c.65 (C.19:44A-7.2).

f. In any report filed pursuant to the provisions of this section, the names and addresses of contributors whose contributions during the period covered by the report did not exceed \$300 may be excluded; provided, however, that (1) such exclusion is unlawful if any person responsible for the preparation or filing of the report knew that such exclusion was made with respect to any person whose total contributions relating to the same election and made to the reporting candidate or to an allied campaign organization or organizations aggregate, in combination with the total contributions in respect of which such exclusion is made, more than \$300, and (2) any person who knowingly prepares, assists in preparing, files or acquiesces in the filing of any report from which the identity of any contributor has been excluded contrary to the provisions of this section is subject to the provisions of section 21 of this act, but (3) nothing in this proviso shall be construed as requiring any candidate committee or joint candidates committee reporting pursuant to this act to report the amounts, dates or other circumstantial data regarding contributions made to any other candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee.

The \$300 limit established in this subsection shall remain as stated in this subsection without further adjustment by the commission in the manner prescribed by section 22 of P.L.1993, c.65 (C.19:44A-7.2).

g. Any report filed pursuant to the provisions of this section shall include an itemized accounting of all receipts and expenditures relative to any testimonial affair held since the date of the most recent report filed, which accounting shall include the name and mailing address of each contributor in excess of \$300 to such testimonial affair and the amount contributed by each; in the case of any individual contributor, the occupation of the individual and the name and mailing address of the individual's employer; the expenses incurred; and the disposition of the proceeds of such testimonial affair. The \$300 limit established in this subsection shall remain as stated in this subsection without further adjustment by the commission in the manner prescribed by section 22 of P.L.1993, c.65 (C.19:44A-7.2).

h. (Deleted by amendment, P.L.1993, c.65.)

i. Each campaign treasurer of a candidate committee or joint candidates committee shall file written notice with the commission of a contribution in excess of \$500 received during the period between the 13th day prior to the election and the date of the election. The notice shall be filed in writing or by telegram within 48 hours of the receipt of the contribution and shall set forth the amount and date of the contribution, the name and mailing address of the contributor, and where the contributor is an individual, the occupation of the individual and the name and mailing address of the individual's employer.

6. Section 19 of P.L.1973, c.83 (C.19:44A-19) is amended to read as follows:

**C.19:44A-19 Public solicitations.**

19. a. No person shall conduct any public solicitation as defined in this act except (1) upon written authorization of the campaign or organizational treasurer of the candidate committee or joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee on whose behalf such solicitation is conducted, or (2) in accordance with the provisions of subsection c. of this section. A person with such written authorization may employ and accept the services of others as solicitors, and shall be responsible for reporting to the treasurer the information required under subsection b. of this section and for delivery to the treasurer the net proceeds of such solicitation in compliance with section 11 of this act. A contribution made through

donation or purchase in response to a public solicitation conducted pursuant to written authorization of a treasurer shall be deemed to have been made through such treasurer.

b. Whenever a public solicitation has been authorized by a treasurer during a period covered by a report required to be filed under sections 8 and 16 of this act, there shall be filed with such report and as a part thereof an itemized report on any such solicitation of which the net proceeds exceed \$200, in such form and detail as required by the rules of the Election Law Enforcement Commission, which report shall include:

(1) The name and mailing address of the person authorized to conduct such solicitation, the method of solicitation and, where the person is an individual, the occupation of the individual and the name and mailing address of the individual's employer;

(2) The gross receipts and expenses involved in the solicitation including the actual amount paid for any items purchased for resale in connection with the solicitation, or, if such items or any portion of the cost thereof was donated, the estimated actual value thereof and the actual amount paid therefor, and the names and addresses of any such donors. If it is not practicable for such itemized report to be completed in time to be included with the report due under sections 8 and 16 of this act for the period during which such solicitation was held, then such itemized report may be omitted from said report and if so omitted shall be included in the report for the next succeeding period.

Adjustments to the \$200 limit established in this subsection which have been made by the Election Law Enforcement Commission, pursuant to section 22 of P.L.1993, c.65 (C.19:44A-7.2), prior to the effective date of P.L.2004, c.28 are rescinded. The \$200 limit established in this subsection shall remain as stated in this subsection without further adjustment by the commission in the manner prescribed by section 22 of P.L.1993, c.65 (C.19:44A-7.2).

c. Notwithstanding the provisions of subsection b. of this section, it shall be lawful for any natural person, not acting in concert with any other person or group, to make personally a public solicitation the entire proceeds of which, without deduction for the expenses of solicitation, are to be expended by him personally or under his personal direction to finance any lawful activity in support of or opposition to any candidate or public question or to provide political information on any candidate or public question or to seek to influence the content, introduction, passage or defeat



of legislation; provided, however, that any individual making such solicitation who receives gross contributions exceeding \$200 in respect to activities relating to any one election shall be required to make a report stating (1) the amount so collected, (2) the method of solicitation, (3) the purpose or purposes for which the funds so collected were expended and the amount expended for each such purpose and (4) the individual's name and mailing address, the individual's occupation and the name and mailing address of the individual's employer. Adjustments to the \$200 limit established in this subsection which have been made by the Election Law Enforcement Commission, pursuant to section 22 of P.L.1993, c.65 (C.19:44A-7.2), prior to the effective date of P.L.2004, c.28 are rescinded. The \$200 limit established in this subsection shall remain as stated in this subsection without further adjustment by the commission in the manner prescribed by section 22 of P.L.1993, c.65 (C.19:44A-7.2).

Such report shall be made to the Election Law Enforcement Commission at the same time and in the same manner as a political committee, continuing political committee, political party committee or a legislative leadership committee subject to the provisions of section 8 of this act.

d. Contributions or purchases made in response to a public solicitation conducted in conformity with the requirements and conditions of this act shall not be deemed anonymous within the meaning of sections 11 and 20 of this act.

e. No person contributing in good faith to a public solicitation not duly authorized in compliance with the provisions of this act shall be liable to any penalty under this act by reason of having made such contribution.

7. This act shall take effect on January 1 following enactment.

Approved June 16, 2004.

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## CHAPTER 29

AN ACT concerning professional fund raisers for political contributions and supplementing P.L.1973, c.83 (C.19:44A-1 et seq.).

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

**C.19:44A-19.2 Definitions relative to professional fund raisers for political contributions; registration requirements.**

1. a. As used in this section:

"candidate" means a candidate for nomination for election or election to the office of Governor or the office of member of the Senate or General Assembly, and any candidate committee, joint candidates committee, or both, of such a candidate;

"committee" means a political committee, continuing political committee, political party committee, or legislative leadership committee;

"person" means an individual, partnership, committee, association, corporation, or any other organization or group of persons; and

"professional campaign fund raiser" or "fund raiser" means a person who is employed, retained or engaged for monetary compensation of at least \$5,000 per year in the aggregate to perform for any candidate or committee, or both, any service directly related to the solicitation of contributions for that candidate or committee. The terms "professional campaign fund raiser" and "fund raiser" do not include any person who is reimbursed only for incurred costs by a candidate or committee for performing any service directly related to the solicitation of contributions for that candidate or committee.

b. Whenever a professional campaign fund raiser plans or organizes or is involved in the planning or organizing of, or attends, at least three events within a three-month period at which contributions are raised by that person for a candidate or committee by whom he or she has been employed, retained or engaged, or that person raises money or other thing of value at least equivalent to the maximum amount of contributions permitted to be made by an individual to a candidate for public office pursuant to section 18 of P.L.1993, c.65 (C.19:44A-11.3) in the aggregate in contributions for such a candidate or committee prior to a primary election or prior to a general election, that person shall register with the Election Law Enforcement Commission using a form prepared by the commission.

The form shall be filed within five business days after either threshold is reached and shall include the name, business mailing address, and regular occupation or business of the fund raiser, the resident mailing address of a State resident designated as the fund raiser's agent for the service of process, the general nature of the services to be offered, the dates and locations of each fund raising event the person planned or organized or was involved in the planning or organizing of, or attended, the amount of money the person

raised at each event and any other information the commission deems relevant. A professional campaign fund raiser who registers for the first time pursuant to this subsection shall re-register annually thereafter regardless of the number of events that person plans, organizes or attends, or the amount of contributions that person receives as long as the person remains employed, retained or engaged as a professional fund raiser. A fund raiser who chooses to terminate fund raising services in this State shall so notify the commission in writing within 30 days after such termination of services.

c. A fund raiser who has filed a registration form with the commission pursuant to subsection b. of this section shall file, not later than April 15, July 15, October 15 and January 15 of each calendar year, a report with the commission which includes, for the preceding quarter, the names of each candidate or committee for which fund raising services were provided, the services provided to each named candidate or committee, gross and net amounts raised for each named candidate or committee, the amount of compensation received from each candidate or committee, and an itemized list of expenditures made in connection with providing fund raising services.

d. A fund raiser who has not registered with the commission pursuant to subsection b. of this section but is required to be registered, shall not, for compensation, perform for any candidate or committee any service directly related to the solicitation of contributions for that candidate or committee. A candidate or committee shall not pay any compensation to any fund raiser who is not registered pursuant to subsection b. of this section but is required to be registered, for performing any service directly related to the solicitation of contributions for that candidate or committee.

e. Each fund raiser who registers with the commission shall pay, with the initial registration and annually thereafter, a fee to the commission which the commission shall establish by regulation to be not less than the fee paid by legislative agents pursuant to subsection j. of section 6 of P.L.1971, c.183 (C.52:13C-23), as well as reasonable fees for the filing of quarterly reports.

f. There is created a non-lapsing revolving fund to be known as the "Professional Campaign Fund Raiser Fund," to be held separate and apart from all other funds of the State. All fees collected pursuant to subsection e. of this section shall be deposited in that fund and appropriated exclusively for the purposes of the commission. All monies appropriated from the fund

shall be dedicated to defray the expenses of the commission in administering this act.

g. (1) Any fund raiser who is determined by the commission to have purposely violated any provision of this section or to have filed or prepared or assisted in the preparation for filing or purposely acquiesced in the preparation or filing of any report required under this section which the fund raiser knows is false, inaccurate or incomplete in any material particular, or who purposely fails or refuses to file any such report when required to do so pursuant to this section, or who purposely supplies any information the fund raiser knows to be false, inaccurate or incomplete to any person preparing or assisting in the preparation of any such report, with the knowledge that such information is intended for the purposes of such report, is guilty of a crime of the fourth degree.

(2) Any fund raiser responsible for the preparation, certification, filing or retention of any reports, notices or other documents, who fails, neglects or omits to prepare, certify, file or retain any such report, record or notice or document by the time required by this section or who omits or incorrectly states or certifies any of the information required by this section to be included in such report, record, notice or document shall be liable to a penalty of not more than \$6,000 for the first offense and not more than \$12,000 for the second and each subsequent offense. Any penalty imposed pursuant to this subsection may be recovered by a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

2. This act shall take effect on the 60th day after enactment.

Approved June 16, 2004.

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## CHAPTER 30

AN ACT concerning certain telephone communications featuring recorded messages in political campaigns and amending P.L.1995, c.391.

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

1. Section 2 of P.L.1995, c.391 (C.19:44A-22.3) is amended to read as follows:

**C.19:44A-22.3 Identification of source of financing of communications; requirements; enforcement.**

2. a. Whenever a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee, or any group other than such a committee, or any person makes, incurs or authorizes an expenditure for the purpose of financing a communication aiding or promoting the nomination, election or defeat of any candidate or providing political information on any candidate which is an expenditure that the committee, group or person is required to report to the Election Law Enforcement Commission pursuant to P.L.1973, c.83 (C.19:44A-1 et seq.), the communication shall clearly state the name and business or residence address of the committee, group or person, as that information appears on reports filed with the commission, and that the communication has been financed by that committee, group or person.

b. Whenever a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee, or any group other than such a committee, or any person makes, incurs or authorizes an expenditure for the purpose of financing a communication aiding the passage or defeat of any public question or providing political information on any public question which is an expenditure that the committee, group or person is required to report to the Election Law Enforcement Commission pursuant to P.L.1973, c.83 (C.19:44A-1 et seq.), the communication shall clearly state the name and business or residence address of the committee, group or person, as that information appears on reports filed with the commission, and that the communication has been financed by that committee, group or person.

c. A communication that is financed by any person, not acting in concert with a candidate or any person or committee acting on behalf of a candidate, shall contain a clear and conspicuous statement that the expenditure was not made with the cooperation or prior consent of, or in consultation with or at the request or suggestion of, any such candidate, person or committee.

d. Any person who accepts compensation from a committee, group or individual described in subsection a. or b. of this section for the purpose of printing, broadcasting, or otherwise disseminating to the electorate a communication shall maintain a record of the transaction which shall include an exact copy of the communication and a statement of the number

of copies made or the dates and times that the communication was broadcast or otherwise transmitted, and the name and address of the committee, group or individual paying for the communication. The record shall be maintained on file at the principal office of the person accepting the communication for at least two years and shall be available for public inspection during normal business hours.

e. As used in this section, "communication" means a press release, pamphlet, flyer, form letter, sign, billboard, paid advertisement printed in any newspaper or other publication or broadcast on radio or television, or telephone call featuring a recorded message, or any other form of advertising directed to the electorate.

f. The provisions of this section shall not be construed to apply to any bona fide news item or editorial contained in any publication of bona fide general circulation.

g. (1) A person who violates a provision of this section shall be subject to the civil penalties provided in section 22 of P.L.1973, c.83 (C.19:44A-22).

(2) A person who, with intent to injure anyone or to conceal wrongdoing, purposely falsifies, conceals or misrepresents information required by this section to be disclosed or maintained on file is guilty of a crime of the fourth degree.

h. The Election Law Enforcement Commission shall promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the purpose of this section. The commission may, by regulation, exempt from the provisions of this section small, tangible items of de minimis value which are commonly used in campaigns to convey a political message, including, but not limited to, buttons, combs, and nail files. The commission may also, by regulation, exempt from the provisions of this section advertising space purchased by a candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, legislative leadership committee or other person, in a political program book distributed at a fund-raising event if the financial transaction is otherwise subject to disclosure. An exemption granted by the commission with respect to any item shall not relieve the committee, group or individual making an expenditure therefor from any applicable campaign finance reporting requirements.

In addition, the commission shall have the authority to provide, by regulation, that a communication need not include the address of the committee, group or person financing the communication in circumstances where the name of a committee, group or person would be sufficient to identify it from the commission's records.

2. This act shall take effect on the 90th day after enactment.

Approved June 16, 2004.

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## CHAPTER 31

AN ACT concerning the New Jersey Election Law Enforcement Commission's Internet site.

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

1. a. The New Jersey Election Law Enforcement Commission, created pursuant to section 5 of P.L.1973, c.83 (C.19:44A-5), shall review and evaluate the presentation, accessibility, convenience, usefulness and comprehensiveness of the information made available by the commission to the public through its Internet site. The purpose of this review and evaluation shall be to ascertain the best manner to improve the convenience and usefulness of the commission's Internet site. For this purpose, the commission shall study the efforts of other states and substantially similar entities. In addition, the commission shall review the work and recommendations of not-for-profit entities that seek to have information held by the government in general, or campaign finance information in particular, available on the Internet for public use in as accessible, current and comprehensive form as possible. The commission shall contact any such not-for-profit entity and discuss the commission's work pursuant to this section, if the commission deems it appropriate and useful.

b. This review shall be conducted and completed by the commission within 120 days following the effective date of this act, P.L.2004, c.31. A report detailing the commission's review and findings shall be submitted to the Governor and the Legislature no later than 180 days following the effective date of this act. The report shall contain a detailed discussion of the efforts the commission shall undertake to revise the format and content of its Internet site. The report shall contain such recommendations for legislation and appropriation as the commission may deem necessary to accomplish the purpose of this act.

2. This act shall take effect immediately.

Approved June 16, 2004.

## CHAPTER 32

AN ACT concerning penalties for violating campaign contribution and expenditure limit and reporting requirements and remuneration restrictions, and amending P.L.1973, c.83 and P.L.1993, c.65.

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

1. Section 22 of P.L.1973, c.83 (C.19:44A-22) is amended to read as follows:

**C.19:44A-22 Violations; civil penalties; forfeiture.**

22. a. (1) Except as provided in subsection e. or f., any person, including any candidate, treasurer, candidate committee or joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee, charged with the responsibility under the terms of this act for the preparation, certification, filing or retention of any reports, records, notices or other documents, who fails, neglects or omits to prepare, certify, file or retain any such report, record, notice or document at the time or during the time period, as the case may be, and in the manner prescribed by law, or who omits or incorrectly states or certifies any of the information required by law to be included in such report, record, notice or document, any person who proposes to undertake or undertakes a public solicitation, testimonial affair or other activity relating to contributions or expenditures in any way regulated by the provisions of this act who fails to comply with those regulatory provisions, and any other person who in any way violates any of the provisions of this act shall, in addition to any other penalty provided by law, be liable to a penalty of not more than \$6,000 for the first offense and not more than \$12,000 for the second and each subsequent offense.

(2) No person shall willfully and intentionally agree with another person to make a contribution to a candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee with the intent, or upon the condition, understanding or belief, that the recipient candidate or committee shall make or have made a contribution to another such candidate or committee, but this paragraph shall not be construed to prohibit a county or municipal committee of a political party from making a contribution or contributions to any candidate, candidate committee, joint candidates committee, political committee, continuing political committee, political party committee, or legislative leadership committee. A finding of



a violation of this paragraph shall be made only upon clear and convincing evidence. A person who violates the provisions of this paragraph shall be liable to a penalty equal to four times the amount of the contribution which that person agreed to make to the recipient candidate or committee.

b. Upon receiving evidence of any violation of this section, the Election Law Enforcement Commission shall have power to hold, or to cause to be held under the provisions of subsection d. of this section, hearings upon such violation and, upon finding any person to have committed such a violation, to assess such penalty, within the limits prescribed in subsection a. of this section, as it deems proper under the circumstances, which penalty shall be paid forthwith into the State Treasury for the general purposes of the State.

c. In assessing any penalty under this section, the Election Law Enforcement Commission may provide for the remission of all or any part of such penalty conditioned upon the prompt correction of any failure, neglect, error or omission constituting the violation for which said penalty was assessed.

d. The commission may designate a hearing officer to hear complaints of violations of this act. Such hearing officer shall take testimony, compile a record and make factual findings, and shall submit the same to the commission, which shall have power to assess penalties within the limits and under the conditions prescribed in subsections b. and c. of this section. The commission shall review the record and findings of the hearing officer, but it may also seek such additional testimony as it deems necessary. The commission's determination shall be by majority vote of the entire authorized membership thereof.

e. Any person who willfully and intentionally makes or accepts any contribution in violation of section 4 of P.L.1974, c.26 (C.19:44A-29) or section 18, 19 or 20 of P.L.1993, c.65 (C.19:44A-11.3, C.19:44A-11.4 or C.19:44A-11.5), shall be liable to a penalty of:

(1) Not more than \$10,000 if the cumulative total amount of those contributions is less than or equal to \$5,000.00;

(2) Not more than \$150,000 if the cumulative total amount of those contributions was more than \$5,000.00 but less than \$75,000; and

(3) Not more than \$200,000 if the cumulative total amount of those contributions is equal to or more than \$75,000.00.

f. In addition to any penalty imposed pursuant to subsection e. of this section, a person holding any elective public office shall forfeit that public office if the Election Law Enforcement Commission determines that the cumulative total amount of the illegal contributions was more than \$50,000.00 and that the violation had a significant impact on the outcome of the election.

g. Any penalty prescribed in this section shall be enforced in a summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

2. Section 15 of P.L.1993, c.65 (C.19:44A-20.1) is amended to read as follows:

**C.19:44A-20.1 Corporation, labor organization contributions through employees, prohibited; penalties; fourth degree crime.**

15. a. No corporation or labor organization of any kind shall provide to any of its officers, directors, attorneys, agents or other employees any additional increment of salary, bonus or monetary remuneration of any kind which, in whole or in part, is intended by that corporation or labor organization to be used for the express purpose of paying or making a contribution, either directly or indirectly, of money or other thing of value to any candidate, candidate committee, joint candidates committee, political party committee, legislative leadership committee, political committee or continuing political committee.

Any corporation or labor organization of any kind found to be in violation of this subsection shall, in addition to any other penalty provided by law, be liable to a penalty of not more than \$6,000 for the first offense and not more than \$12,000 for the second and each subsequent offense. Any officer, director, attorney, agent or other employee of a corporation or labor organization that provides to another employee of that corporation or labor organization any additional increment of salary, bonus or monetary remuneration of any kind for the purpose described in this subsection is guilty of a crime of the fourth degree.

b. No officer, director, attorney, agent or other employee of a corporation or labor organization of any kind shall use any part of any additional increment of salary, bonus or monetary remuneration of any kind which, in whole or in part, is intended by that corporation or labor organization to be used for the express and intentional purpose of paying or making a contribution, either directly or indirectly, of money or other thing of value to a candidate, candidate committee, joint candidates committee, political party committee, legislative leadership committee, political committee or continuing political committee by a corporation or labor organization of any kind, for the purpose of paying or making a contribution, either directly or indirectly, of money or other thing of value to a candidate, candidate committee, joint candidates committee, political party committee, legislative leadership committee, political committee or continuing political committee.

Any officer, director, attorney, agent or other employee of a corporation or labor organization of any kind found to be in violation of this subsection of this section is guilty of a crime of the fourth degree.

3. This act shall take effect on January 1 next following enactment.

Approved June 16, 2004.

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## CHAPTER 33

AN ACT requiring certain committees and persons during certain periods to file a report with the Election Law Enforcement Commission within 48 hours of making certain expenditures and amending P.L.1973, c.83

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

1. Section 8 of P.L.1973, c.83 (C.19:44A-8) is amended to read as follows:

**C.19:44A-8 Contributions, expenditures, reports, requirements.**

8. a. (1) Each political committee shall make a full cumulative report, upon a form prescribed by the Election Law Enforcement Commission, of all contributions in the form of moneys, loans, paid personal services, or other things of value made to it and all expenditures made, incurred, or authorized by it in furtherance of the nomination, election or defeat of any candidate, or in aid of the passage or defeat of any public question, or to provide political information on any candidate or public question, during the period ending 48 hours preceding the date of the report and beginning on the date on which the first of those contributions was received or the first of those expenditures was made, whichever occurred first. The cumulative report, except as hereinafter provided, shall contain the name and mailing address of each person or group from whom moneys, loans, paid personal services or other things of value have been contributed since 48 hours preceding the date on which the previous such report was made and the amount contributed by each person or group, and where the contributor is an individual, the report shall indicate the occupation of the individual and the name and mailing address of the individual's employer. In the case of any loan reported pursuant to this subsection, the report shall contain the name and mailing address of each person who has cosigned such loan since 48 hours preceding the date on which the previous such report was made,

and where an individual has cosigned such loans, the report shall indicate the occupation of the individual and the name and mailing address of the individual's employer. The cumulative report shall also contain the name and address of each person, firm or organization to whom expenditures have been paid since 48 hours preceding the date on which the previous such report was made and the amount and purpose of each such expenditure. The cumulative report shall be filed with the Election Law Enforcement Commission on the dates designated in section 16 hereof.

The campaign treasurer of the political committee reporting shall certify to the correctness of each report.

Each campaign treasurer of a political committee shall file written notice with the commission of a contribution in excess of \$500 received during the period between the 13th day prior to the election and the date of the election, and of an expenditure of money or other thing of value in excess of \$500 made, incurred or authorized by the political committee to support or defeat a candidate in an election, or to aid the passage or defeat of any public question, during the period between the 13th day prior to the election and the date of the election. The notice of a contribution shall be filed in writing or by telegram within 48 hours of the receipt of the contribution and shall set forth the amount and date of the contribution, the name and mailing address of the contributor, and where the contributor is an individual, the individual's occupation and the name and mailing address of the individual's employer. The notice of an expenditure shall be filed in writing or by telegram within 48 hours of the making, incurring or authorization of the expenditure and shall set forth the name and mailing address of the person, firm or organization to whom or which the expenditure was paid and the amount and purpose of the expenditure.

(2) When a political committee or an individual seeking party office makes or authorizes an expenditure on behalf of a candidate, it shall provide immediate written notification to the candidate of the expenditure.

b. (1) A group of two or more persons acting jointly, or any corporation, partnership, or any other incorporated or unincorporated association including a political club, political action committee, civic association or other organization, which in any calendar year contributes or expects to contribute at least \$2,500.00 to the aid or promotion of the candidacy of an individual, or of the candidacies of individuals, for elective public office or the passage or defeat of a public question or public questions and which expects to make contributions toward such aid or promotion, or toward such passage or defeat, during a subsequent election shall certify that fact to the commission, and the commission, upon receiving that certification and on the basis of any information as it may require of the group, corporation, partnership, association or other organization, shall determine whether the

group, corporation, partnership, association or other organization is a continuing political committee for the purposes of this act. If the commission determines that the group, corporation, partnership, association or other organization is a continuing political committee, it shall so notify that continuing political committee.

No person serving as the chairman of a political party committee or a legislative leadership committee shall be eligible to be appointed or to serve as the chairman of a continuing political committee.

(2) A continuing political committee shall file with the Election Law Enforcement Commission, not later than April 15, July 15, October 15 and January 15 of each calendar year, a cumulative quarterly report of all moneys, loans, paid personal services or other things of value contributed to it during the period ending on the 15th day preceding that date and commencing on January 1 of that calendar year or, in the case of the cumulative quarterly report to be filed not later than January 15, of the previous calendar year, and all expenditures made, incurred, or authorized by it during the period, whether or not such expenditures were made, incurred or authorized in furtherance of the election or defeat of any candidate, or in aid of the passage or defeat of any public question or to provide information on any candidate or public question.

The cumulative quarterly report shall contain the name and mailing address of each person or group from whom moneys, loans, paid personal services or other things of value have been contributed and the amount contributed by each person or group, and where an individual has made such contributions, the report shall indicate the occupation of the individual and the name and mailing address of the individual's employer. In the case of any loan reported pursuant to this subsection, the report shall contain the name and address of each person who cosigns such loan, and where an individual has cosigned such loans, the report shall indicate the occupation of the individual and the name and mailing address of the individual's employer. The report shall also contain the name and address of each person, firm or organization to whom expenditures have been paid and the amount and purpose of each such expenditure. The treasurer of the continuing political committee reporting shall certify to the correctness of each cumulative quarterly report.

Each continuing political committee shall provide immediate written notification to each candidate of all expenditures made or authorized on behalf of the candidate.

If any continuing political committee submitting cumulative quarterly reports as provided under this subsection receives a contribution from a single source of more than \$500 after the final day of a quarterly reporting period and on or before a primary, general, municipal, school or special

election which occurs after that final day but prior to the final day of the next reporting period it shall, in writing or by telegram, report that contribution to the commission within 48 hours of the receipt thereof, including in that report the amount and date of the contribution; the name and mailing address of the contributor; and where the contributor is an individual, the individual's occupation and the name and mailing address of the individual's employer. If any continuing political committee makes or authorizes an expenditure of money or other thing of value in excess of \$500, or incurs any obligation therefor, to support or defeat a candidate in an election, or to aid the passage or defeat of any public question, after March 31 and on or before the day of the primary election, or after September 30 and on or before the day of the general election, it shall, in writing or by telegram, report that expenditure to the commission within 48 hours of the making, authorizing or incurring thereof.

A continuing political committee which ceases making contributions toward the aiding or promoting of the candidacy of an individual, or of the candidacies of individuals, for elective public office in this State or the passage or defeat of a public question or public questions in this State shall certify that fact in writing to the commission, and that certification shall be accompanied by a final accounting of any fund relating to such aiding or promoting including the final disposition of any balance in such fund at the time of dissolution. Until that certification has been filed, the committee shall continue to file the quarterly reports as provided under this subsection.

c. Each political party committee and each legislative leadership committee shall file with the Election Law Enforcement Commission, not later than April 15, July 15, October 15 and January 15 of each calendar year, a cumulative quarterly report of all moneys, loans, paid personal services or other things of value contributed to it during the period ending on the 15th day preceding that date and commencing on January 1 of that calendar year or, in the case of the cumulative quarterly report to be filed not later than January 15, of the previous calendar year, and all expenditures made, incurred, or authorized by it during the period, whether or not such expenditures were made, incurred or authorized in furtherance of the election or defeat of any candidate, or in aid of the passage or defeat of any public question or to provide information on any candidate or public question.

The cumulative quarterly report shall contain the name and mailing address of each person or group from whom moneys, loans, paid personal services or other things of value have been contributed and the amount contributed by each person or group, and where an individual has made such contributions, the report shall indicate the occupation of the individual and the name and mailing address of the individual's employer. In the case

of any loan reported pursuant to this subsection, the report shall contain the name and address of each person who cosigns such loan, and where an individual has cosigned such loans, the report shall indicate the occupation of the individual and the name and mailing address of the individual's employer. The report shall also contain the name and address of each person, firm or organization to whom expenditures have been paid and the amount and purpose of each such expenditure. The treasurer of the political party committee or legislative leadership committee reporting shall certify to the correctness of each cumulative quarterly report.

If a political party committee or a legislative leadership committee submitting cumulative quarterly reports as provided under this subsection receives a contribution from a single source of more than \$500 after the final day of a quarterly reporting period and on or before a primary, general, municipal, school or special election which occurs after that final day but prior to the final day of the next reporting period it shall, in writing or by telegram, report that contribution to the commission within 48 hours of the receipt thereof, including in that report the amount and date of the contribution; the name and mailing address of the contributor; and where the contributor is an individual, the individual's occupation and the name and mailing address of the individual's employer. If a political party committee or a legislative leadership committee submitting cumulative quarterly reports as provided under this subsection makes or authorizes an expenditure of money or other thing of value in excess of \$800, or incurs any obligation therefor, to support or defeat a candidate in an election, or to aid the passage or defeat of any public question, after March 31 and on or before the day of the primary election, or after September 30 and on or before the day of the general election, it shall, in writing or by telegram, report that expenditure to the commission within 48 hours of the making, authorizing or incurring thereof.

d. In any report filed pursuant to the provisions of this section the organization or committee reporting may exclude from the report the name of and other information relating to any contributor whose contributions during the period covered by the report did not exceed \$300, provided, however, that (1) such exclusion is unlawful if any person responsible for the preparation or filing of the report knew that it was made with respect to any person whose contributions relating to the same election or issue and made to the reporting organization or committee aggregate, in combination with the contribution in respect of which such exclusion is made, more than \$300 and (2) any person who knowingly prepares, assists in preparing, files or acquiesces in the filing of any report from which the identification of a contributor has been excluded contrary to the provisions of this section is subject to the provisions of section 21 of this act, but (3) nothing in this

proviso shall be construed as requiring any committee or organization reporting pursuant to this act to report the amounts, dates or other circumstantial data regarding contributions made to any other organization or political committee, political party committee or campaign organization of a candidate.

Any report filed pursuant to the provisions of this section shall include an itemized accounting of all receipts and expenditures relative to any testimonial affairs held since the date of the most recent report filed, which accounting shall include the name and mailing address of each contributor in excess of \$300 to such testimonial affair and the amount contributed by each; in the case of an individual contributor, the occupation of the individual and the name and mailing address of the individual's employer; the expenses incurred; and the disposition of the proceeds of such testimonial affair.

The \$300 limit established in this subsection shall remain as stated in this subsection without further adjustment by the commission in the manner prescribed by section 22 of P.L.1993, c.65 (C.19:44A-7.2).

2. Section 11 of P.L.1973, c.83 (C.19:44A-11) is amended to read as follows:

**C.19:44A-11 Procedures for contributions, expenditures; requirements.**

11. No contribution of money or other thing of value, nor obligation therefor, including but not limited to contributions, loans or obligations of a candidate himself or of his family, shall be made or received, and no expenditure of money or other thing of value, nor obligation therefor, including expenditures, loans or obligations of a candidate himself or of his family, shall be made or incurred, directly or indirectly, to support or defeat a candidate in any election, or to aid the passage or defeat of any public question, except through:

- a. The duly appointed campaign treasurer or deputy campaign treasurers of the candidate committee or joint candidates committee;
- b. The duly appointed organizational treasurer or deputy organizational treasurers of a political party committee or a continuing political committee;
- c. The duly appointed campaign treasurer or deputy campaign treasurers of a political committee; or
- d. The duly appointed organizational treasurer or deputy organizational treasurer of a legislative leadership committee.

It shall be lawful, however, for any person, not acting in concert with any other person or group, to expend personally from his own funds a sum which is not to be repaid to him for any purpose not prohibited by law, or to contribute his own personal services and personal traveling expenses, to



support or defeat a candidate or to aid the passage or defeat of a public question; provided, however, that any person making such expenditure shall be required to report his or her name and mailing address and the amount of all such expenditures and expenses, except personal traveling expenses, if the total of the money so expended, exclusive of such traveling expenses, exceeds \$500, and also, where the person is an individual, to report the individual's occupation and the name and mailing address of the individual's employer, to the Election Law Enforcement Commission at the same time and in the same manner as a political committee subject to the provisions of section 8 of this act. Such expenditure made during the period between the 13th day prior to the election and the date of the election shall be filed in writing or by telegram within 48 hours of the making, incurring or authorization of the expenditure and shall set forth the name and mailing address of the person, firm or organization to whom or which the expenditure was paid and the amount and purpose of the expenditure.

No contribution of money shall be made in currency, except contributions in response to a public solicitation, provided that cumulative currency contributions of up to \$200 may be made to a candidate committee or joint candidates committee, a political committee, a continuing political committee, a legislative leadership committee or a political party committee if the contributor submits with the currency contribution a written statement of a form as prescribed by the commission, indicating the contributor's name, mailing address and occupation and the amount of the contribution, including the contributor's signature and the name and mailing address of the contributor's employer. Adjustments to the \$200 limit established in this paragraph which have been made by the Election Law Enforcement Commission, pursuant to section 22 of P.L.1993, c.65 (C.19:44A-7.2), prior to the effective date of P.L.2004, c.28 are rescinded. The \$200 limit established in this paragraph shall remain as stated in this paragraph without further adjustment by the commission in the manner prescribed by section 22 of P.L.1993, c.65 (C.19:44A-7.2).

Any anonymous contribution received by a campaign treasurer or deputy campaign treasurer shall not be used or expended, but shall be returned to the donor, if his identity is known, and if no donor is found, the contribution shall escheat to the State.

No person, partnership or association, either directly or through an agent, shall make any loan or advance, the proceeds of which that person, partnership or association knows or has reason to know or believe are intended to be used by the recipient thereof to make a contribution or expenditure, except by check or money order identifying the name, mailing address and occupation or business of the maker of the loan, and, if the maker is an individual, the name and mailing address of that individual's

employer; provided, however, that such loans or advances to a single individual, up to a cumulative amount of \$50 in any calendar year, may be made in currency.

3. Section 16 of P.L.1973, c.83 (C.19:44A-16) is amended to read as follows:

**C.19:44A-16 Candidates' reports of contributions and expenditures.**

16. a. The campaign treasurer of each candidate committee and joint candidates committee shall make a full cumulative report, upon a form prescribed by the Election Law Enforcement Commission, of all contributions in the form of moneys, loans, paid personal services or other things of value, made to him or to the deputy campaign treasurers of the candidate committee or joint candidates committee, and all expenditures paid out of the election fund of the candidate or candidates, during the period ending with the second day preceding the date of the cumulative report and beginning on the date of the first of those contributions, the date of the first of those expenditures, or the date of the appointment of the campaign treasurer, whichever occurred first. The report shall also contain the name and mailing address of each person or group from whom moneys, loans, paid personal services or other things of value were contributed after the second day preceding the date of the previous cumulative report and the amount contributed by each person or group, and where an individual has made such contributions, the report shall indicate the occupation of the individual and the name and mailing address of the individual's employer. In the case of any loan reported pursuant to this section, the report shall further contain the name and mailing address of each person who cosigns such loan, the occupation of the person and the name and mailing address of the person's employer. If no moneys, loans, paid personal services or other things of value were contributed, the report shall so indicate, and if no expenditures were paid or incurred, the report shall likewise so indicate. The campaign treasurer and the candidate or several candidates shall certify the correctness of the report.

b. During the period between the appointment of the campaign treasurer and the election with respect to which contributions are accepted or expenditures made by him, the campaign treasurer shall file his cumulative campaign report (1) on the 29th day preceding the election, and (2) on the 11th day preceding the election; and after the election he shall file his report on the 20th day following such election. Concurrent with the report filed on the 20th day following an election, or at any time thereafter, the campaign treasurer of a candidate committee or joint candidates committee may certify to the Election Law Enforcement Commission that the election

fund of such candidate committee or joint candidates committee has wound up its business and been dissolved, or that business regarding the late election has been wound up but the candidate committee or joint candidates committee will continue for the deposit and use of contributions in accordance with section 17 of P.L.1993, c.65 (C.19:44A-11.2). Certification shall be accompanied by a final accounting of such election fund, or of the transactions relating to such election, including the final disposition of any balance remaining in such fund at the time of dissolution or the arrangements which have been made for the discharge of any obligations remaining unpaid at the time of dissolution. Until the candidate committee or joint candidates committee is dissolved, each such treasurer shall continue to file reports in the form and manner herein prescribed.

The Election Law Enforcement Commission shall promulgate regulations providing for the termination of post-election campaign reporting requirements applicable to political committees, candidate committees and joint candidates committees. The requirements to file quarterly reports after the first post-election report may be waived by the commission, notwithstanding that the certification has not been filed, if the commission determines under any regulations so promulgated that the outstanding obligations of the political committee, candidate committee or joint candidates committee do not exceed 10% of the expenditures of the campaign fund with respect to the election or \$1,000.00, whichever is less, or are likely to be discharged or forgiven.

A candidate committee or joint candidates committee shall file with the Election Law Enforcement Commission, not later than April 15, July 15, October 15 of each calendar year in which the candidate or candidates in control of the committee does or do not run for election or reelection and January 15 of each calendar year in which the candidate or candidates does or do run for election or reelection, a cumulative quarterly report of all moneys, loans, paid personal services or other things of value contributed to it or to the candidate or candidates during the period ending on the 15th day preceding that date and commencing on January 1 of that calendar year or, in the case of the cumulative quarterly report to be filed not later than January 15, of the previous calendar year, and all expenditures made, incurred, or authorized by it or the candidate or candidates during the period, whether or not such expenditures were made, incurred or authorized in furtherance of the election or defeat of any candidate, or in aid of the passage or defeat of any public question or to provide information on any candidate or public question. The commission may by regulation require any such candidate committee or joint candidates committee to file during any calendar year one or more additional cumulative reports of such contributions received and expenditures made as may be necessary to ensure

that no more than five months shall elapse between the last day of a period covered by one such report and the last day of the period covered by the next such report.

The commission, on any form it shall prescribe for the reporting of expenditures by a candidate committee or joint candidates committee, shall provide for the grouping together of all expenditures under the category of "campaign expenses" under paragraph (1) of subsection a. of section 17 of P.L.1993, c.65, identified as such, and for the grouping together, separately, of all other expenditures under the categories prescribed by paragraphs (2) through (6) of that subsection. The cumulative quarterly report due on April 15 in a year immediately after the year in which the candidate or candidates does or do run for election or reelection shall contain a report of all of the contributions received and expenditures made by the candidate or candidates since the 18th day after that election.

The cumulative quarterly report shall contain the name and mailing address of each person or group from whom moneys, loans, paid personal services or other things of value have been contributed and the amount contributed by each person or group, and where an individual has made such contributions, the report shall indicate the occupation of the individual and the name and mailing address of the individual's employer. In the case of any loan reported pursuant to this section, the report shall contain the name and address of each person who cosigns such loan, and where an individual has cosigned such loans, the report shall indicate the occupation of the individual and the name and mailing address of his employer. The report shall also contain the name and address of each person, firm or organization to whom expenditures have been paid and the amount and purpose of each such expenditure. The treasurer of the candidate committee or joint candidates committee and the candidate or candidates shall certify to the correctness of each cumulative quarterly report.

c. In the case of an election of a candidate for an office elected by a municipal or countywide constituency or a school district a duplicate copy of the campaign treasurer's report, duly certified, shall be filed at the same time with the county clerk of the county in which the candidate resides and the county clerk shall retain a written record of that filing for a period of not less than four years following the date of the election.

d. There shall be no obligation to file the reports required by this section on behalf of a candidate if such candidate files with the Election Law Enforcement Commission a sworn statement to the effect that the total amount to be expended in behalf of his candidacy by the candidate committee, by any political party committee, by any political committee, or by any person shall not in the aggregate exceed \$2,000.00 or \$4,000 for any joint candidates committee containing two candidates or \$6,000 for any

joint candidates committee containing three or more candidates. The sworn statement may be submitted at the time when the name and address of the campaign treasurer and depository is filed with the Election Law Enforcement Commission, provided that in any case the sworn statement is filed no later than the 29th day before an election. If a candidate who has filed such a sworn statement receives contributions from any one source aggregating more than \$300 he shall forthwith make report of the same, including the name and mailing address of the source and the aggregate total of contributions therefrom, and where the source is an individual, the occupation of the individual and the name and mailing address of the individual's employer, to the Election Law Enforcement Commission. The \$300 limit established in this subsection shall remain as stated in this subsection without further adjustment by the commission in the manner prescribed by section 22 of P.L.1993, c.65 (C.19:44A-7.2).

e. There shall be no obligation imposed upon a candidate seeking election to a public office of a school district to file either the reports required under subsection b. of this section or the sworn statement referred to in subsection d. of this section, if the total amount expended and to be expended in behalf of his candidacy by the candidate committee, any political committee, any continuing political committee, or a political party committee or by any person, does not in the aggregate exceed \$2,000.00 per election or \$4,000 for any joint candidates committee containing two candidates or \$6,000 for any joint candidates committee containing three or more candidates; provided, that if such candidate receives contributions from any one source aggregating more than \$300, he shall forthwith make a report of the same, including the name and mailing address of the source, the aggregate total of contributions therefrom, and where the source is an individual, the occupation of the individual and the name and mailing address of the individual's employer, to the commission.

The \$300 limit established in this subsection shall remain as stated in this subsection without further adjustment by the commission in the manner prescribed by section 22 of P.L.1993, c.65 (C.19:44A-7.2).

f. In any report filed pursuant to the provisions of this section, the names and addresses of contributors whose contributions during the period covered by the report did not exceed \$300 may be excluded; provided, however, that (1) such exclusion is unlawful if any person responsible for the preparation or filing of the report knew that such exclusion was made with respect to any person whose total contributions relating to the same election and made to the reporting candidate or to an allied campaign organization or organizations aggregate, in combination with the total contributions in respect of which such exclusion is made, more than \$300, and (2) any person who knowingly prepares, assists in preparing, files or

acquiesces in the filing of any report from which the identity of any contributor has been excluded contrary to the provisions of this section is subject to the provisions of section 21 of this act, but (3) nothing in this proviso shall be construed as requiring any candidate committee or joint candidates committee reporting pursuant to this act to report the amounts, dates or other circumstantial data regarding contributions made to any other candidate committee, joint candidates committee, political committee, continuing political committee, political party committee or legislative leadership committee.

The \$300 limit established in this subsection shall remain as stated in this subsection without further adjustment by the commission in the manner prescribed by section 22 of P.L.1993, c.65 (C.19:44A-7.2).

g. Any report filed pursuant to the provisions of this section shall include an itemized accounting of all receipts and expenditures relative to any testimonial affair held since the date of the most recent report filed, which accounting shall include the name and mailing address of each contributor in excess of \$300 to such testimonial affair and the amount contributed by each; in the case of any individual contributor, the occupation of the individual and the name and mailing address of the individual's employer; the expenses incurred; and the disposition of the proceeds of such testimonial affair.

The \$300 limit established in this subsection shall remain as stated in this subsection without further adjustment by the commission in the manner prescribed by section 22 of P.L.1993, c.65 (C.19:44A-7.2).

h. (Deleted by amendment, P.L.1993, c.65.)

i. Each campaign treasurer of a candidate committee or joint candidates committee shall file written notice with the commission of a contribution in excess of \$500 received during the period between the 13th day prior to the election and the date of the election, and of an expenditure of money or other thing of value in excess of \$800 made, incurred or authorized by the candidate committee or joint candidates committee to support or defeat a candidate in an election, or to aid the passage or defeat of any public question, during the period between the 13th day prior to the election and the date of the election, provided that a candidate shall not be required to file written notice pursuant to this subsection of an expenditure made to support his or her own candidacy, or to support or defeat a candidate for the same office in an election. For the purposes of this subsection, the offices of member of the Senate and member of the General Assembly shall be deemed to be the same office in a legislative district; the offices of member of the board of chosen freeholders and county executive shall be deemed to be the same office in a county; and the offices of mayor

and member of the municipal governing body shall be deemed to be the same office in a municipality.

The notice of a contribution shall be filed in writing or by telegram within 48 hours of the receipt of the contribution and shall set forth the amount and date of the contribution, the name and mailing address of the contributor, and where the contributor is an individual, the occupation of the individual and the name and mailing address of the individual's employer. The notice of an expenditure shall be filed in writing or by telegram within 48 hours of the making, incurring or authorization of the expenditure and shall set forth the name and mailing address of the person, firm or organization to whom or which the expenditure was paid and the amount and purpose of the expenditure.

4. This act shall take effect immediately.

Approved June 16, 2004.

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#### CHAPTER 34

AN ACT restricting the lobbying activities of members of the Legislature, the Governor and certain employees of the Executive Branch after service in elected office or public employment and supplementing P.L.1971, c.183 (C.52:13C-18 et seq.).

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

**C.52:13C-21.4 Lobbying activities for certain persons restricted; penalties.**

1. a. As used in this section, "person" means any member of the Legislature, the Governor or the head of a principal department of the Executive Branch.

b. No person, within one year next subsequent to the termination of the office or employment of such person, shall register as a "governmental affairs agent" as defined in section 3 of P.L.1971, c.183 (C.52:13C-20).

c. Any person who knowingly and willfully violates the provisions of subsection b. of this section shall be subject to a penalty of not more than \$10,000 and shall be barred from activities prohibited under subsection b. for up to an additional five years.

d. Upon receiving evidence of any violation of this section, the Election Law Enforcement Commission shall have the power to hold, or to cause to be held, hearings about the violation and, upon finding any person to have committed a violation, to assess such penalty, within the limits

prescribed herein, as it deems proper under the circumstances, which penalty may be collected in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

2. This act shall take effect on the 30th day after enactment and shall be applicable to persons who terminate office or employment after that effective date.

Approved June 16, 2004.

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## CHAPTER 35

AN ACT concerning the employment of relatives of certain officers in State government and supplementing Title 52 of the Revised Statutes.

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

**C.52:14-7.1 Relatives, certain, prohibited from serving in State government positions, certain; definition.**

1. a. (1) A relative of the Governor shall not be employed in an office or position in the unclassified service of the civil service of the State in the Executive Branch of State Government.

(2) A relative of the commissioner or head of a principal department in the Executive Branch of State Government shall not be employed in an office or position in the unclassified service of the civil service of the State in the principal department over which the commissioner or head of the principal department exercises authority, supervision, or control.

(3) A relative of an assistant or deputy commissioner or head of a principal department in the Executive Branch of State Government who is employed in an office or position in the unclassified service of the civil service of the State may be employed in the principal department in which the assistant or deputy commissioner or head serves, but shall not be assigned to a position over which the assistant or deputy commissioner or head exercises authority, supervision, or control.

(4) A relative of a head or assistant head of a division of a principal department in the Executive Branch of State government who is employed in an office or position in the unclassified service of the civil service of the State may be employed in the principal department in which the head or assistant head of a division serves, but shall not be assigned to a position over which the head or assistant head exercises authority, supervision, or control.



b. (1) A relative of an appointed member of a governing or advisory body of an independent authority, board, commission, agency or instrumentality of the State shall not be employed in an office or position in that independent authority, board, commission, agency or instrumentality.

(2) A relative of an appointed New Jersey member of a governing body of a bi-state or multi-state agency shall not be employed in an office or position in that bi-state or multi-state agency, to the extent permitted by law.

c. As used in this section, "relative" means an individual's spouse or the individual's or spouse's parent, child, brother, sister, aunt, uncle, niece, nephew, grandparent, grandchild, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half brother or half sister, whether the relative is related to the individual or the individual's spouse by blood, marriage or adoption.

2. This act shall take effect on the 60th day following enactment, and shall be applicable to any employment commencing on or after that effective date.

Approved June 16, 2004.

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## CHAPTER 36

AN ACT concerning audits of records kept by legislative agents and amending P.L.1971, c.183.

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

1. Section 7 of P.L.1971, c.183 (C.52:13C-24) is amended to read as follows:

**C.52:13C-24 Records of governmental affairs agent; audits.**

7. Any person engaged in activity which makes him subject to filing a statement under this act shall keep and preserve all records of his receipts, disbursements and other financial transactions in the course of and as a part of his activities as a governmental affairs agent. Such records shall be preserved for a period of three calendar years next succeeding the calendar year in which they were made. The provisions of this section shall not apply to any governmental affairs agent with respect to any quarterly period within which the total of his compensation including reimbursement of expenses is less than \$500.00.

The commission shall conduct random audits of records kept and preserved pursuant to this section.

2. This act shall take effect immediately.

Approved June 16, 2004.

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#### CHAPTER 37

AN ACT requiring a fee to be imposed by the Election Law Enforcement Commission and supplementing P.L.1971, c.183 (C.52:13C-18 et seq.).

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

**C.52:13C-23a Fee imposed by ELEC on governmental affairs agent.**

1. In addition to any fee collected pursuant to subsection j. of section 6 of P.L.1971, c.183 (C.52:13C-23), the commission shall establish and collect no later than January 31 of each year a \$100 fee from each governmental affairs agent for deposit into the General Fund. Such moneys shall be allocated annually by the Legislature for use by the commission.

2. This act shall take effect upon the 60th day following enactment.

Approved June 16, 2004.

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#### CHAPTER 38

AN ACT concerning the compensation of legislative agents and amending and supplementing P.L.1971, c.183.

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

1. Section 4 of P.L.1971 c.183 (C.52:13C-21) is amended to read as follows:

**C.52:13C-21 Notice of representation; filing, contents, separate notices.**

4. a. Any person who, on or after the effective date of P.L.1991, c.243 or on or after the effective date of P.L.2004, c.27 for the purpose of influencing governmental processes, is employed, retained or engages himself as a governmental affairs agent shall, prior to any communication with, or the making of any expenditures providing a benefit to, a member of the Legislature, legislative staff, the Governor, the Governor's staff, or an

officer or staff member of the Executive Branch, and in any event within 30 days of the appropriate effective date or of such employment, retainer or engagement, whichever occurs later, file a signed notice of representation with the Election Law Enforcement Commission in such detail as the commission may prescribe, identifying himself and persons by whom he is employed or retained, and the persons in whose interests he is working, and the general nature of his proposed services as a governmental affairs agent for such persons, which notice shall contain the following information:

(1) his name, business address and regular occupation;

(2) the name, business address and occupation or principal business of the person from whom he receives compensation for acting as a governmental affairs agent;

(3) (a) the name, business address and occupation or principal business of any person in whose interest he acts as a governmental affairs agent in consideration of the aforesaid compensation, if such person is other than the person from whom said compensation is received; and

(b) if a person, identified under paragraph (2) of this subsection as one from whom the governmental affairs agent receives compensation, is a membership organization or corporation whose name or occupation so identified does not, either explicitly or by virtue of the nature of the principal business in which the organization or its members, or the corporation or its shareholders, is commonly known to be engaged, clearly reveal the primary specific economic, social, political, or other interest which the organization or corporation may reasonably be understood to seek to advance or protect through its employment, retainer, or engagement of the governmental affairs agent, a description of that primary economic, social, political, or other interest and a list of the persons having organizational or financial control of the organization or corporation, including the names, mailing addresses and occupations, respectively, of those persons. The commission shall promulgate rules and regulations to govern the content of any information required to be disclosed under this subparagraph and shall take such steps as are reasonably necessary to ensure that all such information is, in accordance with those rules and regulations, both accurate and complete.

Any list of governmental affairs agents and their principals required to be published quarterly under subsection h. of section 6 of P.L.1971, c.183 (C.52:13C-23) shall include, for each such principal for whom it is not otherwise apparent, the primary specific interest which the principal may reasonably be understood to seek to advance or protect through its engagement of the governmental affairs agent and the category of persons required to file additional information, as that interest and such category shall have been determined under subparagraph (b) of this paragraph;

(4) whether the person from whom he receives said compensation employs him solely as a governmental affairs agent, or whether he is a regular employee performing services for his employer which include but are not limited to the influencing of legislation, regulation or governmental processes;

(5) the length of time for which he will be receiving compensation from the person aforesaid for acting as a governmental affairs agent, if said length of time can be ascertained at the time of filing;

(6) the type of legislation, regulation or governmental process or the particular legislation, regulation or governmental process in relation to which he is to act as governmental affairs agent in consideration of the aforesaid compensation, and any particular legislation, regulation or governmental process or type of legislation, regulation or governmental process which he is to promote or oppose;

(7) (Deleted by amendment, P.L.2004, c.38).

b. Any governmental affairs agent who receives compensation from more than one person for his services as a governmental affairs agent shall file a separate notice of representation with respect to each such person; except that a governmental affairs agent whose fee for acting as such in respect to the same legislation, regulation or governmental processor type of legislation, regulation or governmental process is paid or contributed to by more than one person may file a single statement, in which he shall detail the name, business address and occupation or principal business of each person so paying or contributing.

**C.52:13C-21.5 Contingent fees, prohibited.**

2. A governmental affairs agent shall not enter into any agreement, arrangement, or understanding under which the governmental affairs agent's compensation, or any portion thereof, is made contingent upon the success of any attempt to influence legislation, regulation or governmental process.

3. This act shall take effect immediately and apply to any agreement, arrangement, or understanding entered into after that effective date.

Approved June 16, 2004.

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**CHAPTER 39**

**AN ACT reorganizing and consolidating the State's workforce development system, redesignating the Department of Labor as the Department of Labor and Workforce Development and revising various parts of the statutory law.**

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

**C.34:1A-1.2 Department of Labor and Workforce Development; reference.**

1. On and after the effective date of this 2004 amendatory and supplementary act, the Department of Labor shall be entitled and known as the Department of Labor and Workforce Development and whenever, in any law, rule, regulation, order, contract, document, judicial or administrative proceeding, or otherwise, reference is made to the Department of Labor, the same shall mean and refer to the Department of Labor and Workforce Development.

**C.34:1A-1.3 Transfer of workforce development programs from DHS.**

2. a. To the extent not inconsistent with any federal law, and notwithstanding any other State law, all employment-directed and workforce development programs and activities of the Department of Human Services which are funded through the Work First New Jersey program established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.), the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193, 42 U.S.C. s.601 et seq., and the federal Food Stamp Act of 1977, Pub.L.95-113, 7 U.S.C. s. 2011 et seq. are hereby transferred to the Department of Labor and Workforce Development.

b. The employment-directed and workforce development programs and activities which shall be transferred from the Department of Human Services to the Department of Labor and Workforce Development pursuant to this section and provided by the Department of Labor and Workforce Development shall include, but not be limited to:

- (1) Career guidance;
- (2) Labor market information;
- (3) Employability assessment;
- (4) Development of Employability Development Plans;
- (5) Employment-directed case management;
- (6) Subsidized and unsubsidized employment in the public and private sectors;
- (7) Job search and readiness programs;
- (8) Community work experience programs;
- (9) Alternative work experience programs;
- (10) Community service programs;
- (11) On-the-job training;
- (12) Vocational education and training;
- (13) Employment-related education and job skill training;
- (14) Basic skills and literacy training;
- (15) Work-related educational enhancements;

(16) A proportionate share of employment and training related expenses;

(17) Referral and access to work support services, including transport and childcare services;

(18) Early employment initiative; and

(19) Career advancement vouchers.

c. The programmatic, administrative and support staff and equipment comprising the employment-directed and workforce development programs and activities in the Department of Human Services are transferred to the Department of Labor and Workforce Development pursuant to this section and the "State Agency Transfer Act, "P.L.1971, c.375 (C.52:14D-1 et seq.), with all of their functions, powers and duties and a proportionate share of the resources to maintain the programs and activities.

**C.34:1A-1.4 New Jersey Youth Corps transferred.**

3. The New Jersey Youth Corps, established pursuant to P.L.1984, c.198 (C.9:25-1 et seq.), is hereby transferred to the Department of Labor and Workforce Development. To the extent not inconsistent with any federal law, and notwithstanding any other State law, the Department of Labor and Workforce Development is authorized to enhance, strengthen and expand the New Jersey Youth Corps program. The programmatic, administrative and support staff and equipment assigned to the New Jersey Youth Corps are transferred to the Department of Labor and Workforce Development, with all of their functions, powers and duties and the resources to maintain the programs and activities pursuant to this section and the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

**C.34:1A-1.5 Certain powers, functions, duties of DOE transferred.**

4. a. Notwithstanding any other State law, all powers, functions and duties of the Department of Education with respect to the following employment-directed and workforce development programs and activities are hereby transferred to the Department of Labor and Workforce Development:

(1) The administration and provision of adult education and literacy activities as defined in 20 U.S.C. s.9202;

(2) Operational authority for the approval of private or proprietary trade, business or vocational schools or similar training institutions pursuant to section 2 of P.L.1966, c.13 (C.44:12-2); and

(3) Registration and approval of registered apprenticeship programs under a joint agreement negotiated with the Bureau of Apprenticeship and Training in the United States Department of Labor.

b. The programmatic, administrative and support staff and equipment comprising the employment-directed and workforce development programs

and activities in the Department of Education are transferred to the Department of Labor and Workforce Development pursuant to this section and the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.), with all of their functions, powers and duties and a proportionate share of the resources to maintain the programs and activities.

**C.34:1A-1.6 Construction of act relative to Civil Service tenure, rights, protection.**

5. a. Nothing in this 2004 amendatory and supplementary act and no transfer carried out pursuant to this act shall be construed or permitted to deprive any person of any tenure rights or reduce or deny any right or protection provided him or her by Title 11A, Civil Service, of the New Jersey Statutes, or under any pension law or retirement system.

b. All staff who are hired to work at a One Stop Career Center and supported by any resources transferred to the Department of Labor and Workforce Development pursuant to section 2, 3 or 4 of this act, shall be hired and employed by the State pursuant to Title 11A, Civil Service, of the New Jersey Statutes, be hired and employed by a political subdivision of the State, or be qualified staff hired and employed by a non-profit organization which began functioning as the One Stop Career Center operator with the written consent of the chief elected official and the commissioner prior to the effective date of this act.

c. Any staff member, including staff located at any One Stop Career Center, providing services to unemployment insurance claimants or services to employment service clients shall be hired and employed pursuant to Title 11A, Civil Service, of the New Jersey Statutes, if that staff member is supported by any funds provided to the State under the Wagner-Peyser Act (29 U.S.C. s.49 et seq.) or section 903 of the Social Security Act (42 U.S.C. s.1103), as amended.

d. For the purpose of this section, "One Stop Career Center" means any of the facilities established, sponsored or designated by the State, a political subdivision of the State or a Workforce Investment Board in a local area to coordinate or make available State and local programs providing employment and training services or other employment-directed and workforce development programs and activities, including job placement services, and any other similar facility as may be established, sponsored or designated at any later time to coordinate or make available any of those programs, services or activities, and "qualified staff" means staff whose qualifications meet standards set by regulations adopted by the Commissioner of Labor and Workforce Development.

6. Section 1 of P.L.1992, c.48 (C.34:15B-35) is amended to read as follows:

**C.34:15B-35 Definitions relative to job training.****1. As used in this act:**

"Approved community-based or faith-based organization" means an organization which is an approved service provider, a nonprofit organization exempt from federal taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. s.501), and approved by the commissioner as demonstrating expertise and effectiveness in the field of workforce investment and being representative of a community or a significant segment of a community where the organization provides services.

"Approved service provider" means a service provider approved pursuant to section 6 of this act.

"Apprenticeship Policy Committee" means the New Jersey Apprenticeship Policy Committee established by an agreement between the Bureau of Apprenticeship and Training in the United States Department of Labor, the State Department of Labor and Workforce Development and the State Department of Education and consisting of a representative of the Commissioner of the State Department of Education, a representative of the Commissioner of the State Department of Labor and Workforce Development, the Director of Region II of the Bureau of Apprenticeship and Training in the United States Department of Labor, and a representative of the New Jersey State AFL-CIO.

"Commissioner" means the Commissioner of Labor and Workforce Development.

"Department" means the Department of Labor and Workforce Development.

"Employment and training services" means:

- a. Counseling provided pursuant to section 4 of this act;
- b. Vocational training; or
- c. Remedial education.

"Federal job training funds" means any moneys expended to obtain employment and training services, pursuant to the Workforce Investment Act of 1998, Pub.L.105-220 (29 U.S.C.s.2801 et seq.) or any other federal law pursuant to which moneys may be expended to obtain employment and training services or other employment-directed and workforce development programs and activities, except that, to the extent that the application of any specific provision of this act would cause the amount of federal job training funds provided to the State to be reduced, that provision shall not apply.

"Labor demand occupation" means an occupation for which there is or is likely to be an excess of demand over supply for adequately trained workers, including, but not limited to, an occupation designated as a labor



demand occupation by the New Jersey Occupational Information Coordinating Committee pursuant to section 7 of this act.

"Office of Customized Training" means the Office of Customized Training established pursuant to section 5 of P.L.1992, c.43 (C.34:15D-5).

"One Stop Career Center" means any of the facilities established, sponsored or designated by the State, a political subdivision of the State and a Workforce Investment Board in a local area to coordinate or make available State and local programs providing employment and training services or other employment-directed and workforce development programs and activities, including job placement services, and any other similar facility as may be established, sponsored or designated at any later time to coordinate or make available any of those programs, services or activities.

"Permanent employment" means full-time employment unsubsidized by government training funds which provides a significant opportunity for career advancement and long-term job security and is in the occupation for which a worker receives vocational training pursuant to this act.

"Poverty level" means the official poverty level based on family size, established and adjusted under section 673 (2) of Subtitle B of the "Community Services Block Grant Act," Pub.L.97-35 (42 U.S.C. s. 9902 (2)).

"Qualified job counselor" means a job counselor whose qualifications meet standards established by the commissioner.

"Qualified staff" means staff whose qualifications meet standards set by regulations adopted by the Commissioner of Labor and Workforce Development.

"Remedial education" means any literacy or other basic skills training or education which may not be directly related to a particular occupation but is needed to facilitate success in vocational training or work performance, including training or education in basic mathematics, reading comprehension, basic computer literacy, English proficiency and work-readiness skills.

"Self-sufficiency" for an individual means a level of earnings from employment not lower than 250% of the poverty level for an individual, taking into account the size of the individual's family.

"Service provider" or "provider" means a provider of employment and training services including but not limited to a private or public school or institution of higher education, a business, a labor organization or a community-based organization.

"Vocational training" means training or education which is related to an occupation and is designed to enhance the marketable skills and earning power of a worker or job seeker.

7. Section 2 of P.L.1992, c.48 (C.34:15B-36) is amended to read as follows:

**C.34:15B-36 Funding of vocational training.**

2. a. All vocational training funded with federal job training funds shall be training which is likely to substantially enhance the trainee's marketable skills and earning power and is for a labor demand occupation.

b. Federal job training funds shall not be used for job training or any related activities which induce, encourage or assist: any displacement or partial displacement of currently employed workers by trainees by means such as reduced hours of currently employed workers; any replacement of laid off workers by trainees; or any relocation of operations resulting in a loss of employment at a previous workplace, except in cases of multi-establishment employers consolidating establishments. No federal job training funds shall be used for job training in any case in which an employer relocates within the State and does not offer each affected employee the equivalent benefits, pay and working conditions if the employee moves to the new location and into a job or position involving comparable skills, responsibilities, experience and seniority to the prior job or position.

c. Federal job training funds shall not be used for job training or any related activities which impair existing contracts for services or collective bargaining agreements, except that job training or any related activities which are inconsistent with the terms of a collective bargaining agreement may be undertaken with the written concurrence of the collective bargaining unit and employer who are parties to the agreement.

d. Any federal job training funds which are provided directly to an employer or indirectly to an employer through a consortium shall be regarded as customized training grants and be administered by the Office of Customized Training and the employer and any consortium shall comply with all requirements of section 5 of P.L.1992, c.43 (C.34:15D-5), except that federal job training funds provided directly or indirectly to an employer for use in connection with any program which includes apprenticeship training or activities shall be exempt from the requirement of this subsection d. to be administered by the Office of Customized Training and be subject to the requirements of section 5 of P.L.1992, c.43 (C.34:15D-5), but the funds shall be exempt only if approved by the Apprenticeship Policy Committee, as defined in section 3 of P.L.1993, c.268 (C.34:15E-3) and the employer complies with the provisions of subsection e. of section 5 of P.L.1993, c.268 (C.34:15E-5). Employment and training services funded by federal job training funds shall not replace, supplant, compete with or duplicate any approved apprenticeship program.

e. All staff who are hired and supported by any federal job training funds, including any of those staff located at any One Stop Career Center, but not including any staff of a service provider providing training services funded by a customized training grant pursuant to subsection d. of this section or an individual training grant pursuant to section 4 of P.L.1992, c.48 (C.34:15B-38), shall be hired and employed by the State pursuant to Title 11A, Civil Service, of the New Jersey Statutes, be hired and employed by a political subdivision of the State, or be qualified staff hired and employed by a non-profit organization which began functioning as the One Stop Career Center operator with the written consent of the chief elected official and the commissioner prior to the effective date of P.L.2004,c.39 (C.34:1A-1.2 et al.), or be qualified staff hired and employed by an approved community-based or faith-based organization to provide services at the level of staffing provided in an agreement entered into by the organization before the effective date of P.L.2004,c.39 (C.34:1A-1.2 et al.).

8. Section 4 of P.L.1992, c.48 (C.34:15B-38) is amended to read as follows:

**C.34:15B-38 Counseling requirement.**

4. a. No individual shall receive employment and training services paid for with federal job training funds unless the individual first receives counseling pursuant to this section. The counseling shall be provided by a job counselor hired and employed by the State pursuant to Title 11A, Civil Service, of the New Jersey Statutes, or hired and employed by a political subdivision of the State, or be provided by a qualified job counselor hired and employed by a non-profit organization which began functioning as the One Stop Career Center operator with the written consent of the chief elected official and the commissioner prior to the effective date of P.L.2004,c.39 (C.34:1A-1.2 et al.), or hired and employed by an approved community-based or faith-based organization to provide counseling which the organization entered into an agreement to provide before the effective date of P.L.2004,c.39 (C.34:1A-1.2 et al.). The purpose of any counseling provided pursuant to this section is to assist each individual in obtaining the employment and training services most likely to enable the individual to obtain employment providing self-sufficiency for the individual and also to provide the individual with the greatest opportunity for long-range career advancement with high levels of productivity and earning power. The counseling shall include:

(1) Testing and assessment of the individual's job skills and aptitudes, including the individual's literacy skills and other basic skills. Basic skills testing and assessment shall be provided to the individual unless informa-

tion is provided regarding the individual's educational background and occupational or professional experience which clearly demonstrates that the individual's basic skill level meets the standards established pursuant to section 14 of P.L.1989, c.293 (C.34:15C-11) or unless the individual is already participating in a remedial education program which meets those standards;

(2) An evaluation by a qualified job counselor of what remedial education, if any, is determined to be necessary for the individual to advance in his current career or occupation or to succeed in any particular vocational training which the individual would undertake under the program, provided that the remedial education shall be at a level not lower than that needed to meet the standards established pursuant to section 14 of P.L.1989, c.293 (C.34:15C-11);

(3) The provision of information to the individual regarding the labor demand occupations, including the information about the wage levels in those occupations, and information regarding the effectiveness of approved service providers of vocational training in labor demand occupations which the claimant is considering, including a consumer report card on service providers showing the long-term success of former trainees of each provider in obtaining permanent employment and increasing earnings over a period of not more than two years following the completion of training;

(4) The timely provision of information to the individual regarding the services and benefits available to the individual, and all actions required of the individual to obtain the services and benefits, under programs supported by federal job training funds or the provisions of P.L.1992, c.47 (C.43:21-57 et al.), and the provision to the individual of a written statement of the individual's rights and responsibilities with respect to programs for which the individual is eligible, which includes a full disclosure to the individual of his right to obtain the services most likely to enable the individual to obtain employment providing self-sufficiency and the individual's right not to be denied employment and training services for any of the reasons indicated in section 5 of P.L.1992, c.48 (C.34:15B-39), including the individual's right not to be denied training services because the individual already has identifiable vocational skills, if those existing skills are for employment with a level of earnings lower than the level of self-sufficiency; and

(5) Discussion with the counselor of the results of the testing and evaluation and, based on those results, the development of a written Employability Development Plan identifying the training and employment services, including any needed remedial education, to be provided to the individual.

b. Federal job training funds shall be used to provide training and employment services to an individual only if the counselor who evaluates the individual pursuant to this section determines that the individual can reasonably be expected to successfully complete the training and education identified in the Employability Development Plan developed pursuant to this section.

c. All information regarding an individual applicant or trainee which is obtained or compiled in connection with the testing, assessment and evaluation and which may be identified with the individual shall be confidential and shall be released to an entity other than the individual, the counselor or the department only if the individual provides written permission to the department for the release of the information or the information is used solely for program evaluation.

9. Section 3 of P.L.1992, c.43 (C.34:15D-3) is amended to read as follows:

**C.34:15D-3 Definitions relative to workforce development.**

3. As used in this act:

"Administrative costs" means any costs incurred by the department to administer the program, including any cost required to collect information and conduct evaluations of service providers pursuant to section 8 of this act and conduct surveys of occupations pursuant to section 12 of this act, to the extent that funding is not available from federal or other sources.

"Apprenticeship Policy Committee" means the New Jersey Apprenticeship Policy Committee established by an agreement between the Bureau of Apprenticeship and Training in the United States Department of Labor, the State Department of Labor and Workforce Development and the State Department of Education and consisting of a representative of the Commissioner of the State Department of Education, a representative of the Commissioner of the State Department of Labor and Workforce Development, the Director of Region II of the Bureau of Apprenticeship and Training in the United States Department of Labor and a representative of the New Jersey State AFL-CIO.

"Approved community-based or faith-based organization" means an organization which is an approved service provider, a nonprofit organization exempt from federal taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. s.501), and approved by the commissioner as demonstrating expertise and effectiveness in the field of workforce investment and being representative of a community or a significant segment of a community where the organization provides services.

"Approved service provider" means a service provider approved pursuant to section 8 of this act.

"Commission" means the State Employment and Training Commission.

"Commissioner" means the Commissioner of Labor and Workforce Development or the commissioner's designees.

"Customized training services" means employment and training services which are provided by the Office of Customized Training pursuant to section 5 of this act.

"Department" means the State Department of Labor and Workforce Development.

"Employer" or "business" means any employer subject to the provisions of R.S.43:21-1 et seq.

"Employment and training services" means:

- a. Counseling provided pursuant to section 7 of this act;
- b. Vocational training;
- c. Remedial education; or
- d. Occupational safety and health training.

e. In the case of a qualified disadvantaged worker who is or was receiving, or is eligible for but not receiving, benefits under the Work First New Jersey program, "employment and training services" includes, in addition to any of the benefits listed in subsections a. through d. above, Supplemental Workforce Development Benefits approved as part of the workers' Employability Development Plan pursuant to section 7 of P.L.1992, c.43 (C.34:15D-7).

"Fund" means the Workforce Development Partnership Fund established pursuant to section 9 of this act.

"Labor Demand Occupation" means an occupation for which there is or is likely to be an excess of demand over supply for adequately trained workers, including, but not limited to, an occupation designated as a labor demand occupation by the New Jersey Occupational Information Coordinating Committee pursuant to section 12 of this act.

"Occupational safety and health training" means training or education which is designed to assist in the recognition and prevention of potential health and safety hazards related to an occupation.

"Office" means the Office of Customized Training established pursuant to section 5 of this act.

"One Stop Career Center" means any of the facilities established, sponsored or designated by the State, a political subdivision of the State and a Workforce Investment Board in a local area to coordinate or make available State and local programs providing employment and training services or other employment-directed and workforce development programs and activities, including job placement services, and any other

similar facility as may be established, sponsored or designated at any later time to coordinate or make available any of those programs, services or activities.

"Permanent employment" means full-time employment unsubsidized by government training funds which provides a significant opportunity for career advancement and long-term job security and is in the occupation for which a worker receives vocational training pursuant to this act.

"Poverty level" means the official poverty level based on family size, established and adjusted under section 673 (2) of Subtitle B of the "Community Services Block Grant Act," Pub.L.97-35 (42 U.S.C. s.9902 (2)).

"Program" means the Workforce Development Partnership Program created pursuant to this act.

"Qualified disadvantaged worker" means a worker who is not a qualified displaced worker or a qualified employed worker but who otherwise meets the following criteria:

- a. Is unemployed;
- b. Is working part-time and actively seeking full-time work or is working full-time but is earning wages substantially below the median salary for others in the labor force with similar qualifications and experience; or
- c. Is certified by the Department of Human Services as:
  - (1) Currently receiving public assistance;
  - (2) Having been recently removed from the public assistance rolls because of gross income exceeding the grant standard for assistance; or
  - (3) Being eligible for public assistance but not receiving the assistance because of a failure to apply for it.

"Qualified displaced worker" means a worker who:

- a. Is unemployed, and:
  - (1) Is currently receiving unemployment benefits pursuant to R.S.43:21-1 et seq. or any federal or State unemployment benefit extension; or
  - (2) Has exhausted eligibility for the benefits or extended benefits during the preceding 52 weeks; or
- b. Meets the criteria set by the Workforce Investment Act of 1998, Pub.L.105-220 (29 U.S.C.s.2801 et seq.), to be regarded as a "dislocated worker" pursuant to that act.

"Qualified employed worker" means a worker who is employed by an employer participating in a customized training program, or other employed worker who is in need of remedial education.

"Qualified job counselor" means a job counselor whose qualifications meet standards established by the commissioner.

"Qualified staff" means staff whose qualifications meet standards set by regulations adopted by the Commissioner of Labor and Workforce Development.

"Remedial education" means any literacy or other basic skills training or education which may not be directly related to a particular occupation but is needed to facilitate success in vocational training or work performance, including training or education in mathematics, reading comprehension, computer literacy, English proficiency and work-readiness skills.

"Self-sufficiency" for an individual means a level of earnings from employment not lower than 250% of the poverty level for an individual, taking into account the size of the individual's family.

"Service provider" or "provider" means a provider of employment and training services including but not limited to a private or public school or institution of higher education, a business, a labor organization or a community-based organization.

"Supplemental Workforce Fund for Basic Skills" means the fund established pursuant to section 1 of P.L.2001, c.152 (C.34:15D-21).

"Total revenues dedicated to the program during any one fiscal year" means all moneys received for the fund during any fiscal year, including moneys withdrawn from the State disability benefits fund pursuant to section 3 of P.L.1992, c.44 (C.34:15D-14), minus any repayment made during that fiscal year from the fund to the State disability benefits fund pursuant to that section.

"Training grant" means a grant provided to fund vocational training and any needed remedial education for a qualified displaced or disadvantaged worker pursuant to section 6 of this act, or to fund needed remedial education for a qualified employed worker pursuant to section 1 of P.L.2001, c.152 (C.34:15D-21).

"Vocational training" means training or education which is related to an occupation and is designed to enhance the marketable skills and earning power of a worker or job seeker.

10. Section 4 of P.L.1992, c.43 (C.34:15D-4) is amended to read as follows:

**C.34:15D-4 Workforce Development Partnership Program established.**

4. a. The Workforce Development Partnership Program is hereby established in the Department of Labor and Workforce Development and shall be administered by the Commissioner of Labor and Workforce Development. The purpose of the program is to provide qualified displaced, disadvantaged and employed workers with the employment and training services most likely to enable the individual to obtain employment



providing self-sufficiency for the individual and also to provide the greatest opportunity for long-range career advancement with high levels of productivity and earning power. To implement that purpose, the program shall provide those services by means of training grants or customized training services in coordination with funding for the services from federal or other sources. The commissioner is authorized to expend moneys from the Workforce Development Partnership Fund to provide the training grants or customized training services and provide for each of the following:

(1) The cost of counseling required pursuant to section 7 of P.L.1992, c.43 (C.34:15D-7), to the extent that adequate funding for counseling is not available from federal or other sources;

(2) Reasonable administrative costs, which shall not exceed 10% of the revenues collected pursuant to section 2 of P.L.1992, c.44 (C.34:15D-13) during any fiscal year ending before July 1, 2001, except for additional start-up administrative costs approved by the Director of the Office of Management and Budget during the first year of the program's operation;

(3) Reasonable costs, which shall not exceed 0.5% of the revenues collected pursuant to section 2 of P.L.1992, c.44 (C.34:15D-13) during any fiscal year ending before July 1, 2001, as required by the State Employment and Training Commission to design criteria and conduct an annual evaluation of the program; and

(4) The cost of reimbursement to individuals for excess contributions pursuant to section 6 of P.L.1992, c.44 (C.34:15D-17).

b. Not more than 10% of the moneys received by any service provider pursuant to this act shall be expended on anything other than direct costs to the provider of providing the employment and training services, which direct costs shall not include any administrative or overhead expense of the provider.

c. Training and employment services shall be provided to a worker who receives counseling pursuant to section 7 of P.L.1992, c.43 (C.34:15D-7) only if the counselor who evaluates the worker pursuant to that section determines that the worker can reasonably be expected to successfully complete the training and education identified in the Employability Development Plan developed pursuant to that section for the worker.

d. All vocational training provided under this act:

(1) Shall be training which is likely to substantially enhance the individual's marketable skills and earning power; and

(2) Shall be training for a labor demand occupation, except for:

(a) Customized training provided to the present employees of a business which the commissioner deems to be in need of the training to prevent job loss caused by obsolete skills, technological change or national or global competition; or

(b) Customized training provided to employees at a facility which is being relocated from another state into New Jersey; or

(c) Entrepreneurial training and technical assistance supported by training grants provided pursuant to subsection b. of section 6 of P.L.1992, c.43 (C.34:15D-6).

e. During any fiscal year ending before July 1, 2001, not less than 25% of the total revenues dedicated to the program during any one fiscal year shall be reserved to provide employment and training services for qualified displaced workers; not less than six percent of the total revenues dedicated to the program during any one fiscal year shall be reserved to provide employment and training services for qualified disadvantaged workers; not less than 45% of the total revenues dedicated to the program during any one fiscal year shall be reserved for and appropriated to the Office of Customized Training; not less than 3% of the total revenues dedicated to the program during any one fiscal year shall be reserved for occupational safety and health training; and 5% of the total revenues dedicated to the program during any one fiscal year shall be reserved for and appropriated to the Youth Transitions to Work Partnership created pursuant to P.L.1993, c.268 (C.34:15E-1 et seq.).

f. Funds available under the program shall not be used for activities which induce, encourage or assist: any displacement of currently employed workers by trainees, including partial displacement by means such as reduced hours of currently employed workers; any replacement of laid off workers by trainees; or any relocation of operations resulting in a loss of employment at a previous workplace located in the State.

g. On-the-job training shall not be funded by the program for any employment found by the commissioner to be of a level of skill and complexity too low to merit training. The duration of on-the-job training funded by the program for any worker shall not exceed the duration indicated by the Specific Vocational Preparation Code developed by the United States Department of Labor for the occupation for which the training is provided and shall in no case exceed 26 weeks. The department shall set the duration of on-the-job training for a worker for less than the indicated maximum, when training for the maximum duration is not warranted because of the level of the individual's previous training, education or work experience. On-the-job training shall not be funded by the program unless it is accompanied, concurrently or otherwise, by whatever amount of classroom-based vocational training, remedial education or both, is deemed appropriate for the worker by the commissioner. On-the-job training shall not be funded by the program unless the trainee is provided benefits, pay and working conditions at a level and extent not less than the benefits and

working conditions of other trainees or employees of the trainee's employer with comparable skills, responsibilities, experience and seniority.

h. Employment and training services funded by the program shall not replace, supplant, compete with or duplicate in any way approved apprenticeship programs.

i. No activities funded by the program shall impair existing contracts for services or collective bargaining agreements, except that activities which would be inconsistent with the terms of a collective bargaining agreement may be undertaken with the written concurrence of the collective bargaining unit and employer who are parties to the agreement.

j. All staff who are hired and supported by moneys from the Workforce Development Partnership Fund, including any of those staff located at any One Stop Career Center, but not including any staff of a service provider providing employment and training services supported by a customized training grant pursuant to section 5 of P.L.1992, c.43 (C.34:15D-5) or an individual training grant pursuant to section 6 of P.L.1992, c.43 (C.34:15D-6), shall be hired and employed by the State pursuant to Title 11A, Civil Service, of the New Jersey Statutes, be hired and employed by a political subdivision of the State, or be qualified staff hired and employed by a non-profit organization which began functioning as the One Stop Career Center operator with the written consent of the chief elected official and the commissioner prior to the effective date of P.L.2004,c.39 (C.34:1A-1.2 et al.), or be qualified staff hired and employed by an approved community-based or faith-based organization to provide services at the level of staffing provided in an agreement entered into by the organization before the effective date of P.L.2004,c.39 (C.34:1A-1.2 et al.).

11. Section 5 of P.L.1992, c.43 (C.34:15D-5) is amended to read as follows:

**C.34:15D-5 Office of Customized Training established.**

5. a. There is hereby established, as part of the Workforce Development Partnership Program, the Office of Customized Training. Moneys allocated to the office from the fund shall be used to provide employment and training services to eligible applicants approved by the commissioner.

b. An applicant shall be eligible for customized training services if it is one of the following:

(1) An individual employer that seeks the customized training services to create, upgrade or retain jobs in a labor demand occupation;

(2) An individual employer that seeks customized training services to upgrade or retain jobs in an occupation which is not a labor demand occupation, if the commissioner determines that the services are necessary

to prevent the likely loss of the jobs or that the services are being provided to employees at a facility which is being relocated from another state into New Jersey;

(3) An employer organization, labor organization or community-based or faith-based organization seeking the customized training services to provide training in labor demand occupations in a particular industry; or

(4) A consortium made up of one or more educational institutions and one or more eligible individual employers or labor, employer or community-based or faith-based organizations that seeks the customized training services to provide training in labor demand occupations in a particular industry.

c. Each applicant seeking funding for customized training services shall submit an application to the commissioner in a form and manner prescribed in regulations adopted by the commissioner. The application shall be accompanied by a business plan of each employer which will receive customized training services if the application is approved. The business plan shall include:

(1) A justification of the need for the services and funding from the office, including information sufficient to demonstrate to the satisfaction of the commissioner that the applicant will provide significantly less of the services if the requested funding is not provided by the office;

(2) A comprehensive long-term human resource development plan which:

(a) Extends significantly beyond the period of time in which the services are funded by the office;

(b) Significantly enhances the productivity and competitiveness of the employer operations located in the State and the employment security of workers employed by the employer in the State; and

(c) States the number of current or newly-hired workers who will be trained under the grant and the pay levels of jobs which will be created or retained for those workers as a result of the funding and the plan.

(3) Evidence, if the training sought is for an occupation which is not a labor demand occupation, that the customized training services are needed to prevent job loss caused by obsolete skills, technological change or national or global competition or that the services are being provided to employees at a facility which is being relocated from another state into New Jersey;

(4) Information demonstrating that most of the individuals receiving the services will be trained primarily for work in the direct production of goods or services;

(5) A commitment to provide the information needed by the commissioner to evaluate the success of the funding and the plan in creating and

retaining jobs, to assure compliance with the provisions of P.L.1992, c.43 (C.34:15D-1 et seq.); and

(6) Any other information or commitments which the commissioner deems appropriate to assure compliance with the provisions of P.L.1992, c.43 (C.34:15D-1 et seq.).

The commissioner may provide whatever assistance he deems appropriate in the preparation of the application and business plan, which may include labor market information, projections of occupational demand and information and advice on alternative training and education strategies.

d. Each employer that receives a grant for customized training services shall contribute a minimum of 50% of the total cost of the customized training services, except that the commissioner shall set a higher or lower minimum contribution by an employer, if warranted by the size and economic resources of the employer or other factors deemed appropriate by the commissioner, and except that, for individuals hired by the employer through a One Stop Career Center who receive classroom training under the grant and were recipients of benefits under the Work First New Jersey program at any time during the 12 months preceding the date of employment, the employer shall be eligible for reimbursement of up to 50% of wages paid to the individual during the classroom training in addition to reimbursement for tuition and other direct costs of the training as determined to be appropriate by the office, and provided, further, that no individual shall be hired or placed in a manner which results in a violation of the restrictions of subsection f. of section 4 of P.L.1992, c.43 (C.34:15D-4) against displacing current employees.

e. Each employer receiving a grant for customized training services shall hire or retain in permanent employment each worker who successfully completes the training and education provided under the customized training. The employer shall be entitled to select the qualified employed, disadvantaged or displaced workers who will participate in the customized training, except that if any collective bargaining unit represents a qualified employed worker, the selection shall be conducted in a manner acceptable to both the employer and the collective bargaining unit. The commissioner shall provide for the withholding, for a time period he deems appropriate, of whatever portion he deems appropriate of program funding as a final payment for customized training services, contingent upon the hiring and retention of a program completer as required pursuant to this section. If an employer receiving a grant for customized training services pursuant to this section relocates or outsources any or all of the jobs out of the State for which the customized training services were provided under the grant within three years following the end date of the customized contract, the employer shall, if all of the jobs are relocated or outsourced, return all of the

moneys provided to the employer by the State for customized training services, or, if only a portion of the jobs are relocated or outsourced, return a part of the moneys, deemed by the commissioner to be appropriate and proportional to the portion of the jobs relocated or outsourced, and the returned amount shall be deposited into the Workforce Development Partnership Fund.

f. The customized training services provided to an approved applicant may include any combination of employment and training services or any single employment and training service approved by the commissioner, including remedial education provided to upgrade workplace literacy. Each service may be provided by a separate approved service provider.

g. Customized training services shall include any remedial education determined necessary pursuant to section 7 of this act. Applications for customized training services shall include estimates of the total need for remedial education determined in a manner deemed appropriate by the commissioner.

h. Any business seeking customized training services shall, in the manner prescribed by the commissioner, participate in the development of a plan to provide the services. Any business seeking customized training services for workers represented by a collective bargaining unit shall notify the collective bargaining unit and permit it to participate in developing the plan. No customized training services shall be provided to a business employing workers represented by a collective bargaining unit without the written consent of both the business and the collective bargaining unit.

i. Any business receiving customized training services shall be responsible for providing workers' compensation coverage for any worker participating in the customized training.

j. The commissioner shall establish an annual goal that 15% or more of the jobs to be created or retained in connection with training supported by grants from the office shall be jobs provided to individuals who were recipients of benefits under the Work First New Jersey program at any time during the 12 months prior to being placed in the jobs. The means to attain the goal shall include coordinated efforts between the office and One Stop Career Centers to prepare recipients for employment and make them available to employers, but shall not include any policy which may penalize employers or discourage employers from using customized training service provided by the office.

12. Section 7 of P.L.1992, c.43 (C.34:15D-7) is amended to read as follows:

**C.34:15D-7 Counseling.**

7. Counseling shall be made available by the department to each qualified displaced worker or qualified disadvantaged worker applying to participate in the Workforce Development Partnership program and, in the case of a qualified disadvantaged worker who is a recipient of, or eligible for, benefits under the Work First New Jersey Program, to participate in the Workforce Development Partnership program or in any of those employment-directed workforce development programs or activities transferred to the Department of Labor and Workforce Development pursuant to section 2 of P.L.2004, c.39 (C.34:1A-1.3) which provide employment and training services as defined in section 3 of P.L.1992, c.43 (C.34:15D-3), including the services indicated in paragraphs (11) through (16) of subsection b. of section 2 of P.L.2004, c.39 (C.34:1A-1.3). Counseling may also be made available to a qualified employed worker who seeks remedial education or is selected to participate in a customized training program, if the worker's employer requests the counseling. The counseling shall be provided by a job counselor hired and employed by the State pursuant to Title 11A, Civil Service, of the New Jersey Statutes, or hired and employed by a political subdivision of the State, or be provided by a qualified job counselor hired and employed by a non-profit organization which began functioning as the One Stop Career Center operator with the written consent of the chief elected official and the commissioner prior to the effective date of P.L.2004, c.39 (C.34:1A-1.2 et al.), or hired and employed by an approved community-based or faith-based organization to provide counseling which the organization entered into an agreement to provide before the effective date of P.L.2004, c.39 (C.34:1A-1.2 et al.). In the case of a qualified disadvantaged worker who is a recipient of, or is eligible for, benefits under the Work First New Jersey Program, the counseling provided pursuant to this section shall be the counseling for the provision of employment and training services either under the Workforce Development Partnership program or under programs or activities transferred to the Department of Labor and Workforce Development pursuant to section 2 of P.L.2004, c.39 (C.34:1A-1.3), but the counseling provided pursuant to this section shall be provided in conjunction and in coordination with counseling provided in connection with any services, other than training and employment services, made available to the disadvantaged worker under programs or activities transferred to the Department of Labor and Workforce Development pursuant to section 2 of P.L.2004, c.39 (C.34:1A-1.3). The purpose of any counseling made available pursuant to this section is to assist each worker in obtaining the employment and training services most likely to enable the worker to obtain employment providing self-sufficiency for the worker and also to provide

the worker with the greatest opportunity for long-range career advancement with high levels of productivity and earning power. The counseling shall include:

a. Testing and assessment of the worker's job skills and aptitudes, including the worker's literacy skills and other basic skills. Basic skills testing and assessment shall be provided to the worker unless information is provided regarding the worker's educational background and occupational or professional experience which clearly demonstrates that the worker's basic skill level meets the standards established pursuant to section 14 of P.L.1989, c.293 (C.34:15C-11) or unless the worker is already participating in a remedial education program which meets those standards;

b. An evaluation by a qualified job counselor of what remedial education, if any, is determined to be necessary for the worker to advance in his current employment or occupation or to succeed in any particular vocational training which the worker would undertake under the program, provided that the remedial education shall be at a level not lower than that needed to meet the standards established pursuant to section 14 of P.L.1989, c.293 (C.34:15C-11);

c. The provision to the worker of information regarding any of the labor demand occupations for which training meets the requirements of section 4 of this act in the worker's case, including information about the wage levels in those occupations, and information regarding the effectiveness of approved service providers of vocational training in occupations which the worker is considering, including a consumer report card on service providers showing the long-term success of former trainees of each provider in obtaining permanent employment and increasing earnings over a period of not more than two years following the completion of training;

d. The timely provision of information to the worker regarding the services and benefits available to the worker, and all actions required of the worker to obtain the services and benefits, under the provisions of this act and P.L.1992, c.47 (C.43:21-57 et al.), and under the Work First New Jersey program in the case of a qualified disadvantaged worker receiving or eligible for benefits under that program; and the provision to the worker of a written statement of the worker's rights and responsibilities with respect to programs for which the worker is eligible, which includes a full disclosure to the worker of the worker's right to obtain the services most likely to enable the worker to obtain employment providing self-sufficiency and the workers' right not to be denied training services for any of the reasons indicated in subsection d. of section 6 of P.L.1992, c.43 (C.34:15D-6), including the worker's right not to be denied training services because the worker already has identifiable vocational skills, if those



existing skills are for employment with a level of earnings lower than the level of self-sufficiency; and

e. Discussion with the counselor of the results of the testing and evaluation and, based on those results, the development of a written Employability Development Plan identifying the training and employment services, including any needed remedial education, to be provided to the worker pursuant to this act. In the case of a qualified disadvantaged worker, the Employability Development Plan will be, to the greatest extent possible while remaining in compliance with any applicable federal requirements, coordinated and made consistent with any individual responsibility plan developed for the worker under the Work First New Jersey program. In the case of a qualified disadvantaged worker who is or was receiving, or who is eligible for but not receiving, benefits under the Work First New Jersey program, and who does not have a marketable bachelor's degree, the counselor may approve, as part of the workers' Employability Development Plan, the replacement of Work First New Jersey program benefits by Supplemental Workforce Development Benefits paid to the disadvantaged worker for full-time educational activity without, or with insufficient, other work activity from available resources for employment-directed and workforce development programs and activities transferred from the Department of Human Services pursuant to section 2 of P.L.2004, c.39 (C.34:1A-1.3) or from the account of the Workforce Development Partnership Fund reserved for qualified disadvantaged workers pursuant to subsection b. of section 9 of P.L.1992, c.43 (C.34:15D-9), for any period of time for which the counselor determines that:

(1) Full-time remedial education to obtain a high school diploma or G.E.D. or full-time post secondary education in a two-year or four-year degree-granting educational program with a course of study related to work, even if the duration of the full-time education is longer than two years, is the training and employment service that is most likely to enable the worker to obtain employment providing self-sufficiency;

(2) The worker has responsibility during that period of time for the care of dependent children or other family members unable to care for themselves the magnitude of which, if added to the full-time educational activities indicated in paragraph (1) of this subsection, make it likely that any additional work activity will jeopardize the success of the educational activity; and

(3) Providing Work First New Jersey program benefits to the worker during that period of time for the full-time educational activity without, or with insufficient, work activities would result in a loss of benefits for the worker pursuant to section 9 of P.L.1997, c.38 (C.44:10-63) or would be counted toward the maximum limit of 60 cumulative months of Work First

New Jersey program benefits provided to the worker pursuant to section 2 of P.L.1997, c.37 (C.44:10-72).

With respect to the use of the funds deposited during any fiscal year in the account of the Workforce Development Partnership Fund reserved for qualified disadvantaged workers pursuant to subsection b. of section 9 of P.L.1992, c.43 (C.34:15D-9), first priority shall be given for the payment of Supplemental Workforce Development Benefits pursuant to this subsection. Not more than 1,500 qualified disadvantaged workers shall receive Supplemental Workforce Development Benefits pursuant to this subsection at any one time. With respect to using available resources for employment-directed and workforce development programs and activities transferred from the Department of Human Services pursuant to section 2 of P.L.2004, c.39 (C.34:1A-1.3) for Supplemental Workforce Development Benefits, no federal funds which are part of those resources may be used for Supplemental Workforce Development Benefits which result in the imposition of conditions of participation other than those established by this subsection. If federal funds are used for childcare costs of a participant, the Department of Human Services may transfer the funds to the Child Care and Development Block Grant, as permitted by law and as needed to permit the use of the federal funds while preventing any loss of benefits to the participant and preventing the childcare time from being counted toward the participant's maximum limit of 60 cumulative months of Work First New Jersey program benefits. The counselor shall assist in facilitating the use, to the maximum extent possible, of Pell grants or other available educational grants to pay for tuition and other educational costs of a recipient of Supplemental Workforce Development Benefits provided pursuant to this section. The requirements for receiving Supplemental Workforce Development Benefits may include work-site experience which will enhance the participant's employability in the participant's field, provided that the required sum of class hours for a full-time class schedule, hours of study time at not less than one and one half times class time, and hours of work-site experience, shall not exceed 40 hours per week and that the commissioner shall adopt regulations for reasonable adjustments in participation requirements for good cause, including verifiable needs related to physical or mental health problems, illness, accident or death or serious personal or family problems that necessitate reduced participation, provided further that no individual shall receive Supplemental Workforce Development Benefits for a period of more than five years. The commissioner shall adopt regulations setting standards for satisfactory academic progress for continued participation. Participation may not be denied for any of the reasons which subsection d. of section 6 of P.L.1992, c.43 (C.34:15D-6) prohibits from being used to deny training grants. For the purposes of this

section, "Work First New Jersey benefits" means benefits for which a worker and the worker's family would be eligible if the worker was participating in the Work First New Jersey program or any successor program to the Work First New Jersey program.

Counseling made available at the request of an employer participating in a customized training program may include only those components requested by the employer.

All information regarding a worker applicant or trainee which is obtained or compiled in connection with the testing, assessment and evaluation and which may be identified with the worker shall be confidential and shall be released to an entity other than the worker, the counselor or the department only if the worker provides written permission to the department for the release of the information or the information is used solely for program evaluation.

13. This act shall take effect immediately.

Approved June 23, 2004.

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## CHAPTER 40

AN ACT providing for increased property tax relief for individual homestead owners in this State through the homestead rebate program and imposing an adjustment in the rate of gross income tax for taxpayers with taxable incomes in excess of \$500,000, amending P.L.1990, c.61, P.L.1999, c.63, P.L.1981, c.239 and N.J.S.54A:2-1, supplementing Title 54A of the New Jersey Statutes and repealing section 4 of P.L.1999, c.63 (C.54:4-8.58b).

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

1. Section 1 of P.L.1990, c.61 (C.54:4-8.57) is amended to read as follows:

**C.54:4-8.57 Short title.**

1. Sections 1 through 10 of P.L.1990, c.61 (C.54:4-8.57 through 54:4-8.66) and sections 3, 14 through 16, 18 and 19 of P.L.1999, c.63 (C.54:4-8.58a and C.54:4-8.66a through C.54:4-8.66e) shall be known and may be cited as the "2004 Homestead Property Tax Rebate Act".

2. Section 2 of P.L.1990, c.61 (C.54:4-8.58) is amended to read as follows:

**C.54:4-8.58 Definitions relative to homestead rebates.**

2. As used in sections 2 through 10 of P.L.1990, c.61 (C.54:4-8.58 through 54:4-8.66) and sections 3 and 14 through 16 of P.L.1999, c.63 (C.54:4-8.58a and 54:4-8.66a through C.54:4-8.66c):

"Annualized rent" means, for tax years 2004 and thereafter, the rent paid by the claimant during the tax year for which the homestead rebate is being claimed, and if paid for a lease term covering less than the full tax year, the actual rent paid for the days during the term of the lease of the homestead proportionalized as if the term of the lease had been for 365 days of the tax year;

"Arm's-length transaction" means a transaction in which the parties are dealing from equal bargaining positions, neither party is subject to the other's control or dominant influence, and the transaction is entirely legal in all respects and is treated with fairness and integrity;

"Condominium" means the form of real property ownership provided for under the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.);

"Continuing care retirement community" means a residential facility primarily for retired persons where lodging and nursing, medical or other health related services at the same or another location are provided as continuing care to an individual pursuant to an agreement effective for the life of the individual or for a period greater than one year, including mutually terminable contracts, and in consideration of the payment of an entrance fee with or without other periodic charges;

"Cooperative" means a housing corporation or association which entitles the holder of a share or membership interest thereof to possess and occupy for dwelling purposes a house, apartment, manufactured or mobile home or other unit of housing owned or leased by the corporation or association, or to lease or purchase a unit of housing constructed or to be constructed by the corporation or association;

"Director" means the Director of the Division of Taxation in the Department of the Treasury;

"Dwelling house" means any residential property assessed as real property which consists of not more than four units, of which not more than one may be used for commercial purposes, but shall not include a unit in a condominium, cooperative, horizontal property regime or mutual housing corporation;

"Homestead" means:

a. (1) a dwelling house and the land on which that dwelling house is located which constitutes the place of the claimant's domicile and is owned and used by the claimant as the claimant's principal residence;

(2) a dwelling house situated on land owned by a person other than the claimant which constitutes the place of the claimant's domicile and is owned and used by the claimant as the claimant's principal residence;

(3) a condominium unit or a unit in a horizontal property regime which constitutes the place of the claimant's domicile and is owned and used by the claimant as the claimant's principal residence;

(4) for purposes of this definition as provided in this subsection, in addition to the generally accepted meaning of owned or ownership, a homestead shall be deemed to be owned by a person if that person is a tenant for life or a tenant under a lease for 99 years or more and is entitled to and actually takes possession of the homestead under an executory contract for the sale thereof or under an agreement with a lending institution which holds title as security for a loan, or is a resident of a continuing care retirement community pursuant to a contract for continuing care for the life of that person which requires the resident to bear a share of the property taxes that are assessed upon the continuing care retirement community, if a share is attributable to the unit that the resident occupies;

b. a unit in a cooperative or mutual housing corporation which constitutes the place of domicile of a residential shareholder or lessee therein, or of a lessee, or shareholder who is not a residential shareholder therein, and which is used by the claimant as the claimant's principal residence; and

c. a unit of residential rental property which unit constitutes the place of the claimant's domicile and is used by the claimant as the claimant's principal residence;

"Horizontal property regime" means the form of real property ownership provided for under the "Horizontal Property Act," P.L.1963, c.168 (C.46:8A-1 et seq.);

"Gross income" means all New Jersey gross income required to be reported pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., other than income excludable from the gross income tax return, but before reduction thereof by any applicable exemptions, deductions and credits, received during the taxable year by the owner or residential shareholder in, or lessee of, a homestead;

"Manufactured home" or "mobile home" means a unit of housing which:

(1) Consists of one or more transportable sections which are substantially constructed off site and, if more than one section, are joined together on site;

- (2) Is built on a permanent chassis;
- (3) Is designed to be used, when connected to utilities, as a dwelling on a permanent or nonpermanent foundation; and
- (4) Is manufactured in accordance with the standards promulgated for a manufactured home by the Secretary of the United States Department of Housing and Urban Development pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974," Pub.L.93-383 (42 U.S.C. s.5401 et seq.) and the standards promulgated for a manufactured or mobile home by the commissioner pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.);

"Mobile home park" means a parcel of land, or two or more parcels of land, containing no fewer than 10 sites equipped for the installation of manufactured or mobile homes, where these sites are under common ownership and control for the purpose of leasing each site to the owner of a manufactured or mobile home for the installation thereof, and where the owner or owners provide services, which are provided by the municipality in which the park is located for property owners outside the park, which services may include but shall not be limited to:

- (1) The construction and maintenance of streets;
- (2) Lighting of streets and other common areas;
- (3) Garbage removal;
- (4) Snow removal; and
- (5) Provisions for the drainage of surface water from home sites and common areas;

"Mutual housing corporation" means a corporation not-for-profit, incorporated under the laws of this State on a mutual or cooperative basis within the scope of section 607 of the Lanham Act (National Defense Housing), Pub.L.849, 76th Congress (42 U.S.C. s.1521 et seq.), as amended, which acquired a National Defense Housing Project pursuant to that act;

"Principal residence" means a homestead actually and continually occupied by a claimant as the claimant's permanent residence, as distinguished from a vacation home, property owned and rented or offered for rent by the claimant, and other secondary real property holdings;

"Property tax" means payments to a municipality based upon an assessment made by the municipality upon real property on an ad valorem basis on land and improvements, but shall not include payments made in lieu of taxes;

"Rent" means the amount due in an arm's-length transaction solely for the right of occupancy of a homestead that is a unit of residential rental property. Rent shall not include any amount paid under the federal Housing Choice Voucher (Section 8) Program. If the director finds that the parties

in a rental transaction have not dealt with each other in an arm's-length transaction and that the rent due was excessive, the director may, for purposes of the homestead rebate claim, adjust the rent claimed in the homestead rebate application to a reasonable amount of rent;

"Rent constituting property taxes" means 18% of the rent paid by the homestead rebate claimant during the tax year on a unit of residential rental property which constitutes the claimant's homestead, and in the case of a manufactured home or mobile home in a mobile home park which constitutes the claimant's homestead means 18% of the site fee paid by the claimant during the tax year to the owner of the mobile home park. Provided however, that for tax year 2004 and for each tax year thereafter, rent constituting property taxes shall equal 18% of annualized rent, and in the case of a manufactured home or mobile home in a mobile home park rent constituting property taxes shall equal 18% of a similarly annualized site fee;

"Resident" means an individual:

a. who is domiciled in this State, unless he maintains no permanent place of abode in this State, maintains a permanent place of abode elsewhere, and spends in the aggregate no more than 30 days of the tax year in this State; or

b. who is not domiciled in this State but maintains a permanent place of abode in this State and spends in the aggregate more than 183 days of the tax year in this State, unless the individual is in the Armed Forces of the United States;

"Residential rental property" means:

a. any building or structure or complex of buildings or structures in which dwelling units are rented or leased or offered for rental or lease for residential purposes;

b. a rooming house, hotel or motel, if the rooms constituting the homestead are equipped with kitchen and bathroom facilities;

c. any building or structure or complex of buildings or structures constructed under the following sections of the National Housing Act (Pub. L. 73-479) as amended and supplemented: section 202, Housing Act of 1959 (Pub. L. 86-372) and as subsequently amended, section 231, Housing Act of 1959; and

d. a site in a mobile home park equipped for the installation of manufactured or mobile homes, where these sites are under common ownership and control for the purpose of leasing each site to the owner of a manufactured or mobile home for the installation thereof;

"Residential shareholder in a cooperative or mutual housing corporation" means a tenant or holder of a membership interest in that cooperative or corporation, whose residential unit therein constitutes the tenant or

holder's domicile and principal residence, and who may deduct real property taxes for purposes of federal income tax pursuant to section 216 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.216; and

"Tax year" means the calendar year in which property taxes are due and payable.

3. Section 3 of P.L.1999, c.63 (C.54:4-8.58a) is amended to read as follows:

**C.54:4-8.58a Homestead rebate, determination in tax year 2003 and thereafter.**

3. a. For tax year 2003, the director shall determine the amount of the homestead rebate that shall be paid to each claimant pursuant to P.L.1990, c.61 (C.54:4-8.57 et seq.), and P.L.1999, c.63 (C.54:4-8.58a et al.), as amended by P.L.2004, c.40, based upon the information provided by the individual applicant in the application for either a NJ SAVER rebate or for a homestead rebate, or from any other information as may be available to the director in order that each individual applicant shall be paid the homestead rebate that may be allowed to the claimant pursuant to sections 3 through 5 of P.L.1990, c.61 (C.54:4-8.59 through 54:4-8.61), as the director determines is appropriate.

b. (1) For tax year 2003, a resident of this State who has paid property taxes for the tax year on a homestead that is owned as such, who has filed an application for an NJ SAVER rebate pursuant to the provisions of P.L.1999, c.63 (C.54:4-8.58a et al.), or pursuant to that act as amended and supplemented by P.L.2004, c.40, and who meets the prerequisites for an NJ SAVER rebate at 12:01 A.M. on October 1, 2003 for that tax year, shall be considered to have applied for a homestead rebate and shall be allowed a homestead rebate instead of an NJ SAVER rebate for that tax year pursuant to P.L.1990, c.61 (C.54:4-8.57 et seq.), and P.L.1999, c.63 (C.54:4-8.58a et al.), as amended by P.L.2004, c.40. An application for an NJ SAVER rebate shall be allowed as a homestead rebate for a homestead the title to which is held by a partnership, to the extent of the applicant's interest as a partner therein, and by a guardian, trustee, committee, conservator or other fiduciary for any individual who would otherwise be eligible for an NJ SAVER rebate. An application for an NJ SAVER rebate shall not be allowed for a homestead, the title to which is held partially or entirely by a corporate entity of any type, except as otherwise specifically allowed for applications from residents of properties owned by continuing care retirement community, cooperative or mutual housing corporations.

(2) For tax year 2004 and for tax years thereafter, any rebates applied for and paid pursuant to P.L.1990, c.61 (C.54:4-8.57 et seq.), and P.L.1999,



c.63 (C.54:4-8.58a et al.), as amended and supplemented by P.L.2004, c.40, shall be homestead rebates.

4. Section 3 of P.L.1990, c.61 (C.54:4-8.59) is amended to read as follows:

**C.54:4-8.59 Homestead rebate, amount; eligibility, conditions.**

3. a. A resident of this State shall be allowed a homestead rebate for the tax year equal to the amount by which property taxes paid by the claimant in that tax year on the claimant's homestead exceed 5% of the claimant's gross income, rounded to the nearest whole dollar, but within the appropriate range, but not more than the amount of property taxes actually paid. As used in this section,

Range 1 equals \$1,200 to \$1,000 for tax year 2003, and shall be subject to the cost-of-living adjustment for each tax year thereafter as provided in subsection h. of this section;

Range 2 equals \$800 to \$600 for tax year 2003, and shall be subject to the cost-of-living adjustment for each tax year thereafter as provided in subsection h. of this section; and

Range 3 equals \$500 for tax year 2003, and shall be subject to the cost-of-living adjustment for each tax year thereafter as provided in subsection h. of this section.

b. (1) For a resident who is 65 years of age or older at the close of the tax year, or who is allowed to claim a personal deduction as a blind or disabled taxpayer pursuant to subsection b. of N.J.S.54A:3-1:

| With Tax Year Gross Income:              | Range: |
|------------------------------------------|--------|
| not over \$70,000                        | (1)    |
| over \$70,000 but<br>not over \$125,000  | (2)    |
| over \$125,000 but<br>not over \$200,000 | (3)    |

(2) For a resident homeowner of this State who is not 65 years of age or older at the close of the tax year, and who is not allowed to claim a personal deduction as a blind or disabled taxpayer pursuant to subsection b. of N.J.S.54A:3-1

| With Tax Year Gross Income:              | Range: |
|------------------------------------------|--------|
| not over \$125,000                       | (2)    |
| over \$125,000 but<br>not over \$200,000 | (3)    |

(3) (a) A homestead rebate shall be allowed for tax year 2003 pursuant to this section in relation to the amount of the property taxes actually paid

by or allocable to a resident property taxpayer who is a claimant on more than one homestead, but the aggregate amount of the property taxes claimed shall not exceed the total of the proportionate amounts of property taxes assessed and levied against or allocable to each homestead for the portion of the tax year the claimant occupied it as the claimant's principal residence.

(b) Notwithstanding any provision of this act to the contrary, a homestead rebate shall be allowed for tax year 2004 and thereafter pursuant to this section in relation to the amount of the property taxes actually paid during the tax year for the homestead owned and occupied as such at 12:01 a.m. on October 1 of the tax year, whether paid for the entire tax year by the claimant or by any pre-October 1 owner or owners of that homestead during that tax year.

c. (1) If title to a homestead is held by more than one individual as joint tenants or tenants in common, each individual shall be allowed a homestead rebate pursuant to this section only in relation to the individual's proportionate share of the property taxes assessed and levied against the homestead. The individual's proportionate share of the property taxes on that homestead shall be equal to the share of that individual's interest in the title. Title shall be presumed to be held in equal shares among all co-owners, but if the claimant satisfactorily demonstrates to the director that the title provides for unequal interests, either under the conveyance under which the title is held, or as otherwise may be demonstrated, that claimant's share of the property taxes paid on that homestead shall be in proportion to the claimant's interest in the title.

(2) Eligible claimants shall include individuals within any of the filing categories set forth in N.J.S.54A:2-1 and any individual or individuals not required to file a gross income tax return because their gross income was below the minimum taxable income threshold established in N.J.S.54A:2-4 and N.J.S.54A:8-3.1. In the case of a married individual filing a separate New Jersey gross income tax return, if the spouse of the claimant maintains the same homestead as the claimant and also files a separate gross income tax return in this State the homestead rebate claimed under this subsection shall be equal to one-half of the amount of the homestead rebate allowable had the spouses filed a joint return and homestead rebate application.

(3) An application for a homestead rebate shall be allowed for a homestead the title to which is held by a partnership, to the extent of the applicant's interest as a partner therein, and by a guardian, trustee, committee, conservator or other fiduciary for any individual who would otherwise be eligible for a rebate. An application for a homestead rebate shall not be allowed for a homestead, the title to which is held partially or entirely by a corporate entity of any type, except as otherwise specifically allowed for an

application from a resident of a property owned by a continuing care retirement community, or a cooperative or mutual housing corporation.

d. If the homestead of a claimant is a residential property consisting of more than one unit, that claimant shall be allowed a homestead rebate pursuant to this section only in relation to the proportionate share of the property taxes assessed and levied against the residential unit occupied by that claimant, as determined by the local tax assessor.

e. Nothing in this section shall preclude a co-owner, who is other than a husband or wife claiming a homestead rebate on the same homestead, from receiving a homestead rebate determined pursuant to this section if another co-owner claims a homestead rebate pursuant to this section, provided however, that each claim for a homestead rebate determined pursuant to this section shall be separately subject to the provisions of subsections c. and d. of this section.

f. (Deleted by amendment, P.L.2004, c.40.)

g. (Deleted by amendment, P.L.2004, c.40.)

h. (1) For the 2005 tax year and each tax year thereafter, the director shall annually recompute the minimum and maximum homestead rebate ranges set forth in subsection a. of this section by multiplying the homestead rebate ranges allowed in the prior tax year by the cost-of-living adjustment, and recomputing the new homestead rebate ranges for the current tax year. The director shall round the recomputed homestead rebate ranges to the next highest multiple of \$5.

(2) "Cost-of-living adjustment" for any tax year means the factor calculated by dividing the consumer price index for all urban consumers for the nation, as prepared by the United States Department of Labor as of the close of the 12-month period ending on August 31 of the tax year, by that index as of the close of the 12-month period ending on August 31 of the calendar year preceding the tax year in which the recomputation of the homestead rebate ranges is made.

5. Section 4 of P.L.1990, c.61 (C.54:4-8.60) is amended to read as follows:

**C.54:4-8.60 Rebates for residential rental property units, amount; eligibility, conditions.**

4. a. A resident of this State who is 65 years of age or older at the close of the tax year, or who is allowed to claim a personal deduction as a blind or disabled taxpayer pursuant to subsection b. of N.J.S.54A:3-1, whose homestead is a unit of residential rental property shall be allowed a homestead rebate for the tax year equal to the sum of the following two amounts: the amount by which the claimant's rent constituting property taxes in that tax year exceeds 5% of the claimant's gross income, rounded

to the nearest whole dollar, plus the amount of \$50. For the tax year 2003 the homestead rebate shall be not more than \$825 or less than \$150, which maximum homestead rebate shall be subject to the cost-of-living adjustment for each tax year thereafter as provided in subsection g. of this section. Provided further, that for each tax year the following gross income limits apply:

(1) in the case of a married couple filing a joint New Jersey gross income tax return or an individual filing a return who determines gross income tax pursuant to subsection a. of N.J.S.54A:2-1, gross income does not exceed \$70,000 for that year, or such individual or individuals not required to file a gross income tax return because their gross income was below the minimum taxable income threshold established in N.J.S.54A:2-4 and N.J.S.54A:8-3.1;

(2) in the case of an unmarried individual who determines gross income tax pursuant to subsection b. of N.J.S.54A:2-1, gross income does not exceed \$35,000 for that year, or such individual not required to file a gross income tax return because their gross income was below the minimum taxable income threshold established in N.J.S.54A:2-4 and N.J.S.54A:8-3.1;

(3) in the case of a married individual filing a separate New Jersey gross income tax return, if the spouse of the claimant maintains the same homestead as the claimant and also files a separate gross income tax return in this State, the combined gross income of both spouses does not exceed \$70,000 for that year, or such individual or individuals not required to file a gross income tax return because their gross income was below the minimum taxable income threshold established in N.J.S.54A:2-4 and N.J.S.54A:8-3.1, but in no event shall the homestead rebate claimed under this subsection exceed one-half of the amount of the homestead rebate allowable had the spouses filed a joint return and homestead rebate application; and

(4) in the case of a married individual filing a separate gross income tax return and maintaining a homestead apart from that individual's spouse, gross income does not exceed \$35,000 for that year, or such individual not required to file a gross income tax return because their gross income was below the minimum taxable income threshold established in N.J.S.54A:2-4 and N.J.S.54A:8-3.1.

b. If more than one resident, other than a husband and wife, qualify for a homestead rebate by reason of their having occupied the same unit of residential rental property as their homestead, it shall be presumed that each claimant shall be allowed a homestead rebate pursuant to this section only in relation to the individual's proportionate share of the total rent constituting property taxes paid by that claimant which homestead rebate shall be in proportion to the percentage that the total rent paid by that claimant bears to

the total rent paid by all tenants of the same unit. For the purposes of a homestead rebate claimed by an individual subject to this subsection, the names and social security numbers of each co-tenant shall be reported by the claimant and the total rent paid shall be presumed to be paid in equal parts among all co-tenants.

c. If a claimant for a tax year 2003 homestead rebate pursuant to this section has no other homestead in this State other than a unit of residential rental property, and that claimant was not a resident of this State for the full tax year, but paid rent for the full tax year for one or more units of residential rental property in this State, the claimant's total homestead rebate otherwise calculated pursuant to this section shall be prorated in the proportion which the number of days the claimant occupied residential rental property in this State as a homestead during the tax year bears to 365 days. A claimant for a homestead rebate pursuant to this section for tax year 2004 and any tax year thereafter shall meet all the prerequisites for the homestead occupied as such at 12:01 a.m. on October 1 of the tax year.

d. Nothing in this section shall preclude a co-tenant, other than a husband or wife claiming a homestead rebate on the same homestead, from receiving a homestead rebate determined pursuant to this section if another co-tenant claims a rebate pursuant to this section, provided however, that each such claim shall be separately subject to the provisions of subsections b. and c. of this section.

e. (Deleted by amendment, P.L.2004, c.40.)

f. Notwithstanding any provisions of subsection a. of this section to the contrary,

(1) A resident of this State whose homestead is a unit of residential rental property,

(a) who is 65 years of age or older at the close of the tax year, or who is allowed to claim a personal deduction as a blind or disabled taxpayer pursuant to subsection b. of N.J.S.54A:3-1, who has gross income for the tax year in excess of the gross income limits in subsection a. but not in excess of \$100,000 for that year; or

(b) who is not 65 years of age or older at the close of the tax year, or who is not allowed to claim a personal deduction as a blind or disabled taxpayer pursuant to subsection b. of N.J.S.54A:3-1, who has gross income for the tax year, who has gross income not in excess of \$100,000 for that year,

shall be allowed a homestead rebate pursuant to this subsection of \$150 for property taxes paid through rent during the 2003 tax year and for any tax year thereafter, provided however, that the homestead rebate allowed pursuant to this subsection shall be subject to the limitations and reductions

as may apply pursuant to the provisions of subsections b., c. and d. of this section.

(2) The gross income limit imposed in paragraph (1) of this subsection for a claim for a homestead rebate made pursuant to this subsection that is based upon a homestead maintained by both spouses shall be based upon the combined gross income of both spouses if the claimants filed a joint New Jersey gross income tax return for the tax year. If a claim by a married individual for a homestead rebate made pursuant to this subsection is based upon a homestead maintained by both spouses who each file separate New Jersey gross income tax returns for the tax year, no homestead rebate for the tax year shall be paid to either spouse if their combined gross income exceeds the gross income limit imposed in paragraph (1) of this subsection.

For such a claim, if the combined gross income of both spouses does not exceed the gross income limit imposed in paragraph (1) of this subsection, then each such spouse making a claim shall be allowed a homestead rebate amount equal to one-half of the homestead rebate amount otherwise allowed pursuant to this subsection.

g. (1) For the 2005 tax year and each tax year thereafter, the director shall annually recompute the maximum homestead rebate set forth in subsection a. of this section by multiplying the maximum homestead rebate allowed in the prior tax year by the cost-of-living adjustment, and recomputing the new maximum homestead rebate for the current tax year. The director shall round the recomputed maximum homestead rebate amount to the next highest multiple of \$5.

(2) "Cost-of-living adjustment" for any tax year means the factor calculated by dividing the consumer price index for all urban consumers for the nation, as prepared by the United States Department of Labor as of the close of the 12-month period ending on August 31 of the tax year, by that index as of the close of the 12-month period ending on August 31 of the calendar year preceding the tax year in which the recomputation of the maximum homestead rebate is made.

6. Section 5 of P.L.1990, c.61 (C.54:4-8.61) is amended to read as follows:

**C.54:4-8.61 Rebates for property taxes and rent; proportionate application.**

5. a. For tax year 2003, the director shall determine the amount of the homestead rebate that shall be paid to an applicant who was a resident of this State for the full tax year and whose homestead has been other than a unit of residential rental property for a part of the tax year and has been a unit of residential rental property for the remainder of that year, based upon a proportionate application of the provisions of both section 3 of P.L.1990,

c.61 (C.54:4-8.59) and section 4 of P.L.1990, c.61 (C.54:4-8.60) as may apply for each part of the tax year, and based upon the information provided by the individual applicant in the applicant's application or from any other information as may be available to the director.

b. For tax year 2003, the director shall determine the amount of the homestead rebate that shall be paid to an applicant who was a resident of this State for less than the full tax year, and whose homestead has been other than a unit of residential rental property for a part of the tax year and has been a unit of residential rental property for the remainder of that year, based upon a proportionate application of the provisions of both section 3 of P.L.1990, c.61 (C.54:4-8.59) and section 4 of P.L.1990, c.61 (C.54:4-8.60) as may apply for each part of the tax year, and based upon the information provided by the individual applicant in the applicant's application or from any other information as may be available to the director.

c. (Deleted by amendment, P.L.2004, c.40.)

d. (Deleted by amendment, P.L.2004, c.40.)

7. Section 6 of P.L.1990, c.61 (C.54:4-8.62) is amended to read as follows:

**C.54:4-8.62 Rebate applications.**

6. a. No homestead rebate shall be allowed pursuant to this act except upon annual application therefor, in any manner, upon any form, and in any format, whether in writing or otherwise, as shall be prescribed by the director. The director may require a claimant for a homestead rebate to attach to the homestead rebate application a copy of the appropriate property tax bill or proof of rent paid for the prior tax year. The director may require such other verification of eligibility for a homestead rebate as the director may deem necessary. The director may require that the application for a homestead rebate for a unit of residential rental property authorized pursuant to section 4 of P.L.1990, c.61 (C.54:4-8.60) shall be submitted (1) as part of the claimant's gross income tax return filed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or, (2) on any other form, in any manner or format and at any time and prior to any date as the director shall prescribe if (a) the claimant is not required to file a gross income tax return or (b) the claimant has filed an application for extension of time to file the claimant's gross income tax return. The director may require that the application for a homestead rebate authorized pursuant to section 3 of P.L.1990, c.61 (C.54:4-8.59) shall be submitted (1) as part of the applicant's gross income tax return filed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., or (2) on any other form, in any other format and at any time and prior to any date as the director shall prescribe. The

director shall, for good cause shown, extend the time of any applicant to file a claim for a homestead rebate for a reasonable period, and in such case, the application shall be processed and payment of a homestead rebate made in accordance with the procedures established in the case of applications timely filed, except the date for payment of the rebate may be delayed for a reasonable period. If an applicant or an applicant's spouse has filed an application for an extension of time to file a gross income tax return, the date by which the applicant shall file the homestead rebate application may, in the discretion of the director, be extended for a reasonable period, and the date for the payment of the rebate may be delayed for a reasonable period. The director may require sworn applications. In the event that the director waives the requirement of sworn applications, all declarations by claimants shall be considered as if made under oath and claimants, as to false declarations, shall be subject to the penalties as provided by law for perjury.

For the purposes of this subsection, in order to establish good cause to extend the time of any applicant to file a claim for a homestead rebate the applicant shall provide to the director either medical evidence, such as a doctor's certification, that the claimant was unable to file the claim by the date prescribed by the director because of illness or hospitalization, or evidence that the applicant attempted to file a timely application. Except as may be established by medical evidence of inability to file a claim, good cause shall not be established due to a claimant not having received an application from the director.

b. Upon approval of homestead rebate applications by the director, the director shall prepare lists of individuals entitled to a rebate, together with the respective amounts due each claimant and shall forward such lists to the State Treasurer, the Director of the Division of Budget and Accounting and any other officials as the director deems appropriate on or before the earliest of such date or dates as may be convenient for the director to compile such lists. The director may inspect all records in the offices of the tax collector and tax assessor of a municipality with respect to applications, claims and allowances for homestead rebates.

c. If a homestead rebate application contains a claim for a rebate that is incorrectly determined by the claimant or is based upon incorrect or insufficient information from which the director is to approve the claim, the director may determine the eligibility of the claimant for a homestead rebate and the correct amount of a homestead rebate to be paid to that claimant from such other information as may be available to the director. In addition, the director may adjust the amount of any homestead rebate to which a claimant may be entitled by any part of the amount of any previous homestead rebate erroneously claimed by and paid to that claimant.



d. In the case of a claimant for a homestead rebate whose homestead is a unit in a cooperative, mutual housing corporation or continuing care retirement community, the director may provide that the application shall include the name and address of the location of the property and the amount of real property taxes attributed to the cooperative, mutual housing residential unit or continuing care retirement community residential unit, as shall be indicated in an official notice which shall be furnished by the cooperative, mutual housing corporation or continuing care retirement community for the same year.

e. A homestead rebate shall be allowed pursuant to this act for a claimant whose ownership of an interest in a homestead is satisfied by the holding of the beneficial interest if legal title thereto or share therein is held by another for the benefit of the claimant.

f. All provisions of this section shall apply to NJ SAVER rebate applications filed for and paid as homestead rebates for tax year 2003.

g. The director may, in writing, require the owner of residential rental property upon which property tax is not assessed, and the owner's agents and representatives, to provide the names of residents and tenants on the residential rental property and such other information, in such form, as the director deems reasonable to ensure that no claimant claiming a unit of that residential rental property as a homestead under this act receives a homestead rebate for which the claimant is not eligible. Any individual or entity failing to provide the required information within 60 days of the written request of the director shall be liable, in the discretion of the director, to a penalty of up to \$500 for each month that the required information is not provided, unless it is shown that such failure is due to reasonable cause and not to willful neglect.

8. Section 7 of P.L.1990, c.61 (C.54:4-8.63) is amended to read as follows:

**C.54:4-8.63 Rebates, distribution.**

7. The State Treasurer annually on or before October 31, upon certification of the director and upon warrant of the State Comptroller, shall pay and distribute the amount of a homestead rebate payable under this act that is claimed for the prior tax year to each claimant whose rebate is approved by the director.

9. Section 8 of P.L.1990, c.61 (C.54:4-8.64) is amended to read as follows:

**C.54:4-8.64 Property tax delinquency; withholding of rebates.**

8. a. The tax collector of each municipality shall, on or before May 15 of each year, furnish the director with a list of property taxpayers in the district delinquent for taxes due and payable for the year immediately preceding and the amounts of such delinquencies. The collector shall report on such list the name, lot and block number on the property tax duplicate as may be applicable, and the address of each owner to whom a delinquency is attributable together with the amount of such delinquency so identified. No homestead rebate payment under this act shall be made to a property owner while that property owner's delinquency remains, provided however that for the purposes of this act, for an assessment on a property which is on appeal and for which the statutory percentage of the tax as provided in R.S.54:3-27 has been paid, the taxes assessed on that property shall not be regarded as delinquent.

b. If the director receives the list as provided for in subsection a. of this section, and the director determines that a property tax delinquency remains for the preceding tax year on May 15, the director shall ascertain the amount of the homestead rebate required to be withheld because of such delinquency in each municipality in the State, and shall certify such amounts to the State Treasurer as soon thereafter as may be practicable.

c. On or before November 15, the director shall notify each homestead rebate claimant whose rebate has been withheld because of delinquency that the amount of the rebate to which the claimant otherwise would have been entitled has been sent to the tax collector in the municipality to be credited against the claimant's delinquency.

d. Upon certification by the director as to the amount of homestead rebates required to be withheld because of delinquency in the several municipalities, the State Treasurer upon the warrant of the State Comptroller, shall pay such amount on or before October 30 to the tax collector in each municipality.

e. The tax collector in each municipality shall credit the tax delinquency of each property taxpayer who appears on the delinquency list set forth in subsection a. of this section in the amount that otherwise would have been returned to the property taxpayer as a homestead rebate. In the event that the amount so credited exceeds the amount of delinquency, the tax collector may return the difference to the taxpayer or credit such amount to the subsequent property tax bill.

f. In the case of delinquency in the payment of property taxes by a cooperative, mutual housing corporation or continuing care retirement community, a homestead rebate that may be due an individual resident shall be paid by the State Treasurer to the tax collector of the municipality. The

tax collector shall credit the cooperative, mutual housing corporation or continuing care retirement community with such payment and the cooperative, mutual housing corporation or continuing care retirement community shall, in turn, credit the individual unit owner to the extent of the rebate and notify the applicant of the amount to be credited.

g. If a tax collector fails to comply with the provisions of subsection a. of this section requiring the tax collector to furnish the director with a list, on or before May 15 of each year, of property taxpayers in the district delinquent for taxes due and payable for the year immediately preceding and the amounts of such delinquencies, the director shall pay the homestead rebate directly to the delinquent applicant rather than to the tax collector of the municipality as set forth in subsection d. of this section.

h. All provisions of this section shall apply to NJ SAVER rebate applications filed for and paid as homestead rebates for tax year 2003.

10. Section 9 of P.L.1990, c.61 (C.54:4-8.65) is amended to read as follows:

**C.54:4-8.65 Rebates not subject to legal process; exceptions.**

9. The homestead rebates authorized under this act shall not be subject to garnishment, attachment, execution or other legal process, except as provided in section 1 of P.L.1981, c.239 (C.54A:9-8.1), or except for an income withholding order issued pursuant to P.L.1981, c.417 (C.2A:17-56.8 et seq.), nor shall the payment thereof be anticipated.

11. Section 1 of P.L.1981, c.239 (C.54A:9-8.1) is amended to read as follows:

**C.54A:9-8.1 Setoff of indebtedness to State agencies; precedence of child support indebtedness.**

1. Whenever any taxpayer or resident shall be entitled to any refund of taxes pursuant to the "New Jersey Gross Income Tax Act" (N.J.S.54A:1-1 et seq.), including an earned income tax credit provided as a refund pursuant to P.L.2000, c.80 (C.54A:4-6 et al.), or whenever any individual is eligible to receive a homestead rebate pursuant to P.L.1990, c.61 (C.54:4-8.57 et al.), P.L.1999, c.63 (C.54:4-8.58a et al.) or P.L.2004, c.40, and if the rebate is not required to be paid over to the municipal tax collector under the provisions of section 8 of P.L.1990, c.61 (C.54:4-8.64), and at the same time the taxpayer or resident shall be indebted to any agency or institution of State Government, to the Victims of Crime Compensation Board for the portion of an assessment ordered pursuant to N.J.S.2C:43-3.1 for deposit in the Victims of Crime Compensation Board Account or restitution ordered to be paid to the board pursuant to N.J.S.2C:44-2 for deposit in the Victims of Crime Compensation Board Account, or for child support under Title

IV-A, Title IV-D, or Title IV-E of the federal Social Security Act (42 U.S.C. s.601 et seq.), or other indebtedness in accordance with section 1 of P.L.1995, c.290 (C.2A:17-56.11b) the Department of the Treasury shall apply or cause to be applied the refund, homestead rebate, or all, or so much of any or all as shall be necessary, to satisfy the indebtedness. Child support indebtedness shall take precedence over all other indebtedness. The Department of the Treasury shall retain a percentage of the proceeds of any collection setoff as shall be necessary to provide for any expenses of the collection effort.

12. Section 10 of P.L.1990, c.61 (C.54:4-8.66) is amended to read as follows:

**C.54:4-8.66 Appeal to tax court from director's determination.**

10. a. (1) The director shall determine the amount of the rebate, if any, that shall be paid to each claimant pursuant to P.L.1990, c.61 (C.54:4-8.57 et seq.) based upon the information provided by the individual applicant in the application or from any other information as may be available to the director and shall notify the applicant of the determined amount in the form of the homestead rebate check or in any other manner as the director may deem appropriate. Subject to the provisions of the State Uniform Tax Procedure Law, R.S. 54:48-1 et seq., such notification shall finally and irrevocably fix the amount of the rebate unless the applicant, within 90 days after having been given notice of such determination, shall apply to the director for a hearing, or unless the director shall redetermine the same. After such hearing the director shall give notice of the final determination to the applicant.

(2) An applicant for a homestead rebate authorized under this act who is aggrieved by any decision, order, finding, or denial by the director of all or part of that applicant's homestead rebate may appeal therefrom to the New Jersey Tax Court in accordance with the provisions of the State Uniform Tax Procedure Law, R.S. 54-48-1 et seq.

b. The appeal provided by this section shall be the exclusive remedy available to an applicant for review of a decision of the director in respect to the determination of all or part of a homestead rebate authorized under this act.

13. Section 14 of P.L.1999, c.63 (C.54:4-8.66a) is amended to read as follows:

**C.54:4-8.66a Misrepresentation, penalty.**

14. Any individual who receives a homestead rebate otherwise authorized under this act but as a result of an intentional misrepresentation

of a material fact shall be required to repay to the director the amount of the homestead rebate and shall be liable to a penalty equal to 150% of the amount of the homestead rebate paid as a result of that misrepresentation.

14. Section 15 of P.L.1999, c.63 (C.54:4-8.66b) is amended to read as follows:

**C.54:4-8.66b Erroneous rebates.**

15. Any person who receives a homestead rebate otherwise authorized under this act but which has been paid in error and which is recoverable by the director, and fails to return the payment within 45 days of receiving notice from the director that such payment was erroneous, shall pay, in addition to the amount of the erroneous rebate, interest at the rate prescribed in R.S.54:49-3, assessed for each month or fraction thereof, compounded annually at the end of each year, from the date next following the 45th day after receiving the notice from the director that such payment was erroneous until the date of the return of the erroneous payment.

15. Section 16 of P.L.1999, c.63 (C.54:4-8.66c) is amended to read as follows:

**C.54:4-8.66c Recovery of erroneous or misrepresented rebates, procedures.**

16. A homestead rebate paid as a result of misrepresentation or paid in error and any penalties and interest as imposed thereon by this act, shall be payable to and recoverable by the director in the same manner as a deficiency with respect to the payment of a State tax in accordance with the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.

16. Section 18 of P.L.1999, c.63 (C.54:4-8.66d) is amended to read as follows:

**C.54:4-8.66d Rules, regulations.**

18. The Director of the Division of Taxation in the Department of the Treasury is empowered to promulgate rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and to prescribe forms to administer the provisions of this act. Notwithstanding any provisions of P.L.1968, c.410 to the contrary, the director may adopt, immediately upon filing with the Office of Administrative Law, such regulations as the director deems necessary to implement the provisions of P.L.1999, c.63 (C. 54:4-8.58a et al.) and P.L.2004, c.40 which regulations shall be effective for a period not to exceed 180 days from the date of the filing. Such regulations may thereafter be amended, adopted or

readopted by the director as the director deems necessary in accordance with the requirements of P.L.1968, c.410.

17. N.J.S.54A:2-1 is amended to read as follows:

**Imposition of tax.**

54A:2-1. Imposition of tax. There is hereby imposed a tax for each taxable year (which shall be the same as the taxable year for federal income tax purposes) on the New Jersey gross income as herein defined of every individual, estate or trust (other than a charitable trust or a trust forming part of a pension or profit-sharing plan), subject to the deductions, limitations and modifications hereinafter provided, determined in accordance with the following tables with respect to taxpayers' taxable income:

a. For married individuals filing a joint return and individuals filing as head of household or as surviving spouse for federal income tax purposes:

(1) for taxable years beginning on or after January 1, 1991 but before January 1, 1994:

| If the taxable income is:                               | The tax is:                                             |
|---------------------------------------------------------|---------------------------------------------------------|
| Not over \$20,000.00 . . . .                            | 2% of taxable income                                    |
| Over \$20,000.00 but not<br>over \$50,000.00 . . . . .  | \$400.00 plus 2.5% of the excess over<br>\$20,000.00    |
| Over \$50,000.00 but not<br>over \$70,000.00 . . . . .  | \$1,150.00 plus 3.5% of the excess over<br>\$50,000.00  |
| Over \$70,000.00 but not<br>over \$80,000.00 . . . . .  | \$1,850.00 plus 5.0% of the excess over<br>\$70,000.00  |
| Over \$80,000.00 but not<br>over \$150,000.00 . . . . . | \$2,350.00 plus 6.5% of the excess over<br>\$80,000.00  |
| Over \$150,000.00 . . . . .                             | \$6,900.00 plus 7.0% of the excess over<br>\$150,000.00 |

(2) for taxable years beginning on or after January 1, 1994 but before January 1, 1995:

| If the taxable income is:  | The tax is:              |
|----------------------------|--------------------------|
| Not over \$20,000.00 . . . | 1.900% of taxable income |

|                                                       |                                                           |
|-------------------------------------------------------|-----------------------------------------------------------|
| Over \$20,000.00 but not<br>over \$50,000.00 . . . .  | \$380.00 plus 2.375% of the excess over<br>\$20,000.00    |
| Over \$50,000.00 but not<br>over \$70,000.00 . . . .  | \$1,092.50 plus 3.325% of the excess over<br>\$50,000.00  |
| Over \$70,000.00 but not<br>over \$80,000.00 . . . .  | \$1,757.50 plus 4.750% of the excess over<br>\$70,000.00  |
| Over \$80,000.00 but not<br>over \$150,000.00 . . . . | \$2,232.50 plus 6.175% of the excess over<br>\$80,000.00  |
| Over \$150,000.00 . . . . .                           | \$6,555.00 plus 6.650% of the excess over<br>\$150,000.00 |

(3) for taxable years beginning on or after January 1, 1995 but before January 1, 1996:

|                                                         |                                                           |
|---------------------------------------------------------|-----------------------------------------------------------|
| If the taxable income is:                               | The tax is:                                               |
| Not over \$20,000.00 . . . .                            | 1.700% of taxable income                                  |
| Over \$20,000.00 but not<br>over \$50,000.00 . . . . .  | \$340.00 plus 2.125% of the excess over<br>\$20,000.00    |
| Over \$50,000.00 but not<br>over \$70,000.00 . . . . .  | \$977.50 plus 2.975% of the excess over<br>\$50,000.00    |
| Over \$70,000.00 but not<br>over \$80,000.00 . . . . .  | \$1,572.50 plus 4.250% of the excess over<br>\$70,000.00  |
| Over \$80,000.00 but not<br>over \$150,000.00 . . . . . | \$1,997.50 plus 6.013% of the excess over<br>\$80,000.00  |
| Over \$150,000.00 . . . . .                             | \$6,206.60 plus 6.580% of the excess over<br>\$150,000.00 |

(4) for taxable years beginning on or after January 1, 1996 but before January 1, 2004:

|                                |                          |
|--------------------------------|--------------------------|
| If the taxable income is:      | The tax is:              |
| Not over \$20,000.00 . . . . . | 1.400% of taxable income |

|                                                         |                                                           |
|---------------------------------------------------------|-----------------------------------------------------------|
| Over \$20,000.00 but not<br>over \$50,000.00 . . . . .  | \$280.00 plus 1.750% of the excess over<br>\$20,000.00    |
| Over \$50,000.00 but not<br>over \$70,000.00 . . . . .  | \$805.00 plus 2.450% of the excess over<br>\$50,000.00    |
| Over \$70,000.00 but not<br>over \$80,000.00 . . . . .  | \$1,295.50 plus 3.500% of the excess over<br>\$70,000.00  |
| Over \$80,000.00 but not<br>over \$150,000.00 . . . . . | \$1,645.00 plus 5.525% of the excess over<br>\$80,000.00  |
| Over \$150,000.00 . . . . .                             | \$5,512.50 plus 6.370% of the excess over<br>\$150,000.00 |

(5) for taxable years beginning on or after January 1, 2004:

|                                                          |                                                            |
|----------------------------------------------------------|------------------------------------------------------------|
| If the taxable income is:                                | The tax is:                                                |
| Not over \$20,000.00 . . . . .                           | 1.400% of taxable income                                   |
| Over \$20,000.00 but not<br>over \$50,000.00 . . . . .   | \$280.00 plus 1.750% of the excess over<br>\$20,000.00     |
| Over \$50,000.00 but not<br>over \$70,000.00 . . . . .   | \$805.00 plus 2.450% of the excess over<br>\$50,000.00     |
| Over \$70,000.00 but not<br>over \$80,000.00 . . . . .   | \$1,295.50 plus 3.500% of the excess over<br>\$70,000.00   |
| Over \$80,000.00 but not<br>over \$150,000.00 . . . . .  | \$1,645.00 plus 5.525% of the excess over<br>\$80,000.00   |
| Over \$150,000.00 but not<br>over \$500,000.00 . . . . . | \$5,512.50 plus 6.370% of the excess over<br>\$150,000.00  |
| Over \$500,000.00 . . . . .                              | \$27,807.50 plus 8.970% of the excess over<br>\$500,000.00 |

b. For married individuals filing separately, unmarried individuals other than individuals filing as head of household or as a surviving spouse for federal income tax purposes, and estates and trusts:



(1) for taxable years beginning on or after January 1, 1991 but before January 1, 1994:

| If the taxable income is:                              | The tax is:                                            |
|--------------------------------------------------------|--------------------------------------------------------|
| Not over \$20,000.00 . . . . .                         | 2% of taxable income                                   |
| Over \$20,000.00 but not<br>over \$35,000.00 . . . . . | \$400.00 plus 2.5% of the excess over<br>\$20,000.00   |
| Over \$35,000.00 but not<br>over \$40,000.00 . . . . . | \$775.00 plus 5.0% of the excess over<br>\$35,000.00   |
| Over \$40,000.00 but not<br>over \$75,000.00 . . . . . | \$1,025.00 plus 6.5% of the excess over<br>\$40,000.00 |
| Over \$75,000.00 . . . . .                             | \$3,300.00 plus 7.0% of the excess over<br>\$75,000.00 |

(2) for taxable years beginning on or after January 1, 1994 but before January 1, 1995:

| If the taxable income is:                              | The tax is:                                              |
|--------------------------------------------------------|----------------------------------------------------------|
| Not over \$20,000.00 . . . . .                         | 1.900% of taxable income                                 |
| Over \$20,000.00 but not<br>over \$35,000.00 . . . . . | \$380.00 plus 2.375% of the excess over<br>\$20,000.00   |
| Over \$35,000.00 but not<br>over \$40,000.00 . . . . . | \$736.25 plus 4.750% of the excess over<br>\$35,000.00   |
| Over \$40,000.00 but not<br>over \$75,000.00 . . . . . | \$973.75 plus 6.175% of the excess over<br>\$40,000.00   |
| Over \$75,000.00 . . . . .                             | \$3,135.00 plus 6.650% of the excess over<br>\$75,000.00 |

(3) for taxable years beginning on or after January 1, 1995 but before January 1, 1996:

| If the taxable income is:      | The tax is:              |
|--------------------------------|--------------------------|
| Not over \$20,000.00 . . . . . | 1.700% of taxable income |

|                                                        |                                                          |
|--------------------------------------------------------|----------------------------------------------------------|
| Over \$20,000.00 but not<br>over \$35,000.00 . . . . . | \$340.00 plus 2.125% of the excess over<br>\$20,000.00   |
| Over \$35,000.00 but not<br>over \$40,000.00 . . . . . | \$658.75 plus 4.250% of the excess over<br>\$35,000.00   |
| Over \$40,000.00 but not<br>over \$75,000.00 . . . . . | \$871.25 plus 6.013% of the excess over<br>\$40,000.00   |
| Over \$75,000.00 . . . . .                             | \$2,975.80 plus 6.580% of the excess over<br>\$75,000.00 |

(4) for taxable years beginning on or after January 1, 1996 but before January 1, 2004:

|                                                        |                                                          |
|--------------------------------------------------------|----------------------------------------------------------|
| If the taxable income is:                              | The tax is:                                              |
| Not over \$20,000.00 . . . . .                         | 1.400% of taxable income                                 |
| Over \$20,000.00 but not<br>over \$35,000.00 . . . . . | \$280.00 plus 1.750% of the excess over<br>\$20,000.00   |
| Over \$35,000.00 but not<br>over \$40,000.00 . . . . . | \$542.50 plus 3.500% of the excess over<br>\$35,000.00   |
| Over \$40,000.00 but not<br>over \$75,000.00 . . . . . | \$717.50 plus 5.525% of the excess over<br>\$40,000.00   |
| Over \$75,000.00 . . . . .                             | \$2,651.25 plus 6.370% of the excess over<br>\$75,000.00 |

(5) for taxable years beginning on or after January 1, 2004:

|                                                        |                                                        |
|--------------------------------------------------------|--------------------------------------------------------|
| If the taxable income is:                              | The tax is:                                            |
| Not over \$20,000.00 . . . . .                         | 1.400% of taxable income                               |
| Over \$20,000.00 but not<br>over \$35,000.00 . . . . . | \$280.00 plus 1.750% of the excess over<br>\$20,000.00 |
| Over \$35,000.00 but not<br>over \$40,000.00 . . . . . | \$542.50 plus 3.500% of the excess over<br>\$35,000.00 |
| Over \$40,000.00 but not<br>over \$75,000.00 . . . . . | \$717.50 plus 5.525% of the excess over<br>\$40,000.00 |

|                                                         |                                                            |
|---------------------------------------------------------|------------------------------------------------------------|
| Over \$75,000.00 but not<br>over \$500,000.00 . . . . . | \$2,651.25 plus 6.370% of the excess over<br>\$75,000.00   |
| Over \$500,000.00 . . . . .                             | \$29,723.75 plus 8.970% of the excess over<br>\$500,000.00 |

c. For the purposes of this section, an individual who would be eligible to file as a head of household for federal income tax purposes but for the fact that such taxpayer is a nonresident alien, shall determine tax pursuant to subsection a. of this section.

18. For the purposes of the amendment made to N.J.S.54A:2-1 in section 17 of P.L.2004, c.40, for taxable year 2004, withholding by every employer from salaries, wages and other remuneration paid by an employer for services rendered described in subsection a. of N.J.S.54A:2-1, in excess of \$500,000 during that taxable year, shall be at the rate of 12% as soon as practicable but no later than September 1, 2004. The Director of the Division of Taxation is authorized to do all things necessary to implement the withholding tax prescribed by this section for taxable year 2004.

**C.54A:9-29 Certain revenue appropriated for direct real property taxpayer relief.**

19. All revenue derived annually from the tax rate change effectuated in the amendment made to N.J.S.54A:2-1 in section 17 of P.L.2004, c.40 shall be annually appropriated for direct real property taxpayer relief.

**Repealer.**

20. Section 4 of P.L.1999, c.63 (C.54:4-8.58b) is repealed.

21. This act shall take effect upon the enactment into law of P.L.2004, c.73 (C.18A:7F-5 et al.), P.L.2004, c.74 (C.40A:4-45.15c et al.), and P.L.2004, c.85 and sections 17, 18 and 19 shall apply to taxable years beginning on or after January 1, 2004.

Approved June 28, 2004.

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CHAPTER 41

AN ACT concerning nursing home quality of care and amending P.L.2003, c.105.

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

1. Section 3 of P.L.2003, c.105 (C.26:2H-94) is amended to read as follows:

**C.26:2H-94 Definitions relative to nursing home quality of care.**

3. As used in this act:

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

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

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

"Fund" means the "Nursing Home Quality of Care Improvement Fund" established pursuant to this act.

"Medicaid" means the Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

"Nursing home" means a long-term care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), as well as the distinct part of another health care facility or continuing care retirement community that is licensed to provide skilled nursing care services pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.). For the purposes of this act, nursing home shall not include: an acute care hospital; assisted living facility; comprehensive personal care home; residential health care facility; adult day health care facility; alternate family care program; adult family care program; home health care agency; State psychiatric hospital; county health care facility, including, but not limited to, county geriatric center, county nursing home or other county long-term care facility; the New Jersey Firemen's Home; or a health care facility operated by the Department of Military and Veterans' Affairs.

2. Section 5 of P.L.2003, c.105 (C.26:2H-96) is amended to read as follows:

**C.26:2H-96 Payment of annual assessment by nursing homes.**

5. a. Each nursing home shall pay an assessment which, when combined with the aggregate amount of assessments paid by all other nursing homes pursuant to this section shall not exceed 6% of the aggregate amount of annual revenues received by all nursing homes in accordance with 42 C.F.R. s.433.68(f)(3)(I). The assessment shall be comprised of the payments required pursuant to paragraph (2) of this subsection. This assessment shall be paid to the Director of the Division of Taxation in the Department of the Treasury. The director, in consultation with the commissioner, shall

establish appropriate procedures and forms for the purpose of collecting and recording this assessment. The provisions of the "State Tax Uniform Procedure Law," R.S.54:48-1 et seq., shall apply to the extent that those provisions, including the confidentiality, protest and appeal provisions, are not inconsistent with the provisions of this act. The State shall neither collect the assessment on nursing homes nor distribute increases in Medicaid until both the provider assessment and the plan for distribution of the proceeds of the fund are approved by the federal government.

(Deleted by amendment, P.L.2004, c.41).

(2) Notwithstanding any law to the contrary, each nursing home shall pay to the director for deposit into the fund, in accordance with the requirements set forth in this act, an amount for nursing home patient days, excluding Medicare patient days, up to the maximum limit allowed by law less any licensing or other fees which would be considered "health care-related taxes" as defined by 42 C.F.R. s.433.55, including, but not limited to, any fees established by the commissioner as permitted under law.

b. The assessment paid under subsection a. of this section shall not include Medicare patient day revenues and receipts from Medicare certified beds.

c. The director, in consultation with the commissioner, shall prescribe by regulation the method by which nursing homes shall report information necessary for the director to calculate the assessment.

d. The assessment shall not be payable by nursing homes until both the provider assessment and the plan for distribution of the proceeds of the fund are approved by the federal government. Thereafter, the assessment shall be payable after the end of each calendar quarter during which the assessment accrues. Prior written notice of the due date of the assessment shall not be issued until the per diem add-ons pursuant to subsection d. of section 6 of this act have been paid.

e. A nursing home shall submit appropriate reports to the director to facilitate the purposes of this act, on a form and in a manner prescribed by the director and within such period of time as the director may require.

3. Section 6 of P.L.2003, c.105 (C.26:2H-97) is amended to read as follows:

**C.26:2H-97 Dedicated purposes for monies collected from assessment.**

6. The monies collected from the assessment paid by nursing homes pursuant to section 5 of this act shall be dedicated for the purposes provided in this section and shall be allocated through appropriation as follows:

a. As soon after the collection of the monies from the assessment as is practicable, the State Treasurer shall authorize the transfer to the General Fund of \$12.875 million for each quarter for which the assessment has been

collected, not to exceed \$51.5 million on an annual basis. All of the amounts so transferred to the General Fund shall be allocated for the support of nursing home programs as the commissioner shall designate, provided that of those amounts, a sufficient amount shall be used to fund nursing home rates at State fiscal year 2003 levels or higher and the continued applicability of nursing home rebasing and bed hold payment methodologies in effect during fiscal year 2003;

b. (Deleted by amendment, P.L.2004, c.41).

c. The State Treasurer, in consultation with the commissioner, shall distribute to nursing homes all remaining monies in the fund, in accordance with the provisions of this section, including any federal Medicaid funds received pursuant to this act, in order to enhance the quality of care for the residents of those facilities, which may include training, recruitment and improvement of wages and benefits for nursing home direct care employees;

d. The monies identified in subsection c. of this section shall be allocated in the following manner:

(1) sufficient monies from these funds shall be used to recognize the assessment as an allowable cost for Medicaid reimbursement purposes; and

(2) the remaining portion of these funds not allocated under paragraph (1) of this subsection shall be made as a uniform per diem add-on for all Medicaid days provided by nursing facilities.

The Medicaid payments to nursing homes provided for under this subsection shall not violate the hold harmless provisions set forth at 42 C.F.R. s.433.50 et seq.;

e. Beginning immediately and continuing for a period of 24 months following the enactment of this act, any monies received by facilities pursuant to this act that are expended in the furtherance of increasing recruitment and retention of employees and increasing the wages of caregivers shall not be subject to the nursing screen or direct patient care screens within the routine cost limits imposed by the nursing home rate setting regulations, in accordance with federal regulations and in such a manner so as to not violate the hold harmless provisions set forth at 42 C.F.R. s.433.50 et seq.

During this 24-month period it is recommended that nursing homes increase the nursing and direct care staffing ratio to above the State minimum requirement. Within 24 months of the enactment of this act, the commissioner shall develop, with the advice of industry representatives, consumer organizations and the caregivers' union, increased mandatory State ratios for direct patient care and nursing staffing, to significantly improve nursing and patient care staffing ratios, subject to the availability of funding;

f. The commissioner or his designee shall certify the amounts to be provided to each nursing home in accordance with the formulas established by the commissioner for Medicaid reimbursement.

4. Section 7 of P.L.2003, c.105 (C.26:2H-98) is amended to read as follows:

**C.26:2H-98 Duties of commissioner.**

7. The commissioner shall:

a. apply for: a State plan amendment to secure federal financial participation for State Medicaid expenditures under the federal Medicaid program pursuant to 42 U.S.C. s.1396b(w)(3)(B); and a waiver of the uniformity requirements contained in 42 C.F.R. s.433.68(e)(2)(i); and

b. prescribe such procedures and forms, and take such other actions, as the commissioner determines necessary to carry out the provisions of this act, including, but not limited to, such actions as are necessary to ensure that the State receives its maximum share of federal financial participation for State Medicaid expenditures under the federal Medicaid program.

5. This act shall take effect immediately.

Approved June 29, 2004.

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CHAPTER 42

AN ACT concerning signs and outdoor advertising, amending various parts of the statutory law and supplementing Title 27, Title 52 and Title 54 of the Revised Statutes.

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

**C.27:5-27 Authorized amount of outdoor advertising space; "State entity" defined.**

1. Notwithstanding any other provision of law or regulation to the contrary, the commissioner shall determine the number of square feet of advertising space authorized on signs which have received permits pursuant to P.L.1991, c.413 (C.27:5-5 et seq.) which are in effect on the effective date of P.L.2004, c.42 (C.27:5-27 et al.), and which signs are located on property owned or controlled by a State entity. The total number of square feet of advertising space authorized for such signs on property owned or controlled by each State entity after the effective date of P.L.2004, c.42 (C.27:5-27 et al.) shall not exceed the total number of square feet authorized on that effective date for signs on such property of each such State entity. The limitation on

the total square footage of advertising space authorized on signs on property owned or controlled by each State entity after the effective date of P.L.2004, c.42 (C.27:5-27 et al.) shall not apply to outdoor advertising signs on bus shelters or on railroad station platforms. The commissioner may adjust the total number of square feet of advertising space authorized pursuant to this section if the State entity acquires additional property after the effective date of P.L.2004, c.42 (C.27:5-27 et al.).

Each such State entity shall adopt rules and regulations, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) providing for a reduction, over time, in the total number of square feet of advertising space authorized for signs subject to the permitting procedures of P.L.1991, c.413 (C.27:5-5 et seq.) located on the property of such State entity.

As used in this section, "State entity" means a State department or agency, board, commission, corporation or authority.

**C.27:5-28 Disclosure statement required for outdoor advertising businesses.**

2. Any person who is the holder of any license to engage in the business of outdoor advertising or of any outdoor advertising permit issued pursuant to the provisions of P.L.1991, c. 413 (C.27:5-5 et seq.) which is in effect on or after the effective date of P.L.2004, c.42 (C.27:5-27 et al.) shall be subject to revocation of that license or permit unless that person files a disclosure statement with the Department of Transportation which shall include:

a. The full name and business address of the person who is the holder of the outdoor advertising license or permit, as the case may be, and of any officers, directors, or partners thereof and all persons holding any equity in or debt liability of that corporation, association, firm, partnership, sole proprietorship, trust or any other form of commercial organization, or, if the holder is a publicly traded corporation, all persons having more than 10% of the equity in or the debt liability of that corporation, association, firm, partnership, sole proprietorship, trust or any other form of commercial organization, except that where the debt liability is held by a chartered lending institution, the person need only supply the name and business address of the lending institution; and

b. The full name and business address of all officers, directors, or partners of any corporation, association, firm, partnership, sole proprietorship, trust or any other form of commercial organization disclosed in the disclosure statement and the names and addresses of all persons holding any equity in or the debt liability of any corporation, association, firm, partnership, sole proprietorship, trust or any other form of commercial organization so disclosed, or, if the corporation, association, firm, partnership, sole



proprietorship, trust or any other form of commercial organization is a publicly traded corporation, all persons holding more than 10% of the equity in or the debt liability of that corporation, association, firm, partnership, sole proprietorship, trust or any other form of commercial organization, except that where the debt liability is held by a chartered lending institution, the person need only supply the name and business address of the lending institution.

The disclosure statement shall be filed within 60 days of the effective date of P.L.2004, c.42 (C.27:5-27 et al.), except for licenses or permits issued on or after the effective date of P.L.2004, c.42 (C.27:5-27 et al.), in which case the disclosure statement shall be filed within 60 days of the issuance of the license or permit.

3. Section 7 of P.L.1991, c.413 (C.27:5-11) is amended to read as follows:

**C.27:5-11 Exceptions for certain roadside signs.**

7. a. No permit shall be issued by the commissioner for roadside signs to be erected or maintained in any protected area visible from the main-traveled way of any Interstate or Primary System highway within the State, except as provided herein.

(1) In protected areas, only the following signs shall be permitted, subject to the regulations of the commissioner:

(a) Directional and other official signs and notices which are required or authorized by law, and which conform to national standards promulgated by the Secretary of Transportation of the United States.

(b) Signs located in zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right-of-way, any part of which was acquired on or before July 1, 1956.

c. Signs advertising activities conducted on the property on which they are located.

(2) In portions of protected areas on the Interstate System the following may also be permitted:

(a) Signs located in commercial or industrial zones within the boundaries of incorporated municipalities as those boundaries existed on September 21, 1959, and all other areas where the land use as of September 21, 1959 was clearly established by State law as commercial or industrial within 660 feet of the nearest edge of the right-of-way.

(b) Signs located in zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right-of-way, any part of which was acquired on or before July 1, 1956.

(3) In protected areas on the Primary System, the following signs may also be permitted:

(a) Signs located in areas which are zoned industrial or commercial under the authority of State law.

(b) Signs located in areas determined to be industrial or commercial pursuant to State law.

b. No permit shall be issued by the commissioner for signs to be erected or maintained in any other area not covered by paragraphs (1), (2) and (3) above, except that permits for the following signs may also be permitted:

(1) Signs located in areas which are zoned industrial or commercial under the authority of State law.

(2) Signs located in areas determined to be industrial or commercial pursuant to State law.

c. In those instances where the commissioner deems it is in the public interest, he may issue a permit for a sign on public property which would not otherwise be permitted under the provisions of this act, and impose conditions as he deems appropriate, provided, however, that the State House Commission shall have previously reviewed and approved the issuance of such a permit.

4. Section 4 of P.L.1991, c.413 (C.27:5-8) is amended to read as follows:

**C.27:5-8 License, permit required; public hearing.**

4. a. A person shall not erect, maintain or make available to another a roadside sign, or engage in the business of outdoor advertising for profit through the rental or other compensation received for the erection, use or maintenance of signs or other objects upon real property for the display of advertising matter on any stationary object within public view without first obtaining from the commissioner a license to engage in that business, and a permit for the erection, use and maintenance of each sign or other object used for outdoor advertising, except as provided in this act. A permit issued to a person required to obtain a license under this act shall not be valid unless the person has obtained a license which is in full force and effect.

b. Notwithstanding any provision of law to the contrary, the commissioner shall not issue a permit, other than a conditional permit, for a new outdoor advertising sign required to be permitted pursuant to P.L.1991, c.413 (C.27:5-7 et seq.) unless a public hearing has been held in accordance with the provisions of section 6 of P.L.1975, c.291 (C.40:55D-10) and, where the permit applicant is a private entity, all relevant approvals required by the municipality have been received by the private entity seeking the permit.

5. Section 6 of P.L.1975, c.291 (C.40:55D-10) is amended to read as follows:

**C.40:55D-10 Hearings.**

6. Hearings. a. The municipal agency shall hold a hearing on each application for development, adoption, revision or amendment of the master plan, each application for approval of an outdoor advertising sign submitted to the municipal agency as required pursuant to an ordinance adopted under subsection g. of section 29.1 of P.L.1975, c.291 (C.40:55D-39) or any review undertaken by a planning board pursuant to section 22 of P.L.1975, c.291 (C.40:55D-31).

b. The municipal agency shall make the rules governing such hearings. Any maps and documents for which approval is sought at a hearing shall be on file and available for public inspection at least 10 days before the date of the hearing, during normal business hours in the office of the administrative officer. The applicant may produce other documents, records, or testimony at the hearing to substantiate or clarify or supplement the previously filed maps and documents.

c. The officer presiding at the hearing or such person as he may designate shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the "County and Municipal Investigations Law," P.L.1953, c.38 (C.2A:67A-1 et seq.) shall apply.

d. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer, and the right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.

e. Technical rules of evidence shall not be applicable to the hearing, but the agency may exclude irrelevant, immaterial or unduly repetitious evidence.

f. The municipal agency shall provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means. The municipal agency shall furnish a transcript, or duplicate recording in lieu thereof, on request to any interested party at his expense; provided that the governing body may provide by ordinance for the municipality to assume the expense of any transcripts necessary for appeal to the governing body, pursuant to section 8 of this act, of decisions by the zoning board of adjustment pursuant to subsection 57d. of this act, up to a maximum amount as specified by the ordinance.

The municipal agency, in furnishing a transcript or tape of the proceedings to an interested party at his expense, shall not charge such interested party more than the actual cost of preparing the transcript or tape. Transcripts shall be certified in writing by the transcriber to be accurate.

g. The municipal agency shall include findings of fact and conclusions based thereon in each decision on any application for development and shall reduce the decision to writing. The municipal agency shall provide the findings and conclusions through:

(1) A resolution adopted at a meeting held within the time period provided in the act for action by the municipal agency on the application for development; or

(2) A memorializing resolution adopted at a meeting held not later than 45 days after the date of the meeting at which the municipal agency voted to grant or deny approval. Only the members of the municipal agency who voted for the action taken may vote on the memorializing resolution, and the vote of a majority of such members present at the meeting at which the resolution is presented for adoption shall be sufficient to adopt the resolution. If only one member who voted for the action attends the meeting at which the resolution is presented for adoption, the resolution may be adopted upon the vote of that member. An action pursuant to section 5 of the act (C.40:55D-9) (resulting from the failure of a motion to approve an application) shall be memorialized by resolution as provided above, with those members voting against the motion for approval being the members eligible to vote on the memorializing resolution. The vote on any such resolution shall be deemed to be a memorialization of the action of the municipal agency and not to be an action of the municipal agency; however, the date of the adoption of the resolution shall constitute the date of the decision for purposes of the mailings, filings and publications required by subsections h. and i. of this section (C.40:55D-10). If the municipal agency fails to adopt a resolution or memorializing resolution as hereinabove specified, any interested party may apply to the Superior Court in a summary manner for an order compelling the municipal agency to reduce its findings and conclusions to writing within a stated time, and the cost of the application, including attorney's fees, shall be assessed against the municipality.

h. A copy of the decision shall be mailed by the municipal agency within 10 days of the date of decision to the applicant or, if represented, then to his attorney, without separate charge, and to all who request a copy of the decision, for a reasonable fee. A copy of the decision shall also be filed by the municipal agency in the office of the administrative officer. The administrative officer shall make a copy of such filed decision available to

any interested party for a reasonable fee and available for public inspection at his office during reasonable hours.

i. A brief notice of the decision shall be published in the official newspaper of the municipality, if there be one, or in a newspaper of general circulation in the municipality. Such publication shall be arranged by the applicant unless a particular municipal officer is so designated by ordinance; provided that nothing contained in this act shall be construed as preventing the applicant from arranging such publication if he so desires. The municipality may make a reasonable charge for its publication. The period of time in which an appeal of the decision may be made shall run from the first publication of the decision, whether arranged by the municipality or the applicant.

6. Section 7.1 of P.L.1975, c.291 (C.40:55D-12) is amended to read as follows:

**C.40:55D-12 Notices of application, requirements.**

7.1. Notice pursuant to subsections a., b., d., e., f., g. and h. of this section shall be given by the applicant unless a particular municipal officer is so designated by ordinance; provided that nothing contained herein shall prevent the applicant from giving such notice if he so desires. Notice pursuant to subsections a., b., d., e., f., g. and h. of this section shall be given at least 10 days prior to the date of the hearing.

a. Public notice of a hearing shall be given for an extension of approvals for five or more years under subsection d. of section 37 of P.L.1975, c.291 (C.40:55D-49) and subsection b. of section 40 of P.L.1975, c.291 (C.40:55D-52); for modification or elimination of a significant condition or conditions in a memorializing resolution in any situation wherein the application for development for which the memorializing resolution is proposed for adoption required public notice, and for any other applications for development, with the following exceptions: (1) conventional site plan review pursuant to section 34 of P.L.1975, c.291 (C.40:55D-46), (2) minor subdivisions pursuant to section 35 of P.L.1975, c.291 (C.40:55D-47) or (3) final approval pursuant to section 38 of P.L.1975, c.291 (C.40:55D-50); notwithstanding the foregoing, the governing body may by ordinance require public notice for such categories of site plan review as may be specified by ordinance, for appeals of determinations of administrative officers pursuant to subsection a. of section 57 of P.L.1975, c.291 (C.40:55D-70), and for requests for interpretation pursuant to subsection b. of section 57 of P.L.1975, c.291 (C.40:55D-70). Public notice shall also be given in the event that relief is requested pursuant to section 47 or 63 of P.L.1975, c.291 (C.40:55D-60 or C.40:55D-76) as

part of an application for development otherwise excepted herein from public notice.

In addition, public notice shall be given by a public entity seeking to erect an outdoor advertising sign on land owned or controlled by a public entity as required pursuant to section 22 of P.L.1975, c.291 (C.40:55D-31) or, if so provided by ordinance adopted pursuant to subsection g. of section 29.1 of P.L.1975, c.291 (C.40:55D-39), by a private entity seeking to erect an outdoor advertising sign on public land or on land owned by a private entity.

Public notice shall be given by publication in the official newspaper of the municipality, if there be one, or in a newspaper of general circulation in the municipality.

b. Notice of a hearing requiring public notice pursuant to subsection a. of this section shall be given to the owners of all real property as shown on the current tax duplicates, located in the State and within 200 feet in all directions of the property which is the subject of such hearing; provided that this requirement shall be deemed satisfied by notice to the (1) condominium association, in the case of any unit owner whose unit has a unit above or below it, or (2) horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. Notice shall be given by: (1) serving a copy thereof on the property owner as shown on the said current tax duplicate, or his agent in charge of the property, or (2) mailing a copy thereof by certified mail to the property owner at his address as shown on the said current tax duplicate.

Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, a vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust or homeowners' association, because of its ownership of common elements or areas located within 200 feet of the property which is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners, or homeowners on account of such common elements or areas.

c. Upon the written request of an applicant, the administrative officer of a municipality shall, within seven days, make and certify a list from said current tax duplicates of names and addresses of owners to whom the applicant is required to give notice pursuant to subsection b. of this section. In addition, the administrative officer shall include on the list the names, addresses and positions of those persons who, not less than seven days prior to the date on which the applicant requested the list, have registered to receive notice pursuant to subsection h. of this section. The applicant shall

be entitled to rely upon the information contained in such list, and failure to give notice to any owner or to any public utility, cable television company, or local utility not on the list shall not invalidate any hearing or proceeding. A sum not to exceed \$0.25 per name, or \$10.00, whichever is greater, may be charged for such list.

d. Notice of hearings on applications for development involving property located within 200 feet of an adjoining municipality shall be given by personal service or certified mail to the clerk of such municipality.

e. Notice shall be given by personal service or certified mail to the county planning board of a hearing on an application for development of property adjacent to an existing county road or proposed road shown on the official county map or on the county master plan, adjoining other county land or situated within 200 feet of a municipal boundary.

f. Notice shall be given by personal service or certified mail to the Commissioner of Transportation of a hearing on an application for development of property adjacent to a State highway.

g. Notice shall be given by personal service or certified mail to the State Planning Commission of a hearing on an application for development of property which exceeds 150 acres or 500 dwelling units. The notice shall include a copy of any maps or documents required to be on file with the municipal clerk pursuant to subsection b. of section 6 of P.L.1975, c.291 (C.40:55D-10).

h. Notice of hearings on applications for approval of a major subdivision or a site plan not defined as a minor site plan under this act requiring public notice pursuant to subsection a. of this section shall be given, in the case of a public utility, cable television company or local utility which possesses a right-of-way or easement within the municipality and which has registered with the municipality in accordance with section 5 of P.L.1991, c.412 (C.40:55D-12.1), by (1) serving a copy of the notice on the person whose name appears on the registration form on behalf of the public utility, cable television company or local utility or (2) mailing a copy thereof by certified mail to the person whose name appears on the registration form at the address shown on that form.

i. The applicant shall file an affidavit of proof of service with the municipal agency holding the hearing on the application for development in the event that the applicant is required to give notice pursuant to this section.

j. Notice pursuant to subsections d., e., f., g. and h. of this section shall not be deemed to be required, unless public notice pursuant to subsection a. and notice pursuant to subsection b. of this section are required.

7. Section 22 of P.L.1975, c.291 (C.40:55D-31) is amended to read as follows:

**C.40:55D-31 Review by planning board.**

22. a. Whenever the planning board shall have adopted any portion of the master plan, the governing body or other public agency having jurisdiction over the subject matter, before taking action necessitating the expenditure of any public funds, incidental to the location, character or extent of such project, shall refer the action involving such specific project to the planning board for review and recommendation in conjunction with such master plan and shall not act thereon, without such recommendation or until 45 days have elapsed after such reference without receiving such recommendation. This requirement shall apply to action by a housing, parking, highway, special district, or other authority, redevelopment agency, school board or other similar public agency, State, county or municipal. In addition, this requirement shall apply to any public entity taking any action to permit the location, erection, use or maintenance of an outdoor advertising sign required to be permitted pursuant to P.L.1991, c.413 (C.27:5-5 et seq.).

b. The planning board shall review and issue findings concerning any long-range facilities plan submitted to the board pursuant to the "Educational Facilities Construction and Financing Act," P.L.2000, c.72 (C.18A:7G-1 et al.), for the purpose of review of the extent to which the long-range facilities plan is informed by, and consistent with, at least the land use plan element and the housing element contained within the municipal master plan adopted pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28) and such other elements of the municipal master plan as the planning board deems necessary to determine whether the prospective sites for school facilities contained in the long-range facilities plan promote more effective and efficient coordination of school construction with the development efforts of the municipality. The planning board shall devote at least one full meeting of the board to presentation and review of the long-range facilities plan prior to adoption of a resolution setting forth the board's findings.

8. Section 29.1 of P.L.1975, c.291 (C.40:55D-39) is amended to read as follows:

**C.40:55D-39 Discretionary contents of ordinance.**

29.1 Discretionary contents of ordinance. An ordinance requiring approval by the planning board of either subdivisions or site plans or both may include the following:



a. Provisions for off-tract water, sewer, drainage, and street improvements which are necessitated by a subdivision or land development, subject to the provisions of section 30;

b. Provisions for standards encouraging and promoting flexibility, and economy in layout and design through the use of planned unit development, planned unit residential development and residential cluster; provided that such standards shall be appropriate to the type of development permitted; and provided further that the ordinance shall set forth the limits and extent of any special provisions applicable to such planned developments, so that the manner in which such special provisions differ from the standards otherwise applicable to subdivisions or site plans can be determined;

c. Provisions for planned development:

(1) Authorizing the planning board to grant general development plan approval to provide the increased flexibility desirable to promote mutual agreement between the applicant and the planning board on the basic scheme of a planned development and setting forth any variations from the ordinary standards for preliminary and final approval;

(2) Requiring that any common open space resulting from the application of standards for density, or intensity of land use, be set aside for the use and benefit of the owners or residents in such development subject to section 31 of this act;

(3) Setting forth how the amount and location of any common open space shall be determined and how its improvement and maintenance for common open space use shall be secured subject to section 31 of this act;

(4) Authorizing the planning board to allow for a greater concentration of density, or intensity of land use, within a section or sections of development, whether it be earlier, later or simultaneous in the development, than in others;

(5) Setting forth any requirement that the approval by the planning board of a greater concentration of density or intensity of land use for any section to be developed be offset by a smaller concentration in any completed prior stage or by an appropriate reservation of common open space on the remaining land by grant of easement or by covenant in favor of the municipality; provided that such reservation shall, as far as practicable, defer the precise location of common open space until an application for final approval is filed, so that flexibility of development can be maintained;

(6) Setting forth any requirements for timing of development among the various types of uses and subgroups thereunder and, in the case of planned unit development and planned unit residential development, whether some nonresidential uses are required to be built before, after or at the same time as the residential uses.

d. Provisions ensuring in the case of a development which proposes construction over a period of years, the protection of the interests of the public and of the residents, occupants and owners of the proposed development in the total completion of the development.

e. Provisions that require as a condition for local municipal approval the submission of proof that no taxes or assessments for local improvements are due or delinquent on the property for which any subdivision, site plan, or planned development application is made.

f. Provisions for the creation of a Site Plan Review Advisory Board for the purpose of reviewing all site plan applications and making recommendations to the planning board in regard thereto.

g. Provisions for standards governing outdoor advertising signs required to be permitted pursuant to P.L.1991, c.413 (C.27:5-5 et seq.) including, but not limited to, the location, placement, size and design thereof.

9. Section 3 of P.L.1975, c.217 (C.52:27D-121) is amended to read as follows:

**C.52:27D-121 Definitions.**

3. Definitions. As used in this act:

"Building" means a structure enclosed with exterior walls or fire walls, built, erected and framed of component structural parts, designed for the housing, shelter, enclosure and support of individuals, animals or property of any kind.

"Business day" means any day of the year, exclusive of Saturdays, Sundays, and legal holidays.

"Certificate of occupancy" means the certificate provided for in section 15 of this act, indicating that the construction authorized by the construction permit has been completed in accordance with the construction permit, the State Uniform Construction Code and any ordinance implementing said code.

"Commissioner" means the Commissioner of Community Affairs.

"Code" means the State Uniform Construction Code.

"Commercial farm building" means any building located on a commercial farm which produces not less than \$2,500 worth of agricultural or horticultural products annually, which building's main use or intended use is related to the production of agricultural or horticultural products produced on that farm. A building shall not be regarded as a commercial farm building if more than 1,200 square feet of its floor space is used for purposes other than its main use. A greenhouse constructed in conjunction with the odor control bio-filter of a solid waste or sludge composting facility, which greenhouse produces not less than \$2,500 worth of agricultural or horticultural products annually, shall not be regarded as a commercial farm building.

tural products in addition to its function as a cover for the bio-filter, shall be considered a commercial farm building for the purposes of this act, provided, however, that the greenhouse is not intended for human occupancy.

"Construction" means the construction, erection, reconstruction, alteration, conversion, demolition, removal, repair or equipping of buildings or structures.

"Construction board of appeals" means the board provided for in section 9 of this act.

"Department" means the Department of Community Affairs.

"Enforcing agency" means the municipal construction official and subcode officials provided for in section 8 of this act and assistants thereto.

"Equipment" means plumbing, heating, electrical, ventilating, air conditioning, refrigerating and fire prevention equipment, and elevators, dumbwaiters, escalators, boilers, pressure vessels and other mechanical facilities or installations.

"Hearing examiner" means a person appointed by the commissioner to conduct hearings, summarize evidence, and make findings of fact.

"Maintenance" means the replacement or mending of existing work with equivalent materials or the provision of additional work or material for the purpose of the safety, healthfulness, and upkeep of the structure and the adherence to such other standards of upkeep as are required in the interest of public safety, health and welfare.

"Manufactured home" or "mobile home" means a unit of housing which:

(1) Consists of one or more transportable sections which are substantially constructed off site and, if more than one section, are joined together on site;

(2) Is built on a permanent chassis;

(3) Is designed to be used, when connected to utilities, as a dwelling on a permanent or nonpermanent foundation; and

(4) Is manufactured in accordance with the standards promulgated for a manufactured home by the Secretary of the United States Department of Housing and Urban Development pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974," Pub.L.93-383 (42 U.S.C. s. 5401 et seq.) and the standards promulgated by the commissioner pursuant to P.L.1975, c.217 (C.52:27D-119 et seq.).

"Municipality" means any city, borough, town, township or village.

"Outdoor advertising sign" means a sign required to be permitted pursuant to P.L.1991. c.413 (C.27:5-5 et seq.).

"Owner" means the owner or owners in fee of the property or a lesser estate therein, a mortgagee or vendee in possession, an assignee of rents,

receiver, executor, trustee, lessee, or any other person, firm or corporation, directly or indirectly in control of a building, structure, or real property and shall include any subdivision thereof of the State.

"Premanufactured system" means an assembly of materials or products that is intended to comprise all or part of a building or structure and that is assembled off site by a repetitive process under circumstances intended to insure uniformity of quality and material content.

"Public school facility" means any building, or any part thereof, of a school, under college grade, owned and operated by a local, regional, or county school district.

"State sponsored code change proposal" means any proposed amendment or code change adopted by the commissioner in accordance with subsection c. of section 5 of this act for the purpose of presenting such proposed amendment or code change at any of the periodic code change hearings held by the National Model Code Adoption Agencies, the codes of which have been adopted as subcodes under this act.

"Stop construction order" means the order provided for in section 14 of this act.

"State Uniform Construction Code" means the code provided for in section 5 of this act, or any portion thereof, and any modification of or amendment thereto.

"Structure" means a combination of materials to form a construction for occupancy, use, or ornamentation, whether installed on, above, or below the surface of a parcel of land; provided the word "structure" shall be construed when used herein as though followed by the words "or part or parts thereof and all equipment therein" unless the context clearly requires a different meaning.

10. Section 11 of P.L.1975, c.217 (C.52:27D-129) is amended to read as follows:

**C.52:27D-129 State buildings and buildings of interstate agencies; outdoor advertising signs on public property.**

11. State buildings and buildings of interstate agencies; outdoor advertising signs on public property. a. Notwithstanding any other provision of P.L.1975, c.217 (C.52:27D-119 et seq.), the Department of Community Affairs shall have authority to administer and enforce the code in regard to buildings and structures owned by the State, and any of its departments, divisions, bureaus, boards, councils, authorities or other agencies; provided, however, that the Division of Building and Construction in the Department of the Treasury shall have authority to conduct field inspections for the purpose of enforcing the code in buildings built under its supervision. The Division of Building and Construction shall be authorized

to review plans and undertake construction if the Department of Community Affairs cannot approve plans within the 20-day period provided for in P.L.1975, c.217. In an emergency or cost savings situation, the commissioner may delegate, by rule, the authority to conduct field inspections for the purpose of enforcing the code. The Division of Building and Construction and any public or private agency which receives such a delegation shall carry out any review or inspection responsibilities with persons certified by the Commissioner of Community Affairs pursuant to the provisions of P.L.1975, c.217. The Department of Community Affairs shall have ultimate responsibility for insuring that all buildings conform to the requirements of the code.

b. Construction, alteration, renovation, rehabilitation, repair, removal or demolition of any building or structure situated wholly within New Jersey by or for an agency created by an interstate compact to which the State of New Jersey is a party shall be subject to the provisions of the code; provided that such interstate agency shall have exclusive authority to administer and enforce the code in regard to such buildings and structures.

c. Notwithstanding any other provision of law, rule or regulation to the contrary, except for signs which advertise or otherwise identify activities performed on the property on which the sign is located, the Department of Community Affairs shall be the sole enforcing agency with regard to outdoor advertising signs which exceed 32 square feet in area on any face and which are located on land owned or controlled by any public entity, including but not limited to any State, county or local department, agency, board, commission, authority or instrumentality.

**C.52:31-1.1a Advertisement for bids for contracting with State entity for display of advertisement.**

11. Notwithstanding the provisions of any other law to the contrary, a State entity, as defined in section 1 of P.L.2004, c.42 (C.27:5-27), shall not enter into any contract or agreement for the sale, lease or license of real property owned or controlled by it, or of any interest therein, with any person, firm, partnership or corporation for the purpose of displaying any advertisement, as defined in section 3 of P.L.1991, c.413 (C.27:5-7), without publicly advertising for bids. Notwithstanding the foregoing, any State entity may enter into such a contract or agreement with any of its current contractors, tenants or licensees with respect to the current real property on which they are a contractor, tenant or licensee for the purpose of displaying advertisement, for a period of time not to exceed five years, without publicly advertising for bids. Where, pursuant to the foregoing, a State entity enters into a contract or agreement with such a current contractor, tenant or licensee for a period not exceeding five years, after the

completion of that contract or agreement, any future contract or agreement for the same purposes shall be done by publicly advertising for bids.

**C.52:32-5.2 Display of advertisement, public bidding required.**

12. Notwithstanding the provisions of any other law to the contrary, a State entity, as defined in section 1 of P.L.2004, c.42 (C.27:5-27), shall not enter into any contract or agreement for the construction on, or development or maintenance of, real property owned or controlled by it, with any person, firm, partnership or corporation for the purpose of displaying any advertisement, as defined in section 3 of P.L.1991, c.413 (C.27:5-7), without publicly advertising for bids. Notwithstanding the foregoing, any State entity may enter into a contract or agreement for the maintenance of (but not the construction on or development of) such real property for the purposes of displaying any advertisement, with any of its current contractors, tenants or licensees with respect to the current real property on which they are a contractor, tenant or licensee for the purpose of displaying any advertisement, for a period of time not to exceed five years, without publicly advertising for bids. Where, pursuant to the foregoing, the State enters into a contract or agreement with a current contractor, tenant or licensee for a period not exceeding five years, after the completion of that contract or agreement, any future contract or agreement for the same purposes shall be done by publicly advertising for bids.

13. R.S.54:4-1 is amended to read as follows:

**Property subject to taxation.**

54:4-1. All property real and personal within the jurisdiction of this State not expressly exempted from taxation or expressly excluded from the operation of this chapter shall be subject to taxation annually under this chapter. Such property shall be valued and assessed at the taxable value prescribed by law. Land in agricultural or horticultural use which is being taxed under the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), shall be valued and assessed as provided by that act. An executory contract for the sale of land, under which the vendee is entitled to or does take possession thereof, shall be deemed, for the purpose of this act, a mortgage of said land for the unpaid balance of purchase price. Personal property taxable under this chapter shall include, however, only the machinery, apparatus or equipment of a petroleum refinery that is directly used to manufacture petroleum products from crude oil in any of the series of petroleum refining processes commencing with the introduction of crude oil and ending with refined petroleum products, but shall exclude items of machinery, apparatus or equipment which are located on the grounds of a petroleum refinery but which are not directly used to refine crude oil into

petroleum products and the tangible goods and chattels, exclusive of inventories, used in business of local exchange telephone, telegraph and messenger systems, companies, corporations or associations that were subject to tax as of April 1, 1997 under P.L.1940, c.4 (C.54:30A-16 et seq.) as amended, and shall not include any intangible personal property whatsoever whether or not such personalty is evidenced by a tangible or intangible chose in action except as otherwise provided by R.S.54:4-20. As used in this section, "local exchange telephone company" means a telecommunications carrier providing dial tone and access to 51% of a local telephone exchange. Property omitted from any assessment may be assessed by the county board of taxation, or otherwise, within such time and in such manner as shall be provided by law. Real property taxable under this chapter means all land and improvements thereon and includes personal property affixed to the real property or an appurtenance thereto, unless:

a. (1) The personal property so affixed can be removed or severed without material injury to the real property;

(2) The personal property so affixed can be removed or severed without material injury to the personal property itself; and

(3) The personal property so affixed is not ordinarily intended to be affixed permanently to real property; or

b. The personal property so affixed is machinery, apparatus, or equipment used or held for use in business and is neither a structure nor machinery, apparatus or equipment the primary purpose of which is to enable a structure to support, shelter, contain, enclose or house persons or property. For purposes of this subsection, real property shall include pipe racks, and piping and electrical wiring up to the point of connections with the machinery, apparatus, or equipment of a production process as defined in this section.

c. (Deleted by amendment, P.L.2004, c.42).

Real property, as defined herein, shall not be construed to affect any transaction or security interest provided for under the provisions of chapter 9 of Title 12A of the New Jersey Statutes (N.J.S.12A:9-101 et seq.). The provisions of this section shall not be construed to repeal or in any way alter any exemption from, or any exception to, real property taxation or any definition of personal property otherwise provided by statutory law.

The Director of the Division of Taxation in the Department of the Treasury may adopt rules and regulations pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as may be deemed necessary to implement and administer the provisions of this act.

**C.54:4-1.20 Outdoor advertising sign, structure deemed real property.**

14. For the purposes of chapter 4 of Title 54 of the Revised Statutes and notwithstanding the provisions of R.S.54:4-1, an outdoor advertising sign required to be permitted pursuant to the "Roadside Sign Control and Outdoor Advertising Act," P.L.1991, c.413 (C.27:5-5 et seq.), the sign's supporting structure having the primary purpose of supporting the outdoor advertising sign, its other constituent parts, and the foundation if any to which the supporting structure is attached, are deemed to be real property.

15. Section 1 of P.L.2003, c. 124 (C.54:4-11.1) is amended to read as follows:

**C.54:4-11.1 Outdoor advertising space, fee; definitions.**

1. a. (1) There is imposed and shall be paid a fee of the percentage rate for the period determined under paragraph (2) of this subsection on the gross amounts collected by a retail seller for advertising space on an outdoor advertising sign. The fee shall be imposed directly on the retail seller of the advertising space on the outdoor advertising sign.

(2) For the period beginning July 1, 2003 through June 30, 2006, the rate shall be 6%;

for the period beginning July 1, 2006 through June 30, 2007, the rate shall be 4%; and

for the period beginning July 1, 2007 and thereafter, there shall be no rate of fee imposed.

b. For purposes of this section, the following terms shall have the following meanings:

"Advertising space" means the placement of advertising on an outdoor sign;

"End user" means the person purchasing the advertising space on an outdoor advertising sign for the person's own use;

"Outdoor advertising sign" means a sign required to be permitted pursuant to the "Roadside Sign Control and Outdoor Advertising Act," P.L.1991, c.413 (C.27:5-5 et seq.);

"Gross amounts collected by a retail seller for advertising space on an outdoor advertising sign" include, but are not limited to, amounts collected, whether received in money or otherwise, from contracts to place advertising on outdoor advertising signs located in this State regardless of the location of the advertiser; provided however, such gross amounts shall not include fees received by an advertising agency that is not a related party of the retail seller and that are not received by the retail seller;

"Related party" means any licensee, permittee or other party that has authority to sell advertising space on an outdoor advertising sign; and



"Retail seller" means a permit holder or licensee who directly contracts with the end user for outdoor advertising space on an outdoor advertising sign or any party that is authorized on behalf of the permit holder or licensee to sell advertising space on an outdoor advertising sign.

c. The Director of the Division of Taxation shall collect and administer the fees imposed pursuant to this section. In carrying out the provisions of this section, the director shall have all of the powers and authority granted in P.L.1966, c.30 (C.54:32B-1 et seq.). The fees shall be reported and paid to the director on a quarterly basis in a manner prescribed by the Director of the Division of Taxation, which may include by electronic means.

d. The fees 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.

e. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the director may adopt immediately upon filing with the Office of Administrative Law such regulations as the director deems necessary to implement the provisions of this act, which shall be effective for a period not to exceed 180 days and may thereafter be amended, adopted or readopted by the director in accordance with the requirements of P.L.1968, c.410.

f. The fee imposed by subsection a. of this section shall not be imposed on the gross amounts received from advertising space on an outdoor advertising sign if the end user is an entity exempt from the tax imposed under the "Sales and Use Tax Act" pursuant to subsection a. or b. of section 9 of P.L.1966, c.30 (C.54:32B-9).

g. The director may require a person who is the holder of any license to engage in the business of outdoor advertising or of any outdoor advertising permit issued pursuant to the provisions of P.L.1991, c.413 (C.27:5-5 et seq.) to supply that person's social security number and other taxpayer identification information to the Division of Taxation. The social security number and other taxpayer identification information supplied shall not be deemed a public record under P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5 et al.) or the common law concerning access to public records.

16. Section 3 of P.L. 2003, c.124 is amended to read as follows:

3. This act shall take effect immediately and section 1 shall apply to collections for any period on or after July 1, 2003.

17. This act shall take effect immediately and sections 13 and 14 shall apply to assessments made after the date of enactment.

Approved June 29, 2004.

## CHAPTER 43

AN ACT changing the phase-out schedule of the transitional energy facility assessment (TEFA) unit rate surcharges on certain energy sales and amending P.L.1997, c.162.

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

1. Section 38 of P.L.1997, c.162 (C.54:30A-102) is amended to read as follows:

**C.54:30A-102 Establishment of remitter's transition energy facility assessment.**

38. Each remitter's transitional energy facility assessment shall be established pursuant to section 67 of P.L.1997, c.162 (C.48:2-21.34). Under no circumstances shall an assessment be made under this act for any year commencing after December 31, 2010.

2. Section 67 of P.L.1997, c.162 (C.48:2-21.34) is amended to read as follows:

**C.48:2-21.34 Definitions relative to 1997 tax changes; filing required; formulas; adjustments to rates.**

67. a. As used in this section:

"Base rates" means the rates, including minimum bills, charged for utility commodities or service subject to the board's jurisdiction, other than the rates charged under a utility's levelized energy adjustment clause, hereinafter "LEAC," or levelized gas adjustment clause, hereinafter "LGAC," or equivalent rate provision;

"Base year" means the calendar year 1996;

"Board" means the Board of Public Utilities;

"Sales and use tax" means the sales and use tax liability computed on sales and use of energy and utility service as defined in section 2 of P.L.1966, c.30 (C.54:32B-2);

"Utility" means a public utility subject to regulation by the board pursuant to Title 48 of the Revised Statutes; and

"Utility service" means the supply, transmission, distribution or transportation of electricity, natural gas or telecommunications services or any combination of such commodities, processes or services.

b. No later than 60 days after the date this act is enacted, each electric, gas and telecommunications utility subject to the provisions of this act shall file with the board, and shall simultaneously provide copies to the Director of the Division of the Ratepayer Advocate, revised tariffs and such other supporting schedules, narrative and documentation required by this act, as

set forth in this section, to reflect in the utility's rates the changes in tax liability effected pursuant to this act. No later than 90 days after the date of the utility's filing, and after determining that the filing and the rate changes provided for therein are in compliance with the provisions of this act, the board shall approve the utility's filing and associated rates for billing to the utility's customers, effective for utility service rendered on and after January 1, 1998. If the board determines that the utility's filing and the associated rate changes provided for therein are not in compliance with the provisions of this act, the board shall require the utility to amend or otherwise modify its filing to render it in compliance. The board may also permit the rates provided for in the utility's filing to be implemented on an interim basis pending the board's final determination in the event the board, in its discretion, determines that due to the filing's complexity, or for other valid reasons, including but not limited to the enactment of this act after June 30, 1997, additional time is needed for the board to complete its review of the filing. If the rates approved by the board upon its final determination are less than the rates implemented on an interim basis, the difference shall be refunded to the utility's customers with interest computed in accordance with N.J.A.C.14:3-7.5(c). The rate adjustments implemented pursuant to this act shall not constitute a fixing of rates pursuant to R.S.48:2-21 and shall not be subject to the hearing requirements set forth in that section.

c. As of the effective date of the rate changes implemented pursuant to this act, and except for rates applicable to sales that were or are currently exempt from the unit-based energy taxes formerly imposed pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.) and rates applicable to sales to which section 59 of P.L.1997, c.162 (C.48:2-21.31) applies, the board shall remove from the base rates of each electric public utility and gas public utility the unit tax rates included therein for the recovery of those unit-based energy taxes, and include therein provision for the recovery of corporation business tax imposed pursuant to P.L.1945, c.162 (C.54:10A-1 et seq.), and additionally shall authorize the collection of the sales and use tax imposed pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.), as follows:

(1) The base rates of each gas and electric utility shall be reduced by the amount of the unit-based energy taxes per kilowatthour or per therm included therein.

(2) The provision for corporation business tax initially included in the base rates of each gas and electric utility shall be based on the utility's after-tax net income earned in the base year as booked, unless the board determines, in its discretion, that such income as booked is unusually high or low or otherwise unrepresentative of the utility's prospective net income, in which case the utility's base year net income shall be adjusted as determined by the board.

To permit the board to make this determination, in addition to including in its filing schedules showing its net income earned in the base year as booked, the utility shall include adjustments to such booked income to eliminate the effect of revenues, expenses and extraordinary or other charges that are non-recurring, atypical, or both, including, but not limited to an adjustment to eliminate the effect of unusually hot or cold weather, and that would otherwise make the utility's base year net income unusually high or low or otherwise unrepresentative of the utility's prospective net income. If the adjustment is being made to eliminate the effect of unusually hot or cold weather, associated revenue and expense adjustments shall also be made. Subject to the board's approval, such adjusted income shall be the basis for the calculation of the initial provision for corporation business tax to be included in the utility's base rates.

The utility shall also include a calculation of its rate of return on common equity achieved in the base year, both as booked and as adjusted in accordance with the foregoing. The calculation shall be made employing the methodology set forth in N.J.A.C.14:12-4.2(b)1, and shall separately show the effect of reflecting adjustments to the calculation, if any, that may have been employed historically in establishing the utility's rate of return on common equity allowed for ratemaking purposes. The utility's filing shall also include copies of its audited financial statements for the base year and associated quarterly and other reports filed with the Securities and Exchange Commission.

To reflect the provision for corporation business tax in base rates, the demand charges, or charges per kilowatt, decatherm or million cubic feet; the energy charges, or charges per kilowatthour or per therm; and the customer charges, or charges other than demand and energy charges, set forth in each base rate schedule, and the floor price employed in parity rate schedules, included in the utility's tariff filed with and approved by the board shall be increased by amounts determined by multiplying such charges by the adjustment factor, "A e, g" derived below:

$$A_{e, g} = \frac{(I_{e, g} \times [Rs/(1-Re)])}{(Br_{e, g})}$$

where:

"A e, g" means the adjustment factor applicable to electric base rates (e), gas base rates (g), or both, other than rates applicable to sales that were exempt from unit-based energy taxes formerly imposed pursuant to

P.L.1940, c.5 (C.54:30A-49 et seq.) or to which section 59 of P.L.1997, c.162 (C.48:2-21.31) applies;

"I e, g" means the utility's base year after-tax net income from electric or gas sales, or both, and transportation service subject to the board's jurisdiction and other operating revenue if such revenue is reflected in the utility's cost of service for ratemaking purposes, adjusted as approved by the board;

"Br e, g" means the utility's base year revenue from base rates applicable to electric or gas sales, or both, and transportation service subject to the board's jurisdiction, but excluding sales that were exempt from unit-based energy taxes formerly imposed pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.) or to which section 59 of P.L.1997, c.162 (C.48:2-21.31) applies;

"Rs" means the corporation business tax rate, expressed as a decimal;

"Rf" means the applicable federal corporation income tax rate expressed as a decimal; and

"Re" equals  $R_s + R_f(1 - R_s)$ .

The utility shall account for the changes in tax liability provided for by this act effective January 1, 1998. Such accounting shall include the recording on the utility's income statement and balance sheet of deferred corporation business tax defined, for book accounting purposes, as differences in corporation business tax expense arising from timing differences in the recognition of revenue and expenses for book and tax purposes.

(3) When billed to the utility's customers, the adjusted base rate charges determined pursuant to paragraphs (1), (2), and (4) of this subsection, and the charges determined pursuant to the utility's levelized energy adjustment clause, levelized gas adjustment clause, or both, as determined both upon the effective date of the rate changes authorized by this act and as revised prospectively in accordance with the utility's tariff filed with and approved by the board, and the transitional energy facility assessment unit rate surcharges, hereinafter, "TEFA unit rate surcharges," determined in accordance with subsection d. of this section, shall be increased by an amount determined by multiplying such charges by the sales and use tax rate imposed under P.L.1966, c.30 (C.54:32B-1 et seq.). In addition to the utility's rates for service included in its tariff, for informational purposes the tariff shall include such rates after application of the sales and use tax authorized by this section.

(4) The utility's filing with the board to implement the rate changes provided for by this act shall include an analysis, description, and quantification of the effect of the changes in rates and tax payments implemented pursuant to this act on the utility's requirement for cash working capital, and if such requirement is less than the cash working capital allowed for the collection and payment of unit-based energy taxes formerly imposed pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.) in determining the utility's base

rates in effect prior to the rate changes implemented pursuant to this act, and to the extent the working capital reduction is not offset by a reduction in net deferred taxes as provided for below, such base rates shall be reduced by the reduction in the utility's revenue requirement associated with the remaining reduction in the working capital requirement not so offset, if any. The reduction in working capital shall be determined by using the same methodology employed in establishing the working capital allowance related to unit-based energy taxes reflected in the utility's base rates in effect prior to the rate changes implemented pursuant to this act. The reduction in the utility's revenue requirement associated with the reduced working capital requirement shall be calculated using the utility's last overall rate of return allowed by the board, including provision for federal income taxes and the corporation business tax implemented pursuant to this act payable on the equity portion of the return, and shall be implemented on the effective date of the rate changes provided for, and in the manner set forth in paragraph (2) of this subsection.

If the utility's requirement for cash working capital is increased as a result of the changes in rates and tax payments implemented pursuant to this act, the utility may accrue carrying costs, calculated at its last overall rate of return allowed by the board and applied on a simple annual interest basis without compounding, on the increased working capital requirement and request recovery of such carrying costs in a rate proceeding before the board.

The working capital-related base rate changes and carrying cost accruals shall be subject to the board's approval, and shall not be included in the determination of the TEFA unit tax surcharges provided for in subsection d. of this section.

The utility's filing with the board to implement the rate changes provided for by this act shall also include an analysis, description and quantification of net deferred taxes. For the purposes of this section, "net deferred taxes" means deferred corporation business taxes, net of federal deferred income taxes, associated with the tax and rate changes implemented pursuant to this act, including deferred corporation business tax recorded in accordance with section 4 of P.L.1945, c.162 (C.54:10A-4), projected for the calendar year in which this act takes effect and for each year of the tax life of the asset giving rise to the deferred corporation business taxes pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4).

If the change in such net deferred taxes projected for the calendar year in which the rate changes implemented pursuant to this act takes effect is negative and if the utility's requirement for working capital is reduced as a result of the changes in rates and tax payments implemented pursuant to this act, the working capital-related rate reduction that otherwise would have been implemented pursuant to this subsection shall be treated as set forth in

subparagraph (a) or (b) of this paragraph. For the purposes of this act, a change in net deferred taxes is considered negative when it reduces an existing deferred tax liability or creates a deferred tax asset on the utility's balance sheet. An appropriate rate adjustment for the working capital impacts of this act, reflecting all relevant facts and circumstances at the time of the adjustment, shall be made in the year when the earlier of the following events occur:

(a) The year in which the reduction in carrying costs assumed for the rate reduction for working capital that would have been made but for this paragraph is no longer required to offset, on a present value basis, the annual carrying costs calculated on the accumulated balance of negative net deferred taxes projected to be recorded by the utility, its successors and assigns, over the tax life of the single asset account giving rise to such net deferred taxes pursuant to section 4 of P.L.1945, c.162 (C.54:10A-4). For the purposes of this subparagraph (a):

(i) Carrying costs and present values are to be computed using the weighted average after-tax rate of return approved by the board in the utility's last base rate proceeding.

(ii) The accumulated balance of such negative net deferred taxes shall include net deferred taxes associated with all assets and liabilities originally placed in service by the utility and held by the utility or a company affiliated with the utility regardless of whether or not such assets continue to be subject to regulation by the New Jersey Board of Public Utilities.

(b) The year in which both an appropriate working capital adjustment and the accumulated balance of negative deferred taxes, as described in (ii) of subparagraph (a) of this paragraph (4), are reflected in the utility's rate base in a rate proceeding before the board. It is the intent of this section to fully compensate utilities on a present value basis, for the carrying costs associated with negative net deferred taxes arising as a result of this act, and to remit to ratepayers any credit due them as a result of any overcompensation as may have occurred due to the treatment of working capital and deferred taxes as set forth herein or in subparagraph (a) of this paragraph (4). At the time the above base rate adjustment is made, an analysis shall be made to determine if such carrying costs have been or will be fully recovered pursuant to the intent of this provision and any additional credit or charge to ratepayers to adjust for ratepayer overpayments or underpayments, if any shall be addressed.

If the change in net deferred taxes is positive, the increase shall be added to, or increase, the reduction in the utility's requirement for working capital if the requirement is reduced as a result of the rate and tax payment changes implemented pursuant to this act, or subtracted from the working capital requirement if it is increased, and the resultant net working capital require-

ment shall be reflected in rates or accrue carrying costs in the same manner as prescribed for changes in the utility's requirement for working capital above.

The deferred tax-related rate changes or carrying cost accruals shall be subject to the board's approval and shall not be included in the determination of the TEFA unit rate surcharges provided for in subsection d. of this section.

d. (1) Electric and gas utilities shall file, for the board's review and approval, initial TEFA unit rate surcharges determined by deducting from each unit-based energy tax unit tax rate effective January 1, 1997 the following: (a) An amount per kilowatthour or per therm determined by multiplying the total revenue received in the base year from sales to which that unit tax rate would have been applicable by the factor  $R_u/(1 + R_u)$ , where  $R_u$  is the sales and use tax rate imposed under P.L.1966, c.30 (C.54:32B-1 et seq.) expressed as a decimal, and dividing the result by the kilowatthours or therms billed in that unit tax rate class in the base year; and (b) An amount per kilowatthour or per therm determined by dividing the revenue that would have been received in the base year from the inclusion, in the manner prescribed in paragraph (2) of subsection c. of this section, of the corporation business tax in the rates applicable to sales billed in that unit tax rate class by the kilowatthours or therms billed in that rate class. In each case, the determination shall reflect the effect of adjustments that affect the level of sales and revenue, if any, as provided in subsection c. of this section. Of the resultant rate per kilowatthour or per therm, the portion for recovery of the utility's transitional energy facilities assessment liability shall be determined by multiplying such rate by the factor  $(1 - R_s)$ , where  $R_s$  is the corporation business tax rate expressed as a decimal. The TEFA unit rate surcharges shall constitute non-bypassable wires and/or mains charges of the utility, and shall be applied to all sales within the customer classes to which they apply, regardless of whether such customers are purchasing bundled or unbundled services from the utility, but shall not be applied to sales that were or are currently exempt from unit-based energy taxes formerly imposed pursuant to P.L.1940, c.5 (C.54:30A-49 et seq.) or to which section 59 of P.L.1997, c.162 (C.48:2-21.31) applies.

If, following the effective date of this act, a customer taking bundled service from the utility shall elect to obtain its requirements from another supplier and take transportation or wheeling service from the utility, the TEFA unit rate surcharge applicable to the bundled service shall continue to apply to the transportation or wheeling service. The TEFA components of the unit rate surcharges determined pursuant to this subsection (the components of the surcharges remaining after deducting the provision for corporation business tax included therein) shall be used to determine the transi-



tional energy facility assessment liability pursuant to sections 36 through 49 of P.L.1997, c.162 (C.54:30A-100 through C.54:30A-113).

(2) Unless reduced pursuant to paragraphs (3) and (4) of this subsection, the initial TEFA unit rate surcharges are to be reduced annually on January 1, 1999 through January 1, 2001 by the following percentages:

|                  |     |
|------------------|-----|
| January 1, 1999, | 20% |
| January 1, 2000, | 40% |
| January 1, 2001, | 60% |

(3) For each year beginning with calendar year 1998 and ending with calendar year 2001, the TEFA surcharge adjustment shall be determined as the difference between:

(a) The sum of the estimated, or actual when known, (i) TEFA liabilities, as defined in section 43 of P.L.1997, c.162 (C.54:30A-107), and sales and use taxes collected and corporation business taxes booked for the year 1998 by the gas and electric utilities and other entities subject to the TEFA provisions of this act (the year 1998 liability), and (ii) the TEFA liabilities of those utilities and entities in all years following the year 1998 through the year in which a determination is being made pursuant to this subsection (the determination year); and

(b) The sum of (i) the total of each remitter's base year liability, as defined in section 37 of P.L.1997, c.162 (C.54:30A-101), and (ii) the cumulative TEFA obligation, defined as the sum through the determination year of the amounts calculated by multiplying, for the applicable year, the percentage in the second column of the following table:

| Determination Year | % of<br>Year 1998<br>TEFA |
|--------------------|---------------------------|
| 1999               | 80%                       |
| 2000               | 60%                       |

by the Year 1998 TEFA,

where the Year 1998 TEFA is calculated as the total of each remitter's base year liability less the sales and use taxes collected and the corporation business taxes booked for the privilege period ending in calendar year 1998 by the gas and electric utilities and other entities subject to the TEFA provisions of this act. For purposes of this subsection, the amounts assumed for the determination year, including the year 1998 liability when first deter-

mined for the purposes of this subsection, shall be estimates based on nine months of actual data through and including the month of September, and three months of data forecast for the months of October through December.

(4) If the TEFA surcharge adjustment determined for the determination year is positive (that is, if the amount determined pursuant to subparagraph (a) of paragraph (3) of this subsection is greater than the amount determined pursuant to subparagraph (b) of paragraph (3) of this subsection), no reduction shall be made in the reduction in the TEFA unit rate surcharges provided for in paragraph (2) of this subsection for the year following the determination year. If the TEFA surcharge adjustment is negative, the reduction in the TEFA unit rate surcharges that otherwise would have been implemented on January 1 of the year following the determination year pursuant to paragraph (2) of this subsection shall be reduced by an amount (by percentage points) equal to the percentage the TEFA surcharge adjustment is of the total of the base year transitional energy facility assessment of all remitters, as defined in section 37 of P.L.1997, c.162 (C.54:30A-101), provided however, that such reduction in the reduction in the TEFA unit rate surcharges shall not exceed the percentage shown in paragraph (2) of this subsection for that year; and provided further that in the first two years, that such reduction shall not exceed 10 percentage points for each year.

(5) (a) The TEFA unit rate surcharges for calendar years 2002 through 2006 shall be the same as the TEFA unit rate surcharges in effect for calendar year 2001.

(b) The TEFA unit rate surcharges in effect for calendar year 2006 shall be reduced annually on January 1, 2007 through January 1, 2010 by the following percentages:

|                 |     |
|-----------------|-----|
| January 1, 2007 | 20% |
| January 1, 2008 | 40% |
| January 1, 2009 | 60% |
| January 1, 2010 | 80% |

e. The utility's filing with the board to implement the rate changes provided for by this act shall include proof of revenue schedules that show for each rate schedule included in the utility's tariff, aggregated by unit-based energy tax unit tax classes, the number of customers billed under the rate schedule, the billing determinants of such customers (i.e. the kilowatts of billing demand and kilowatthours of electric energy consumed, and the million cubic feet/decatherm subject to gas capacity-related charges and decatherm of gas consumed) and the associated revenue, both as booked in the base year and on a pro forma basis reflecting the rate changes implemented pursuant to this act. The proof of revenue shall additionally show

the amount of unit-based energy taxes included in the base year revenue as booked, the unit-based energy taxes that would have been collected at the unit-based energy tax unit tax rates effective January 1, 1997, if different, as well as the corporation business tax, sales and use tax and transitional energy facility assessment revenue that would have been collected or received on a pro forma basis if the rates implemented pursuant to this act had been in effect in the base year.

f. The board may, in its discretion, permit the rate changes provided for by this act to be implemented as part of a pending base rate case or other proceeding in which the utility's rates are to be changed, provided that the effective date of the changes is not delayed beyond the date on which the changes would have been implemented under subsection c. of this section. The board may also, pursuant to its powers provided by law, permit or require further modifications in the implementation of this section to address unforeseen consequences arising out of the implementation of this act.

g. Customers of the utility who are exempt from the sales and use tax imposed on sales of gas and/or electricity or as a result of rate changes occurring prior to the effective date of this act or for other valid reasons are due a refund of sales or use tax inadvertently imposed on such customers as a result of implementing the rate changes provided for by this act shall file with the State Treasurer to obtain such refunds. The State Treasurer shall promptly notify the utility of customers granted refunds under this provision in order to prevent additional collections of the sales and use tax from such customers.

h. Public utilities providing telecommunications service regulated by the board shall file for the board's review and approval revised tariffs that eliminate from the rates applicable to such service the excise tax liability included therein pursuant to P.L.1940, c.4 (C.54:30A-16 et seq.), and shall include therein the corporation business tax calculated using the methodology used in calculating the adjustment factor set forth in paragraph (2) of subsection c. of this section. Subsection d. of this section shall not apply to telecommunication utilities, and telecommunication utilities subject to a plan of regulation other than rate base/rate of return shall additionally not be required to file the rate of return information required by paragraph (2) of subsection c. Such utilities shall, however, include a narrative and/or other documentation as required by the board to support the reasonableness of the after-tax income, which may be adjusted to eliminate the effect of non-recurring or other atypical events, on which the corporate business tax inclusion in rates is based. Telecommunications utilities shall comply with all other applicable provisions of this section.

i. (1) The board shall not adjust the rates of a public utility, as provided in subsections c. and d. of this section, for a purchase by a cogenerator of

natural gas and the transportation of that gas, that is exempt from sales and use tax pursuant to paragraph (2) of subsection b. of section 26 of P.L.1997, c.162 (C.54:32B-8.46). The board shall not allocate, in any future rate case, any sales and use tax, corporation business tax, or transitional energy facility assessment to rates for this purpose.

(2) The board shall adjust the rates, as provided in subsection c. of this section, for a purchase by a cogenerator of any quantity of natural gas and the transportation of that gas that is not exempt from sales and use tax pursuant to paragraph (2) of subsection b. of section 26 of P.L.1997, c.162 (C.54:32B-8.46).

(3) For the purposes of this section, "cogenerator" means a person or business entity that owns or operates a cogeneration facility in the State of New Jersey, which facility is a plant, installation or other structure whose primary purpose is the sequential production of electricity and steam or other forms of useful energy which are used for industrial, commercial, heating or cooling purposes, and which is designated by the Federal Energy Regulatory Commission, or its successor, as a "qualifying facility" pursuant to the provisions of the "Public Utility Regulatory Policies Act of 1978," Pub.L.95-617.

3. This act shall take effect immediately.

Approved June 29, 2004.

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## CHAPTER 44

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

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

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

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

23. Withdrawal from Federal Treasury. (a) The State Treasurer is hereby authorized and directed to requisition and withdraw on or before December 31, 1948, the sum of \$50,000,000.00 from the amount of worker contributions heretofore accumulated in the State unemployment compensation fund and deposited in and credited to the account of this State in the

unemployment trust fund of the United States of America, established and maintained pursuant to section 904 of the Social Security Act, as amended (42 U.S.C. s.1104), and to deposit such sums in the State disability benefits fund, established under the "Temporary Disability Benefits Law." The State Treasurer is further authorized and empowered to make such requisitions or withdrawals in accordance with such regulations relating thereto as may be prescribed by the United States Secretary of the Treasury. No portion of the amount requisitioned or withdrawn from the Federal Treasury shall be expended for the purpose of administering the "Temporary Disability Benefits Law."

(b) The State Treasurer is hereby authorized and directed to requisition and withdraw within 90 days of this enactment, an additional sum of \$50,000,000.00 from the amount of worker contributions heretofore accumulated in the State unemployment compensation fund and deposited in and credited to the account of this State in the unemployment trust fund of the United States of America, established and maintained pursuant to section 904 of the Social Security Act, as amended (42 U.S.C. s.1104), and to deposit such sums in the State disability benefits fund, established under the "Temporary Disability Benefits Law." The State Treasurer is further authorized and empowered to make such requisitions or withdrawals in accordance with such regulations relating thereto as may be prescribed by the United States Secretary of the Treasury. If the balance in the State disability benefits fund as of December 31 of any calendar year, increased by the contributions credited thereto on or before, or as of January 31 immediately thereafter is in excess of \$75,000,000.00, the excess shall be withdrawn from the State disability benefits fund and deposited to the account of this State in the unemployment trust fund until the entire \$50,000,000.00 requisitioned and withdrawn under this subsection (b) has been returned and deposited to the account of this State in the unemployment trust fund pursuant to the provisions of this subsection (b) and subsection (c) hereof. Such repayment to the unemployment trust fund shall be considered in determining contribution rates by employers to the State disability benefits fund under R.S.43:21-7(e). No portion of the amount requisitioned or withdrawn from the Federal Treasury shall be expended for the purpose of administering the "Temporary Disability Benefits Law."

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

immediately and shall be deposited with the Secretary of the Treasury of the United States of America in accordance with the provisions of R.S.43:21-9(b).

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

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

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

(g) To the extent that funds from the General Fund are also deposited into the clearing account subsequent to July 1, 1994 but before October 2, 1994, such amount shall be reimbursed to the General Fund from amounts collected pursuant to R.S.43:21-7(d)(1)(G) and R.S.43:21-7(e) for quarterly periods ending on or after September 30, 1994.

(h) The amount transferred from the State disability benefits fund to the clearing account of the unemployment compensation fund under subsection (f) of this section plus any amount reimbursed to the General Fund in accordance with subsection (g) shall be repaid to the State disability benefits fund from general State revenues with interest at the rate earned by the investments made with moneys remaining in the State disability benefits fund. The repayment period shall not exceed ten years. The amount repaid each year

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

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

(j) To ensure that the provisions of subsection (i) of this section do not reduce or delay benefits payable pursuant to the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.), whenever the amount in the State disability benefits fund is less than the amount required to pay the benefits provided under that law and the necessary costs of administering those benefits, the additional amount required to pay the benefits and the administrative costs shall be paid from the General Fund. The amounts paid from the General Fund for benefits and administrative costs pursuant to this subsection shall be repaid to the General Fund from the State disability benefits fund at such time as the Treasurer determines that the repayment may be made without reducing or delaying benefits payable pursuant to the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.). The repayment to the General Fund from the State disability benefits fund pursuant to this subsection (j) shall not effect an increase in employee or employer contributions under subsection (d) or (e) of R.S.43:21-7.

(k) The State Treasurer is hereby authorized and directed to requisition and withdraw, in addition to the \$33,000,000 appropriated from the State

disability benefits fund pursuant to section 61 of P.L.2001, c.130 for transfer to the General Fund, before July 1, 2002 an amount not greater than \$50,000,000 from the State disability benefits fund and to deposit that amount in the General Fund, and in addition, is hereby authorized and directed to requisition and withdraw on or after July 1, 2003 an amount not greater than \$30,000,000 from the State disability benefits fund and to deposit that amount in the General Fund. Also, on or after July 1, 2004, the State Treasurer is hereby authorized and directed to requisition and withdraw on or after July 1, 2004 an amount not greater than \$110,000,000 from the State disability benefits fund and to deposit that amount in the General Fund. For purposes of determining the balance in the State disability benefits fund as prescribed pursuant to subparagraph (1) of subparagraph (E) of paragraph (3) of subsection (e) of R.S.43:21-7, the amount transferred from the State disability benefits fund to the General Fund pursuant to this subsection (k) shall be regarded as being included in the State disability benefits fund.

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

2. This act shall take effect immediately.

Approved June 29, 2004.

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## CHAPTER 45

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

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

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

**Benefits.**

43:21-3. Benefits.

(a) Payment of benefits.

All benefits shall be promptly paid from the fund in accordance with such regulations as may be prescribed hereunder.

(b) Weekly benefits for unemployment.



With respect to an individual's benefit year commencing on or after July 1, 1961, such individual, if eligible and unemployed (as defined in subsection (m) of R.S.43:21-19), shall be paid an amount (except as to final payment) equal to his weekly benefit rate less any remuneration, other than remuneration from self-employment paid to an individual who is receiving a self-employment assistance allowance, paid or payable to him for such week in excess of 20% of his weekly benefit rate (fractional part of a dollar omitted) or \$5.00, whichever is the greater; provided that such amount shall be computed to the next lower multiple of \$1.00 if not already a multiple thereof.

(c) Weekly benefit rate.

(1) With respect to an individual whose benefit year commences after September 30, 1984, his weekly benefit rate under each determination shall be 60% of his average weekly wage, subject to a maximum of  $56 \frac{2}{3}$  % of the Statewide average weekly remuneration paid to workers by employers subject to this chapter (R.S.43:21-1 et seq.), as determined and promulgated by the Commissioner of Labor and Workforce Development; provided, however, that such individual's weekly benefit rate shall be computed to the next lower multiple of \$1.00 if not already a multiple thereof.

(2) Dependency benefits.

(A) With respect to an individual whose benefit year commences after September 30, 1984, the individual's weekly benefit rate as determined in paragraph (1) of this subsection (c) will be increased by 7% for the first dependent and 4% each for the next two dependents (up to a maximum of three dependents), computed to the next lower multiple of \$1.00 if not already a multiple thereof, except that the maximum weekly benefit rate payable for an individual claiming dependency benefits shall not exceed the maximum amount determined under paragraph (1) of this subsection (c).

(B) For the purposes of this paragraph (2), a dependent is defined as an individual's unemployed spouse or an unemployed unmarried child (including a stepchild or a legally adopted child) under the age of 19 or an unemployed unmarried child, who is attending an educational institution as defined in subsection (y) of R.S.43:21-19 on a full-time basis and is under the age of 22. If an individual's spouse is employed during the week the individual files an initial claim for benefits, this paragraph (2) shall not apply. If both spouses establish a claim for benefits in accordance with the provisions of this chapter (R.S.43:21-1 et seq.), only one shall be entitled to dependency benefits as provided in this paragraph (2).

(C) Any determination establishing dependency benefits under this paragraph (2) shall remain fixed for the duration of the individual's benefit year and shall not be increased or decreased unless it is determined by the

division that the individual wrongfully claimed dependency benefits as a result of false or fraudulent representation.

(D) Notwithstanding the provisions of any other law, the division shall use every available administrative means to insure that dependency benefits are paid only to individuals who meet the requirements of this paragraph (2). These administrative actions may include, but shall not be limited to, the following:

(i) All married individuals claiming dependents under this paragraph (2) shall be required to provide the social security number of the individual's spouse. If the individual indicates that the spouse is unemployed, the division shall match the social security number of the spouse against available wage records to determine whether earnings were reported on the last quarterly earnings report filed by employers under R.S.43:21-14. If earnings were reported, the division shall contact in writing the last employer to determine whether the spouse is currently employed.

(ii) Where a child is claimed as a dependent by an individual under this paragraph (2), the individual shall be required to provide to the division the most recent federal income tax return filed by the individual to assist the division in verifying the claim.

(3) For the purposes of this subsection (c), the "Statewide average weekly remuneration paid to workers by employers" shall be computed and determined by the Commissioner of Labor and Workforce Development on or before September 1 of each year on the basis of one-fifty-second of the total remuneration reported for the preceding calendar year by employers subject to this chapter, divided by the average of the number of workers reported by such employers, and shall be effective as to benefit determinations in the calendar year following such computation and determination.

(d) Maximum total benefits.

(1) (A) (Deleted by amendment, P.L.2003, c.107).

(B) (i) With respect to an individual for whom benefits shall be payable for benefit years commencing on or after July 1, 1986, and before July 1, 2003 as provided in this section, the individual shall be entitled to receive a total amount of benefits equal to three-quarters of the individual's base weeks with all employers in the base year multiplied by the individual's weekly benefit rate; but the amount of benefits thus resulting under that determination shall be adjusted to the next lower multiple of \$1.00 if not already a multiple thereof. With respect to an individual for whom benefits shall be payable for benefit years commencing on or after July 1, 2003 as provided in this section, the individual shall be entitled to receive a total amount of benefits equal to the number of the individual's base weeks with all employers in the base year multiplied by the individual's weekly benefit rate; but the amount of benefits thus resulting under that determination shall

be adjusted to the next lower multiple of \$1.00 if not already a multiple thereof.

(ii) Except as provided pursuant to paragraph (1) of subsection (c) of R.S.43:21-7, benefits paid to an individual for benefit years commencing on or after July 1, 1986 shall be charged against the accounts of the individual's base year employers in the following manner:

Each week of benefits paid to an eligible individual shall be charged against each base year employer's account in the same proportion that the wages paid by each employer to the individual during the base year bear to the wages paid by all employers to that individual during the base year.

(iii) (Deleted by amendment, P.L.1997, c.255.)

(2) No such individual shall be entitled to receive benefits under this chapter (R.S.43:21-1 et seq.) in excess of 26 times his weekly benefit rate in any benefit year under either of subsections (c) and (f) of R.S. 43:21-4. In the event that any individual qualifies for benefits under both of said subsections during any benefit year, the maximum total amount of benefits payable under said subsections combined to such individual during the benefit year shall be one and one-half times the maximum amount of benefits payable under one of said subsections.

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

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

**Contributions.**

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

(a) Payment.

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

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

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

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

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

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

(c) Future rates based on benefit experience.

(1) A separate account for each employer shall be maintained and this shall be credited with all the contributions which he has paid on his own behalf on or before January 31 of any calendar year with respect to employment occurring in the preceding calendar year; provided, however, that if January 31 of any calendar year falls on a Saturday or Sunday, an employer's account shall be credited as of January 31 of such calendar year with all the contributions which he has paid on or before the next succeeding day which is not a Saturday or Sunday. But nothing in this chapter (R.S.43:21-1 et seq.) shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him into the fund either on his own behalf or on behalf of such individuals. Benefits paid with respect to benefit years commencing on and after January 1, 1953, to any individual on or before December 31 of any calendar year with respect to unemployment in such calendar year and in preceding calendar years shall be charged against the account or accounts of the employer or employers in whose employment such individual established base weeks constituting the basis of such benefits, except that, with respect to benefit years commencing after January 4, 1998, an employer's account shall not be charged for benefits paid to a claimant if the claimant's employment by that employer was ended in any way which, pursuant to subsection (a), (b), (c), (f), (g) or (h) of R.S.43:21-5, would have disqualified the claimant for benefits if the claimant had applied for benefits at the time when that employment ended. Benefits paid under a given benefit determination shall be charged against the account of the employer to whom such determination relates. When each benefit payment is made, either a copy of the benefit check or other form of notification shall be promptly sent to the employer against whose account the benefits are to be charged. Such copy or notification shall identify the employer against whose account the amount of such payment is being charged, shall show at least the name and social security account number of the claimant and shall specify the period of unemployment to which said check applies. If the total amount of benefits paid to a claimant and charged to the account of the appropriate employer exceeds 50% of the total base year, base week wages paid to the claimant by that employer, then such employer shall have canceled from his account such excess benefit charges as specified above.

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

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

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

(4) Employer Reserve Ratio. (A) Each employer's rate shall be  $2\frac{8}{10}\%$ , 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  $2\frac{8}{10}\%$ , 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)  $2\frac{5}{10}\%$ , 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)  $2\frac{2}{10}\%$ , if such excess equals or exceeds 5%, but is less than 6%, of his average annual payroll;

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

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

(5)  $1\frac{3}{10}\%$ , 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)  $\frac{7}{10}$  of 1%, if such excess equals or exceeds 10%, but is less than 11%, of his average annual payroll;

(8)  $\frac{4}{10}$  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)  $4\frac{3}{10}\%$ , if such excess equals or exceeds 10%, but is less than 20%, of his average annual payroll;

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

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

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

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

(5)(A) Unemployment Trust Fund Reserve Ratio. If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 4% but is less than 7% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be increased by 3/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (3) or (4) of this subsection. If on March 31 of any calendar year the balance of the unemployment trust fund exceeds 2 1/2% but is less than 4% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be increased by 6/10 of 1% over the contribution rate otherwise established under the provisions of paragraph (3) or (4) of this subsection.

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

contribution rate otherwise established under the provisions of paragraph (4) of this subsection. For the period commencing July 1, 1984 and ending June 30, 1986, the contribution rate for each employer liable to pay contributions under R.S.43:21-7 shall be increased by a factor of 10% computed to the nearest multiple of 1/10% if not already a multiple thereof.

(B) If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 10% but is less than 12 1/2% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be reduced by 3/10 of 1% under the contribution rate otherwise established under the provisions of paragraphs (3) and (4) of this subsection; provided that in no event shall the contribution rate of any employer be reduced to less than 4/10 of 1%. If on March 31 of any calendar year the balance in the unemployment trust fund equals or exceeds 12 1/2% of the total taxable wages reported to the controller as of that date in respect to employment during the preceding calendar year, the contribution rate, effective July 1 following, of each employer eligible for a contribution rate calculation based upon benefit experience, shall be reduced by 6/10 of 1% if his account for all past periods reflects an excess of contributions paid over total benefits charged of 3% or more of his average annual payroll, otherwise by 3/10 of 1% under the contribution rate otherwise established under the provisions of paragraphs (3) and (4) of this subsection; provided that in no event shall the contribution rate of any employer be reduced to less than 4/10 of 1%.

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

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

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

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

(iii) (Deleted by amendment, P.L.2003, c.107).

(iv) (Deleted by amendment, P.L.2004, c.45).

(v) With respect to the experience rating year beginning on July 1, 2003, 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<sup>1</sup>

| Employer<br>Reserve<br>Ratio <sup>2</sup> | 2.50%<br>and<br>Over<br>A | 2.00%<br>to<br>2.49%<br>B | 1.50%<br>to<br>1.99%<br>C | 1.00%<br>to<br>1.49%<br>D | 0.99%<br>and<br>Under<br>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                        |

<sup>1</sup>Fund balance as of March 31 as a percentage of taxable wages in the prior calendar year.

<sup>2</sup>Employer Reserve Ratio (Contributions minus benefits as a percentage of employer's taxable wages).

(vi) With respect to experience rating years beginning on or after July 1, 2004, the new employer rate or the unemployment experience rate of an employer under this section shall be the rate which appears in the column headed by the Unemployment Trust Fund Reserve Ratio as of the applicable calculation date and on the line with the Employer Reserve Ratio, as defined in paragraph 4 of this subsection (R.S.43:21-7 (c)(4)), as set forth in the following table:

EXPERIENCE RATING TAX TABLE  
Fund Reserve Ratio<sup>1</sup>

| Employer<br>Reserve<br>Ratio <sup>2</sup> | 1.40%<br>and<br>Over<br>A | 1.00%<br>to<br>1.39%<br>B | 0.75%<br>to<br>0.99%<br>C | 0.50%<br>to<br>0.74%<br>D | 0.49%<br>and<br>Under<br>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                        |

<sup>1</sup>Fund balance as of March 31 as a percentage of taxable wages in the prior calendar year.

<sup>2</sup>Employer Reserve Ratio (Contributions minus benefits as a percentage of employer's taxable wages).

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

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

(iii) With respect to experience rating years beginning on or after July 1, 2004, if the fund reserve ratio, based on the fund balance as of the prior March 31, is less than 0.50%, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be increased by a factor of 10% computed to the nearest multiple of 1/10% if not already a multiple thereof.

(G) On or after January 1, 1993, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by 0.1%, except that, during any experience rating year starting before January 1, 1998 in which the fund reserve ratio is equal to or greater than 7.00% or during any experience rating year starting on or after January 1, 1998, in which the fund reserve ratio is equal to or greater than 3.5%, there shall be no decrease pursuant to this subparagraph (G) in the contribution of any employer who has a deficit reserve ratio of negative 35.00% or under.

(H) On or after January 1, 1993 until December 31, 1993, notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor of 52.0% computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%. The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%. On or after January 1, 1994 until December 31, 1995, except as provided pursuant to subparagraph (I) of this paragraph (5), notwithstanding any other provisions of this paragraph (5), the contribution rate for each employer liable to pay contributions, as

computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor of 36.0% computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%. The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

On or after April 1, 1996 until December 31, 1996, the contribution rate for each employer liable to pay contributions, as computed under subparagraph (E) of this paragraph (5), shall be decreased by a factor of 25.0% computed to the nearest multiple of 1/10%, except that, if an employer has a deficit reserve ratio of negative 35.0% or under, the employer's rate of contribution shall not be reduced pursuant to this subparagraph (H) to less than 5.4%. The amount of the reduction in the employer contributions stipulated by this subparagraph (H) shall be in addition to the amount of the reduction in the employer contributions stipulated by subparagraph (G) of this paragraph (5), except that the rate of contribution of an employer who has a deficit reserve ratio of negative 35.0% or under shall not be reduced pursuant to this subparagraph (H) to less than 5.4% and the rate of contribution of any other employer shall not be reduced to less than 0.0%.

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

On and after January 1, 1998 until December 31, 2000 and on or after January 1, 2002 until June 30, 2004, 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%; and

From July 1, 2004 until June 30, 2005, a factor of 7%.

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

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

If, upon calculating the unemployment compensation fund reserve ratio pursuant to R.S.43:21-7(c)(5)(D) prior to March 31, 1997, March 31, 1998 or March 31, 1999, the controller finds that the fund reserve ratio has decreased to a level of less than 3.00%, the Commissioner of Labor shall notify the State Treasurer of this fact and of the dollar amount necessary to bring the fund reserve ratio up to a level of 3.00%. The State Treasurer shall, prior to March 31, 1997, March 31, 1998 or March 31, 1999, as applicable, transfer from the General Fund to the unemployment compensation fund, revenues in the amount specified by the commissioner and which, upon deposit in the unemployment compensation fund, shall result, upon recalculation, in a fund reserve ratio used to determine employer contributions beginning July 1, 1997, July 1, 1998, July 1, 1999, as applicable, of at least 3.00%. If, upon calculating the unemployment compensation fund reserve ratio pursuant to R.S.43:21-7(c)(5)(D) prior to March 31, 2000, the controller finds that the fund reserve ratio has decreased to a level of less than 3.00%, the Commissioner of Labor and Workforce Development shall notify the State Treasurer of this fact and of the dollar amount necessary to bring the fund reserve ratio up to a level of 3.00%. The State Treasurer shall, prior to March 31, 2000, transfer from the General Fund to the unemployment compensation fund, revenues in the amount specified by the commissioner and which, upon deposit in the unemployment compensation fund, shall

result, upon recalculation, in a fund reserve ratio used to determine employer contributions beginning July 1, 2000 of at least 3.00%.

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

(6) Additional contributions.

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

(7) Transfers.

(A) Upon the transfer of the organization, trade or business, or substantially all the assets of an employer to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, the controller shall transfer the employment experience of the predecessor employer to the successor in interest, including credit for past years, contributions paid,

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

(B) An employer who transfers part of his or its organization, trade, assets or business to a successor in interest, whether by merger, consolidation, sale, transfer, descent or otherwise, may jointly make application with such successor in interest for transfer of that portion of the employment experience of the predecessor employer relating to the portion of the organization, trade, assets or business transferred to the successor in interest, including credit for past years, contributions paid, annual payrolls, benefit charges, et cetera, applicable to such predecessor employer. The transfer of employment experience may be allowed pursuant to regulation only if it is found that the employment experience of the predecessor employer with respect to the portion of the organization, trade, assets or business which has been transferred may be considered indicative of the future employment experience of the successor in interest. Credit shall be given to the successor in interest only for the years during which contributions were paid by the predecessor employer with respect to that part of the organization, trade, assets or business transferred.

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

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

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

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

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



ered for disability benefits by an approved private plan of the employer, the contributions to the fund shall be 0.125%.

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

(D) Notwithstanding any other provisions of this paragraph (1), during the period starting January 1, 1993 and ending June 30, 1994, each worker shall contribute to the unemployment compensation fund 0.5% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer. No contributions, however, shall be made by the worker while the worker is covered by an approved private plan under the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.) or while the worker is exempt under section 7 of P.L.1948, c.110 (C.43:21-31) or any other provision of that law; provided that the contributions shall be at the rate of 0.50% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions and which is covered by the State plan under the "Temporary Disability Benefits Law," except that, while the worker is exempt from the provisions of the "Temporary Disability Benefits Law" under section 7 of that law, P.L.1948, c.110 (C.43:21-31) or any other provision of that law, or is covered for disability benefits by an approved private plan of the employer, no contributions shall be made to the fund.

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

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

Each worker shall, starting on January 1, 1999 until December 31, 1999, contribute to the unemployment compensation fund 0.15% of wages paid with respect to the worker's employment with a governmental employer electing or required to pay contributions or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, regardless of whether that nonprofit organization elects or is required to finance its benefit costs with contributions to the fund or by payments in lieu of contributions, after that employer has satisfied the conditions set forth in subsection (h) of R.S.43:21-19 with respect to becoming an employer, provided that the contributions shall be at the rate of 0.10% of wages paid with respect to employment with the State of New Jersey or any other governmental entity or instrumentality electing or required to make payments in lieu of contributions.

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

Each worker shall, starting on January 1, 2002 until June 30, 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) Each worker shall, starting on July 1, 1994, contribute to the State disability benefits fund an amount equal to 0.50% of wages paid with respect to the worker's employment with a government employer electing or required to pay contributions to the State disability benefits fund or nongovernmental employer, including a nonprofit organization which is an employer as defined under paragraph (6) of subsection (h) of R.S.43:21-19, unless the employer is covered by an approved private disability plan or is exempt from the provisions of the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.) under section 7 of that law (C.43:21-31) or any other provision of that law.

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

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

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

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

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

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

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

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

subsection. The controller shall, in accordance with prescribed regulations, prorate the amount so determined among the applicable private plans in the proportion that the wages covered by each plan bear to the total private plan wages involved in such refunds, and shall assess against and recover from the employer, or the insurer if the insurer has indemnified the employer with respect thereto, the amount so prorated. The provisions of R.S.43:21-14 with respect to collection of employer contributions shall apply to such assessments. The amount so recovered by the controller shall be paid into the State disability benefits fund.

(4) If an individual does not receive any wages from the employing unit which for the purposes of this chapter (R.S.43:21-1 et seq.) is treated as his employer, or receives his wages from some other employing unit, such employer shall nevertheless be liable for such individual's contributions in the first instance; and after payment thereof such employer may deduct the amount of such contributions from any sums payable by him to such employing unit, or may recover the amount of such contributions from such employing unit, or, in the absence of such an employing unit, from such individual, in a civil action; provided proceedings therefor are instituted within three months after the date on which such contributions are payable. General rules shall be prescribed whereby such an employing unit may recover the amount of such contributions from such individuals in the same manner as if it were the employer.

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

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

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

(1) Except as hereinafter provided, each employer shall, in addition to the contributions required by subsections (a), (b), and (c) of this section, contribute 1/2 of 1% of the wages paid by such employer to workers with respect to employment unless he is not a covered employer as defined in section 3 of the "Temporary Disability Benefits Law" (C.43:21-27 (a)), except that the rate for the State of New Jersey shall be 1/10 of 1% for the calendar year 1980 and for the first six months of 1981. Prior to July 1, 1981 and prior to July 1 each year thereafter, the controller shall review the experience accumulated in the account of the State of New Jersey and establish a rate for the next following fiscal year which, in combination with worker

contributions, will produce sufficient revenue to keep the account in balance; except that the rate so established shall not be less than 1/10 of 1%. Such contributions shall become due and be paid by the employer to the controller for the State disability benefits fund as established by law, in accordance with such regulations as may be prescribed, and shall not be deducted, in whole or in part, from the remuneration of individuals in his employ. In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to \$0.005 or more, in which case it shall be increased to \$0.01.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The controller shall then make a final determination of the rates of contribution for the 12 months commencing July 1 of such year for employers whose preliminary rates are determined as provided in (D) hereof, as follows:

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

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

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

(iv) If the amount of the State disability benefits fund determined as provided in paragraph (E)(1) of this subsection is equal to or less than  $\frac{1}{4}$  of 1%, then the final rate shall be  $\frac{2}{5}$  of 1% in the case of an employer whose preliminary rate is determined as provided in (D)(2) hereof,  $\frac{7}{10}$  of 1% in the case of an employer whose preliminary rate is determined as



provided in (D)(1) and (D)(3) hereof, and 1.1% in the case of an employer whose preliminary rate is determined as provided in (D)(4) hereof. Notwithstanding any other provision of law or any determination made by the controller with respect to any 12-month period commencing on July 1, 1970, the final rates for all employers for the period beginning January 1, 1971, shall be as set forth herein.

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

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

29. a. Beginning January 1, 1993 until December 31, 1995, except as provided pursuant to subsection b. of this section, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.6% of the employee's taxable wages.

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

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

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

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

Beginning on January 1, 2000 until June 30, 2004, each employee shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to 0.20% of the employee's taxable wages.

Also beginning on January 1, 1993 until December 31, 1995 and beginning April 1, 1996 until December 31, 1997, each employer shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to the amount that the employer's contribution

to the unemployment compensation fund is decreased pursuant to subparagraph (H) of paragraph (5) of subsection (c) of R.S.43:21-7.

Also beginning on January 1, 1998 until December 31, 2000, and beginning on January 1, 2002 and ending June 30, 2005, each employer shall, in such a manner and at such times as determined by the commissioner, contribute to the fund an amount equal to the amount that the employer's contribution to the unemployment compensation fund is decreased pursuant to subparagraph (H) of paragraph (5) of subsection (c) of R.S.43:21-7.

b. If the unemployment compensation fund reserve ratio, as determined pursuant to paragraph (5) of subsection (c) of R.S.43:21-7, decreases to a level of less than 4.00% on March 31 of calendar year 1994 or calendar year 1995, the provisions of subsection a. of this section shall cease to be in effect as of July 1 of that calendar year and each employer who would be subject to making the contributions pursuant to subsection a. of this section if that subsection were in effect shall, beginning on July 1 of that calendar year, contribute to the fund an amount equal to 0.62% of the total wages paid by the employer and shall continue to contribute that amount until December 31, 1995.

c. If the total amount of contributions to the fund pursuant to this section during the calendar year 1993 exceeds \$600 million, all contributions which exceed \$600 million shall be deposited in the unemployment compensation fund. If the total amount of contributions to the fund pursuant to this section during calendar year 1994 or calendar year 1995 exceeds \$500 million, all contributions which exceed \$500 million shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 1996 or 1997 exceeds \$330 million, all contributions which exceed \$330 million in calendar year 1996 or 1997 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 1998 exceeds \$288 million, all contributions which exceed \$288 million in the calendar year 1998 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 1999 exceeds \$233.9 million, all contributions which exceed \$233.9 million in the calendar year 1999 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 2000 exceeds \$178.6 million, all contributions which exceed \$178.6 million in the calendar year 2000 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the calendar year 2001 exceeds \$94.9 million, all contributions which exceed \$94.9 million in the calendar year 2001 shall be deposited in the unemployment compensation fund. If

the total amount of contributions made to the fund pursuant to this section for the period beginning January 1, 2002 and ending June 30, 2002 exceeds \$516.5 million, all contributions which exceed \$516.5 million in the period beginning January 1, 2002 and ending June 30, 2002 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the fiscal year 2003 or fiscal year 2004 exceeds \$325 million, all contributions which exceed \$325 million in the fiscal year 2003 or fiscal year 2004 shall be deposited in the unemployment compensation fund. If the total amount of contributions made to the fund pursuant to this section for the fiscal year 2005 exceeds \$100 million, all contributions which exceed \$100 million in the fiscal year 2005 shall be deposited in the unemployment compensation fund.

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

4. Section 8 of P.L.1992, c.47 (C.43:21-64) is amended to read as follows:

**C.43:21-64 Prohibition of additional benefits.**

8. a. Whenever the Commissioner of Labor and Workforce Development determines that the total amount of additional benefits paid pursuant to this act has become greater than 2.0% of the sum of balances in the unemployment trust fund on every December 31 since the effective date of P.L.1992, c.47 (C.43:21-57 et seq.), the commissioner shall, during the period lasting until the end of the calendar year in which the determination is made, prohibit any additional individuals from beginning to receive additional benefits pursuant to this act and shall end the prohibition at the end of that calendar year.

b. The Department of Labor and Workforce Development shall, during any period in which the commissioner prohibits additional individuals from beginning to receive additional benefits pursuant to subsection a. of this section, continue to provide any otherwise eligible individual with:

- (1) The notice required pursuant to section 6 of this act;
- (2) The counseling required pursuant to section 3 of this act; and
- (3) The opportunity for the individual to notify the department of the individual's intention to enter into remedial education or vocational training pursuant to subsection d. of section 4 of this act. Any individual who, during the period in which the commissioner prohibits additional individuals from beginning to receive additional benefits pursuant to subsection a. of this section, meets the requirements of section 4 of this act shall be permitted to receive additional benefits pursuant to this act after the commissioner has ended the prohibition pursuant to subsection a. of this section.

c. Additional benefits paid pursuant to this act shall continue for any individual who, at the time that the commissioner imposes the prohibition pursuant to subsection a. of this section, is already receiving the additional benefits or has already enrolled in the training or education identified in the Employability Development Plan developed pursuant to section 3 of this act.

5. This act shall take effect immediately.

Approved June 29, 2004.

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## CHAPTER 46

AN ACT establishing a local tire management program and imposing a fee on the purchase of new motor vehicle tires and supplementing Title 54 and Title 13 of the Revised Statutes.

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

**C.54:32F-1 Definitions relative to local tire management program; fee, imposition, collection.**

1. a. As used in this section:

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

"Director" means the Director of the Division of Taxation in the Department of the Treasury;

"Motor vehicle" includes any vehicle propelled otherwise than by muscular power, including trailers and semi trailers, or any other type of vehicle drawn by a motor vehicle, designed for use on the public highways, but excepting a vehicle that runs only upon rails or tracks;

"New motor vehicle tire" shall not include a recapped tire;

"Tire" means a continuous covering encircling a wheel for a motor vehicle in which a person or property is or may be transported or which is or may be drawn upon a road or highway; and

"Vendor" means any entity engaged in the retail sale of new motor vehicle tires, the retail sale of new motor vehicle tires sold as a component part of a motor vehicle, and the purchase for lease or rental of new motor vehicle tires transferred as a component part of a leased motor vehicle.

b. There is imposed on the purchaser a fee of \$1.50 upon the sale of a new motor vehicle tire if: that sale is subject to the sales tax imposed pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), including new motor vehicle tires sold as a component part of a motor

vehicle if the sale of the motor vehicle is subject to the sales tax and new motor vehicle tires transferred as a component part of the lease of a motor vehicle if the purchase for lease of the motor vehicle is subject to the sales tax. The fee imposed under this section shall be collected by the vendor and, except in the case of vendors engaged in the retail sale of new motor vehicle tires sold as a component part of a motor vehicle, and in the lease or rental of new motor vehicle tires transferred as a component part of a leased motor vehicle, shall be separately stated on any bill, receipt, invoice or similar document provided to the purchaser, but shall not be considered part of the receipt for purpose of determining tax pursuant to P.L.1966, c.30.

c. The fee shall not be imposed on the sale of a new motor vehicle tire, including new motor vehicle tires sold as a component part of a motor vehicle or transferred as a component part of a leased motor vehicle, if the purchaser or transferee is exempt from the tax imposed under the "Sales and Use Tax Act" pursuant to subsection (a) or (b) of section 9 of P.L.1966, c.30 (C.54:32B-9).

d. Each person required to collect the fee imposed by this section shall be personally liable for the fee imposed, collected or required to be collected under this section. Any such person shall have the same right in respect to collecting the fee from a purchaser as if the fee were a part of the sales price and payable at the same time.

e. In carrying out the provisions of this section, the director shall have all of the powers and authority granted in P.L.1966, c.30 (C.54:32B-1 et seq.). The fee shall be filed and paid in a manner prescribed by the director. The director shall promulgate such rules and regulations as the director determines are necessary to effectuate the provisions of this section.

f. The fee imposed by this section shall be governed by the provisions of the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq.

g. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the director may adopt immediately upon filing with the Office of Administrative Law such regulations as the director deems necessary to implement the provisions of this act, which shall be effective for a period not to exceed 180 days following enactment of P.L.2004, c.46 (C.54:32F-1 et al.) and may thereafter be amended, adopted or readopted by the director in accordance with the requirements of P.L.1968, c.410.

**C.54:32F-2 Disbursement, use of fees.**

2. After the Division of Taxation in the Department of the Treasury is reimbursed for costs incurred in the collection of the fee imposed pursuant to section 1 of P.L.2004, c.46 (C.54:32F-1), the first \$2.3 million collected in each fiscal year shall be deposited in the Tire Management and Cleanup Fund, established pursuant to section 3 of P.L.2004, c.46 (C.13:1E-224).

Any additional revenue collected shall be available for appropriation to the Department of Transportation to support snow removal operations.

**C.13:1E-224 Tire Management and Cleanup Fund.**

3. There is established the Tire Management and Cleanup Fund as a nonlapsing fund in the Department of Environmental Protection in which shall be annually deposited the sum provided pursuant to section 2 of P.L.2004, c.46 (C.54:32F-2) and any recoveries made pursuant to subsection c. of section 4 of P.L.2004, c.46 (C.13:1E-225).

**C.13:1E-225 Local Tire Management Program.**

4. a. There is established in the Department of Environmental Protection a Local Tire Management Program for the proper cleanup of abandoned tire piles and to provide grants to counties and municipalities for proper cleanup of abandoned tire piles within their respective jurisdictions.

b. The department may enter any property, facility, premises or site for the purpose of conducting inspections, sampling of soil or water, copying or photocopying documents or records, and otherwise determining if tires may be illegally accumulated.

c. The department shall recover to the use of the Tire Management and Cleanup Fund from the site owner or the person responsible for the accumulation of tires at the site, jointly and severally, all sums expended from the fund to manage tires at an illegal waste tire site, except that the department may decline to pursue such recovery if it finds the amount involved too small or the likelihood of recovery too uncertain.

d. The department may impose a lien on the real property on which the waste tire site is located equal to the estimated cost to bring the tire site into compliance, including attorney's fees and court costs. An owner whose property has such a lien imposed may release that property from a lien claimed under this subsection by filing with the clerk of the Superior Court a cash or surety bond, payable to the department in the amount of the estimated cost of bringing the tire site into compliance with department rules, including attorney's fees and court costs, or the value of the property after the abatement action is complete, whichever is less.

e. This section does not limit the use of other remedies available to the department.

f. The Commissioner of the Department of Environmental Protection may adopt any rules and regulations necessary for the implementation of this section.

5. This act shall take effect on August 1, 2004.

Approved June 29, 2004.

## CHAPTER 47

AN ACT concerning the net operating loss deduction under the corporation business tax, amending P.L.1945, c.162.

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

1. Section 4 of P.L.1945, c.162 (C.54:10A-4) is amended to read as follows:

**C.54:10A-4 Definitions.**

4. For the purposes of this act, unless the context requires a different meaning:

(a) "Commissioner" or "director" shall mean the Director of the Division of Taxation of the State Department of the Treasury.

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

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

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

for any purpose under the United States federal income tax laws, such as (but not by way of sole examples) for the purpose of supplying deemed paid foreign tax credits or for the purpose of status as a controlled foreign corporation. In calculating the net worth of a taxpayer entitled to reduction for investment in subsidiaries, the amount of liabilities of the taxpayer shall be reduced by such proportion of the liabilities as corresponds to the ratio which the excluded portion of the subsidiary values bears to the total assets of the taxpayer.

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

(F) (i) The amount by which depreciation reported to the United States Treasury Department for property placed in service on and after January 1, 1981, but prior to taxpayer fiscal or calendar accounting years beginning on

and after the effective date of P.L.1993, c.172, for purposes of computing federal taxable income in accordance with section 168 of the Internal Revenue Code in effect after December 31, 1980, exceeds the amount of depreciation determined in accordance with the Internal Revenue Code provisions in effect prior to January 1, 1981, but only with respect to a taxpayer's accounting period ending after December 31, 1981; provided, however, that where a taxpayer's accounting period begins in 1981 and ends in 1982, no modification shall be required with respect to this paragraph (F) for the report filed for such period with respect to property placed in service during that part of the accounting period which occurs in 1981. The provisions of this subparagraph shall not apply to assets placed in service prior to January 1, 1998 of a gas, gas and electric, and electric public utility that was subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998.

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

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

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

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

discharger to comply with a directive from the department to remove, or arrange for the removal of, the discharge.

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

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

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

A deduction shall also be permitted to the extent that the taxpayer establishes by a preponderance of the evidence, as determined by the director, that the interest is directly or indirectly paid, accrued or incurred to (i) a related member in a foreign nation which has in force a comprehensive income tax treaty with the United States, provided however that the taxpayer shall disclose on its return for the privilege period the name of the related member, the amount of the interest, the relevant foreign nation, and such other information as the director may prescribe or (ii) to an independent lender and the taxpayer guarantees the debt on which the interest is required.

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

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

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

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

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

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

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

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

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

(5) Entire net income shall exclude 100% of dividends which were included in computing such taxable income for federal income tax purposes, paid to the taxpayer by one or more subsidiaries owned by the taxpayer to the extent of the 80% or more ownership of investment described in subsection (d) of this section and shall exclude 50% of dividends which were included in computing such taxable income for federal income tax purposes, paid to the taxpayer by one or more subsidiaries owned by the taxpayer to the extent of 50% or more ownership of investment, such ownership of investment calculated in the same manner as the 80% or more of ownership of investment is calculated as described in subsection (d) of this section.

(6) (A) Net operating loss deduction. There shall be allowed as a deduction for the privilege period the net operating loss carryover to that period.

(B) Net operating loss carryover. A net operating loss for any privilege period ending after June 30, 1984 shall be a net operating loss carryover to each of the seven privilege periods following the period of the loss. The entire amount of the net operating loss for any privilege period (the "loss period") shall be carried to the earliest of the privilege periods to which the loss may be carried. The portion of the loss which shall be carried to each

of the other privilege periods shall be the excess, if any, of the amount of the loss over the sum of the entire net income, computed without the exclusions permitted in paragraphs (4) and (5) of this subsection or the net operating loss deduction provided by subparagraph (A) of this paragraph, for each of the prior privilege periods to which the loss may be carried.

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

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

(E) Notwithstanding the provisions of this paragraph (6) of subsection (k) of this section to the contrary, for privilege periods beginning during calendar year 2002 and calendar year 2003, no deduction for any net operating loss carryover shall be allowed, 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).

(7) The entire net income of gas, electric and gas and electric public utilities that were subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998, shall be adjusted by substituting the New Jersey depreciation allowance for federal tax depreciation with respect to assets placed in service prior to January 1, 1998. For gas, electric, and gas and electric public utilities that were subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998, the New Jersey depreciation allowance

shall be computed as follows: All depreciable assets placed in service prior to January 1, 1998 shall be considered a single asset account. The New Jersey tax basis of this depreciable asset account shall be an amount equal to the carryover adjusted basis for federal income tax purposes on December 31, 1997 of all depreciable assets in service on December 31, 1997, increased by the excess, of the "net carrying value," defined to be adjusted book basis of all assets and liabilities, excluding deferred income taxes, recorded on the public utility's books of account on December 31, 1997, over the carryover adjusted basis for federal income tax purposes on December 31, 1997 of all assets and liabilities owned by the gas, electric, or gas and electric public utility as of December 31, 1997. "Books of account" for gas, gas and electric, and electric public utilities means the uniform system of accounts as promulgated by the Federal Energy Regulatory Commission and adopted by the Board of Public Utilities. The following adjustments to entire net income shall be made pursuant to this section:

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

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

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

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

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

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

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

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

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

(12) (A) Notwithstanding the provisions of subsection (k) of section 168 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.168, and subsection (b) of section 1400L of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1400L, for property acquired after September 10, 2001 and before September 11, 2004, the depreciation deduction otherwise allowed pursuant to section 167 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.167, shall be determined pursuant to the requirements and limitations of section 168 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.168, and section 280F of the federal Internal Revenue Code of 1986, 26 U.S.C. s.280F, as if that subsection (k) and that section 1400L were not in effect.

(B) The director shall prescribe the rules and regulations necessary to carry out the provisions of this paragraph, including, among others, those for

determining the adjusted basis of the acquired property for the purposes of the "Corporation Business Tax Act (1945)", P.L.1945, c.162.

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

(m) "Financial business corporation" shall mean any corporate enterprise which is (1) in substantial competition with the business of national banks and which (2) employs moneyed capital with the object of making profit by its use as money, through discounting and negotiating promissory notes, drafts, bills of exchange and other evidences of debt; buying and selling exchange; making of or dealing in secured or unsecured loans and discounts; dealing in securities and shares of corporate stock by purchasing and selling such securities and stock without recourse, solely upon the order and for the account of customers; or investing and reinvesting in marketable obligations evidencing indebtedness of any person, copartnership, association or corporation in the form of bonds, notes or debentures commonly known as investment securities; or dealing in or underwriting obligations of the United States, any state or any political subdivision thereof, or of a corporate instrumentality of any of them. This shall include, without limitation of the foregoing, business commonly known as industrial banks, dealers in commercial paper and acceptances, sales finance, personal finance, small loan and mortgage financing businesses, as well as any other enterprise employing moneyed capital coming into competition with the business of national banks; provided that the holding of bonds, notes, or other evidences of indebtedness by individual persons not employed or engaged in the banking or investment business and representing merely personal investments not made in competition with the business of national banks, shall not be deemed financial business. Nor shall "financial business" include national banks, production credit associations organized under the Farm Credit Act of 1933 or the Farm Credit Act of 1971, Pub.L. 92-181 (12 U.S.C. s.2091 et seq.), stock and mutual insurance companies duly authorized to transact business in this State, security brokers or dealers or investment companies or bankers not employing moneyed capital coming into competition with the business of national banks, real estate investment trusts, or any of the following entities organized under the laws of this State: credit unions, savings banks, savings and loan and building and loan associations, pawnbrokers, and State banks and trust companies.

(n) "International banking facility" shall mean a set of asset and liability accounts segregated on the books and records of a depository institution, United States branch or agency of a foreign bank, or an Edge or Agreement Corporation that includes only international banking facility time deposits and international banking facility extensions of credit as such terms are



defined in section 204.8(a)(2) and section 204.8(a)(3) of Regulation D of the board of governors of the Federal Reserve System, 12 CFR Part 204, effective December 3, 1981. In the event that the United States enacts a law, or the board of governors of the Federal Reserve System adopts a regulation which amends the present definition of international banking facility or of such facilities' time deposits or extensions of credit, the Commissioner of Banking and Insurance shall forthwith adopt regulations defining such terms in the same manner as such terms are set forth in the laws of the United States or the regulations of the board of governors of the Federal Reserve System. The regulations of the Commissioner of Banking and Insurance shall thereafter provide the applicable definitions.

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

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

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

(r) "Qualified investment partnership" means a partnership under this act that has more than 10 members or partners with no member or partner owning more than a 50% interest in the entity and that derives at least 90% of its gross income from dividends, interest, payments with respect to securities loans, and gains from the sale or other disposition of stocks or securities or foreign currencies or commodities or other similar income (including but not limited to gains from swaps, options, futures or forward contracts) derived with respect to its business of investing or trading in those stocks, securities, currencies or commodities, but "investment partnership" shall not include a "dealer in securities" within the meaning of section 1236 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1236.

(s) "Savings institution" means a state or federally chartered building and loan association, savings and loan association, or savings bank.

(t) "Partnership" means an entity classified as a partnership for federal income tax purposes.

2. This act shall take effect immediately.

Approved June 29, 2004.

## CHAPTER 48

AN ACT imposing a fee on mobile telecommunications customers and telephone exchange customers for funding certain costs of the 9-1-1 system and emergency response, supplementing chapter 17C of Title 52 of the Revised Statutes.

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

**C.52:17C-17 Definitions relative to fees on mobile telecommunications customers.**

1. As used in this act:

"Home service provider" means the facilities-based carrier or reseller with which the customer contracts for the provision of mobile telecommunications service;

"Mobile telecommunications company" mean a carrier providing mobile telecommunications service in this State;

"Mobile telecommunications service" means commercial mobile radio service, as defined in section 20.3 of title 47 of the Code of Federal Regulations as in effect on June 1, 1999 charged by a customer's home service provider and provided to a customer with a place of primary use in this State and which provides real-time, two-way voice service that is interconnected with the public switched network;

"Place of primary use" means the street address representative of where the customer's use of the mobile telecommunications service primarily occurs, which shall be the residential street address or the primary business street address of the customer and within the licensed service area of the home service provider. For the purposes of determining the place of primary use, the terms used have the meanings provided pursuant to the federal "Mobile Telecommunications Sourcing Act," 4 U.S.C. s.124 (Pub.L.106-252);

"Telephone exchange company" means a carrier providing telephone exchange service in this State;

"Telephone exchange service" means that term as defined in subsection (47) of 47 U.S.C. s.153, as well as any other technology, including but not limited to, voice over Internet telephony or cable telephony, except mobile telecommunications service, that provides access through interconnection to the public switched telephone network to 9-1-1 service; and

"Voice grade access" means a functionality that enables a user of telecommunications services to transmit voice communications, including signalling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call.

**C.52:17C-18 Fee imposed on mobile telecommunications service customers; exemptions; administration.**

2. a. (1) There is imposed on each mobile telecommunications service customer, charged by a mobile telecommunications company for mobile telecommunications service for each voice grade access telephone number provided to the customer billed by or for the customer's home service provider and provided to a customer with a place of primary use in this State, a fee of \$0.90 on any periodic bill received by the customer for each voice grade access service number provided as part of the mobile telecommunications service.

(2) There is imposed on each customer charged by a telephone exchange company for each voice grade access service line provided to that customer that has a service address in this State, a fee of \$0.90 on any periodic bill received by the customer for each voice grade access service line provided as part of that telephone exchange service. Each Private Branch Exchange (PBX) trunk or Centrex trunk equivalent shall constitute an individual and separate subscribed service line. Any customer that has been determined by its telephone exchange company to be enrolled in the Lifeline Telecommunication program, or in receipt of Lifeline Telecommunication or Universal Service Fund benefits for a periodic bill shall be exempt from the fee on that periodic bill. State government agencies, and county and municipal governments and their agencies, and school districts shall be exempt from the fee imposed on customers of telephone exchange companies for each voice grade access service line provided as part of telephone exchange service provided to that customer at a service address in this State for periodic bills issued to those customers on and after January 1, 2005.

b. The fee imposed by paragraphs (1) and (2) of subsection a. of this section shall be collected by the mobile telecommunications company or telephone exchange company providing the applicable service to its customers upon payment of any periodic bill for such service. This section shall not be deemed as extending to a telephone exchange company or mobile telecommunications company any obligation or authority otherwise not provided pursuant to law, to take legal action to enforce the collection of the fee imposed upon the customer. Any such action shall be brought by the State against the customer with any cooperation requested by the State of the telephone exchange company or mobile telecommunications company as the State deems necessary.

c. The fees collected pursuant to subsection b. of this section shall be collected monthly and reported and paid to the director on a quarterly basis in a manner prescribed by the Director of the Division of Taxation in the Department of the Treasury, which notwithstanding the provisions of subsec-

tion b. of section 1 of P.L.1992, c.140 (C.54:48-4.1) if any, to the contrary, shall be subject to the provisions of P.L.1992, c.140 as the director shall prescribe, and the State Treasurer shall credit the fee revenue to the "9-1-1 System and Emergency Response Trust Fund Account" established pursuant to section 3 of P.L.2004, c.48 (C.52:17C-19). The administration, collection and enforcement of the fee imposed by this act shall be subject to the provisions of the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq., to the extent that the provisions of such law are not inconsistent with any provision of this act.

d. A telephone exchange company that provides telephone exchange service to the State government or any State government agency, a county or municipal government or any of its agencies, or a school district that is exempt for bills issued on and after January 1, 2005, shall be entitled after that date to a credit in an amount as the Director of the Division of Taxation shall determine within 60 days of application, against the amount of fees collected during and due to be paid over for the calendar quarter commencing on that date, for the reasonable costs certified by the telephone exchange company to have been incurred by the company for changes made to its billing system that are necessary to implement the exemption. The director shall consult with the Board of Public Utilities to ascertain from the board the reasonableness of the costs claimed to be incurred. The director and the board may adopt regulations necessary to administer the credit.

**C.52:17C-19 "9-1-1 System and Emergency Response Trust Fund Account."**

3. a. There is established in the Department of the Treasury within the General Fund a special account to be known as the "9-1-1 System and Emergency Response Trust Fund Account."

b. Funds credited to the "9-1-1 System and Emergency Response Trust Fund Account" shall be annually appropriated for the purposes of paying: (1) eligible costs pursuant to the provisions of sections 13 and 14 of P.L.1989, c.3 (C.52:17C-13 and 52:17C-14); (2) the costs of funding the State's capital equipment(including debt service), facilities and operating expenses that arise from emergency response; (3) the cost of emergency response training, including any related costs or expenses of the Office of Emergency Management in the Division of State Police in the Department of Law and Public Safety; (4) the cost of operating the Office of Emergency Telecommunications Services created pursuant to section 3 of P.L.1989, c.3 (C.52:17C-3); (5) the cost of operating the 9-1-1 Commission created pursuant to section 2 of P.L.1989, c.3 (C.52:17C-2); (6) any costs associated with implementing any requirement of the Federal Communications Commission concerning 9-1-1 service that is not otherwise allocated to a carrier and not eligible for reimbursement under law or regulation; (7) any costs

associated with planning, designing or implementing an automatic location identification technology that is not otherwise allocated to a wireless carrier and not eligible for reimbursement under law or regulation; and (8) any costs associated with planning, designing or acquiring replacement equipment or systems (including debt service) related to the enhanced 9-1-1 network as defined by subsection e. of section 1 of P.L.1989, c.3 (C.52:17C-1).

**C.52:17C-20 Itemization, identification of fee on customer bills.**

4. A mobile telecommunications company and a telephone exchange company collecting the fee imposed pursuant to section 2 of P.L.2004, c.48 (C.52:17C-18) shall itemize and separately identify the fee set forth on each periodic bill received by the customer as the "9-1-1 System and Emergency Response Assessment," which identification may be abbreviated as "911System/Emerg.Resp.Fee." Provided however, that a mobile telecommunications company or telephone exchange company may commence the separately identified itemization of the periodic charge on a periodic bill issued to a customer not later than October 1, 2004, but only if the customer's first periodic bill issued on and after that date includes the separately identified itemization for the periodic bills issued for the customer during the months of July, August and September of 2004, if any, and the fee imposed for the bills for those months is also set forth separately for collection thereon from the customers.

5. This act shall take effect immediately and apply to bills issued for billing periods ending on or after July 1, 2004; except that for bills issued for Private Branch Exchange (PBX) systems, Centrex systems or other similar telecommunications services, this act shall apply to such bills issued for billing periods ending on or after August 1, 2004.

Approved June 29, 2004.

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CHAPTER 49

AN ACT establishing a special interim assessment on health maintenance organizations, requiring the State Treasurer and the Commissioner of Banking and Insurance to undertake a comparative study of the equity of the various taxes imposed thereon, and amending and supplementing P.L.1973, c.337.

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

**C.26:2J-45 Findings, declarations relative to special interim assessment on HMOs.**

1. The Legislature finds and declares that:
  - a. When the "Health Maintenance Organizations Act" took effect in 1973, among its purposes was the recognition and encouragement of the fledgling industry of health maintenance organizations as the emerging alternative model for health care delivery systems; and
  - b. Part of this encouragement by the Legislature was the authority granted to insurance companies and nonprofit service corporations to operate, either directly or through a subsidiary or affiliate, a health maintenance organization, or to join together or contract with a health maintenance organization, to provide insurance or protection against the cost of health care; and
  - c. At the same time, the act exempted health maintenance organizations from the provisions of the insurance and service corporation laws under most circumstances, and excluded charges paid by or on behalf of enrollees of a health maintenance organization with respect to health care services from the State's insurance premium tax; and
  - d. Now, more than 30 years later, there has been a proliferation of health maintenance organizations, or HMO's, organized and operated according to myriad business models and various other business organizations designed to offer various health care services; and
  - e. The regulatory and tax structures that developed as these various health care delivery systems developed and evolved over this span of time are essentially the same as those that were in place 30 years ago, even though the marketplace has been a dynamic and creative one throughout that same time frame; and
  - f. Meanwhile, the cost of reimbursing hospitals for the services they provide for the health care needs of the uninsured population, more commonly referred to as "charity care," has grown exponentially, with a concomitant urgency to identify, capture and retain appropriate revenue streams to fund that care; and
  - g. Every sector of the New Jersey business community, including insurers, health service corporations and health maintenance organizations, contributes, either directly or indirectly, to the costs of charity care, although it is unclear whether inequities currently exist in the manner and proportions in which the various entities contribute, and in particular whether health maintenance organizations bear their fair share of the burden, given their varied business models and corresponding tax obligations; and
  - h. It is time to examine and compare how the several health maintenance organizations, service corporations, insurers, and other health care delivery systems and providers are taxed, how they contribute to charity care

funding, and whether adjustments need to be made to the current tax structure to respond to the evolution of the industry; and

i. While the Legislature awaits the conclusions and recommendations of such an examination, it is imperative that an interim source of additional revenue be identified, pledged and appropriated to charity care funding in the ensuing fiscal year.

**C.26:2J-46 Study of tax revenues received from HMOs, other health care delivery systems.**

2. a. The State Treasurer and the Commissioner of Banking and Insurance shall undertake a comparative study of the revenues received under the Corporation Business Tax Act (1945), P.L.1945, c.162 (C.54:10A-1 et seq.) from health maintenance organizations and any other health care delivery systems or health care providers subject to that tax, and those insurers, health service corporations and any other health care delivery systems paying the insurance premium tax pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.), or any other State tax, to evaluate the equities of those respective tax schemes as applied to those entities. In particular, the study shall consider:

(1) the continued viability of the public policy behind the 1973 exemption of health maintenance organizations from taxation on enrollee charges, otherwise known as premiums;

(2) the various business models under which health maintenance organizations, health service corporations, insurers, and other health care delivery systems operate; and

(3) whether those various models allow the State to appropriately identify and capture revenues which adequately reflect both the volume of business conducted by those entities and the costs to the State of the operation of those various businesses in the State, as well as the current and anticipated future demands the State's charity care obligation will place on the General Fund and other State resources.

b. The State Treasurer and the Commissioner of Banking and Insurance shall complete their study pursuant to this section no later than September 1, 2004, at which time they shall report the results and conclusions of their study, together with any recommendations they may have for legislation, to the Governor and the members of the Legislature.

c. It is the intent of the Legislature, in requiring a speedy completion of this study, and enacting the interim special assessment contained in this act, that the study, report and recommendations will allow for an expeditious and deliberate consideration of any legislative initiative introduced in response to that report, so that the interim assessment will be unnecessary in future fiscal years.

**C.26:2J-47 Issuance of special interim assessment for FY2005.**

3. a. (1) For the fiscal year 2005, the Commissioner of Banking and Insurance shall issue, in accordance with the provisions of this section, a special interim assessment in the amount of one percent on the net written premiums received by each health maintenance organization granted a certificate of authority to operate in this State pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.), to be allocated to the Health Care Subsidy Fund established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58) for the purpose of providing charity care payments to hospitals in accordance with the formula used for the distribution of charity care subsidies that are provided pursuant to P.L.1992, c.160 (C.26:2H-18.51 et al.).

(2) "Net written premiums received" means direct premiums as reported on the annual financial statement submitted pursuant to section 9 of P.L.1973, c.337 (C.26:2J-9).

b. The commissioner shall certify the amount of the special interim assessment issued to each health maintenance organization. Each health maintenance organization shall remit the amount so certified to the Department of Banking and Insurance in accordance with the procedures established in P.L.1995, c.156 (C.17:1C-19 et seq.). Amounts collected by the commissioner shall be allocated to the Health Care Subsidy Fund established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58) and used solely for the purpose of providing charity care payments to hospitals in accordance with the formula used for the distribution of charity care subsidies that are provided pursuant to P.L.1992, c.160 (C.26:2H-18.51 et al.).

4. Section 25 of P.L.1973, c.337 (C.26:2J-25) is amended to read as follows:

**C.26:2J-25 Statutory construction and relationship to other laws.**

25. Statutory construction and relationship to other laws.

a. Except as otherwise provided in this act, provisions of the insurance law and provisions of hospital, medical or health service corporation laws shall not be applicable to any health maintenance organization granted a certificate of authority under this act. This provision shall not apply to an insurer or hospital, medical or health service corporation licensed and regulated pursuant to the insurance laws or the hospital, medical or health service corporation laws of this State except with respect to its health maintenance organization activities authorized and regulated pursuant to this act. Charges paid by or on behalf of enrollees of a health maintenance organization with respect to health care services shall not be subject to taxation by the State or any of its political subdivisions, except as otherwise provided



in section 3 of P.L.2004, c.49 (C.26:2J-47) for the purpose of the special interim assessment issued pursuant thereto.

b. Solicitation of enrollees by a health maintenance organization granted a certificate of authority, or its representatives, shall not be construed to violate any provision of law relating to solicitation or advertising by health professionals.

c. Any health maintenance organization authorized under this act shall not be deemed to be practicing medicine and shall be exempt from the provisions of chapter 9 of Title 45, Medicine and Surgery, of the Revised Statutes relating to the practice of medicine.

d. Except as provided in P.L.2001, c.187 (C.2A:53A-30 et al.), no person participating in the arrangements of a health maintenance organization other than the actual provider of health care services or supplies directly to enrollees and their families shall be liable for negligence, misfeasance, nonfeasance or malpractice in connection with the furnishings of such services and supplies. The provisions of this subsection shall not be construed to eliminate any cause of action against a health maintenance organization otherwise provided by law.

e. A health maintenance organization shall be subject to the provisions of P.L.1970, c.22 (C.17:27A-1 et seq.), including those relating to merger or acquisition of control.

5. This act shall take effect immediately.

Approved June 29, 2004.

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## CHAPTER 50

AN ACT concerning hazardous substances, and amending P.L.1976, c.141 and P.L.2002, c.37.

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

1. Section 3 of P.L.1976, c.141 (C.58:10-23.11b) is amended to read as follows:

**C.58:10-23.11b Definitions.**

3. Unless the context clearly indicates otherwise, the following terms shall have the following meanings:

"Act of God" means an act exclusively occasioned by an unanticipated, grave natural disaster without the interference of any human agency;

"Administrator" means the chief executive of the New Jersey Spill Compensation Fund;

"Barrel" means 42 United States gallons or 159.09 liters or an appropriate equivalent measure set by the director for hazardous substances which are other than fluid or which are not commonly measured by the barrel;

"Board" means a board of arbitration convened by the administrator to settle disputed disbursements from the fund;

"Cleanup and removal costs" means all direct costs associated with a discharge, and those indirect costs that may be imposed by the department pursuant to section 1 of P.L.2002, c.37 associated with a discharge, incurred by the State or its political subdivisions or their agents or any person with written approval from the department in the: (1) removal or attempted removal of hazardous substances, or (2) taking of reasonable measures to prevent or mitigate damage to the public health, safety, or welfare, including, but not limited to, public and private property, shorelines, beaches, surface waters, water columns and bottom sediments, soils and other affected property, including wildlife and other natural resources, and shall include costs incurred by the State for the indemnification and legal defense of contractors pursuant to sections 1 through 11 of P.L.1991, c.373 (C.58:10-23.11f8 et seq.);

"Commissioner" means the Commissioner of Environmental Protection; "Contamination" or "contaminant" means any discharged hazardous substance, hazardous waste as defined pursuant to section 1 of P.L.1976, c.99 (C.13:1E-38), or pollutant as defined pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3);

"Department" means the Department of Environmental Protection;

"Director" means the Director of the Division of Taxation in the Department of the Treasury;

"Discharge" means any intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous substances into the waters or onto the lands of the State, or into waters outside the jurisdiction of the State when damage may result to the lands, waters or natural resources within the jurisdiction of the State;

"Emergency response action" means those activities conducted by a local unit to clean up, remove, prevent, contain, or mitigate a discharge that poses an immediate threat to the environment or to the public health, safety, or welfare;

"Fair market value" means the invoice price of the hazardous substances transferred, including transportation charges; but where no price is so fixed,

"fair market value" shall mean the market price as of the close of the nearest day to the transfer, paid for similar hazardous substances, as shall be determined by the taxpayer pursuant to rules of the director;

"Fund" means the New Jersey Spill Compensation Fund;

"Hazardous substances" means the "environmental hazardous substances" on the environmental hazardous substance list adopted by the department pursuant to section 4 of P.L.1983, c.315 (C.34:5A-4); such elements and compounds, including petroleum products, which are defined as such by the department, after public hearing, and which shall be consistent to the maximum extent possible with, and which shall include, the list of hazardous substances adopted by the federal Environmental Protection Agency pursuant to section 311 of the federal Water Pollution Control Act Amendments of 1972, Pub.L.92-500, as amended by the Clean Water Act of 1977, Pub.L.95-217 (33 U.S.C.s.1251 et seq.); the list of toxic pollutants designated by Congress or the EPA pursuant to section 307 of that act; and the list of hazardous substances adopted by the federal Environmental Protection Agency pursuant to section 101 of the "Comprehensive Environmental Response, Compensation and Liability Act of 1980," Pub.L.96-510 (42 U.S.C.s.9601 et seq.); provided, however, that sewage and sewage sludge shall not be considered as hazardous substances for the purposes of P.L.1976, c.141 (C.58:10-23.11 et seq.);

"Local unit" means any county or municipality, or any agency or other instrumentality thereof, or a duly incorporated volunteer fire, ambulance, first aid, emergency, or rescue company or squad;

"Major facility" includes, but is not limited to, any refinery, storage or transfer terminal, pipeline, deep-water port, drilling platform or any appurtenance related to any of the preceding that is used or is capable of being used to refine, produce, store, handle, transfer, process or transport hazardous substances. "Major facility" shall include a vessel only when that vessel is engaged in a transfer of hazardous substances between it and another vessel, and in any event shall not include a vessel used solely for activities directly related to recovering, containing, cleaning up or removing discharges of petroleum in the surface waters of the State, including training, research, and other activities directly related to spill response.

A facility shall not be considered a major facility for the purpose of P.L.1976, c.141 unless it has total combined aboveground or buried storage capacity of:

(1) 20,000 gallons or more for hazardous substances which are other than petroleum or petroleum products, or

(2) 200,000 gallons or more for hazardous substances of all kinds.

In determining whether a facility is a major facility for the purposes of P.L.1976, c.141 (C.58:10-23.11 et seq.), any underground storage tank at the

facility used solely to store heating oil for on-site consumption shall not be considered when determining the combined storage capacity of the facility.

For the purposes of this definition, "storage capacity" shall mean only that total combined capacity which is dedicated to, used for or intended to be used for storage of hazardous substances of all kinds. Where appropriate to the nature of the facility, storage capacity may be determined by the intended or actual use of open land or unenclosed space as well as by the capacities of tanks or other enclosed storage spaces;

"Natural resources" means all land, fish, shellfish, wildlife, biota, air, waters and other such resources owned, managed, held in trust or otherwise controlled by the State;

"Owner" or "operator" means, with respect to a vessel, any person owning, operating or chartering by demise such vessel; with respect to any major facility, any person owning such facility, or operating it by lease, contract or other form of agreement; with respect to abandoned or derelict major facilities, the person who owned or operated such facility immediately prior to such abandonment, or the owner at the time of discharge;

"Person" means public or private corporations, companies, associations, societies, firms, partnerships, joint stock companies, individuals, the United States, the State of New Jersey and any of its political subdivisions or agents;

"Petroleum" or "petroleum products" means oil or petroleum of any kind and in any form, including, but not limited to, oil, petroleum, gasoline, kerosene, fuel oil, oil sludge, oil refuse, oil mixed with other wastes, crude oils, and substances or additives to be utilized in the refining or blending of crude petroleum or petroleum stock in this State; however, any compound designated by specific chemical name on the list of hazardous substances adopted by the department pursuant to this section shall not be considered petroleum or a petroleum product for the purposes of P.L. 1976, c. 141, unless such compound is to be utilized in the refining or blending of crude petroleum or petroleum stock in this State;

"Preliminary assessment" means the first phase in the process of identifying areas of concern and determining whether contaminants are or were present at a site or have migrated or are migrating from a site, and shall include the initial search for and evaluation of, existing site specific operational and environmental information, both current and historic, to determine if further investigation concerning the documented, alleged, suspected or latent discharge of any contaminant is required. The evaluation of historic information shall be conducted from 1932 to the present, except that the department may require the search for and evaluation of additional information relating to ownership and use of the site prior to 1932 if such information is available through diligent inquiry of the public records;

"Remedial action" means those actions taken at a site or offsite if a contaminant has migrated or is migrating therefrom, as may be required by the department, including the removal, treatment, containment, transportation, securing, or other engineering or treatment measures, whether to an unrestricted use or otherwise, designed to ensure that any discharged contaminant at the site or that has migrated or is migrating from the site, is remediated in compliance with the applicable health risk or environmental standards;

"Remedial investigation" means a process to determine the nature and extent of a discharge of a contaminant at a site or a discharge of a contaminant that has migrated or is migrating from the site and the problems presented by a discharge, and may include data collected, site characterization, sampling, monitoring, and the gathering of any other sufficient and relevant information necessary to determine the necessity for remedial action and to support the evaluation of remedial actions if necessary;

"Remediation" or "remediate" means all necessary actions to investigate and clean up or respond to any known, suspected, or threatened discharge, including, as necessary, the preliminary assessment, site investigation, remedial investigation, and remedial action, provided, however, that "remediation" or "remediate" shall not include the payment of compensation for damage to, or loss of, natural resources;

"Site investigation" means the collection and evaluation of data adequate to determine whether or not discharged contaminants exist at a site or have migrated or are migrating from the site at levels in excess of the applicable remediation standards. A site investigation shall be developed based upon the information collected pursuant to the preliminary assessment;

"Taxpayer" means the owner or operator of a major facility subject to the tax provisions of P.L.1976, c.141;

"Tax period" means every calendar month on the basis of which the taxpayer is required to report under P.L.1976, c.141;

"Transfer" means onloading or offloading between major facilities and vessels, or vessels and major facilities, and from vessel to vessel or major facility to major facility, except for fueling or refueling operations and except that with regard to the movement of hazardous substances other than petroleum, it shall also include any onloading of or offloading from a major facility;

"Vessel" means every description of watercraft or other contrivance that is practically capable of being used as a means of commercial transportation of hazardous substances upon the water, whether or not self-propelled;

"Waters" means the ocean and its estuaries to the seaward limit of the State's jurisdiction, all springs, streams and bodies of surface or groundwater, whether natural or artificial, within the boundaries of this State.

2. Section 9 of P.L.1976, c.141 (C.58:10-23.11h) is amended to read as follows:

**C.58:10-23.11h Imposition of tax; measurement; amount; return; filing; failure to file, penalty; presumptive evidence; powers of director.**

9. a. There is hereby levied upon each owner or operator of one or more major facilities a tax to insure compensation for cleanup costs and damages associated with any discharge of hazardous substances to be paid by the transferee; provided, however, that in the case of a major facility which operates as a public storage terminal for hazardous substances owned by others, the owner of the hazardous substance transferred to such major facility or his authorized agent shall be considered to be the transferee or transferor, as the case may be, for the purposes of this section and shall be deemed to be a taxpayer for purposes of this act. Where such person has failed to file a return or pay the tax imposed by this act within 60 days after the due date thereof, the director shall forthwith take appropriate steps to collect same from the owner of the hazardous substance. In the event the director is not successful in collecting said tax, then on notice to the owner or operator of the public storage terminal of said fact said owner or operator shall not release any hazardous substance owned by the taxpayer. The director may forthwith proceed to satisfy any tax liability of the taxpayer by seizing, selling or otherwise disposing of said hazardous substance to satisfy the taxpayer's tax liability and to take any further steps permitted by law for its collection. For the purposes of this act, public storage terminal shall mean a public or privately owned major facility operated for public use which is used for the storage or transfer of hazardous substances. The tax shall be measured by the number of barrels or the fair market value, as the case may be, of hazardous substances transferred to the major facility; provided, however, that the same barrel, including any products derived therefrom, subject to multiple transfers from or between major facilities shall be taxed only once at the point of the first transfer.

When a hazardous substance other than petroleum which has not been previously taxed is transferred from a major in-State facility to a facility which is not a major facility, the transferor shall be liable for tax payment for said transfer.

b. (1) (a) The tax shall be \$0.023 per barrel transferred and in the case of the transfer of hazardous substances other than petroleum or petroleum products, the tax shall be 1.53% of the fair market value of the product; provided, however, that with respect to transfers of hazardous substances other than petroleum or petroleum products which are or contain any precious metals to be recycled, refined, or rerefined in this State, which are transferred into this State subsequent to being recycled, refined or rerefined,

or which are or contain elemental phosphorus, or which are elemental antimony or antimony trioxide sold for use in the manufacture or for the purpose of fire retardants, the tax shall be \$0.023 per barrel of the hazardous substance; and provided further, however, that the total aggregate tax due for any individual taxpayer facility which has paid the tax in the 1986 tax year shall not exceed 125% of the tax due and payable by that taxpayer facility during the 1986 tax year plus an additional \$0.0025 per barrel; except that for a hazardous substance which is directly converted to, and comprises more than 90% by weight of, a non-hazardous final product, the taxpayer facility shall pay no more than 100% of the tax due and payable in the 1986 tax year plus an additional \$0.0025 per barrel. For major facilities established by the subdivision of a major facility which existed in 1986, including subsequent owners and operators of the subdivided major facilities, the total aggregated tax due shall not exceed 100% of the tax paid in 1999. For the purposes of applying the 125% of tax due limitation, a successor in interest pursuant to a sale or a reorganization, as defined pursuant to the Internal Revenue Code of 1986, on or before June 1, 2001 shall be entitled to the predecessor taxpayer's limitation. In computing 125% of the tax due and payable by the taxpayer during the 1986 tax year, for taxes due after January 1, 1996 from an owner or operator including the successor in interest pursuant to a sale or a reorganization as defined in this paragraph of one or more major facilities who has continuously since 1986 filed a combined tax return for more than one major facility but who prior to January 1, 1996 has entirely closed and decommissioned one or more of those major facilities, a taxpayer shall include 1986 taxes arising from major facilities which (1) caused the taxpayer to incur a tax liability in 1986, and (2) continue to cause the taxpayer to incur a tax liability during the current tax year. For transfers which are or contain elemental phosphorus, or which are elemental antimony or antimony trioxide sold for use in the manufacture or for the purpose of fire retardants, in computing the 125% of the taxes due and payable by the taxpayer during the 1986 tax year, a taxpayer, which shall include any subsequent owner or operator of a major facility which transfers elemental phosphorus, shall calculate the tax at \$0.015 per barrel. For the purposes of this section, "precious metals" means gold, silver, osmium, platinum, palladium, iridium, rhodium, ruthenium and copper. In the event of a major discharge or series of discharges of petroleum or petroleum products resulting in reasonable claims against the fund exceeding the existing balance of the fund, the tax shall be levied at the rate of \$0.04 per barrel of petroleum or petroleum products transferred, until the revenue produced by such increased rate equals 150% of the total dollar amount of all pending reasonable claims resulting from the discharge of petroleum or petroleum products; provided, however, that such rate may be set at less than \$0.04 per barrel

transferred if the administrator determines that the revenue produced by such lower rate will be sufficient to pay outstanding reasonable claims against the fund within one year of such levy. For the purposes of determining the existing balance of the fund, the administrator shall not include any amount in the fund collected from the \$0.0025 per barrel increase in the tax imposed pursuant to P.L.1990, c.78 and dedicated for hazardous substance discharge prevention in accordance with paragraph (2) of this subsection.

(b) Notwithstanding any provision of subparagraph (a) of this paragraph to the contrary, in order to qualify for the reduced tax rate for elemental antimony or antimony trioxide sold for use in the manufacture or for the purpose of fire retardants authorized in that subparagraph, the taxpayer shall demonstrate, by December 31 of each year, to the satisfaction of the Department of the Treasury, acting in cooperation with the Department of Environmental Protection, all of the following: (i) that the taxpayer's sales of the hazardous substance constitute, in the calendar year immediately prior to the first calendar year in which the reduced tax rate shall apply, at least 75% of the taxpayer's total annual income in that immediately prior calendar year; (ii) that no other competitor of the taxpayer located in another state is subject to a tax in that other state, with respect to the hazardous substance, that is substantially similar to the tax imposed thereon pursuant to this section; (iii) that the taxpayer otherwise would suffer economic stress unless the benefit from the reduced tax rate is allowed; (iv) that the taxpayer has never filed a successful claim against the New Jersey Spill Compensation Fund; (v) that the taxpayer has never discharged a hazardous substance that required cleanup and removal in accordance with P.L.1976, c.141 (C.58:10-23.11 et seq.); and (vi) that, upon request of the State Treasurer, the taxpayer's accountant or counsel can provide a certified document detailing, with respect to the hazardous substance, the amount of tax that would have been paid each calendar year by the taxpayer had the reduced tax rate not been in effect and the amount that was actually paid each calendar year under the reduced tax rate, so that the State Treasurer may calculate the loss of tax revenue, if any, to the State attributable to the reduced tax rate. If the taxpayer fails to qualify under the provisions of this subparagraph for the reduced tax rate, the taxpayer shall pay, for that calendar year, the tax at the full rate imposed pursuant to subparagraph (a) of this paragraph.

(c) Interest received on moneys in the fund shall be credited to the fund.

(2) An amount of \$0.0025 per barrel collected from the proceeds of the tax imposed pursuant to this subsection shall be deposited into the New Jersey Spill Compensation Fund and dedicated for the purposes of P.L.1990, c.78 and for other authorized purposes designed to prevent the discharge of a hazardous substance.



c. (1) Every taxpayer and owner or operator of a public storage terminal for hazardous substances shall on or before the 20th day of the month following the close of each tax period render a return under oath to the director on such forms as may be prescribed by the director indicating the number of barrels of hazardous substances transferred and where appropriate, the fair market value of the hazardous substances transferred to or from the major facility, and at said time the taxpayer shall pay the full amount of the tax due.

(2) Every taxpayer or owner or operator of a major facility or vessel which transfers a hazardous substance, as defined in this act, and who is subject to the tax under subsection a. shall within 20 days after the first such transfer in any fiscal year register with the director on such form as shall be prescribed by him.

(3) Those hazardous substances determined by the Department of Environmental Protection not to be subject to regulation pursuant to P.L.1976, c.141 (C.58:10-23.11 et seq.) or P.L.1990, c.78 shall not be subject to taxation pursuant to this section.

d. If a return required by this act is not filed, or if a return when filed is incorrect or insufficient in the opinion of the director, the amount of tax due shall be determined by the director from such information as may be available. Notice of such determination shall be given to the taxpayer liable for the payment of the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within 30 days after receiving notice of such determination, shall apply to the director for a hearing, or unless the director on his own motion shall redetermine the same. After such hearing the director shall give notice of his determination to the person to whom the tax is assessed.

e. Any taxpayer who shall fail to file his return when due or to pay any tax when the same becomes due, as herein provided, shall be subject to such penalties and interest as provided in the "State Tax Uniform Procedure Law," R.S.54:48-1 et seq. If the Division of Taxation determines that the failure to comply with any provision of this section was excusable under the circumstances, it may remit such part or all of the penalty as shall be appropriate under such circumstances.

f. (1) (Deleted by amendment, P.L.1987, c.76.)

(2) (Deleted by amendment, P.L.1987, c.76.)

g. In addition to the other powers granted to the director in this section, he is hereby authorized and empowered:

(1) To delegate to any officer or employee of his division such of his powers and duties as he may deem necessary to carry out efficiently the provisions of this section, and the person or persons to whom such power has been delegated shall possess and may exercise all of said powers and perform all of the duties delegated by the director;

(2) To prescribe and distribute all necessary forms for the implementation of this section.

h. The tax imposed by this act shall be governed in all respects by the provisions of the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq., except only to the extent that a specific provision of this act may be in conflict therewith.

i. (Deleted by amendment, P.L.1986, c.143.)

3. For any transfer of a hazardous substance subject to the tax imposed pursuant to section 9 of P.L.1976, c.141 (C.58:10-23.11h) and occurring on or after January 1, 2004, a taxpayer shall file an amended tax return on or before the third month following the date of enactment of this act and shall pay the additional taxes owed on transfers occurring between January 1, 2004 and the date of enactment of this act.

4. Section 3 of P.L.2002, c.37 is amended to read as follows:

3. This act shall take effect immediately.

5. Sections 1 and 4 of this act shall take effect on June 30, 2004, section 2 of this act shall take effect immediately, shall be retroactive to January 1, 2004 and shall apply to all transfers of hazardous substances occurring on or after January 1, 2004, and section 3 shall take effect immediately; provided, however, that if this act is enacted after June 30, 2004, sections 1 and 4 shall be retroactive to June 30, 2004.

Approved June 29, 2004.

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## CHAPTER 51

AN ACT imposing a surcharge based on certain air emissions, and supplementing Title 13 of the Revised Statutes.

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

**C.13:1D-59 Definitions relative to surcharge based on certain air emissions.**

1. As used in this act:

"CAS" means the Chemical Abstract Service registry number;

"Department" means the Department of Environmental Protection;

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

"Director" means the Director of the Division of Taxation in the Department of the Treasury;

"Category 4 toxic substance" means the following substances as identified by the following name or chemical abstract service registry number: orenethylbenzene (CAS No.100-41-4), chloroform (CAS No.67-66-3), 1,4-dioxane (CAS No.123-91-1), dichloromethane (CAS No.75-09-2), styrene (CAS No.100-42-5), p-cresol (CAS No.106-44-5), trichloroethylene (CAS No.79-01-6), 1,2-dichloroethane (CAS No.107-06-2), vinyl acetate (CAS No.108-05-4), vinylidene chloride (CAS No.75-35-4), benzene (CAS No.71-43-2), arsenic compounds (CAS No.N020), nickel (CAS No.7440-02-0), nickel compounds (CAS No.N495), vinyl chloride (CAS No.75-01-4), epichlorohydrin (CAS No.106-89-8), formaldehyde (CAS No.50-00-0), tetrachloroethylene (perchloroethylene) (CAS No.127-18-4), hydrazine (CAS No.302-01-2), propylene oxide (CAS No. 75-56-9), toluene diisocyanate (mixed isomers) (CAS No.26471-62-5), aniline (and salts) (CAS No.62-53-3), beryllium (CAS No 7440-41-7), cadmium compounds (CAS No.N078), chromium (CAS No.7440-47-3), chromium compounds (CAS No.N090), ethylene oxide (CAS No.75-21-8), nitrobenzene (CAS No.98-95-3), naphthalene (CAS No.91-20-3), chlordane (CAS No.57-74-9), acetaldehyde (CAS No.75-07-0), 1,2-butylene oxide (CAS No.106-88-7), cobalt (CAS No.7440-48-4), cobalt compounds (CAS No.N096), di(2-ethylhexyl) phthalate (DEHP) (CAS No.117-81-7), lead (CAS No.7439-92-1), lead compounds (CAS No.N420), mercury (CAS No.7439-97-6), mercury compounds (CAS No.N458), benzyl chloride (CAS No.100-44-7), pentachlorobenzene (CAS No.608-93-5), creosote (CAS No.8001-58-9), pendimethalin (CAS No.40487-42-1), asbestos (friable) (CAS No.1332-21-4), dioxin and dioxin-like compounds (CAS No.N150), polycyclic aromatic compounds (CAS No.N590), polychlorinated biphenyls (PCB) (CAS No.1336-36-3), acrylamide (CAS No.79-06-01), benzoic trichloride (CAS No.98-07-7), dimethyl sulfate (CAS No.77-78-1), 1,3-butadiene (CAS No.106-99-0), benzal chloride (CAS No.98-87-3), diethyl sulfate (CAS No.64-67-5), dimethylcarbonyl chloride (CAS No.79-44-7), hexachloroethane (CAS No.67-72-1), heptachlor (CAS No.76-44-8), hexachlorobenzene (CAS No.118-74-1), acrylonitrile (CAS No.107-13-1), antimony compounds (CAS No.N010), catechol (CAS No.120-80-9), diglycidyl resorcinol ether (CAS No.101-90-6), ethyl acrylate (CAS No.140-88-5), nitrofen (CAS No.1836-75-5), propyleneimine (CAS No.75-55-8), sodium o-phenylphenoxide (CAS No.132-27-4), urethane (CAS No.51-79-6), benzo(g,h,i)perylene (CAS No.191-24-2), allyl chloride (CAS No.107-05-1), and decabromodiphenyl oxide (CAS No.1163-19-5), 1,1,1,2-tetrachloroethane (CAS No. 630-20-6), 1,1,2,2-tetrachloroethane (CAS No.79-34-5), 1,1,2-trichloroethane (CAS No.79-00-5), 1,1-dimethyl

hydrazine (CAS No.57-14-7), 1,2-dibromo-3-chloropropane (CAS No.96-12-8), 1,2-dibromoethane (CAS No.106-93-4), 1,2-diphenylhydrazine (CAS No.122-66-7), 1,3-dichloropropylene (CAS No.542-75-6), 1,4-dichlorobenzene (CAS No.106-46-7), 2,4,6-trichlorophenol (CAS No.88-06-2), 2,4-diaminoanisole (CAS No.615-05-4), 2,4-diaminotoluene (CAS No.95-80-7), 2,4-dinitrotoluene (CAS No.121-14-2), 2,6-dinitrotoluene (CAS No.606-20-2), 2,6-xylydine (CAS No.87-62-7), 2-nitropropane (CAS No.79-46-9), 3,3'-dichlorobenzidine (CAS No.91-94-1), 3,3'-dimethoxybenzidine (CAS No.119-90-4), 3,3'-dimethylbenzidine (CAS No.119-93-7), 4,4'-diaminodiphenyl ether (CAS No.101-80-4), 4,4'-methylenebis(2-chloroaniline), (CAS No.101-14-4), 4,4'-methylenebis(n,n-dimethyl), benzenamin (CAS No.101-61-1), 4,4'-methylenedianiline (CAS No.101-77-9), 4,4'-thiodianiline (CAS No.139-65-1), 4-aminoazobenzene (CAS No.60-09-3), 4-aminobiphenyl (CAS No.92-67-1), 4-dimethylaminoazobenzene (CAS No.60-11-7), acephate (CAS No.30560-19-1), acetamide (CAS No.60-35-5), aldrin (CAS No.309-00-2), alpha-hexachlorocyclohexane (CAS No.19-84-6), arsenic (CAS No.7440-38-2), benzidine (CAS No.92-87-5), benzoyl chloride (CAS No.98-88-4), beryllium compounds (CAS No.n050), beta-naphthylamine (CAS No.91-59-8), beta-propiolactone (CAS No.57-57-8), bis(2-chloroethyl), ether (CAS No.111-44-4), bis(chloromethyl), ether (CAS No.542-88-1), bromoform (CAS No.75-25-2), c.i. acid red 114 (CAS No.6459-94-5), c.i. food red 5 (CAS No.3761-53-3), c.i. solvent yellow 3 (CAS No.97-56-3), c.i. solvent yellow 34 (CAS No.492-80-8), cadmium (CAS No.7440-43-9), carbon tetrachloride (CAS No.56-23-5), chlorendic acid (CAS No.115-28-6), chloromethyl methyl ether (CAS No.107-30-2), chloroprene (CAS No.126-99-8), chlorothalonil (CAS No.1897-45-6), dichlorobromomethane (CAS No.75-27-4), dichlorvos (CAS No.62-73-7), dihydrosafrole (CAS No.94-58-6), dimethipin (CAS No.55290-64-7), ethyleneimine (CAS No.151-56-4), ethylidene dichloride (CAS No.75-34-3), folpet (CAS No.133-07-3), fomesafen (CAS No.72178-02-0), hexachloro-1,3-butadiene (CAS No.87-68-3), hexamethylphosphoramide (CAS No.680-31-9), hydrazine sulfate (CAS No.10034-93-2), isodrin (CAS No.465-73-6), lindane (CAS No.58-89-9), linuron (CAS No.330-55-2), m-cresol (CAS No.108-39-4), methoxychlor (CAS No.72-43-5), mustard gas (CAS No.505-60-2), nitrilotriacetic acid (CAS No.139-13-9), nitrogen mustard (mechlorethamine) (CAS No.51-75-2), n-nitrosodiethylamine (CAS No.55-18-5), n-nitrosodimethylamine (CAS No.62-75-9), n-nitrosodi-n-butylamine (CAS No.924-16-3), n-nitrosodi-n-propylamine (CAS No.621-64-7), n-nitrosodiphenylamine (CAS No.86-30-6), n-nitrosomethylvinylamine (CAS No. 4549-40-0), n-nitrosomorpholine (CAS No.59-89-2), n-nitroso-n-ethylurea (CAS No.759-73-9),

n-nitroso-n-methylurea (CAS No.684-93-5), n-nitrosornicotine (CAS No.16543-55-8), n-nitrosopiperidine (CAS No.100-75-4), o-anisidine (CAS No.90-04-0), o-cresol (CAS No.95-48-7), octachlorostyrene (CAS No.29082-74-4), oryzalin (CAS No.19044-88-3), o-toluidine (CAS No.95-53-4), paraquat dichloride (paraquat) (CAS No.1910-42-5), parathion (CAS No.56-38-2), p-chloroaniline (CAS No.106-47-8), p-chloro-o-toluidine (CAS No.95-69-2), p-cresidine (CAS No.120-71-8), pentachlorophenol (pcp), (CAS No.87-86-5), phenytoin (CAS No.57-41-0), p-nitrosodiphenylamine (CAS No.156-10-5), polybrominated biphenyls (pbbs), (CAS No.n575), potassium bromate (CAS No.7758-01-2), propane sultone (CAS No.1120-71-4), quinoline (CAS No.91-22-5), saffrole (CAS No.94-59-7), styrene oxide (CAS No.96-09-3), thioacetamide (CAS No.62-55-5), toxaphene (camphechlor) (CAS No.8001-35-2), trifluralin (CAS No.1582-09-8), tris(2,3-dibromopropyl), phosphate (CAS No.126-72-7), trypan blue (CAS No.72-57-1), and vinyl chloride (CAS No.593-60-2);

"Category 3 toxic substance" means the following substances as identified by the following name or chemical abstract service registry number: methyl ethyl ketone (CAS No.78-93-3), carbon disulfide (CAS No.75-15-0), chloroethane (CAS No.75-00-3), glycol ethers (except surfactants) (CAS No.N230), copper compounds (with exceptions) (CAS No.N100), ammonia (CAS No.7664-41-7), chlorine (CAS No.7782-50-5), copper (CAS No.7440-50-8), sulfuric acid (CAS No.7664-93-9), triethylamine (CAS No.121-44-8), bromomethane (CAS No.74-83-9), hydrochloric acid (CAS No.7647-01-0), xylene (mixed isomers) (CAS No.1330-20-7), acetonitrile (CAS No.75-05-8), barium compounds (except barium sulfate) (CAS No.N040), chlorine dioxide (CAS No.10049-04-4), manganese (CAS No.7439-96-5), manganese compounds (CAS No.N450), phosphorus (CAS No.7723-14-0), zinc compounds (CAS No.N982), dicyclopentadiene (CAS No.77-73-6), maleic anhydride (CAS No.108-31-6), phthalic anhydride (CAS No.85-44-9), titanium tetrachloride (CAS No.7550-45-0), toluene-2,4-diisocyanate (CAS No.584-84-9), zinc (fume or dust) (CAS No.7440-66-6), chloromethane (CAS No.74-87-3), selenium (CAS No.7782-49-2), 1,2-dichloropropane (CAS No.78-87-5), diethanolamine (CAS No.111-42-2), n,n-dimethylformamide (CAS No.68-12-2), 2-chloroacetophenone (CAS No.532-27-4), anthracene (CAS No.120-12-7), barium (CAS No.7440-39-3), boron trifluoride (CAS No.7637-07-2), chloropicrin (CAS No.76-06-2), hexachlorocyclopentadiene (CAS No.77-47-4), hydrogen cyanide (hydrocyanic acid) (CAS No.74-90-8), methacrylonitrile (CAS No.126-98-7), methyl isocyanate (CAS No.624-83-9), phosphine (CAS No.7803-51-2), selenium compounds (CAS No.N725), and toluene-2,6-diisocyanate (CAS No.91-08-7);

"Category 2 toxic substance" means the following substances as identified by the following name or chemical abstract service registry number: 1,1,1-trichloroethane (CAS No.71-55-6), phenol (CAS No.108-95-2), toluene (CAS No.108-88-3), methanol (CAS No.67-56-1), methyl methacrylate (CAS No.80-62-6), 1,2-dichlorobenzene (CAS No.95-50-1), chlorobenzene (CAS No.108-90-7), cumene (CAS No.98-82-8), methyl isobutyl ketone (CAS No.108-10-1), 1-chloro-1,1-difluoroethane (HCFC-142b) (CAS No.75-68-3), cresol (mixed isomers) (CAS No.1319-77-3), dichlorodifluoromethane (CFC-12) (CAS No.75-71-8), ethylene glycol (CAS No.107-21-1), freon 113 (CAS No.76-13-1), n-hexane (CAS No.110-54-3), trichlorofluoromethane (CFC-11) (CAS No.75-69-4), chlorodifluoromethane (hcfc-22) (CAS No.75-45-6), methyl tert-butyl ether (CAS No.1634-04-4), propylene (propene) (CAS No.115-07-1), hydrogen fluoride (CAS No.7664-39-3), phosgene (CAS No.75-44-5), acrylic acid (CAS No.79-10-7), isopropyl alcohol (mfg-strong acid process) (CAS No.67-63-0), and acrolein (CAS No.107-02-8);

"Facility" means the building, equipment and contiguous area at a single location used for the conduct of business and for which the owner or operator is required to submit a release and pollution prevention report pursuant to the reporting requirements of 42 U.S.C. s.11023, or other criteria adopted by the Department of Environmental Protection and in effect on the date of enactment of this act;

"Owner or operator" means any person who owns a facility, or any person in control of, or exercising responsibility for, the daily operation of the facility;

"Person" means an individual, partnership, corporation, association, organization, government or governmental subdivision or agency, business trust, estate, trust, or any other legal or commercial entity;

"Release and pollution prevention report" means the combined report submitted to the department annually pursuant to the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et al.) and the "Pollution Prevention Act," P.L.1991, c.235 (C.13:1D-35 et seq.), and any rules and regulations adopted pursuant thereto that are in effect on the date of enactment of this act, and that provides environmental emissions release and throughput data on an annual basis; and

"Toxic substance" means any hazardous substance as defined pursuant to section 3 of P.L.1991, c.235 (C.13:1D-37).

**C.13:1D-60 Imposition of air toxics surcharge.**

2. a. (1) There is imposed upon the owner or operator of each facility an air toxics surcharge in the amount provided in subsection b. of this section. The surcharge shall be based on the annual emissions of each

Category 2 toxic substance, Category 3 toxic substance and Category 4 toxic substance as reported in the release and pollution prevention report for that facility.

(2) The air toxics surcharge due in a calendar year shall be based upon the data reported in the release and pollution prevention report for emissions that occurred two calendar years prior to the year for which the return is filed.

(3) Failure to submit a release and pollution prevention report shall not relieve the owner or operator of a facility of the obligation to pay the required air toxics surcharge.

b. The air toxics surcharge for each facility shall be assessed as follows:

(1) \$10.00 shall be assessed for each pound of Category 4 toxic substances released as stack or fugitive emissions as reported on the release and pollution prevention report;

(2) \$1.00 shall be assessed for each pound of Category 3 toxic substances released as stack or fugitive emissions as reported on the release and pollution prevention report; and

(3) \$0.10 shall be assessed for each pound of Category 2 toxic substances released as stack or fugitive emissions as reported on the release and pollution prevention report.

c. The air toxics surcharge imposed on the owner or operator of a facility shall not exceed \$500,000 in any calendar year.

d. The owner or operator of each facility subject to the air toxics surcharge imposed pursuant to this section shall file with the director a certificate of registration on a form prescribed by the director.

e. The owner or operator of each facility subject to the air toxics surcharge imposed pursuant to this section shall, on or before March 15 of each year, prepare and file a return under oath for the preceding calendar year with the director on such forms as may be prescribed by the director. The return shall include any information that the director shall prescribe, shall indicate the dollar value of the air toxics surcharge due pursuant to that return for the facility and at the said time the owner or operator of each facility shall pay the full amount of the air toxics surcharge due.

f. If a return required by this section is not filed, or if a return when filed is incorrect or insufficient as determined by the director, the amount of surcharge due shall be determined by the director based on collections of the air toxics surcharge from the owner or operator of the facility liable for the payment of the air toxics surcharge during the previous five years. Notice of the determination shall be given to the owner or operator of the facility liable for the payment of the air toxics surcharge. The determination shall finally and irrevocably fix the air toxics surcharge unless the owner or operator of the facility against whom it is assessed, within 90 days after the

giving of the notice of the determination, shall file a protest in writing as provided in R.S.54:49-18 and request a hearing, or unless the director on the director's own motion shall redetermine the same. After the hearing the director shall give notice of the determination to the owner or operator of the facility to whom the air toxics surcharge is assessed.

g. The air toxics surcharge 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.

h. In addition to the other powers granted by this section, the director may adopt any rules and regulations necessary for the implementation of this section.

i. Notwithstanding the provisions of subparagraph (C) of paragraph (2) of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4), if any, to the contrary, any deduction of the air toxics surcharge imposed pursuant to subsection a. of this section allowed in computing a taxpayer's taxable income which the taxpayer is required to report to the United States Treasury Department for the purpose of computing its federal taxable income shall be allowed in determining the taxpayer's "entire net income" pursuant to subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4).

**C.13:1D-61 Credit against amount of air toxics surcharge.**

3. a. Any owner or operator of a facility required to remit an air toxics surcharge pursuant to section 2 of this act shall be allowed a credit against the amount of air toxics surcharge due for each facility for any calendar year as follows:

(1) For any owner or operator of a facility required to remit an air toxics surcharge for any calendar year, a credit of 50% of the total air toxics surcharge due shall be allowed, provided that the owner or operator certifies that the total actual emissions to the atmosphere of mercury from that facility for the calendar year two years prior to the calendar year for which the return is filed is equal to or less than the numerical limits on mercury emissions from operations at the facility set by the Department of Environmental Protection for mercury in rules and regulations adopted after the date of enactment of this act, pursuant to the "Air Pollution Control Act (1954)," P.L.1954, c.212 (C.26:2C-1 et seq.);

(2) For any owner or operator of a facility required to remit an air toxics surcharge, an annual credit of 50% of the total air toxics surcharge due shall be allowed provided that the owner or operator has installed, uses and properly maintains selective catalytic reduction equipment or a scrubber, or other particulate control technology with similar benefits to selective catalytic reduction equipment or scrubbers, permitted by the department to reduce air emissions; and



(3) An annual credit for each year after the date of enactment of this act, up to a maximum of 10 years, may be claimed in the amount of not more than 5% of the purchase price, excluding interest or financing costs, of any control equipment purchased or installed subsequent to two years prior to the date of enactment of this act provided that:

(a) the control equipment is installed and used exclusively within this State at the facility for which the return is filed;

(b) the owner or operator of the facility has received a certification from the department pursuant to section 4 of this act that use of the control equipment will result in the reduction or prevention of emissions of toxic substances to the atmosphere;

(c) the credit of air toxics surcharge due for any calendar year shall not exceed 50% of the total amount of air toxics surcharge due in that calendar year as calculated pursuant to section 2 of this act; and

(d) for any calendar year in which a credit is claimed pursuant to this paragraph, the owner or operator of a facility has certified that the control equipment has been fully functional and properly maintained.

b. No credit received by any owner or operator of a facility pursuant to this section may exceed 50 percent of the maximum allowable air toxics surcharge calculated pursuant to section 2 of this act.

**C.13:1D-62 Issuance of certification that equipment will prevent, reduce emission of toxic substances.**

4. The owner or operator of a facility may request that the department, in issuing a permit to construct, reconstruct, install, or modify air pollution control equipment required pursuant to P.L.1954, c.212 (C.26:2C-1 et seq.), also issue a certification that the control equipment will prevent or reduce the emission of toxic substances into the atmosphere. The owner or operator shall make such a request before the permit is issued. The commissioner, when requested for any such certification, shall certify the control equipment whenever the commissioner finds that the control equipment constructed or installed, or to be constructed or installed, will control or abate the emission of toxic substances to the atmosphere and is suitable and reasonably adequate for that purpose. This certificate shall contain information identifying the facilities and the control equipment and the cost thereof and shall be in such form and detail as the commissioner shall prescribe. This certificate shall be submitted to the applicant therefor with a copy to the director, and the allowable credit as provided in paragraph (3) of subsection a. of section 3 of this act for such control equipment shall become effective for the calendar year in which certification has been granted.

**C.13:1D-63 "Nuclear Power Plant Security Fund."**

5. There is established the "Nuclear Power Plant Security Fund" as a special non-lapsing fund in the Department of Environmental Protection. The fund shall be credited with \$2,000,000 from the amount of air toxics surcharges collected pursuant to section 2 of this act. Monies in the fund shall be used to provide or enhance security at nuclear power plants in this State.

6. This act shall take effect immediately and shall first apply to the calendar year in which it takes effect.

Approved June 29, 2004.

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**CHAPTER 52**

AN ACT lowering the threshold for requiring that State tax payments be made by electronic funds transfer, amending P.L.1992, c.140.

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

1. Section 1 of P.L.1992, c.140 (C.54:48-4.1) is amended to read as follows:

**C.54:48-4.1 Tax payments by electronic funds transfer; definitions.**

1. a. All tax payments described in subsection b. of this section, other than those payments enumerated in subsection c. of this section, shall be made by electronic funds transfer to such depositories as the State Treasurer shall designate pursuant to section 1 of P.L.1956, c.174 (C.52:18-16.1). A payment by electronic funds transfer shall be deemed to be made on the date the payment is received by the designated depository. The acceptable method of transfer; the method, form and content of the electronic funds transfer message, giving due regard to developing uniform standards for formats among the several states; the circumstances under which an electronic funds transfer shall serve as a substitute for the filing of another form of return; and the means, if any, by which taxpayers will be provided with acknowledgements of payments shall be as prescribed by the Director of the Division of Taxation in the Department of the Treasury. Notwithstanding any other law to the contrary, persons required to make payments by electronic funds transfer pursuant to subsection b. of this section shall make payments by electronic funds transfer no more frequently than once per week. The

director may, by regulation, provide for less frequent payments if the director deems such action in the best interest of the State.

b. Payments subject to the electronic funds transfer requirement of subsection a. of this section are:

(1) those payments due in the first twelve calendar months for which this section is operative made by a taxpayer that had a prior year liability of \$200,000 or more;

(2) those payments due in the thirteenth through twenty-fourth calendar months for which this section is operative made by a taxpayer that had a prior year liability of \$100,000 or more;

(3) those payments due in the twenty-fifth through the thirty-sixth calendar months for which this section is operative made by a taxpayer that had a prior year liability of \$50,000 or more; and

(4) those payments due in the thirty-seventh calendar month for which this section is operative and thereafter made by a taxpayer that had a prior year liability of \$20,000 or more; and

(5) those payments due after July 1, 2004 and thereafter made by taxpayers that had a prior year liability of \$10,000 or more.

c. Subsection a. of this section shall not apply to a payment of estimated tax made pursuant to N.J.S.54A:8-5 or a payment of final taxpayer liability pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.; provided however, that the restriction of this subsection shall not apply to payment over to the director of taxes withheld pursuant to N.J.S.54A:7-1 or section 1 of P.L.1989, c.328 (C.54A:7-1.1). Subsection a. of this section shall not apply to a payment of the transfer inheritance tax imposed pursuant to R.S.54:33-1 et seq. or to a payment of the estate tax imposed pursuant to R.S.54:38-1 et seq.

d. If the availability of funds in payment of tax required to be made through electronic funds transfer is delayed, and the delay of availability is explained to the satisfaction of the director to be due to reasons beyond the control of the taxpayer, the director shall, notwithstanding any provision of R.S.54:49-11 to the contrary, abate up to the entire amount of penalty or interest that would otherwise be assessed.

e. As used in this section:

"Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone, or computer or magnetic tape for the purpose of ordering, instructing or authorizing a financial institution to debit or credit an account.

"Prior year liability" means the total liability for any tax imposed on, collected by or withheld by the taxpayer in the calendar year or the fiscal or calendar privilege period, as determined under the specific law regarding that

tax, ending before the calendar year or fiscal or calendar privilege period for which an electronic funds transfer payment is to be determined to be required pursuant to subsection b. of this section.

2. This act shall take effect immediately.

Approved June 29, 2004.

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## CHAPTER 53

AN ACT imposing a tax on certain cosmetic medical procedures, supplementing Title 54 of the Revised Statutes.

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

**C.54:32E-1 Tax imposed on gross receipts from cosmetic medical procedure; definitions.**

1. a. There is imposed and shall be paid a tax of 6% on the gross receipts from a cosmetic medical procedure, which shall be paid by the subject of the cosmetic medical procedure, and which shall be collected from the procedure subject by the person billing the gross receipts from the cosmetic medical procedure when collecting the payment for the cosmetic medical procedure. If more than one person bills gross receipts from a single cosmetic medical procedure, each person shall be responsible for the collection of the gross receipts tax on the portion of the gross receipts billed.

b. For the purposes of this section, the following terms shall have the following meanings:

"Cosmetic medical procedure" means any medical procedure performed on a individual which is directed at improving the procedure subject's appearance and which does not meaningfully promote the proper function of the body or prevent or treat illness or disease. "Cosmetic medical procedure" includes but is not limited to cosmetic surgery, hair transplants, cosmetic injections, cosmetic soft tissue fillers, dermabrasion and chemical peel, laser hair removal, laser skin resurfacing, laser treatment of leg veins, sclerotherapy, and cosmetic dentistry. "Cosmetic medical procedure" does not include reconstructive surgery or dentistry;

"Cosmetic surgery" means the surgical reshaping of normal structures on the body to improve the body image, self-esteem or appearance of an individual;

"Gross receipts from a cosmetic medical procedure" means all amounts paid for services, property or occupancy required for or associated with the performance of a cosmetic medical procedure and billed to the procedure subject's account;

"Reconstructive surgery or dentistry" includes any surgery or dentistry performed on abnormal structures caused by or related to congenital defects, developmental abnormalities, trauma, infection, tumors or disease, including procedures to improve function or give a more normal appearance.

c. The Director of the Division of Taxation shall collect and administer the tax imposed pursuant to this section. In carrying out the provisions of this section, the director shall have all of the powers and authority granted in P.L.1966, c.30 (C.54:32B-1 et seq.). The tax shall be reported and paid to the director on a quarterly basis in a manner prescribed by the Director of the Division of Taxation.

d. 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.

e. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the director may adopt immediately upon filing with the Office of Administrative Law such regulations as the director deems necessary to implement the provisions of this act, which shall be effective for a period not to exceed 180 days following enactment of P.L.2004, 53 (C.54:32E-1) and may thereafter be amended, adopted or readopted by the director in accordance with the requirements of P.L.1968, c.410.

2. This act shall take effect immediately but remain inoperative until the first day of the third month following enactment.

Approved June 29, 2004.

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#### CHAPTER 54

AN ACT concerning assessments on certain health care facilities and amending P.L.1992, c.160 and P.L.1971, c.136.

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

1. Section 7 of P.L.1992, c.160 (C.26:2H-18.57) is amended to read as follows:

**C.26:2H-18.57 Assessment of per adjusted admission charge.**

7. a. Effective January 1, 1994, the Department of Health and Senior Services shall assess each hospital a per adjusted admission charge of \$10.00.

Of the revenues raised by the hospital per adjusted admission charge, \$5.00 per adjusted admission shall be used by the department to carry out its duties pursuant to P.L.1992, c.160 (C.26:2H-18.51 et al.) and \$5.00 per

adjusted admission shall be used by the department for administrative costs related to health planning.

b. Effective July 1, 2004, the department shall assess each licensed ambulatory care facility that is licensed to provide one or more of the following ambulatory care services: ambulatory surgery, computerized axial tomography, comprehensive outpatient rehabilitation, extracorporeal shock wave lithotripsy, magnetic resonance imaging, megavoltage radiation oncology, positron emission tomography, orthotripsy and sleep disorder services. The Commissioner of Health and Senior Services may, by regulation, add additional categories of ambulatory care services that shall be subject to the assessment if such services are added to the list of services provided in N.J.A.C.8:43A-2.2(b) after the effective date of P.L.2004, c.54.

The assessment established in this subsection shall not apply to an ambulatory care facility that is licensed to a hospital in this State as an off-site ambulatory care service facility.

(1) For Fiscal Year 2005, the assessment on an ambulatory care facility providing one or more of the services listed in this subsection shall be based on gross receipts for the 2003 tax year as follows:

(a) a facility with less than \$300,000 in gross receipts shall not pay an assessment; and

(b) a facility with at least \$300,000 in gross receipts shall pay an assessment equal to 3.5% of its gross receipts or \$200,000, whichever amount is less.

The commissioner shall provide notice no later than August 15, 2004 to all facilities that are subject to the assessment that the first payment of the assessment is due October 1, 2004 and that proof of gross receipts for the facility's tax year ending in calendar year 2003 shall be provided by the facility to the commissioner no later than September 15, 2004. If a facility fails to provide proof of gross receipts by September 15, 2004, the facility shall be assessed the maximum rate of \$200,000 for Fiscal Year 2005.

The Fiscal Year 2005 assessment shall be payable to the department in four installments, with payments due October 1, 2004, January 1, 2005, March 15, 2005 and June 15, 2005.

(2) For Fiscal Year 2006, the commissioner shall use the calendar year 2004 data submitted in accordance with subsection c. of this section to calculate a uniform gross receipts assessment rate for each facility with gross receipts over \$300,000 that is subject to the assessment, except that no facility shall pay an assessment greater than \$200,000. The rate shall be calculated so as to raise the same amount in the aggregate as was assessed in Fiscal Year 2005. A facility shall pay its assessment to the department in four payments in accordance with a timetable prescribed by the commissioner.

(3) Beginning in Fiscal Year 2007 and for each fiscal year thereafter, the uniform gross receipts assessment rate calculated in accordance with paragraph (2) of this subsection shall be applied to each facility subject to the assessment with gross receipts over \$300,000, as those gross receipts are documented in the facility's most recent annual report to the department, except that no facility shall pay an assessment greater than \$200,000. A facility shall pay its annual assessment to the department in four payments in accordance with a timetable prescribed by the commissioner.

c. Each ambulatory care facility that is subject to the assessment provided in subsection b. of this section shall submit an annual report including, at a minimum, data on volume of patient visits, charges, and gross revenues, by payer type, for patient services, beginning with calendar year 2004 data. The annual report shall be submitted to the department according to a timetable and in a form and manner prescribed by the commissioner.

The department may audit selected annual reports in order to determine their accuracy.

d. (1) If, upon audit as provided for in subsection c. of this section, it is determined that an ambulatory care facility understated its gross receipts in its annual report to the department, the facility's assessment for the fiscal year that was based on the defective report shall be retroactively increased to the appropriate amount and the facility shall be liable for a penalty in the amount of the difference between the original and corrected assessment.

(2) A facility that fails to provide the information required pursuant to subsection c. of this section shall be liable for a civil penalty not to exceed \$500 for each day in which the facility is not in compliance.

(3) A facility that is operating one or more of the ambulatory care services listed in subsection b. of this section without a license from the department, on or after July 1, 2004, shall be liable for double the amount of the assessment provided for in subsection b. of this section, in addition to such other penalties as the department may impose for operating an ambulatory care facility without a license.

(4) The commissioner shall recover any penalties provided for in this subsection in an administrative proceeding in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

e. The revenues raised by the ambulatory care facility assessment pursuant to this section shall be deposited in the Health Care Subsidy Fund established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58).

2. Section 12 of P.L.1992, c.160 (C.26:2H-18.62) is amended to read as follows:

**C.26:2H-18.62 Use of hospital, other health care initiatives monies.**

12. a. The monies in the hospital and other health care initiatives account are appropriated for the establishment of a program which will assist hospitals and other health care facilities in the underwriting of innovative and necessary health care services and provide funding for public or private health care programs, which may include any program funded pursuant to section 25 of P.L.1991, c.187 (C.26:2H-18.47), managed care regulation and oversight pursuant to P.L.1997, c.192 (C.26:2S-1 et al.), administration and enforcement of health care facility licensing requirements pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), and for such other programs that the commissioner deems necessary or appropriate to carry out the provisions of section 5 of P.L.1992, c.160 (C.26:2H-18.55).

The commissioner shall develop equitable regulations regarding eligibility for and access to the financial assistance, within six months of the effective date of this act.

b. Such funds as may be necessary shall be transferred by the department from the fund to the Division of Medical Assistance and Health Services in the Department of Human Services for payment to disproportionate share hospitals.

c. Notwithstanding any law to the contrary, each general hospital and each specialty heart hospital shall pay .53% of its total operating revenue to the department for deposit in the Health Care Subsidy Fund, except that the amount to be paid by a hospital in a given year shall be prorated by the department so as not to exceed the \$40 million limit set forth in this subsection. The hospital shall make monthly payments to the department beginning July 1, 1993, except that the total amount paid into the Health Care Subsidy Fund plus interest shall not exceed \$40 million per year. The commissioner shall determine the manner in which the payments shall be made.

For the purposes of this subsection, "total operating revenue" shall be defined by the department in accordance with financial reporting requirements established pursuant to N.J.A.C.8:31B-3.3 and shall include revenue from any ambulatory care facility that is licensed to a general hospital as an off-site ambulatory care service facility.

d. The monies paid by the hospitals shall be credited to the hospital and other health care initiatives account.

3. Section 2 of P.L.1971, c.136 (C.26:2H-2) is amended to read as follows:

**C.26:2H-2 Definitions.**

2. The following words or phrases, as used in this act, shall have the following meanings, unless the context otherwise requires:



a. "Health care facility" means the facility or institution whether public or private, engaged principally in providing services for health maintenance organizations, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, special hospital, mental hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, nursing home, intermediate care facility, tuberculosis hospital, chronic disease hospital, maternity hospital, outpatient clinic, dispensary, home health care agency, residential health care facility and bioanalytical laboratory (except as specifically excluded hereunder) or central services facility serving one or more such institutions but excluding institutions that provide healing solely by prayer and excluding such bioanalytical laboratories as are independently owned and operated, and are not owned, operated, managed or controlled, in whole or in part, directly or indirectly by any one or more health care facilities, and the predominant source of business of which is not by contract with health care facilities within the State of New Jersey and which solicit or accept specimens and operate predominantly in interstate commerce.

b. "Health care service" means the preadmission, outpatient, inpatient and postdischarge care provided in or by a health care facility, and such other items or services as are necessary for such care, which are provided by or under the supervision of a physician for the purpose of health maintenance organizations, diagnosis or treatment of human disease, pain, injury, disability, deformity or physical condition, including, but not limited to, nursing service, home care nursing and other paramedical service, ambulance service, service provided by an intern, resident in training or physician whose compensation is provided through agreement with a health care facility, laboratory service, medical social service, drugs, biologicals, supplies, appliances, equipment, bed and board, but excluding services provided by a physician in his private practice, except as provided in sections 7 and 12 of P.L.1971, c.136 (C.26:2H-7 and 26:2H-12), or by practitioners of healing solely by prayer, and services provided by first aid, rescue and ambulance squads as defined in the "New Jersey Highway Safety Act of 1971," P.L.1971, c.351 (C.27:5F-1 et seq.).

c. "Construction" means the erection, building, or substantial acquisition, alteration, reconstruction, improvement, renovation, extension or modification of a health care facility, including its equipment, the inspection and supervision thereof; and the studies, surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary thereto.

d. "Board" means the Health Care Administration Board established pursuant to this act.

e. (Deleted by amendment, P.L.1998, c.43).

f. "Government agency" means a department, board, bureau, division, office, agency, public benefit or other corporation, or any other unit, however described, of the State or political subdivision thereof.

g. (Deleted by amendment, P.L.1991, c.187).

h. (Deleted by amendment, P.L.1991, c.187).

i. "Department" means the State Department of Health and Senior Services.

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

k. "Preliminary cost base" means that proportion of a hospital's current cost which may reasonably be required to be reimbursed to a properly utilized hospital for the efficient and effective delivery of appropriate and necessary health care services of high quality required by such hospital's mix of patients. The preliminary cost base initially may include costs identified by the commissioner and approved or adjusted by the commission as being in excess of that proportion of a hospital's current costs identified above, which excess costs shall be eliminated in a timely and reasonable manner prior to certification of the revenue base. The preliminary cost base shall be established in accordance with regulations proposed by the commissioner and approved by the board.

l. (Deleted by amendment, P.L.1992, c.160).

m. "Provider of health care" means an individual (1) who is a direct provider of health care service in that the individual's primary activity is the provision of health care services to individuals or the administration of health care facilities in which such care is provided and, when required by State law, the individual has received professional training in the provision of such services or in such administration and is licensed or certified for such provision or administration; or (2) who is an indirect provider of health care in that the individual (a) holds a fiduciary position with, or has a fiduciary interest in, any entity described in subparagraph b(ii) or subparagraph b(iv); provided, however, that a member of the governing body of a county or any elected official shall not be deemed to be a provider of health care unless he is a member of the board of trustees of a health care facility or a member of a board, committee or body with authority similar to that of a board of trustees, or unless he participates in the direct administration of a health care facility; or (b) received, either directly or through his spouse, more than one-tenth of his gross annual income for any one or more of the following:

(i) Fees or other compensation for research into or instruction in the provision of health care services;

(ii) Entities engaged in the provision of health care services or in research or instruction in the provision of health care services;

(iii) Producing or supplying drugs or other articles for individuals or entities for use in the provision of or in research into or instruction in the provision of health care services;

(iv) Entities engaged in producing drugs or such other articles.

n. "Private long-term health care facility" means a nursing home, skilled nursing home or intermediate care facility presently in operation and licensed as such prior to the adoption of the 1967 Life Safety Code by the State Department of Health and Senior Services in 1972 and which has a maximum 50-bed capacity and which does not accommodate Medicare or Medicaid patients.

o. (Deleted by amendment, P.L.1998, c.43).

p. "State Health Planning Board" means the board established pursuant to section 33 of P.L.1991, c.187 (C.26:2H-5.7) to conduct certificate of need review activities.

4. Section 12 of P.L.1971, c.136 (C.26:2H-12) is amended to read as follows:

**C.26:2H-12 Operation requirements for health care service, facility; application for license; fee.**

12. a. No health care service or health care facility shall be operated unless it shall: (1) possess a valid license issued pursuant to this act, which license shall specify the kind or kinds of health care services the facility is authorized to provide; (2) establish and maintain a uniform system of cost accounting approved by the commissioner; (3) establish and maintain a uniform system of reports and audits meeting the requirements of the commissioner; (4) prepare and review annually a long range plan for the provision of health care services; and (5) establish and maintain a centralized, coordinated system of discharge planning which assures every patient a planned program of continuing care and which meets the requirements of the commissioner which requirements shall, where feasible, equal or exceed those standards and regulations established by the federal government for all federally-funded health care facilities but shall not require any person who is not in receipt of State or federal assistance to be discharged against his will.

b. (1) Application for a license for a health care service or health care facility shall be made upon forms prescribed by the department. The department shall charge a single, nonrefundable fee for the filing of an application for and issuance of a license and a single, nonrefundable fee for any renewal thereof, and a single, nonrefundable fee for a biennial inspection of the facility, as it shall from time to time fix in rules or regulations; provided, however, that no such licensing fee shall exceed \$10,000 in the case of a hospital and \$4,000 in the case of any other health care facility for all ser-

vices provided by the hospital or other health care facility, and no such inspection fee shall exceed \$5,000 in the case of a hospital and \$2,000 in the case of any other health care facility for all services provided by the hospital or other health care facility. No inspection fee shall be charged for inspections other than biennial inspections. The application shall contain the name of the health care facility, the kind or kinds of health care service to be provided, the location and physical description of the institution, and such other information as the department may require. (2) A license shall be issued by the department upon its findings that the premises, equipment, personnel, including principals and management, finances, rules and bylaws, and standards of health care service are fit and adequate and there is reasonable assurance the health care facility will be operated in the manner required by this act and rules and regulations thereunder.

c. (Deleted by amendment, P.L.1998, c.43).

d. The commissioner may amend a facility's license to reduce that facility's licensed bed capacity to reflect actual utilization at the facility if the commissioner determines that 10 or more licensed beds in the health care facility have not been used for at least the last two succeeding years. For the purposes of this subsection, the commissioner may retroactively review utilization at a facility for a two-year period beginning on January 1, 1990.

e. If a prospective applicant for licensure for a health care service or facility that is not subject to certificate of need review pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) so requests, the department shall provide the prospective applicant with a pre-licensure consultation. The purpose of the consultation is to provide the prospective applicant with information and guidance on rules, regulations, standards and procedures appropriate and applicable to the licensure process. The department shall conduct the consultation within 60 days of the request of the prospective applicant.

f. Notwithstanding the provisions of any other law to the contrary, an entity that provides magnetic resonance imaging or computerized axial tomography services shall be required to obtain a license from the department to operate those services prior to commencement of services, except that a physician who is operating such services on the effective date of P.L.2004, c.54 shall have one year from the effective date of P.L.2004, c.54 to obtain the license.

5. This act shall take effect July 1, 2004.

Approved June 29, 2004.

## CHAPTER 55

AN ACT concerning the payment of estimated gross income tax on certain gains of nonresidents on sales of real property, supplementing Title 54A of the New Jersey Statutes.

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

**C.54A:8-8 Definitions relative to payment of estimated gross income tax on real property sales by nonresidents.**

1. As used in P.L.2004, c.55 (C.54A:8-8 et seq.):

"Administrative costs" means an amount equal to \$10.00 per estimated gross income tax form filed with a county recording officer, which may be retained by the county treasurer from the estimated gross income tax payment accompanying such form to provide the resources necessary to offset the additional direct expenditures incurred by the county recording officer and the county treasurer for the implementation of their responsibilities under P.L.2004, c.55 (C.54A:8-8 et seq.);

"County recording officer" means the register of deeds and mortgages in counties having such an officer and the county clerk in the other counties;

"Date of sale or transfer" means the date the deed affecting the conveyance is delivered by the seller or transferor to the transferee;

"Gain" on the sale or transfer of real property means the amount determined pursuant to section 1001 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1001, as that section applies to the sale or transfer of real property;

"Nonresident taxpayer" means:

a. an individual who qualifies as a nonresident taxpayer as defined in subsection (n) of N.J.S.54A:1-2, and an estate or trust that qualifies as a nonresident estate or trust as defined in subsection (p) of N.J.S.54A:1-2; or

b. An individual who is not domiciled in New Jersey but who may be considered a resident of New Jersey for tax purposes under paragraph (2) of subsection m. of N.J.S.54A:1-2 at the end of a taxable year, by virtue of maintaining a permanent place of abode in New Jersey for substantially all of the taxable year and by spending in aggregate more than 183 days of the taxable year in New Jersey, unless the individual has already qualified as a resident on the date of sale or transfer of real property;

"Sale or transfer of real property" means the change of ownership of a fee simple interest in real property by any method; and

"Seller or transferor" means the individual, estate or trust making the sale or transfer of a fee simple interest in real property.

**C.54A:8-9 Payment of estimated tax by nonresident taxpayer.**

2. a. A nonresident taxpayer shall estimate and pay the gross income tax liability on the gain, if any, upon the sale or transfer of real property within this State. A nonresident taxpayer shall estimate the gross income tax due on a form prescribed by the director, using an estimated tax rate that is equal to the highest rate of tax for the taxable year provided in N.J.S.54A:2-1. The estimated tax due shall equal the gain, if any, multiplied by that rate. The amount of gain used in the computation shall equal the amount of gain reportable for federal income tax purposes for the taxable year, but may not be less than 2% of the consideration for the sale or transfer stated in the deed affecting the conveyance.

b. If the real property sold or transferred is located partly with and partly without this State, the nonresident taxpayer shall estimate the tax due using only the portion of the gain reasonably attributable to the portion of the real property located within this State.

c. If the nonresident is an estate or trust, the taxpayer shall estimate the tax due based upon the gain, if any, computed without reduction for any distribution of income to the beneficiaries during the taxable year in which the sale or transfer occurred.

**C.54A:8-10 Filing of estimated tax form required, exceptions.**

3. a. A nonresident taxpayer shall file the estimated tax form with the county recording officer, along with the payment of any estimated tax due, at the time the deed is filed with the county recording officer for recording using the procedures prescribed in such form and accompanying instructions as the director shall prescribe. The nonresident taxpayer shall make that estimated tax payment payable to the Department of the Treasury for the estimated tax which payment shall be separate from any other payment required to be made by the seller or transferor pursuant to law. Except for a nonresident taxpayer who meets one of the exemptions provided in subsection b. of this section, a nonresident taxpayer who is a seller or transferor of real property within this State shall file the estimated tax form, whether or not they have a gain on the sale or transfer.

b. The requirements of this section shall not apply if:

(1) the real property being sold or transferred is used exclusively as the principal residence of the seller or transferor within the meaning of section 121 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.121;

(2) the seller or transferor is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration; or

(3) the seller or transferor, or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey,

the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.

c. The principal residence exemption set forth in paragraph (1) of subsection b. of this section, shall apply only if the property sold or transferred was used exclusively as the principal residence of the seller or transferor. If the real property sold or transferred includes both the principal residence and other real property, the taxpayer shall file and pay the estimated tax due based upon the gain on the other real property.

d. A county recording officer shall not record or accept for recording any deed for the sale or transfer of real property subject to P.L.2004, c.55 (C.54A:8-8 et seq.), unless accompanied by a form prescribed by the director pursuant to subsection a. of this section and the payment of any estimated tax shown as payable on such form, or unless such form includes a certification by the seller or transferor on the deed who is an individual, estate or trust that this section is not applicable to the sale or transfer. The method for the certification under this subsection shall be set forth in forms and instructions as shall be prescribed by the director.

e. A county recording officer shall act as an agent of the director for purposes of collecting the estimated gross income tax, if any, shown to be payable upon the form prescribed pursuant to subsection a. of this section. The director, by regulation, shall prescribe one or more methods for the county recording officer's collection of such estimated tax. Every county recording officer shall account for and remit to the county treasurer any funds collected and any returns filed with such county recording officer and the county treasurer shall remit those returns and those funds, net of administrative costs, to the director on such days as the director shall set by regulation consistent with the administration of the provisions of P.L.1968, c.49 (C.46:15-5 et seq.) as amended and supplemented. Every county recording officer also shall follow such procedures and keep such records in respect to the implementation of this section as the director may prescribe.

f. A county recording officer shall not be liable under this section for any inaccuracy in any statement on the form prescribed pursuant to subsection a. of this section or in the amount of estimated gross income tax a county recording officer shall collect under this section so long as the county recording officer shall collect the estimated gross income tax shown as payable on such form.

g. If a deed is recorded notwithstanding an omission or inaccuracy in the form prescribed pursuant to subsection a. of this section or in any certification by the transferor on such form or a deficiency in the payment of estimated gross income tax required by this section, the recording of such deed shall not be invalidated by reason of such omission, inaccuracy, errone-

ous certification or deficiency nor shall the title founded on such deed be impaired thereby.

h. If there has been an overpayment of tax required to be paid through the estimated tax payments made with the filing of the deed, the overpayment of tax may be refunded prior to the filing of a gross income tax return under such requirements and in a manner as the director shall prescribe, but no interest shall be allowed or paid on such overpayment.

4. This act shall take effect August 1, 2004.

Approved June 29, 2004.

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## CHAPTER 56

AN ACT concerning the reporting of certain account information by financial institutions to the Director of the Division of Taxation and supplementing subtitle 9 of Title 54 of the Revised Statutes.

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

**C.54:50-37 Definitions relative to reporting of certain account information by financial institutions; report requirements.**

1. a. For purposes of this section:

"Account" means a demand deposit account, checking or negotiable order of withdrawal account, savings account, time deposit account, or money market mutual fund account. "Account" also includes an equity securities account if permitted under federal law. "Account" does not include: an account to which a tax debtor does not have access due to the pledge of funds as security for a loan or other obligation; funds deposited to an account after the time that a financial institution initially attaches an account; an account to which a financial institution has a present right to exercise a right of set off; an account to which the tax debtor does not have an unconditional right of access; and an account that has an account holder of interest named as an owner on the account.

"Account holder of interest" means any person, other than the tax debtor, who asserts an ownership interest in an account.

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

"Financial institution" means a State or federally chartered bank, savings bank, savings and loan or credit union; a benefit association; insurance



company; safe deposit company; money market mutual fund; or similar entity authorized to do business in this State. "Financial institution" also includes an investment and loan corporation if permitted under federal law.

"Tax debtor" means a person liable for a State tax indebtedness, including tax, interest, penalties and related fees, that has been reduced to judgment pursuant to a Certificate of Debt filed with the Clerk of the Superior Court by the director.

b. The Director may request assistance and information from financial institutions in order to collect on the judgment of a tax debtor, as follows:

(1) Not more frequently than once every calendar quarter, or as otherwise agreed to by the financial institution, the director may provide to a financial institution information in an electronic format containing the names, social security numbers or other taxpayer identification numbers and any other identifying information within the director's records, of tax debtors and request that the financial institution provide a report to the director pursuant to paragraph (2) of this subsection.

(2) Within 30 days of the request by the director, or as otherwise agreed to by the financial institution, the financial institution shall provide a report, in an electronic format prescribed by the director, containing the following information appearing in the records of the financial institution with respect to each tax debtor having an account with that financial institution: full name; address; social security or other taxpayer identification number; any other identifying information; and all account numbers and the balances in each account.

c. A financial institution that complies with a request from the director by submitting a report to the director in accordance with this section shall not be liable under State law to any person for any disclosure of information to the director, or any other action taken in good faith to comply with the requirements of this section.

d. A financial institution furnishing a report to the director under this section is prohibited from disclosing to a tax debtor that the name of the debtor has been received from or furnished to the director unless authorized in writing by the director. A violation of this subsection shall result in the imposition of a civil penalty of \$1,000 for each instance of unauthorized disclosure by a financial institution.

e. The director may institute civil proceedings to enforce the provisions of this section.

f. The procedures described in this section are in addition to any remedies available by law to the director for the collection of tax indebtedness.

g. The director may promulgate regulations concerning the administration of this section.

2. This act shall take effect immediately.

Approved June 29, 2004.

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## CHAPTER 57

AN ACT expanding the program of business registration for contractors with government agencies and requiring certain government agency contractors and their affiliates to collect State use tax, amending P.L.1999, c.39, the Title and text of P.L.2001, c.134 and R.S.54:50-9, repealing section 3 of P.L.2001, c.134 (C.54:52-20), and supplementing Title 54 of the Revised Statutes.

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

1. Section 2 of P.L.1999, c.39 (C.40A:11-23.2) is amended to read as follows

**C.40A:11-23.2 Required mandatory items for bid plans, specification.**

2. When required by the bid plans and specifications, the following requirements shall be considered mandatory items to be submitted at the time specified by the contracting unit for the receipt of the bids; the failure to submit any one of the mandatory items shall be deemed a fatal defect that shall render the bid proposal unresponsive and that cannot be cured by the governing body:

- a. A guarantee to accompany the bid pursuant to section 21 of P.L.1971, c.198 (C.40A:11-21);
- b. A certificate from a surety company pursuant to section 22 of P.L.1971, c.198 (C.40A:11-22);
- c. A statement of corporate ownership pursuant to section 1 of P.L.1977, c.33 (C.52:25-24.2);
- d. A listing of subcontractors pursuant to section 16 of P.L.1971, c.198 (C.40A:11-16);
- e. A document provided by the contracting agent in the bid plans, specifications, or bid proposal documents for the bidder to acknowledge the bidder's receipt of any notice or revisions or addenda to the advertisement or bid documents; and
- f. A copy of the contractor's, and subcontractors' listed pursuant to subsection d. of this section, business registration as required pursuant to section 1 of P.L.2001, c.134 (C.52:32-44).

2. The Title of P.L.2001, c.134 is amended to read as follows:

**Title amended.**

AN ACT concerning business registration for providers of goods and services to the State, State colleges and universities, county colleges, local contracting units, boards of education, water and wastewater contractors and casinos, supplementing Title 54 of the Revised Statutes and amending P.L.1977, c.110.

3. Section 1 of P.L.2001, c.134 (C.52:32-44) is amended to read as follows:

**C.52:32-44 Definitions relative to registration of certain businesses; registration requirements.**

1. a. For the purposes of this section:

"Business organization" means an individual, partnership, association, joint stock company, trust, corporation, or other legal business entity or successor thereof;

"Business registration" means a business registration certificate issued by the Department of the Treasury or such other form or verification that a contractor or subcontractor is registered with the Department of the Treasury;

"Contractor" means a business organization that seeks to enter, or has entered into, a contract to provide goods or services or to construct a construction project with a contracting agency;

"Contracting agency" means the principal departments in the Executive Branch of the State Government, and any division, board, bureau, office, commission or other instrumentality within or created by such department, or any independent State authority, commission, instrumentality or agency, or any State college or university, any county college, or any local unit;

"Local unit" means any contracting unit as defined pursuant to section 2 of P.L.1971, c.198 (C.40A:11-2), any board of education as defined pursuant to N.J.S.18A:18A-2, a private firm that has entered into a contract with a public entity for the provision of water supply services pursuant to P.L.1995, c.101 (C.58:26-19 et al.), a private firm or public authority that has entered into a contract with a public entity for the provision of wastewater treatment service pursuant to P.L.1995, c.216 (C.58:27-19 et al.), and a duly incorporated nonprofit association that entered into a contract with the governing body of a city of the first class for the provision of wastewater treatment services pursuant to P.L.1995, c.216 (C.58:27-19 et al.);

"Subcontractor" means any business organization that is not a contractor that knowingly provides goods or performs services for a contractor or another subcontractor in the fulfillment of a contract issued by a contracting agency.

b. No contract shall be entered into by any contracting agency unless the contractor provides a copy of its business registration in accordance with the following schedule:

(1) In response to a request for bids or a request for proposals, at the time a bid or proposal is submitted; or

(2) For all other transactions, before the issuance of a purchase order or other contracting document. In its sole discretion, the contracting unit may waive this requirement if a business registration has been previously provided to the contracting agency.

c. A subcontractor shall provide a copy of its business registration to any contractor who shall forward it to the contracting agency. No contract with a subcontractor shall be entered into by any contractor under any contract with a contracting agency unless the subcontractor first provides proof of valid business registration. The contracting agency shall file all business registrations received by the contracting agency with other procurement documents related to the contract.

d. A contract entered into by a contracting agency with a contractor shall include provisions under subsection b. of this section and this subsection for the contractor to comply with, and for the contractor to notify subcontractors by written notice to comply with subsection c. of this section. A contracting agency shall not be responsible for a contractor's failure to comply with this section. The contractor shall maintain and submit to the contracting agency a list of subcontractors and their addresses that may be updated from time to time during the course of the contract performance. A complete and accurate list shall be submitted before final payment is made for goods provided or services rendered or for construction of a construction project under the contract.

e. Notice of the provisions of this section shall be included by the contracting agency in any bid specification, requests for proposals, or other documents notifying potential contractors of opportunities to provide goods or perform services for a contracting agency.

f. Nothing in this section shall in any way alter the provisions or change the responsibilities or obligations of casino industry licensees as set forth in section 92 of P.L.1977, c.110 (C.5:12-92).

g. (1) A contractor or a contractor with a subcontractor that has entered into a contract with a contracting agency, and each of their affiliates, shall collect and remit to the Director of the Division of Taxation in the Department of the Treasury the use tax due pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) on all their sales of tangible personal property delivered into this State.

(2) A contracting agency entering into a contract with a contractor, or a contractor with a subcontractor, shall include in its contract to provide

goods or perform services or to construct a construction project with that contractor, or a contractor with a subcontractor, for the term of the contract, a requirement that the contractor or subcontractor and each of their affiliates shall collect and remit to the Director of the Division of Taxation in the Department of the Treasury the use tax due pursuant to the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.) on all their sales of tangible personal property delivered into this State.

(3) For the purposes of this subsection, "affiliate" means any entity that (1) directly, indirectly, or constructively controls another entity, (2) is directly, indirectly, or constructively controlled by another entity, or (3) is subject to the control of a common entity. For purposes of this subsection an entity controls another entity if it owns, directly or individually, more than 50% of the ownership interest in that entity.

h. The State Treasurer may adopt regulations pursuant to the "Administrative Procedure Act", P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to administer the provisions of this act.

4. 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.51 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-3 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).

**C.54:49-4.1 Violations of registration requirements; penalties.**

5. A business organization that fails to provide a copy of a business registration as required pursuant to section 1 of P.L.2001, c.134 (C.52:32-44

et al.) or subsection e. or f. of section 92 of P.L.1977, c.110 (C.5:12:92), or that provides false information of business registration under the requirements of either of those sections, shall be liable for a penalty of \$25 for each day of violation, not to exceed \$50,000 for each business registration copy not properly provided under a contract with a contracting agency or under a casino service industry contract.

**Repealer.**

6. Section 3 of P.L.2001, c.134 (C.54:52-20) is repealed.

7. This act shall take effect immediately, provided however that sections 1 through 6 shall remain inoperative until the first day of the third month following enactment.

Approved June 29, 2004.

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CHAPTER 58

AN ACT providing a State tax clearance process for certain businesses and holders of licenses from State agencies, amending and supplementing P.L.1995, c.158 and amending R.S.54:50-9.

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

1. Section 1 of P.L.1995, c.158 (C.54:50-24) is amended to read as follows:

**C.54:50-24 Definitions relative to State agency information.**

1. As used in this act:

"Business entity" means any person, including but not limited to an individual who is a sole proprietor, that uses a license to conduct or operate a trade, business, occupation or profession in the State, other than as an employee, and that may be subject to State taxes on business related income;

"Director" means the Director of the Division of Taxation in the Department of the Treasury;

"License" means the whole or part of any State agency permit, certificate, approval, registration, charter or similar form of permission to engage in a profession, trade, business or occupation and any notification required to be made to any State agency that a profession, trade, business or occupation is being engaged in or is expected to be commenced; provided however, that "license" shall not include any original charter or certificate of incorporation granted by any State agency;

"Person" means an individual, partnership, society, association, firm, joint stock company, corporation, estate, receiver, trustee, assignee, referee, or any other entity acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any entity that is a combination of the entities set forth herein;

"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;

"State agency" means the Judicial, Legislative or Executive branch of the State of New Jersey, including but not limited to any department, board, bureau, commission, division, office, council, agency, or instrumentality thereof, or independent agency, public authority or public benefit corporation; and

"State tax indebtedness" means the amount of State tax, interest, penalties, and any related fees owed by a person, including any statutory fee for the cost of collection imposed pursuant to section 8 of P.L.1987, c.76 (C.54:49-12.1), to the director.

2. Section 3 of P.L.1995, c.158 (C.54:50-26) is amended to read as follows:

**C.54:50-26 Information furnished by State agency.**

3. a. Notwithstanding any other provision of law, a State agency shall, upon request of the director, furnish the following information with respect to each person covered by this act:

(1) business name or the name under which the applicant for a license or licenses will be licensed or is licensed;

(2) business address or whatever type of address the State agency requires from the applicant for a license or the licensee to furnish to the agency including an Internet address;

(3) federal social security number or federal taxpayer identification number, or both numbers when the person has both numbers, or the reason or reasons, furnished by the person, why the person does not have either number; and

(4) as to holders of licenses, but not pending applicants for licenses, the information, if any, upon which the State agency has identified that a licensee is a business entity.

b. The reports of information required under subsection a. of this section shall be submitted on a compatible magnetic tape file or in some other form which is mutually acceptable to the State agency and the director. Information as to current licensees shall be submitted to the director within the time prescribed in the director's request, or at such other mutually agreeable time.



**C.54:50-26.1 Preliminary notice to business entity.**

3. If the director does not already possess the information set forth in paragraph (3) of subsection a. of section 3 of P.L.1995, c.158 (C.54:50-26) as to a licensee, the director shall send a preliminary notice to each person identified as a business entity by a State agency as a result of an initial request by the director, requesting verification, in a manner to be prescribed by the director, of the business name, business address and federal social security number or federal taxpayer identification number. If no federal social security number or federal taxpayer identification number was provided to the director by the State agency, the preliminary notice shall require a person identified as a business entity by a State agency to provide such information to the director, pursuant to the authority under 42 U.S.C. s.405(c)(2)(C)(i). The preliminary notice shall advise that person that the information required under section 3 of P.L.1995, c.158 (C.54:50-26) has been provided to the director for purposes of reviewing the person's compliance with appropriate State tax laws, as a condition to the continued licensing of the person by the State agency, and to update or correct, as necessary, the tax records and files of the director. The director shall forward a preliminary notice only after the initial request has been made to a State agency for the information required by section 3 of P.L.1995, c.158.

**C.54:50-26.2 Responsibility of State agency concerning identification of licensees.**

4. It shall be the responsibility of a State agency to require federal social security numbers and federal taxpayer identification numbers, as appropriate, from its licensees for the purpose of State tax administration and to provide appropriate notice of the requirements of this section for all requests by the director for such information that occur after the initial request by the director pursuant to section 3 of P.L.2004, c.58 (C.54:50-26.1) for the information required from licensees that the State agency has identified as a business entity.

**C.54:50-26.3 Review, verification of tax compliance status.**

5. a. (1) Following the preliminary notice required by subsection a. of section 3 of P.L.2004, c.58 (C.54:50-26.1), the director shall review the State tax compliance status of each person identified by a State agency as a business entity pursuant to section 3 of P.L.1995, c.158 (C.54:50-26), and verify compliance with the business registration requirements of any State tax administered by the Division of Taxation. The director shall notify those persons not registered with the division and provide that person with 10 days to comply with that registration requirement.

(2) As to licensees for which the director has received any information set forth in paragraphs (1) through (3) of subsection a. of section 3 of

P.L.1985, c.158 (C.54:50-26), from any State agency, including from the Division of Taxation, independent of any information identifying the licensee as a business entity, the director shall review the State tax compliance status of each such licensee and verify compliance with the business registration requirements of any State tax administered by the Division of Taxation. The director shall notify a person not registered with the division and provide that person with 10 days to comply with that registration requirement.

b. (1) If the State tax compliance review of any license holder discloses a State tax indebtedness of that person reduced to judgment by the filing of a certificate of debt by the director or a State tax indebtedness finally determined after the exhaustion of remedies provided pursuant to the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq., or following the failure of a person to exercise available remedies, then the director shall notify the person of the intent to demand the suspension of the person's license by the State agency. No additional right to protest or appeal the State tax indebtedness shall be available to any person pursuant to this paragraph.

(2) If the State tax compliance review discloses a State tax indebtedness that (a) is not a certificate of debt, (b) is not a State tax indebtedness that has been finally determined after the exhaustion of remedies provided pursuant to the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq., or (c) is not a State tax indebtedness that has followed the failure of a person to exercise available remedies, the director shall forward a notice of tax delinquency or tax deficiency, or both, and the person may remit the State tax indebtedness to the director or contest the State tax indebtedness in accordance with the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq. The director shall not seek to suspend a license during the time available to contest the notice of tax delinquency or tax deficiency.

c. By written notice to a State agency, the director shall demand the suspension of a license of a person (1) to whom a notice has been provided pursuant to paragraph (1) of subsection b. of this section, or (2) to whom a notice of tax delinquency or tax deficiency has been provided pursuant to paragraph (2) of subsection b. of this section after the time to contest the notice has expired or after the exhaustion of available remedies. Upon receipt of the director's notice, a State agency shall suspend the license effective as of a date mutually agreed upon by the director and the State agency. Notwithstanding any other law to the contrary, no person shall have the right to a hearing prior to the imposition of the suspension.

6. Section 4 of P.L.1995, c.158 (C.54:50-27) is amended to read as follows:

**C.54:50-27 Information, report not government record, confidentiality.**

4. Notwithstanding any other provision of law, the information and report to be furnished by the State agency to the director shall not constitute a public record under P.L.1963, c.73 (C.47:1A-1 et seq.) or any court decision, or a government record subject to access pursuant to P.L.2001, c.404, and shall not otherwise be open to the public for inspection. The information and report furnished by any State agency under the provisions of this act shall be a record or file subject to the provisions of R.S.54:50-8 and R.S.54:50-9.

7. 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.51 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-3 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.).

8. This act shall take effect immediately.

Approved June 29, 2004.

## CHAPTER 59

AN ACT establishing the NJ STARS Program for county college students, supplementing chapter 71B of Title 18A of the New Jersey Statutes.

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

**C.18A:71B-81 Short title.**

1. This act shall be known and may be cited as the "New Jersey Student Tuition Assistance Reward Scholarship (NJ STARS) Program Act."

**C.18A:71B-82 Findings relative to NJ STARS Program.**

2. The Legislature finds that it is necessary for the State's citizens to acquire an education beyond the secondary level in order to succeed during the 21st century. A well-trained and educated population, moreover, is vital to New Jersey's efforts to attract and retain highly skilled businesses, and to ensure the State's continued economic well-being. It is therefore incumbent upon the Legislature to institute a program which will help high achieving students to pursue a post-secondary education.

**C.18A:71B-83 Definitions relative to NJ STARS Program.**

3. As used in this act:

"Authority" means the Higher Education Student Assistance Authority established pursuant to N.J.S.18A:71A-3.

"Full-time course of study" in any semester means a course of study, leading to a degree from the county college of enrollment, that includes at least 12 credit hours, not including any credit hours in a remedial or developmental curriculum.

"Program" means the New Jersey Student Tuition Assistance Reward Scholarship (NJ STARS) Program for county college students.

**C.18A:71B-84 NJ STARS Program.**

4. There is hereby created the New Jersey Student Tuition Assistance Reward Scholarship (NJ STARS) Program for county college students. It shall be the duty of the Higher Education Student Assistance Authority to administer the program.

**C.18A:71B-85 NJ STARS scholarships; eligibility.**

5. a. A scholarship under the NJ STARS Program shall cover the full cost of tuition and fees, subject to the prior application of other grants and scholarships against those costs as provided under paragraph (2) of subsection c. of this section, for up to 15 credit hours in any semester, for an eligible student enrolled in a full-time course of study at the New Jersey county

college serving the student's county of residence. An otherwise eligible student who demonstrates to the authority, in accordance with such criteria and by means of such documentation as the authority shall establish by regulation, that the county college serving the student's county of residence does not offer the curriculum that the student chooses to study shall be eligible for such scholarship at another New Jersey county college offering that curriculum. The amount of any scholarship allowed hereunder to a student at a county college serving a county other than the student's county of residence shall be computed as though the student were a resident of the county served by that college, and the college shall likewise compute the amount of any additional payment, required with respect to the enrollment of that student for credit hours of study during a semester in which the scholarship is awarded that are not covered by that scholarship, as though the student were a resident of the county.

b. A student shall be eligible for a scholarship under the NJ STARS Program for up to five semesters. The scholarship shall be payable for the first year of enrollment in a county college to a student who graduated in the top 20% of the student's high school graduating class, provided that in the case of students graduating from high schools that do not calculate the class rank of their students, the student's ranking shall be determined by the high school in consultation with the authority. During a student's enrollment in a county college after the first year of enrollment, the scholarship shall be payable to that student if, based on the student's performance in the first year of enrollment, the student was ranked in the top 20% of all first-time students enrolled in a full-time course of study at the county college during the student's initial year of county college enrollment.

c. To be eligible to receive a scholarship under the NJ STARS Program a student shall:

- (1) be a State resident pursuant to guidelines established by the authority;
- (2) have applied for all other available forms of State and federal need-based grants and merit scholarships, exclusive of loans, the full amount of which grants and scholarships shall be applied to tuition and fee charges to reduce the amount of any scholarship that the student shall receive under the provisions of this act;
- (3) be enrolled in a full-time course of study at a New Jersey county college;
- (4) have graduated from high school in 2004 or later, and not earlier than the calendar year two years prior to the first calendar year in which a scholarship payment is to be made; and
- (5) maintain continuous enrollment in a full-time course of study, unless on medical leave due to the illness of the student or a member of the student's

immediate family or emergency leave because of a family emergency, which medical or emergency leave shall have been approved by the county college.

d. A student who is dismissed for academic or disciplinary reasons from a county college shall no longer be eligible for a scholarship under this act. If a student participating in the program is dismissed for disciplinary reasons, the student shall repay in full all amounts received under the program. The county college shall be responsible for collecting the repayment, or the amount of any overpayment or other improper payment, of any State awards under the program, in accordance with the provisions of N.J.S.18A:71B-10.

e. A student scholarship under the NJ STARS Program may be renewed upon the student's filing of a renewal financial aid application and providing evidence that the student has satisfied the requirements pursuant to subsection b. of this section.

**C.18A:71B-86 Report to Legislature, Governor on NJSTARS Program; guidelines rules, regulations.**

6. a. Not later than September 30, 2006, the Higher Education Student Assistance Authority shall prepare and submit to the Legislature and the Governor a report on the implementation of the NJ STARS Program at the several county colleges. The report shall, for each college, set forth statistics on and include an analysis of student participation in the program at the college, the amounts of funding provided under the program to students enrolled at the college, the amounts of funding made available to those participating students from State sources other than the NJ STARS Program and from federal and institutional sources, and such other factors as the authority deems to be necessary or useful to the evaluation of the program.

b. The Higher Education Student Assistance Authority shall administer the provisions of this act and shall establish appropriate criteria, procedures, and guidelines for awarding New Jersey Student Tuition Assistance Reward Scholarships to eligible students in accordance with the provisions of this act. The authority shall adopt in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations as may be necessary to implement the provisions of this act.

7. This act shall take effect on July 1, 2004.

Approved June 29, 2004.

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## CHAPTER 60

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, 2004 and regulating the disbursement thereof," approved July 1, 2003 (P.L.2003, c.122).

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.2003, c.122, there are appropriated out of the General Fund, unless otherwise specifically indicated, the following sums for the purposes specified:

**10 DEPARTMENT OF AGRICULTURE**

***40 Community Development and Environmental Management***

***49 Agricultural Resources, Planning and Regulation***

**STATE AID**

|                                                                                         |                    |
|-----------------------------------------------------------------------------------------|--------------------|
| 06-3360 Marketing Services .....                                                        | <u>\$2,373,000</u> |
| Total State Aid Appropriation, Agricultural Resources,<br>Planning and Regulation ..... |                    |
|                                                                                         | <u>\$2,373,000</u> |

***State Aid:***

|                                   |               |
|-----------------------------------|---------------|
| 06 School Lunch Program .....     | (\$1,716,000) |
| 06 School Breakfast Program ..... | (657,000)     |

**26 DEPARTMENT OF CORRECTIONS**

***10 Public Safety and Criminal Justice***

***16 Detention and Rehabilitation***

***7025 System-Wide Program Support***

**GRANTS-IN-AID**

|                                                                         |                    |
|-------------------------------------------------------------------------|--------------------|
| 13-7025 Institutional Program Support .....                             | <u>\$2,273,000</u> |
| Total Grants-In-Aid Appropriation, System-Wide<br>Program Support ..... |                    |
|                                                                         | <u>\$2,273,000</u> |

***Grants-In-Aid:***

|                                                                                     |               |
|-------------------------------------------------------------------------------------|---------------|
| 13 Purchase of Service for Inmates Incarcerated In<br>County Penal Facilities ..... | (\$2,273,000) |
|-------------------------------------------------------------------------------------|---------------|

***7040 New Jersey State Prison***

**DIRECT STATE SERVICES**

|                                                                             |                 |
|-----------------------------------------------------------------------------|-----------------|
| 99-7040 Administration and Support Services .....                           | <u>\$66,000</u> |
| Total Direct State Services Appropriation, New<br>Jersey State Prison ..... |                 |
|                                                                             | <u>\$66,000</u> |

***Direct State Services:***

|                              |            |
|------------------------------|------------|
| Materials and Supplies ..... | (\$66,000) |
|------------------------------|------------|



**7045 Vroom Central Reception and Assignment Facility****DIRECT STATE SERVICES**

99-7045 Administration and Support Services ..... \$401,000  
 Total Direct State Services Appropriation, Vroom  
 Central Reception and Assignment Facility . \$401,000

***Direct State Services:***

Materials and Supplies. .... (\$401,000)

**7050 East Jersey State Prison****DIRECT STATE SERVICES**

99-7050 Administration and Support Services ..... \$1,805,000  
 Total Direct State Services Appropriation, East  
 Jersey State Prison ..... \$1,805,000

***Direct State Services:***

Materials and Supplies ..... (\$1,805,000)

**7055 South Woods State Prison****DIRECT STATE SERVICES**

99-7055 Administration and Support Services ..... \$531,000  
 Total Direct State Services Appropriation, South  
 Woods State Prison ..... \$531,000

***Direct State Services:***

Materials and Supplies ..... (\$531,000)

**7060 Bayside State Prison****DIRECT STATE SERVICES**

99-7060 Administration and Support Services ..... \$368,000  
 Total Direct State Services Appropriation, Bayside  
 State Prison ..... \$368,000

***Direct State Services:***

Materials and Supplies ..... (\$368,000)

**7065 Southern State Correctional Facility****DIRECT STATE SERVICES**

07-7065 Institutional Control and Supervision ..... \$6,360,000  
 08-7065 Institutional Care and Treatment ..... 2,340,000  
 99-7065 Administration and Support ..... 798,000  
 Total Direct State Services Appropriation, Southern  
 State Correctional Facility ..... \$9,498,000

***Direct State Services:*****Personal Services:**

Salaries and Wages ..... (\$6,360,000)

Materials and Supplies ..... (798,000)

Services Other Than Personal ..... (2,340,000)

**7070 Mid-State Correctional Facility****DIRECT STATE SERVICES**99-7070 Administration and Support Services ..... \$180,000

Total Direct State Services Appropriation, Mid-State

Correctional Facility ..... \$180,000**Direct State Services:**

Materials and Supplies ..... (\$180,000)

**7075 Riverfront State Prison****DIRECT STATE SERVICES**99-7075 Administration and Support Services ..... \$891,000

Total Direct State Services Appropriation, Riverfront

State Prison ..... \$891,000**Direct State Services:**

Materials and Supplies ..... (\$891,000)

**7080 Edna Mahan Correctional Facility for Women****DIRECT STATE SERVICES**99-7080 Administration and Support Services ..... \$60,000

Total Direct State Services Appropriation, Edna

Mahan Correctional Facility for Women .... \$60,000**Direct State Services:**

Materials and Supplies ..... (\$60,000)

**7085 Northern State Prison****DIRECT STATE SERVICES**99-7085 Administration and Support Services ..... \$400,000

Total Direct State Services Appropriation, Northern

State Prison ..... \$400,000**Direct State Services:**

Materials and Supplies ..... (\$400,000)

**7090 Adult Diagnostic and Treatment Center, Avenel****DIRECT STATE SERVICES**99-7090 Administration and Support Services ..... \$100,000Total Direct State Services Appropriation, Adult Diagnostic  
and Treatment Center, Avenel ..... \$100,000**Direct State Services:**

Materials and Supplies ..... (\$100,000)

**7110 Garden State Youth Correctional Facility****DIRECT STATE SERVICES**

99-7110 Administration and Support Services ..... \$449,000  
 Total Direct State Services Appropriation, Garden  
 State Youth Correctional Facility ..... \$449,000

***Direct State Services:***

Materials and Supplies ..... (\$449,000)

**7120 Albert C. Wagner Youth Correctional Facility****DIRECT STATE SERVICES**

99-7120 Administration and Support Services ..... \$566,000  
 Total Direct State Services Appropriation, Albert C.  
 Wagner Youth Correctional Facility ..... \$566,000

***Direct State Services:***

Materials and Supplies ..... (\$566,000)

**7130 Mountainview Youth Correctional Facility****DIRECT STATE SERVICES**

99-7130 Administration and Support Services ..... \$850,000  
 Total Direct State Services Appropriation, Mountainview  
 Youth Correctional Facility ..... \$850,000

***Direct State Services:***

Materials and Supplies ..... (\$850,000)

**10 Public Safety and Criminal Justice****19 Central Planning, Direction and Management****DIRECT STATE SERVICES**

99-7000 Administration and Support Services ..... \$35,000  
 Total Direct State Services Appropriation, Central  
 Planning, Direction and Management ..... \$35,000

***Direct State Services:***

Materials and Supplies ..... (\$35,000)

**34 DEPARTMENT OF EDUCATION****30 Educational, Cultural and Intellectual Development****31 Direct Educational Services and Assistance****STATE AID**

03-5120 Miscellaneous Grants-in-Aid ..... \$5,735,000  
*(From Property Tax Relief Fund ..... \$5,735,000)*  
 Total State Aid Appropriation, Direct Educational  
 Services and Assistance ..... \$5,735,000  
*(Total From Property Tax Relief Fund. .... \$5,735,000)*

**State Aid:**

- 03 Payments for Institutionalized Children -  
     Unknown District of Residence (PTRF) . . . (\$5,735,000)

**42 DEPARTMENT OF ENVIRONMENTAL PROTECTION****40 Community Development and Environmental Management****43 Science and Technical Programs****DIRECT STATE SERVICES**

- 29-4850 Environmental Remediation and Monitoring. . . . . \$3,920,000  
     Total Direct State Services Appropriation, Science  
     and Technical Programs . . . . . \$3,920,000

**Direct State Services:**

- 29 Water Resources Monitoring and Planning -  
     Constitutional Dedication . . . . . (\$3,920,000)

**44 Site Remediation and Waste Management****DIRECT STATE SERVICES**

- 29-4815 Environmental Remediation and Monitoring . . . . . \$5,820,000  
     Total Direct State Services Appropriation, Site Remediation  
     and Waste Management . . . . . \$5,820,000

**Direct State Services:**

- 29 Cleanup Projects Administrative Costs --  
     Constitutional Dedication . . . . . (\$5,820,000)

**CAPITAL CONSTRUCTION**

- 29-4815 Environmental Remediation and Monitoring . . . . . \$13,610,000  
     Total Capital Construction Appropriation, Site Remediation  
     and Waste Management . . . . . \$13,610,000

**Capital Projects:**

- 29 Hazardous Substance Discharge Remediation -  
     Constitutional Dedication . . . . . (5,840,000)  
   29 Private Underground Tank Remediation -  
     Constitutional Dedication . . . . . (3,885,000)  
   29 Hazardous Substance Discharge Remediation  
     Loans and Grants - Constitutional  
     Dedication . . . . . (3,885,000)

**46 DEPARTMENT OF HEALTH AND SENIOR SERVICES****20 Physical and Mental Health****26 Senior Services****GRANTS-IN-AID**

- 22-4275 Medical Services for the Aged . . . . . \$98,500,000  
     Total Grants-In-Aid Appropriation,  
     Senior Services . . . . . \$98,500,000

**Grants-In-Aid:**

- 22 Payments for Medical Assistance Recipients -  
     Nursing Homes ..... (\$98,500,000)

**54 DEPARTMENT OF HUMAN SERVICES****20 Physical and Mental Health****24 Special Health Services****7540 Division of Medical Assistance and Health Services****GRANTS-IN-AID**

- 22-7540 General Medical Services ..... \$34,973,000  
     Total Grants-In-Aid Appropriation, Division of  
         Medical Assistance and Health Services ..... \$34,973,000

**Grants-In-Aid:**

- 22 NJ Family Care - Affordable and Accessible  
     Health Coverage Benefits ..... (\$10,000,000)  
 22 Partnership for Children -- Residential ..... (24,973,000)

**50 Economic Planning, Development and Security****53 Economic Assistance and Security****7550 Division of Family Development****STATE AID**

- 15-7550 Income Maintenance Management ..... \$9,959,000  
     Total State Aid Appropriation, Division of  
         Family Development ..... \$9,959,000

**State Aid:**

- 15 General Assistance Emergency  
     Assistance Program ..... (\$2,459,000)  
 15 Work First New Jersey - Emergency  
     Assistance ..... (7,500,000)

**66 DEPARTMENT OF LAW AND PUBLIC SAFETY****10 Public Safety and Criminal Justice****12 Law Enforcement****DIRECT STATE SERVICES**

- 06-1200 State Police Operations ..... \$4,000,000  
     Total Direct State Services Appropriation, Law Enforcement \$4,000,000

**Direct State Services:**

- 06 Services Other Than Personal ..... (\$4,000,000)

**13 Special Law Enforcement Activities****STATE AID**

- 25-1421 Election Management and Coordination ..... \$3,289,000  
     Total State Aid Appropriation, Special Law  
         Enforcement Activities ..... \$3,289,000

**State Aid:**

25 Extended Polling Place Hours . . . . . (\$3,289,000)

**18 Juvenile Services****1505 New Jersey Training School for Boys****DIRECT STATE SERVICES**

35-1505 Institutional Control and Supervision . . . . . \$1,400,000

Total Direct State Services Appropriation, New Jersey

Training School for Boys . . . . . \$1,400,000

**Direct State Services:**

Salaries and Wages . . . . . (\$1,400,000)

**67 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS****10 Public Safety and Criminal Justice****14 Military Services****DIRECT STATE SERVICES**

40-3620 New Jersey National Guard Support Services . . . . . \$415,000

Total Direct State Services Appropriation, Military

Services . . . . . \$415,000

**Direct State Services:**

40 Nuclear Facilities Security Detail . . . . . (\$256,000)

40 State Active Duty . . . . . (159,000)

**80 Special Government Services****83 Services to Veterans****3630 Menlo Park Veterans' Memorial Home****DIRECT STATE SERVICES**

20-3630 Domiciliary and Treatment Services . . . . . \$1,580,750

99-3630 Administrative and Support Services . . . . . 239,250

Total Direct State Services Appropriation, Menlo

Park Veterans' Memorial Home . . . . . \$1,820,000

**Direct State Services:****Personal Services:**

Salaries and Wages . . . . . (\$1,489,250)

Materials and Supplies . . . . . (109,500)

Services Other Than Personal . . . . . (188,250)

Maintenance and Fixed Charges . . . . . (7,500)

Additions, Improvements and Equipment . . . . . (25,500)

**3640 Paramus Veterans' Memorial Home****DIRECT STATE SERVICES**

20-3640 Domiciliary and Treatment Services . . . . . \$1,500,000

Total Direct State Services Appropriation, Paramus

Veterans' Memorial Home . . . . . \$1,500,000

**Direct State Services:**

## Personal Services:

Salaries and Wages ..... (\$1,500,000)

**3650 Vineland Veterans' Memorial Home****DIRECT STATE SERVICES**

20-3650 Domiciliary and Treatment Services ..... \$1,350,000

99-3650 Administrative and Support Services ..... 287,000

Total Direct State Services Appropriation, Vineland

Veterans' Memorial Home ..... \$1,637,000**Direct State Services:**

Salaries and Wages ..... (\$1,637,000)

**74 DEPARTMENT OF STATE****30 Educational, Cultural and Intellectual Development****36 Higher Educational Services****2405 Higher Education Student Assistance Authority****GRANTS-IN-AID**45-2405 Student Assistance Programs ..... \$868,000

Total Grants-In-Aid Appropriation, Higher Education

Student Assistance Authority ..... \$868,000**Grants-In-Aid:**

45 Outstanding Scholar Recruitment Program ..... (\$868,000)

**78 DEPARTMENT OF TRANSPORTATION****60 Transportation Programs****61 State and Local Highway Facilities****DIRECT STATE SERVICES**06-6100 Maintenance and Operations ..... \$12,000,000

Total Direct State Services Appropriation, State

and Local Highway Facilities ..... \$12,000,000**Direct State Services:**

## Personal Services:

Salaries and Wages ..... (\$12,000,000)

**82 DEPARTMENT OF THE TREASURY****30 Educational, Cultural and Intellectual Development****36 Higher Educational Services****GRANTS-IN-AID**47-2155 Support to Independent Institutions ..... \$641,041

Total Grants-In-Aid Appropriation, Higher

Educational Services ..... \$641,041**Grants-In-Aid:**

47 Aid to Independent Colleges and Universities .. (\$641,041)

**STATE AID**48-2155 Aid to County Colleges ..... \$4,475,666

Total State Aid Appropriation, Higher

Educational Services ..... \$4,475,666***State Aid:***

48 Operational Costs ..... (\$4,475,666)

**94 INTER-DEPARTMENTAL ACCOUNTS*****70 Government Direction, Management and Control******74 General Government Services*****DIRECT STATE SERVICES**02-9400 Insurance and Other Services ..... \$6,500,000

Total Direct State Services Appropriation, General

Government Services ..... \$6,500,000***Direct State Services:***

02 Workers' Compensation Fund ..... (\$5,000,000)

02 Self Insurance Deductible Fund ..... (1,500,000)

**GRANTS-IN-AID**09-9460 Aid to Independent Authorities ..... \$1,550,000

Total Grants-In-Aid Appropriation, General

Government Services ..... \$1,550,000***Grants-In-Aid:***

09 Camden Riverfront Parking Lot

Construction Project, EDA ..... (\$1,550,000)

***9410 Employee Benefits*****DIRECT STATE SERVICES**03-9410 Employee Benefits ..... \$18,900,000

Total Direct State Services Appropriation, Employee

Benefits ..... \$18,900,000***Direct State Services:***

03 State Employees' Health Benefits ..... (\$18,900,000)

***9450 Statewide Capital Projects***

Notwithstanding the provisions of any other law to the contrary, there is appropriated to the "New Jersey Commerce and Economic Growth Commission" established pursuant to section 3 of P.L.1998, c.44 (C.52:27C-63) from the "1996 Economic Development Site Fund," established pursuant to section 20 of the "Port of New Jersey Revitalization, Dredging, Environmental Cleanup, Lake Restoration, and Delaware Bay Area Economic Development Bond Act of 1996,"



P.L.1996, c.70, the sum of \$2,400,000 which shall be allocated as a grant of \$2,400,000 to the Camden County College for capital improvements to construct a conference center in Camden City, Camden County.

Notwithstanding the provisions of any other law to the contrary, there is appropriated to the New Jersey Economic Development Authority established pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4) from the "1996 Economic Development Site Fund," established pursuant to section 20 of the "Port of New Jersey Revitalization, Dredging, Environmental Cleanup, Lake Restoration, and Delaware Bay Area Economic Development Bond Act of 1996," P.L.1996, c.70, the sum of \$1,100,000, which it may grant to the developer of new parking facilities in Camden City, Camden County; provided that such grants may be made only upon the advice and consent of the Chief Operating Officer of Camden City, Camden County.

Notwithstanding the provisions of any other law to the contrary, the amount of \$3,500,000 previously appropriated to the "New Jersey Commerce and Economic Growth Commission" established pursuant to section 3 of P.L.1998, c.44 (C.52:27C-63), from the "1996 Economic Development Site Fund," established pursuant to section 20 of the "Port of New Jersey Revitalization, Dredging, Environmental Cleanup, Lake Restoration and Delaware Bay Area Economic Development Bond Act of 1996," P.L.1996, c.70, for the purposes set forth in subsection d. of section 1 of P.L.1999, c.99 is canceled.

|                                                        |                      |
|--------------------------------------------------------|----------------------|
| Total General Fund Appropriation . . . . .             | <u>\$246,623,707</u> |
| Total Property Tax Relief Fund Appropriation . . . . . | <u>\$5,735,000</u>   |
| Total Appropriation, All State Funds . . . . .         | <u>\$252,358,707</u> |

2. This act shall take effect immediately.

Approved June 30, 2004.

## CHAPTER 61

AN ACT increasing the number of districts designated as Abbott districts and amending P.L.1996, c.138 and P.L.1999, c.279.

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

1. Section 3 of P.L.1996, c.138 (C.18A:7F-3) is amended to read as follows:

**C.18A:7F-3 Definitions relative to school funding.**

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

"Abbott district" means one of the 28 urban districts in district factor groups A and B specifically identified in the appendix to Raymond Abbott, et al. v. Fred G. Burke, et al. decided by the New Jersey Supreme Court on June 5, 1990 (119 N.J.287, 394) or any other district classified as a special needs district under the "Quality Education Act of 1990," P.L.1990, c.52 (C.18A:7D-1 et al.), or Salem City School District;

"Bilingual education pupil" means a pupil enrolled in a program of bilingual education or in an English as a second language program approved by the State Board of Education;

"Budgeted local share" means the sum of designated general fund balance, miscellaneous revenues estimated consistent with GAAP, and that portion of the district's local tax levy contained in the T&E budget certified for taxation purposes;

"Capital outlay" means capital outlay as defined in GAAP;

"Commissioner" means the Commissioner of Education;

"Concentration of low-income pupils" shall be based on prebudget year pupil data and means, for a school district or a county vocational school district, the number of low-income pupils among those counted in modified district enrollment, divided by modified district enrollment. For a school, it means the number of low-income pupils recorded in the registers at that school, divided by the total number of pupils recorded in the school's registers;

"CPI" means the average annual increase, expressed as a decimal, in the consumer price index for the New York City and Philadelphia areas during the fiscal year preceding the prebudget year as reported by the United States Department of Labor;

"County special services school district" means any entity established pursuant to article 8 of chapter 46 of Title 18A of the New Jersey Statutes;

"County vocational school district" means any entity established pursuant to article 3 of chapter 54 of Title 18A of the New Jersey Statutes;

"County vocational school, special education services pupil" means a pupil who is attending a county vocational school and who is receiving specific services pursuant to chapter 46 of Title 18A of the New Jersey Statutes;

"Debt service" means and includes payments of principal and interest upon school bonds and other obligations issued to finance the purchase

or construction of school facilities, additions to school facilities, or the reconstruction, remodeling, alteration, modernization, renovation or repair of school facilities, including furnishings, equipment, architect fees and the costs of issuance of such obligations and shall include payments of principal and interest upon bonds heretofore issued to fund or refund such obligations, and upon municipal bonds and other obligations which the commissioner approves as having been issued for such purposes. Debt service pursuant to the provisions of P.L.1978, c.74 (C.18A:58-33.22 et seq.), P.L.1971, c.10 (C.18A:58-33.6 et seq.) and P.L.1968, c.177 (C.18A:58-33.2 et seq.) is excluded;

"District factor group A district" means a school district, other than an Abbott district or a school district in which the equalized valuation per pupil is more than twice the average Statewide equalized valuation per pupil and in which resident enrollment exceeds 2,000 pupils, which based on the 1990 federal census data is included within the Department of Education's district factor group A;

"District income" for the 1997-98 school year means the aggregate income of the residents of the taxing district or taxing districts, based upon data provided by the Bureau of the Census in the United States Department of Commerce for 1989. Beginning with the 1998-99 school year and thereafter, district income means the aggregate income of the residents of the taxing district or taxing districts, based upon data provided by the Division of Taxation in the New Jersey Department of the Treasury and contained on the New Jersey State Income Tax forms for the calendar year ending prior to the prebudget year. The commissioner may supplement data contained on the State Income Tax forms with data available from other State or federal agencies in order to better correlate the data to that collected on the federal census. With respect to regional districts and their constituent districts, however, the district income as described above shall be allocated among the regional and constituent districts in proportion to the number of pupils resident in each of them;

"Estimated minimum equalized tax rate" for a school district means the district's required local share divided by its equalized valuation; for the State it means the sum of the required local shares of all school districts in the State, excluding county vocational and county special services school districts as defined pursuant to this section, divided by the sum of the equalized valuations for all the school districts in the State except those for which there is no required local share;

"Equalized valuation" means the equalized valuation of the taxing district or taxing districts, as certified by the Director of the Division of Taxation on October 1, or subsequently revised by the tax court by January 15, of the prebudget year. With respect to regional districts and their

constituent districts, however, the equalized valuations as described above shall be allocated among the regional and constituent districts in proportion to the number of pupils resident in each of them. In the event that the equalized table certified by the director shall be revised by the tax court after January 15 of the prebudget year, the revised valuations shall be used in the recomputation of aid for an individual school district filing an appeal, but shall have no effect upon the calculation of the property value multiplier, Statewide equalized valuation per pupil, estimated minimum equalized tax rate for the State, or Statewide average equalized school tax rate;

"GAAP" means the generally accepted accounting principles established by the Governmental Accounting Standards Board as prescribed by the State board pursuant to N.J.S.18A:4-14;

"Household income" means income as defined in 7CFR 245.2 and 245.6 or any subsequent superseding federal law or regulation;

"Lease purchase payment" means and includes payments of principal and interest for lease purchase agreements in excess of five years approved pursuant to subsection f. of N.J.S.18A:20-4.2 to finance the purchase or construction of school facilities, additions to school facilities, or the reconstruction, remodeling, alteration, modernization, renovation or repair of school facilities, including furnishings, equipment, architect fees and issuance costs. Approved lease purchase agreements in excess of five years shall be accorded the same accounting treatment as school bonds;

"Low-income pupils" means those pupils from households with a household income at or below the most recent federal poverty guidelines available on October 15 of the prebudget year multiplied by 1.30;

"Minimum permissible T&E budget" means the sum of a district's core curriculum standards aid, and required local share calculated pursuant to sections 5, 14 and 15 of this act;

"Modified district enrollment" means the number of pupils other than preschool pupils, evening school pupils, post-graduate pupils, and post-secondary vocational pupils who, on the last school day prior to October 16, are enrolled in the school district or county vocational school district; or are resident in the school district or county vocational school district and are: (1) receiving home instruction, (2) enrolled in an approved private school for the handicapped, (3) enrolled in a regional day school, (4) enrolled in a county special services school district, (5) enrolled in an educational services commission including an alternative high school program operated by an educational services commission, (6) enrolled in a State college demonstration school, (7) enrolled in the Marie H. Katzenbach School for the Deaf, or (8) enrolled in an alternative high school program in a county vocational school. Modified district enroll-

ment shall be based on the prebudget year count for the determination of concentration of low-income pupils, and shall be projected to the current year and adjusted pursuant to section 5 of this act when used in the calculation of aid;

"Net budget" unless otherwise stated in this act, means the sum of the net T&E budget and the portion of the district's local levy that is above the district's maximum T&E budget;

"Net T&E budget" means the sum of the T&E program budget, early childhood program aid, demonstrably effective program aid, instructional supplement aid, transportation aid, and categorical program aid received pursuant to sections 19 through 22, 28, and 29 of this act;

"Prebudget year" means the school fiscal year preceding the year in which the school budget is implemented;

"Prebudget year equalized tax rate" means the amount calculated by dividing the district's general fund levy for the prebudget year by its equalized valuation certified in the year prior to the prebudget year;

"Prebudget year net budget" for the 1997-98 school year means the sum of the foundation aid, transition aid, transportation aid, special education aid, bilingual education aid, aid for at-risk pupils, technology aid, and county vocational program aid received by a school district or county vocational school district in the 1996-97 school year pursuant to P.L.1996, c.42, and the district's local levy for the general fund;

"Report on the Cost of Providing a Thorough and Efficient Education" or "Report" means the report issued by the Governor pursuant to section 4 of this act;

"Resident enrollment" means the number of pupils other than pre-school pupils, post-graduate pupils, and post-secondary vocational pupils who, on the last school day prior to October 16 of the current school year, are residents of the district and are enrolled in: (1) the public schools of the district, excluding evening schools, (2) another school district, other than a county vocational school district in the same county on a full-time basis, or a State college demonstration school or private school to which the district of residence pays tuition, or (3) a State facility in which they are placed by the district; or are residents of the district and are: (1) receiving home instruction, or (2) in a shared-time vocational program and are regularly attending a school in the district and a county vocational school district. In addition, resident enrollment shall include the number of pupils who, on the last school day prior to October 16 of the prebudget year, are residents of the district and in a State facility in which they were placed by the State. Pupils in a shared-time vocational program shall be counted on an equated full-time basis in accordance with procedures to be established by the commissioner. Resident enrollment shall include

regardless of nonresidence, the enrolled children of teaching staff members of the school district or county vocational school district who are permitted, by contract or local district policy, to enroll their children in the educational program of the school district or county vocational school district without payment of tuition. Handicapped children between three and five years of age and receiving programs and services pursuant to N.J.S.18A:46-6 shall be included in the resident enrollment of the district;

"School district" means any local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes;

"School enrollment" means the number of pupils other than preschool pupils, evening school pupils, post-graduate pupils, and post-secondary vocational pupils who, on the last school day prior to October 16 of the current school year, are recorded in the registers of the school;

"Special education services pupils" means a pupil receiving specific services pursuant to chapter 46 of Title 18A of the New Jersey Statutes;

"Spending growth limitation" means the annual rate of growth permitted in the net budget of a school district, county vocational school district or county special services school district as measured between the net budget of the prebudget year and the net budget of the budget year as calculated pursuant to subsection d. of section 5 of this act;

"Stabilization aid growth limit" means 10% or the rate of growth in the district's projected resident enrollment over the prebudget year, whichever is greater. For the 1997-98 school year, this means 8% or one-half the rate of growth in the district's projected resident enrollment and preschool enrollment between the October 1991 enrollment report as contained on the district's Application for State School Aid for 1992-93 and the 1997-98 school year, whichever is greater. For the 1998-99 and 1999-2000 school years, this means the greatest of the following: 10%, one-half the district's rate of growth in projected resident enrollment and preschool enrollment over the October 1991 enrollment report as contained on the district's Application for State School Aid for 1992-93, or the district's projected rate of growth in resident enrollment over the prebudget year;

"State facility" means a State developmental center; a State Division of Youth and Family Services' residential center; a State residential mental health center; a DHS Regional Day School; a State training school/Secure care facility; a State juvenile community program; a juvenile detention center or a boot camp under the supervisory authority of the Juvenile Justice Commission pursuant to P.L.1995, c.284 (C.52:17B-169 et seq.); or an institution operated by or under contract with the Department of Corrections or Human Services, or the Juvenile Justice Commission;

"Statewide average equalized school tax rate" means the amount calculated by dividing the general fund tax levy for all school districts, which excludes county vocational school districts and county special services school districts as defined pursuant to this section, in the State for the prebudget year by the equalized valuations certified in the year prior to the prebudget year of all taxing districts in the State except taxing districts for which there are no school tax levies;

"Statewide equalized valuation per pupil" means the equalized valuations of all taxing districts having resident enrollment in the State, divided by the resident enrollment for the State;

"T&E amount" means the cost per elementary pupil of delivering the core curriculum content standards and extracurricular and cocurricular activities necessary for a thorough regular education under the assumptions of reasonableness and efficiency contained in the Report on the Cost of Providing a Thorough and Efficient Education;

"T&E flexible amount" means the dollar amount which shall be applied to the T&E amount to determine the T&E range;

"T&E program budget" means the sum of core curriculum standards aid, supplemental core curriculum standards aid, stabilization aid, designated general fund balance, miscellaneous local general fund revenue and that portion of the district's local levy that supports the district's T&E budget;

"T&E range" means the range of regular education spending which shall be considered thorough and efficient. The range shall be expressed in terms of T&E budget spending per elementary pupil, and shall be delineated by alternatively adding to and subtracting from the T&E amount the T&E flexible amount;

"Total Statewide income" means the sum of the district incomes of all taxing districts in the State.

2. Section 2 of P.L.1999, c.279 (C.34:15F-2) is amended to read as follows:

**C.34:15F-2 Definitions relative to mentoring programs.**

2. As used in this act:

"Abbott district" means an Abbott district as defined in section 3 of P.L.1996, c.138 (C.18A:7F-3);

"Commissioner" means the Commissioner of Labor and Workforce Development;

"Department" means the Department of Labor and Workforce Development;

"Educational foundation" means a nonprofit organization that may be created by or on behalf of a board of education or a nonprofit organization that has experience in the establishment of mentoring programs or the provision of services to at-risk youth;

"Joint committee" means the Joint Committee on Mentoring;

"Mentor" means a volunteer from the community who agrees to participate in a mentoring program; and

"Program" means the At-Risk Youth Mentoring Program established by this act.

3. This act shall take effect immediately and shall first apply to the 2004-2005 school year.

Approved June 30, 2004.

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## CHAPTER 62

AN ACT concerning the Automated Traffic System, supplementing chapter 12 of Title 2B of the New Jersey Statutes and amending N.J.S.22A:3-4.

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

**C.2B:12-30.1 Automated Traffic System Statewide Modernization Fund.**

1. a. There is established in the General Fund a separate, non-lapsing, dedicated account to be known as the Automated Traffic System Statewide Modernization Fund.

b. Each fiscal year, the State Treasurer shall credit all revenues derived from the offender assessment authorized under subsection c. of N.J.S.22A:3-4 to the Automated Traffic System Statewide Modernization Fund established pursuant to subsection a. of this section.

c. Moneys in the Automated Traffic System Statewide Modernization Fund, including any interest accruing thereon, shall be utilized exclusively for the administration, operation and modernization of the Statewide Automated Traffic System.

2. N.J.S.22A:3-4 is amended to read as follows:

**Fees for criminal proceedings.**

22A:3-4. Fees for criminal proceedings.



The fees provided in the following schedule, and no other charges whatsoever, shall be allowed for court costs in any proceedings of a criminal nature in the municipal courts but no charge shall be made for the services of any salaried police officer of the State, county or municipal police.

For violations of Title 39 of the Revised Statutes, or of traffic ordinances, at the discretion of the court, up to but not exceeding \$33.

For all other cases, at the discretion of the court, up to but not exceeding \$33.

In municipal court proceedings, the court shall impose court costs within the maximum limits authorized by this section, as follows:

a. For every violation of any statute or ordinance the sum of \$2.00. The court shall not suspend the collection of this \$2.00 court cost assessment. These court cost assessments shall be collected by the municipal court administrator for deposit into the Automated Traffic System Fund, created pursuant to N.J.S.2B:12-30.

b. For each fine, penalty and forfeiture imposed and collected under authority of law for any violation of the provisions of Title 39 of the Revised Statutes or any other motor vehicle or traffic violation in this State the sum of \$.50. The court shall not suspend the collection of this \$.50 court cost assessment. These court cost assessments shall be collected by the municipal court administrator for deposit into the "Emergency Medical Technician Training Fund" established pursuant to P.L.1992, c.143 (C.26:2K-54 et al.).

c. For every violation of any statute or ordinance the sum of \$3 to fund the Statewide modernization of the Automated Traffic System. The court shall not suspend the collection of this \$3 court cost assessment. These court cost assessments shall be collected by the municipal court administrator for deposit into the Automated Traffic System Statewide Modernization Fund, established pursuant to section 1 of P.L.2004, c.62 (C.2B:12-30.1).

The provisions of this act shall not prohibit the taxing of additional costs when authorized by R.S.39:5-39.

For certificate of judgment..... \$4.00

For certified copy of paper filed with the court as a public record:

First page..... \$4.00

Each additional page or part thereof..... \$1.00

For copy of paper filed with the court as a public record:

First page..... \$2.00

Each additional page or part thereof..... \$1.00

In addition to any fine imposed, when a supplemental notice is sent for failure to appear on a return date the cost shall be \$10.00 per notice,

unless satisfactory evidence is presented to the court that the notice was not received.

#### CONSTABLES OR OTHER OFFICERS

From the fees allowed for court costs in the foregoing schedule, the clerk of the court shall pay the following fees to constables or other officers:

- Serving warrant or summons, \$1.50.
- Serving every subpoena, \$0.70.
- Serving every execution, \$1.50.
- Advertising property under execution, \$0.70.
- Sale of property under execution, \$1.00.
- Serving every commitment, \$1.50.
- Transport of defendant, actual cost.

Mileage, for every mile of travel in serving any warrant, summons, commitment, subpoena or other process, computed by counting the number of miles in and out, by the most direct route from the place where such process is returnable, exclusive of the first mile, \$0.20.

If defendant is found guilty of the charge laid against him, he shall pay the costs herein provided, but if, on appeal, the judgment is reversed, the costs shall be repaid to defendant. If defendant is found not guilty of the charge laid against him, the costs shall be paid by the prosecutor, except when the Chief Administrator of the New Jersey Motor Vehicle Commission, a peace officer, or a police officer shall have been prosecutor.

3. This act shall take effect on the first day of the third month following enactment.

Approved June 30, 2004.

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#### CHAPTER 63

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, 2004 and regulating the disbursement thereof," approved July 1, 2003 (P.L.2003, c.122).

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.2003, c.122, there is appropriated out of the General Fund the following sum for the purpose specified:

**54 DEPARTMENT OF HUMAN SERVICES**

***27 Disability Services***

***7545 Division of Disability Services***

**GRANTS-IN-AID**

27-7545 Disability Services ..... \$1,800,000

***Grants-in-Aid:***

27 Payments for Medical Assistance Recipients - -

Waiver Initiatives ..... (\$1,800,000)

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

**54 DEPARTMENT OF HUMAN SERVICES**

***27 Disability Services***

27-7545 Disability Services ..... \$1,800,000

***Grants-in-Aid:***

State Aid and Grants ..... (\$1,800,000)

3. This act shall take effect immediately.

Approved June 30, 2004.

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CHAPTER 64

AN ACT concerning the registration of certain motor vehicles and amending R.S.39:3-4, R.S.39:3-8, R.S.39:3-31, P.L.1961, c.77 and P.L.2003. c.13.

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

1. R.S.39:3-4 is amended to read as follows:

**Registration of automobiles and motorcycles, application, registration certificates; expiration; issuance; violations; notification.**

39:3-4. Except as hereinafter provided, every resident of this State and every nonresident whose automobile or motorcycle shall be driven in this

State shall, before using such vehicle on the public highways, register the same, and no automobile or motorcycle shall be driven unless so registered.

Such registration shall be made in the following manner: An application in writing, signed by the applicant or by an agent or officer, in case the applicant is a corporation, shall be made to the chief administrator or the chief administrator's agent, on forms prepared and supplied by the chief administrator, containing the name, street address of the residence or the business of the owner, mailing address, if different from the street address of the owner's residence or business, and age of the owner, together with a description of the character of the automobile or motorcycle, including the name of the maker and the vehicle identification number, or the manufacturer's number or the number assigned by the chief administrator if the vehicle does not have a vehicle identification number, and any other statement that may be required by the chief administrator. A post office box shall appear on the application only as part of a mailing address that is submitted by the owner, agent or officer, as the case may be, in addition to the street address of the applicant's residence or business; provided, however, the chief administrator, upon application, shall permit a person who was a victim of a violation of N.J.S.2C:12-10, N.J.S.2C:14-2, or N.J.S.2C:25-17 et seq., or who the chief administrator otherwise determines to have good cause, to use as a mailing address a post office box, an address other than the applicant's address or other contact point. An owner whose last address appears on the records of the division as a post office box shall change his address on his application for renewal to the street address of his residence or business and, if different from his street address, his mailing address unless the chief administrator has determined, pursuant to this section, that the owner may use a post office box, an address other than the owner's address or other contact point as a mailing address. The application shall contain the name of the insurer of the vehicle and the policy number. If the vehicle is a leased motor vehicle, the application shall make note of that fact and shall include along with the name and street address of the lessor the name, street address and driver license number of the lessee.

Thereupon the chief administrator shall have the power to grant a registration certificate to the owner of any motor vehicle, if over 17 years of age, application for the registration having been properly made and the fee therefor paid, and the vehicle being of a type that complies with the requirements of this title. The form and contents of the registration certificate to be issued shall be determined by the chief administrator.

If the vehicle is a leased motor vehicle, the registration certificate shall, in addition to containing the name and street address of the lessor, identify the vehicle as a leased motor vehicle.

The chief administrator shall maintain a record of all registration certificates issued, and of the contents thereof.

Every registration shall expire and the registration certificate thereof become void on the last day of the twelfth calendar month following the calendar month in which the certificate was issued; provided, however, that the chief administrator may, at his discretion, require registrations which shall expire, and issue certificates thereof which shall become void, on a date fixed by him, which date shall not be sooner than three months nor later than 26 months after the date of issuance of such certificates, and the fees for such registrations, including any other fees or charges collected in connection with the registration fee, shall be fixed by the chief administrator in amounts proportionately less or greater than the fees established by law. The chief administrator may fix the expiration date for registration certificates at a date other than 12 months if the chief administrator determines that the change is necessary, appropriate or convenient in order to aid in implementing the vehicle inspection requirements of chapter 8 of Title 39 or for other good cause. The chief administrator may, for good cause extend a registration beyond the expiration date that appears upon the registration certificate for periods not to exceed 12 additional months. The chief administrator may extend the expiration date of a registration without payment of a proportionate fee when the chief administrator determines that such extension is necessary for good cause. If any registration is so extended, the owner shall pay upon renewal the full registration fee for the period fixed by the chief administrator as if no extension had been granted.

Notwithstanding any other provision of law to the contrary, every registration for new passenger automobiles shall expire and the registration certificate shall become void on the last day of the 48th calendar month following the calendar month in which the certificate was initially issued. On and after February 1, 2005, the provisions of this paragraph shall not apply to new passenger automobiles purchased by a rental company for use as rental passenger automobiles. As used in this paragraph, "rental company" means a person engaged in the business of renting motor vehicles; and "rental passenger automobile" means a passenger automobile that is rented without a driver and used in the transportation of persons or property other than commercial freight.

If the new passenger automobile being registered is a leased passenger automobile, the registration shall expire in accordance with the term of the lease. If the term of the lease extends beyond one or more 12-month

periods by one or more months, the registration period shall be based upon the full year into which one or more of the months extend; provided, however, the registration period for a leased automobile shall not exceed 48-months.

Following the 48-month period of the initial registration of a new passenger automobile, the subsequent registration shall expire, and the registration certificate shall become void, on the last day of the 12th calendar month following the calendar month in which the certificate was next issued.

All motorcycles for which registrations have been issued prior to the effective date of P.L.1989, c.167 and which are scheduled to expire between November 1 and March 31 shall, upon renewal, be issued registrations by the chief administrator which shall expire on a date fixed by him, but in no case shall that expiration date be earlier than April 30 nor later than October 31. The fees for the renewal of the motorcycle registrations authorized under this paragraph shall be fixed by the chief administrator in an amount proportionately less or greater than the fee established by R.S.39:3-21.

Application forms for all renewals of registrations for passenger automobiles shall be sent to the last addresses of owners of motor vehicles and motorcycles, as they appear on the records of the division.

No person owning or having control over any unregistered vehicle shall permit the same to be parked or to stand on a public highway.

Any police officer is authorized to remove any unregistered vehicle from the public highway to a storage space or garage, and the expense involved in such removal and storing of the vehicle shall be borne by the owner of the vehicle, except that the expense shall be borne by the lessee of a leased vehicle.

Any person violating the provisions of this section shall be subject to a fine not exceeding \$100, except that for the misstatement of any fact in the application required to be made to the chief administrator, the person making such statement or omitting the statement that the motor vehicle is to be used as a leased motor vehicle when that is the case shall be subject to the penalties provided in R.S.39:3-37.

The chief administrator may extend the expiration date of a registration certificate without payment of a proportionate fee when the chief administrator determines that such extension is necessary, appropriate or convenient to the implementation of vehicle inspection requirements. If any registration certificate is so extended, the owner shall pay upon renewal the full registration fee for the period fixed by the chief administrator as if no extension had been granted.

The New Jersey Motor Vehicle Commission shall make a reasonable effort to notify any lessor whose name and address is on file with the commission, or any other lessor the commission may determine it is necessary to notify, of the requirements of this amendatory act.

A lessor doing business in this State shall notify in writing the lessee of a motor vehicle registered pursuant to this Title of any change in its policies or procedures affecting the registration of the motor vehicle.

2. R.S.39:3-8 is amended to read as follows:

**Registration fee for passenger automobile; other vehicles.**

39:3-8. The applicant for registration for any passenger automobile manufactured in any model year prior to the 1971 model year shall pay to the chief administrator for each registration a fee of \$14 for each such vehicle having a manufacturer's shipping weight of less than 2,700 pounds, a fee of \$23 for each such vehicle having a manufacturer's shipping weight of 2,700 pounds or more, but not greater than 3,800 pounds, and a fee of \$44 for each vehicle having a manufacturer's shipping weight in excess of 3,800 pounds; provided, however, an applicant who has been issued a handicapped person identification card pursuant to section 2 of P.L. 1949, c.280 (C.39:4-205) and is registering a private passenger van manufactured in any model year prior to the 1971 model year which has been equipped with a wheelchair lift for the handicapped, or any other specially designed mechanical device for the handicapped as designated by the chief administrator that specifically requires installation only in a private passenger van because of the device's dimensions, operating characteristics or manufacturer's installation requirements, shall pay a fee of \$14 for that vehicle. The applicant for registration for any passenger automobile manufactured in model year 1971 and thereafter, except as determined hereinafter, shall pay to the chief administrator for each registration a fee of \$17 for each such vehicle having a manufacturer's shipping weight of less than 2,700 pounds, a fee of \$28 for each such vehicle having a manufacturer's shipping weight of 2,700 pounds or more, but not greater than 3,800 pounds, and a fee of \$51 for each such vehicle having a manufacturer's shipping weight in excess of 3,800 pounds; provided, however, an applicant who has been issued a handicapped person identification card pursuant to section 2 of P.L. 1949, c.280 (C.39:4-205) and is registering a private passenger van manufactured in model year 1971 or thereafter, except as determined hereinafter, which has been equipped with a wheelchair lift for the handicapped, or any other specially designed mechanical device for the handicapped as designated by the chief administrator that specifically requires installation only in a private passenger van because of the

device's dimensions, operating characteristics or manufacturer's installation requirements, shall pay a fee of \$17 for that vehicle. The applicant for registration for any 1980 or thereafter model year passenger automobile registered on or after March 1, 1979 shall pay to the chief administrator for each registration a fee of \$25 for each such vehicle having a manufacturer's shipping weight not greater than 3,500 pounds and a fee of \$50 for each vehicle having a manufacturer's shipping weight in excess of 3,500 pounds; provided, however, an applicant who has been issued a handicapped person identification card pursuant to section 2 of P.L.1949, c.280 (C.39:4-205) and is registering any 1980 or thereafter model year private passenger van which has been equipped with a wheelchair lift for the handicapped, or any other specially designed mechanical device for the handicapped as designated by the chief administrator that specifically requires installation only in a private passenger van because of the device's dimensions, operating characteristics or manufacturer's installation requirements, shall pay a fee of \$25 for that vehicle. Notwithstanding any other provision of law to the contrary, the applicant for registration for any new passenger automobile, for which the registration will expire on the last day of the 48th calendar month following the calendar month in which it was first issued, or for the term of the lease if the new passenger automobile is a leased motor vehicle subject to an extended registration period pursuant to R.S.39:3-4, shall prepay to the chief administrator the full amount due for the 48-month term, or the full amount due based upon the term of the lease if the new passenger automobile is a leased motor vehicle, upon the initial registration. The portion of that prepayment that is dedicated to specific purposes in accordance with section 110 of P.L.2003, c.13 (C.39:2A-38) and subsections a. and b. of section 1 of P.L.1992, c.87 (C.39:3-8.2) shall be deposited in their respective dedicated accounts. The chief administrator shall determine manufacturer's shipping weight and model year for each passenger automobile on the basis of the information contained in the certificate of origin, the application for registration or for renewal of registration, or the records of the division, or any or all of these; and any case in which the manufacturer's shipping weight of any particular passenger automobile is unavailable, or in doubt or dispute, the chief administrator may require that such automobile be weighed on a scale designated by him, and such actual weight shall be considered the manufacturer's shipping weight for the purposes of this section; but in all cases the chief administrator's determination of the manufacturer's shipping weight of any such automobile shall be final. The applicant for registration for passenger automobile shall also pay to the chief administrator the inspection fee fixed in R.S.39:8-2 in addition to the fees described hereinabove.



The chief administrator may also license private utility and house type semitrailers and trailers with a gross load not in excess of 2,000 pounds at a fee of \$4.00 per annum and all other such utility and house-type semitrailers and trailers at \$9.00 per annum. Application for such registration shall be made on a blank to be furnished by the commission and the application shall contain a statement to the effect that the vehicle so registered will not be used for the commercial transportation of goods, wares and merchandise, or for hire.

Except as provided in R.S.39:3-84 for recreation vehicles, no private utility or house type semitrailer or trailer with an outside width of more than 96 inches, a maximum height of 13 feet 6 inches, a maximum length for a single vehicle of more than 35 feet, a maximum length for a semitrailer and its towing vehicle of more than 45 feet, and a maximum length for a trailer and its towing vehicle of more than 50 feet, shall be operated on any highway in this State, except that a vehicle exceeding the above limitations may be operated when a special permit so to operate is secured in advance from the chief administrator. A house type semitrailer or trailer with an outside width of no more than 16 feet shall be entitled to operate with such a special permit if the vehicle is a manufactured home on a transportation system that is designed in accordance with the "Manufactured Home Construction and Safety Standards," 24 CFR part 3280.901 et seq., promulgated by the United States Department of Housing and Urban Development, as amended and supplemented, provided that the operator complies with the provisions of this Title and the rules and regulations issued thereunder. If such a vehicle has an outside width of more than 16 feet, it shall be entitled to operate with such a special permit if it is transported on a commercial type low-bed trailer, semitrailer or properly registered dolly wheels pursuant to rules and regulations established by the chief administrator. The application for such permit shall be accompanied by a fee fixed by the chief administrator. A special permit issued by the chief administrator shall be in the possession of the operator of the vehicle for which such permit was issued. In computing any dimensions of a vehicle, for the purposes of this section, there shall not be included in the dimensional limitations safety equipment such as mirrors or lights, provided such appliances do not exceed the overall limitations established by the chief administrator by rule or regulation.

3. R.S.39:3-31 is amended to read as follows:

**Duplicate certificates; licenses; new pictures; fees.**

39:3-31. The chief administrator, upon presentation of a statement duly sworn to, stating that the original registration certificate or original

motorized bicycle registration certificate has been destroyed, lost or stolen, may, if he is satisfied that the facts as set forth in the statement are substantially true, issue a duplicate or amended registration certificate or motorized bicycle registration certificate to the original holder thereof, upon the payment to the chief administrator of a fee of \$5 for each duplicate or amended registration certificate or motorized bicycle registration certificate so issued. The chief administrator, upon presentation of a statement, duly sworn to, stating that the original driver's license has been destroyed, lost or stolen, or requesting a new color picture, may, if he is satisfied that the facts as set forth in the statement are substantially true, issue a duplicate driver's license to the original holder thereof, upon payment to the chief administrator of a fee of \$5 in addition to the digitized picture fee. Notwithstanding any other provision of law to the contrary, the fee for a duplicate or amended registration certificate for any new passenger automobile required to be registered for a 48-month term or for any new passenger automobile leased for a term of more than 12 months pursuant to R.S.39:3-4, shall be \$11.

4. Section 1 of P.L.1961, c.77 (C.39:3-31.1) is amended to read as follows:

**C.39:3-31.1 Duplicate family registration; fee.**

1. The Chief Administrator of the New Jersey Motor Vehicle Commission, upon presentation of a statement by the holder of an original registration certificate that he requires a duplicate registration certificate for use by members of his family, shall issue a duplicate original registration certificate to the holder of the original registration certificate upon the payment to the chief administrator of a fee of \$5. Notwithstanding any other provision of law to the contrary, the fee for a duplicate registration certificate for any new passenger automobile required to be registered for a 48-month term or for any new passenger automobile leased for a term of more than 12 months pursuant to R.S.39:3-4, shall be \$11.

Any such duplicate original registration certificate may be used in the same manner and for the same purpose as the original registration certificate but may be used only by the holder of the original registration certificate or a member of his family. Any reference to the original registration certificate in the chapter to which this act is supplementary or in Title 39 of the Revised Statutes as amended and supplemented shall be deemed to include any and all duplicate original registration certificates issued pursuant to this act and, in the event that the holder of the original registration certificate shall be required to surrender the same by virtue of the provisions of any law, he shall also be required to surrender the duplicate

original registration certificate if he shall have had such duplicate original registration certificate issued to him. The chief administrator shall make and promulgate such rules and regulations as may be necessary to effectuate the purposes of this act.

This section shall also apply to registration certificates for motorized bicycles.

5. Section 105 of P.L.2003, c.13 (C.39:2A-36) is amended to read as follows:

**C.39:2A-36 Revenues to be remitted to commission, General Fund.**

105. a. The first \$200,000,000 of fees and surcharges thereon collected pursuant to the following statutes shall be considered service charges which are revenues to be remitted to the New Jersey Motor Vehicle Commission and the remainder shall be remitted to the General Fund, provided that if the total amount of such fees and surcharges collected, as verified by the relevant fiscal year New Jersey Comprehensive Annual Financial Report, produce more or less revenue than the sum of \$200,000,000 and the amount anticipated in the fiscal year 2004 Appropriations Act for those statutes, then the \$200,000,000 in revenue from those service charges to the commission shall be increased or lowered proportionately:

Section 4 of P.L.1995, c.401 (C.12:7-73); section 24 of P.L.1984, c.152 (C.12:7A-24); section 28 of P.L.1984, c.152 (C.12:7A-28); section 1 of P.L.1983, c.65 (C.17:29A-33); section 6 of P.L.1983, c.65 (C.17:29A-35); section 9 of P.L.1998, c.108 (C.27:5F-42); R.S.39:2-10; section 1 of P.L.1969, c.301 (C.39:3-4b); section 2 of P.L.1969, c.301 (C.39:3-4c); R.S.39:3-8; section 2 of P.L.1968, c.439 (C.39:3-8.1); section 1 of P.L.1992, c.87 (C.39:3-8.2); R.S.39:3-10; section 23 of P.L.1975, c.180 (C.39:3-10a); section 1 of P.L.1977, c.23 (C.39:3-10b); section 1 of P.L.1979, c.261 (C.39:3-10f); section 22 of P.L.1990, c.103 (C.39:3-10.30); R.S.39:3-13; R.S.39:3-18; R.S.39:3-19; section 2 of P.L.1974, c.162 (C.39:3-19.2); section 12 of P.L.1979, c.224 (C.39:3-19.5); R.S.39:3-20; section 1 of P.L.1973, c.319 (C.39:3-20.1); R.S.39:3-21; R.S.39:3-24; R.S.39:3-25; R.S.39:3-26; section 2 of P.L.1964, c.195 (C.39:3-27.4); section 2 of P.L.1968, c.247 (C.39:3-27.6); section 2 of P.L.1977, c.369 (C.39:3-27.9); section 2 of P.L.1979, c.457 (C.39:3-27.16); section 2 of P.L.1981, c.139 (C.39:3-27.19); R.S.39:3-28; R.S.39:3-30; R.S.39:3-31; section 1 of P.L.1961, c.77 (C.39:3-31.1); R.S.39:3-32; section 1 of P.L.1999, c.192 (C.39:3-33a); section 1 of P.L.2001, c.35 (C.39:3-33b); section 2 of P.L.1959, c.56 (C.39:3-33.4); section 4 of P.L.1959, c.56 (C.39:3-33.6); R.S.39:3-36; section 1 of

P.L.1979, c.314 (C.39:3-54.14); section 2 of P.L.1999, c.308 (C.39:3-75.2); R.S.39:3-84; section 2 of P.L.1999, c.396 (C.39:3-84.7); section 3 of P.L.1973, c.307 (C.39:3C-3); section 10 of P.L. 1983, c.105 (C.39:4-14.3j); section 23 of P.L.1983, c.105 (C.39:4-14.3w); R.S.39:4-26; R.S.39:4-30; section 11 of P.L.1985, c.14 (C.39:4-139.12); section 1 of P.L.1972, c.38 (C.39:5-30.4); section 31 of P.L.1994, c.60 (C.39:5-36.1); section 20 of P.L.1952, c.173 (C.39:6-42); section 2 of P.L.1983, c.141 (C.39:6B-3); R.S.39:7-3; section 3 of P.L.1975, c.156 (C.39:8-11); section 8 of P.L.1975, c.156 (C.39:8-16); section 9 of P.L.1975, c.156 (C.39:8-17); section 15 of P.L.1975, c.156 (C.39:8-23); section 5 of P.L.1995, c.112 (C.39:8-45); section 7 of P.L.1995, c.112 (C.39:8-47); section 12 of P.L.1995, c.112 (C.39:8-52); section 11 of P.L.1995, c.157 (C.39:8-69); section 13 of P.L.1995, c.112 (C.39:8-53); section 14 of P.L. 1995, c.112 (C.39:8-54); R.S.39:10-11; R.S.39:10-12; R.S.39:10-14; R.S.39:10-16; R.S.39:10-19; R.S.39:10-25; section 5 of P.L.1983, c.323 (C.39:10-35); section 8 of P.L.1983, c.455 (C.39:10A-15); R.S.39:11-8; section 2 of P.L.1951, c.216 (C.39:12-2); section 5 of P.L.1951, c.216 (C.39:12-5); and section 2 of P.L.1983, c.360 (C.39:13-2).

Proportional revenues remitted to the commission for the fiscal years beginning July 1, 2004 and thereafter shall have the same proportion as the proportional revenues remitted to the commission for the fiscal year beginning July 1, 2003, and this calculation shall not be impacted by the acceleration of revenue attributable to new passenger automobile registrations implemented pursuant to P.L.2004, c.64.

b. In addition to the proportionately increased or lowered revenue provided for in subsection a. of this section, the commission shall receive 100 percent of the revenues collected from any new service charge and 100 percent of the increased revenues collected from any existing service charge increased by law. Any new or increased service charge shall not be included in the calculation of the proportional revenue remitted to the commission.

c. In addition to the revenues provided for in subsections a. and b. of this section, all fees collected pursuant to Chapter 3 of Title 39 of the Revised Statutes required to defray the costs of the commission with respect to producing, issuing, renewing, and publicizing license plates, or related computer programming shall be considered revenues of the commission notwithstanding any other provision of law.

d. Revenues of the commission shall not be subject to appropriation as direct State services by the Legislature. In addition, the revenues of the commission shall not be restricted from use by the commission in any manner except as provided by law. Revenues of the commission may be

used in the furtherance of any purpose of the commission or as otherwise provided for by law.

6. This act shall take effect immediately; provided, however, the Chief Administrator of the Motor Vehicle Commission may, for good cause, delay the implementation of the provisions of this act for a period not to extend beyond October 1, 2004.

Approved June 30, 2004.

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## CHAPTER 65

AN ACT concerning the timing of tax deductions for certain business expenses and providing incentives for business relocation and retention, amending and supplementing P.L.1996, c.25, amending P.L.1997, c.334, supplementing chapter 1B of Title 34 of the Revised Statutes and P.L.1983, c.303 (C.52:27H-60 et seq.), amending P.L.1945, c.162 and P.L.1993, c.171, and supplementing Title 54A of the Revised Statutes.

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

1. Section 1 of P.L.1996, c.25 (C.34:1B-112) is amended to read as follows:

**C.34:1B-112 Short title.**

1. This act shall be known and may be cited as the "Business Retention and Relocation Assistance Act."

2. Section 2 of P.L.1996, c.25 (C.34:1B-113) is amended to read as follows:

**C.34:1B-113 Definitions relative to business retention and relocation assistance.**

2. As used in this act:

"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 computing company" means a person with headquarters or base of operations located in New Jersey and engaged in the research, development, production, or provision of advanced computing for the

purpose of developing or providing products or processes for specific commercial or public purposes;

"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;

"Advanced materials company" means a person with headquarters or base of operations located in New Jersey and engaged in the research, development, production, or provision of advanced materials for the purpose of developing or providing products or processes for specific commercial or public purposes;

"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;

"Biotechnology company" means a person with headquarters or base of operations located in New Jersey and 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, or a person with headquarters or base of operations located in New Jersey and engaged in providing services or products necessary for such research, development, production, or provision;

"Business retention or relocation grant of tax credits" or "grant of tax credits" means a grant which consists of the value of corporation business tax credits against the liability imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) or credits against the taxes imposed on insurers pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.), section 1 of P.L.1950, c.231 (C.17:32-15), and N.J.S.17B:23-5, provided to fund a portion of retention and relocation costs pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.);

"Commissioner" means the Chief Executive Officer and Secretary of the New Jersey Commerce and Economic Growth Commission;

"Department" means the New Jersey Commerce and Economic Growth Commission;

"Business" means an employer located in this State that has operated continuously in the State, in whole or in part, in its current form or as a predecessor entity for at least 10 years prior to filing an application pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.) and which is subject to the

provisions of R.S.43:21-1 et seq. and may include a sole proprietorship, a partnership, or a corporation that has made an election under Subchapter S of Chapter One of Subtitle A of the Internal Revenue Code of 1986, or any other business entity through which income flows as a distributive share to its owners, limited liability company, nonprofit corporation, or any other form of business organization located either within or outside the State;

"Commitment duration" means five years from the date specified in the project agreement entered into pursuant to section 5 of P.L.1996, c.25 (C.34:1B-116);

"Designated industry" means a business engaged in the field of biotechnology, pharmaceuticals, manufacturing, financial services or transportation and logistics, advanced computing, advanced materials, electronic device technology, environmental technology or medical device technology;

"Designated urban center" means an urban center designated in the State Development and Redevelopment Plan adopted by the State Planning Commission;

"Electronic device technology" means a technology involving micro-electronics, semiconductors, electronic equipment, and instrumentation, radio frequency, microwave, and millimeter electronics, and optical and optic-related electrical devices, or data and digital communications and imaging devices;

"Electronic device technology company" means a person with headquarters or base of operations located in New Jersey and engaged in the research, development, production, or provision of electronic device technology for the purpose of developing or providing products or processes for specific commercial or public purposes;

"Eligible position" means a full-time position retained by a business in this State for which a business provides employee health benefits under a group health plan as defined under section 14 of P.L.1997, c.146 (C.17B:27-54), a health benefits plan as defined under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a policy or contract of health insurance covering more than one person issued pursuant to Article 2 of Title 17B of the New Jersey Statutes;

"Full-time employee" means a person who is employed for consideration for at least thirty-five hours a week, or who renders 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 who is determined by the commissioner to be employed in a permanent position according to criteria as the commissioner may prescribe. "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 not include a child, grandchild, parent, or spouse of an individual who has direct or indirect ownership of at least 5% of the profits, capital, or value of the business;

"Headquarters" of a business means the single location that serves as the national administrative center of the business, at which the primary office of the chief executive officer or chief operating officer of the business, as well as the offices of the management officials responsible for key businesswide functions such as finance, legal, marketing, and human resources, are located;

"High-technology business" means an advanced computing company, advanced materials company, electronic device technology company, environmental technology company or medical device technology company;

"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;

"Medical device technology company" means a person with headquarters or base of operations located in New Jersey and engaged in the research, development, production, or provision of medical device technology for the purpose of developing or providing products or processes for specific commercial or public purposes;

"New business location" means the premises that the business has either purchased or built or for which the business has entered into a purchase agreement or a written lease for a period of no less than eight years from the date of relocation;

"Manufacturing facility" means a business location at which more than 50% of the business personal property that is housed in the facility is eligible for the sales tax exemption pursuant to subsection a. of section 25 of P.L.1980, c.105 (C.54:32B-8.13) for machinery, apparatus or equipment used in the production of tangible personal property;

"Program" means the Business Retention and Relocation Assistance Grant Program created pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.);

"Project agreement" means an agreement between a business and the department that sets the forecasted schedule for completion and occupancy of the project, the date the commitment duration shall commence, the amount of the applicable grant of tax credits, and other such provisions which further the purposes of P.L.1996, c.25 (C.34:1B-112 et seq.);

"Research and development facility" means a business location at which more than 50% of the business personal property that is purchased



for the facility is eligible for the sales tax exemption pursuant to section 26 of P.L.1980, c.105 (C.54:32B-8.14) for property used in research and development;

"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 relocation by the business, is at risk of being lost to another state or country. For the purposes of determining a number of retained full-time jobs, the eligible positions of the members of a "controlled group of corporations" as defined pursuant to section 1563 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1563, shall be considered the eligible positions of a single employer; and

"Total allowable relocation costs" means \$1,500 times the number of retained full-time jobs. "Total allowable relocation costs" does not include the amount of any bonus award authorized pursuant to section 5 of P.L.2004, c.65 (C.34:1B-115.1).

3. Section 3 of P.L.1996, c.25 (C.34:1B-114) is amended to read as follows:

**C.34:1B-114 Business Retention and Relocation Assistance Grant Program established.**

3. The Business Retention and Relocation Assistance Grant Program is hereby established as a program under the jurisdiction of the New Jersey Commerce and Economic Growth Commission and shall be administered by the Chief Executive Officer and Secretary of the New Jersey Commerce and Economic Growth Commission. The purpose of the program is to encourage economic development and job creation and to preserve jobs that currently exist in New Jersey but which are in danger of being relocated to premises outside of the State. To implement that purpose, and to the extent that funding for the program is available, the program may provide grants of tax credits but in no case shall the amount of an individual grant of tax credits exceed 80% of the projected State tax revenues from the retained full-time jobs covered by the project agreement of an applicant for a grant of tax credits.

4. Section 4 of P.L.1996, c.25 (C.34:1B-115) is amended to read as follows:

**C.34:1B-115 Grant of tax credits; qualifications.**

4. a. To qualify for a grant of tax credits, a business shall enter into an agreement to undertake a project to:

(1) relocate a minimum of 250 retained full-time jobs from one or more locations within this State to a new business location or locations in this State; and

(2) maintain the retained full-time jobs pursuant to the project agreement for the commitment duration.

b. A project that consists solely of point-of-final-purchase retail facilities shall not be eligible for a grant of tax credits. If a project consists of both point-of-final-purchase retail facilities and non-retail facilities, only the portion of the project consisting of non-retail facilities shall be eligible for a grant of tax credits. If a warehouse facility is part of a point-of-final-purchase retail facility and supplies only that facility, the warehouse facility shall not be eligible for a grant of tax credits. For the purposes of this section, catalog distribution centers shall not be considered point-of-final-purchase retail facilities.

**C.34:1B-115.1 Bonus award to certain businesses.**

5. In addition to any grant of tax credits determined pursuant to section 7 of P.L.2004, c.65 (C.34:1B-115.3), a bonus award equivalent to 50% of the amount of the original grant of tax credits shall be made to any business that relocates more than 2,000 full-time employees covered by the project agreement from one or more locations outside of a designated urban center into a designated urban center, provided that all other applicable requirements of P.L.1996, c.25 (C.34:1B-112 et seq.) are satisfied; and provided further that no grant of tax credits shall be awarded pursuant to this section for any job that is moved from its current location in an urban enterprise zone designated pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) to a location that is not within an urban enterprise zone; however, that if the move from the urban enterprise zone is to a facility already owned or leased by the same business and that business already employs at least the same number of persons as those being relocated from the urban enterprise zone a grant of tax credits may still be awarded pursuant to this section.

**C.34:1B-115.2 Qualification for grant of tax credits.**

6. To qualify for a grant of tax credits pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.), a business shall demonstrate that the receipt of assistance pursuant to P.L.1996, c.25, will be a material factor in the business' decision not to relocate outside of New Jersey; provided however, that a business that relocates 1,500 or more retained full-time jobs covered by a project agreement from outside of a designated urban center to one or more new locations within a designated urban center shall not be required to make such a demonstration if the business applies for a grant of tax credits within six months of signing its lease or purchase agreement.

**C.34:1B-115.3 Limit on total value of grants of tax credits.**

7. a. The total value of the grants of tax credits issued pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.) shall not exceed an aggregate annual limit of \$20,000,000 for a fiscal year. A tax credit issued pursuant to P.L.1996, c.25 may be applied against liability arising in the tax period in which the tax credit is issued and the tax period next following, and shall expire thereafter.

b. Grants of tax credits shall be awarded and issued to qualifying businesses as follows, subject to the limitations of subsection c. of this section:

(1) for a project that covers a business relocating a minimum of 500 full-time employees, a grant of tax credits made pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.) shall equal total allowable relocation costs plus any applicable bonus award determined pursuant to section 5 of P.L.2004, c.65 (C.34:1B-115.1) and shall be issued immediately upon the entry of the project agreement between the commissioner and the business with an approved project, up to the aggregate annual limit; and

(2) for a project that covers a business relocating between 250 and 499 full-time employees, a grant of tax credits shall not be issued until the end of the fiscal year in which the application is approved.

c. If the sum of the amount of tax credits issued pursuant to paragraph (1) of subsection b. of this section in a fiscal year, plus the amount of tax credits approved pursuant to paragraph (2) of subsection b. of this section exceeds the \$20,000,000 aggregate annual limit, the commissioner shall reduce, on a pro rata basis, the award to each business receiving a grant of tax credits pursuant to paragraph (2) of subsection b. as necessary to comply with the aggregate annual limit.

8. Section 5 of P.L.1996, c.25 (C.34:1B-116) is amended to read as follows:

**C.34:1B-116 Grant application.**

5. Each business seeking a grant of tax credits for a project shall submit an application for approval of the project to the commissioner in a form and manner prescribed in regulations adopted by the commissioner. The application must be submitted to the commissioner for approval at least 45 days prior to moving to the new business location; provided however, a business relocating 1,500 or more retained full-time jobs to one or more new locations within a designated urban center shall, if relocating to a leased location, submit an application within six months of executing its lease. The application for approval of a project shall include:

- a. A schedule of short-term and long-term employment projections of the business in the State based upon the relocation;
- b. (Deleted by amendment, P.L.2004, c.65.)
- c. Terms of any lease agreements or details of the purchase or building of the new business location;
- d. An estimate of the projected retained State tax revenues resulting from the relocation;
- e. A description of the type of contribution the business can make to the long-term growth of the State's economy and a description of the potential impact on the State's economy if the jobs are not retained;
- f. Evidence that the business or a predecessor entity has been operating, in whole or in part, in this State for at least 10 years prior to the filing of the application;
- g. Evidence of alternative relocation plans, such as an analysis of the cost effectiveness of remaining in this State versus relocation under the alternative plans;
- h. A written commitment by the business to maintain 95% of the retained full-time jobs for at least the first two years of the commitment duration, and to maintain a minimum of 90% of the retained full-time jobs for the commitment duration; and
- i. Any other necessary and relevant information as determined by the commissioner.

The commissioner may provide whatever assistance the commissioner deems appropriate in the preparation of an application for approval of a project and may issue grants of tax credits pursuant to the project agreement entered between the commissioner and the business with an approved project at the commissioner's discretion subject to the provisions of P.L.1996, c.25 (C.34:1B-112 et seq.).

The project agreement shall include terms establishing the starting date, or event that will determine the starting date, of the commitment duration and any other terms or conditions as determined by the commissioner.

9. Section 6 of P.L.1996, c.25 (C.34:1B-117) is amended to read as follows:

**C.34:1B-117 Conditions for issuance of tax credits.**

6. No tax credits shall be issued as a grant of tax credits under P.L.1996, c.25 (C.34:1B-112 et seq.) in any year until the State Treasurer has certified that the amount of retained State tax revenue received in the most recently completed State tax periods by the Director of the Division

of Taxation from the business equals or exceeds the amount of the grant of tax credits.

10. Section 7 of P.L.1996, c.25 (C.34:1B-118) is amended to read as follows:

**C.34:1B-118 Grant limitations.**

7. a. A business that is receiving a business employment incentive grant pursuant to the provisions of P.L.1996, c.26 (C.34:1B-124 et al.) shall not be eligible to receive a grant of tax credits under P.L.1996, c.25 (C.34:1B-112 et seq.) with respect to a job which is included in the calculation of a grant pursuant to P.L.1996, c.26.

b. A business that is receiving any other grant by operation of State law shall be eligible to receive a grant of tax credits under P.L.1996, c.25 (C.34:1B-112 et seq.); provided, however, that a business that is receiving another State grant shall not be eligible to receive assistance with respect to any job that is currently the subject of any other State grant, except for grants from the Office of Customized Training pursuant to the "1992 New Jersey Employment and Workforce Development Act," P.L.1992, c.43 (C.34:15D-1 et seq.), and provided further that a business shall not receive an amount as a grant of tax credits pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.) which, when combined with such other grants, exceeds 80% of the retained State tax revenue, except upon the approval of the State Treasurer. Amounts received as grants from the Office of Customized Training pursuant to the "1992 New Jersey Employment and Workforce Development Act," P.L.1992, c.43 (C.34:15D-1 et seq.), shall be excluded from the calculation of the total amount permitted under this subsection.

**C.34:1B-118.1 Determination of amount of grant; factors.**

11. In determining the amount of any grant of tax credits made pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.), the commissioner shall consider, as part of the commissioner's overall calculation process, the following factors:

- a. The number of full-time jobs retained;
- b. The quality of the full-time jobs retained, including but not limited to the salaries and benefits provided to retained full-time employees;
- c. Any capital investments made by the business at the new business location;
- d. The nature of the business' operations, including but not limited to whether the business is a designated industry;
- e. The potential impact on the State if the business were to relocate to another state;

f. The site of the new business location and its consistency with the smart growth goals, strategies and policies of the State Development and Redevelopment Plan established pursuant to section 5 of P.L.1985, c.398 (C.52:18A-200);

g. Whether positions average at least 1.5 times the minimum hourly wage during the commitment duration; and

h. The duration and extent of past operations by the business in New Jersey and any other information indicating the business' level of commitment to the State and the likelihood that the business will continue to operate in this State in the future.

12. Section 8 of P.L.1996, c.25 (C.34:1B-119) is amended to read as follows:

**C.34:1B-119 Rules, regulations relative to program.**

8. The commissioner shall, after consultation with the Director of the Division of Taxation, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations necessary to govern the proper conduct and operation of the program consistent with the provisions of P.L.1996, c.25 (C.34:1B-112 et seq.) including, but not limited to, a procedure for recapturing relocation grants of tax credits awarded pursuant to P.L.1996, c.25 (C.34:1B-112 et seq.) in those cases in which the commissioner determines that the business receiving the grant of tax credits fails to meet or comply with any condition or requirement attached by the commissioner to the receipt of the grant of tax credits or included in rules and regulations adopted by the commissioner governing the implementation of the program. The Director of the Division of Taxation is authorized to promulgate such rules and regulations as may be necessary to effect the tax-related provisions of the program.

13. Section 9 of P.L.1996, c.25 (C.34:1B-120) is amended to read as follows:

**C.34:1B-120 Submission of State tax returns, annual reports.**

9. As determined by the commissioner, a business which is awarded a grant of tax credits under P.L.1996, c.25 (C.34:1B-112 et seq.) shall submit annually, no later than March 1st of each year, commencing the year following the calendar year in which the business was approved for the grant of tax credits and for the remainder of the commitment duration, a copy of the State tax return for the business showing business income or activity, appropriate to its form of ownership together with an annual report listing the full-time employees in eligible positions employed at the location or locations approved for the grant of tax credits, to the commis-

sioner. Failure to submit a copy of its annual report or submission of the annual report without the information required above, may result in the forfeiture of any grant of tax credits to be received by the business and the recapture of any tax credits issued to the business unless the commissioner determines that there are extenuating circumstances excusing the business from the timely filing required.

**C.34:1B-120.1 Rules for recapture of tax credits.**

14. The commissioner shall adopt rules for the recapture of all, or a portion of, the grant of tax credits, based on criteria established by the commissioner pursuant to regulation or under the terms of the project agreement if the business fails to maintain the retained full-time jobs at the location or locations approved for the grant of tax credits for the commitment duration or fails to meet or comply with any condition or requirement under the terms of the project agreement or included in rules and regulations adopted by the commissioner governing the implementation of the program. The rules shall allow for the commissioner to notify the Director of the Division of Taxation in the Department of the Treasury, who shall issue a recapture assessment which shall be based upon the proportionate value of the grant of tax credits that corresponds to the amount and period of noncompliance. The recapture of funds shall be subject to the State Uniform Tax Procedure Law, R.S.54:48-1 et seq. Recaptured funds shall be deposited in the General Fund of the State.

15. Section 10 of P.L.1996, c.25 (C.34:1B-121) is amended to read as follows:

**C.34:1B-121 Annual report on program.**

10. The commissioner shall prepare and transmit to the Governor and the Legislature on or before November 1st of each year, a report concerning the impact of the program on job retention in the State.

16. Section 12 of P.L.1996, c.25 (C.34:1B-123) is amended to read as follows:

**C.34:1B-123 Appropriation capped by retained tax revenue.**

12. There is appropriated to the New Jersey Commerce and Economic Growth Commission from the General Fund such sums as may be necessary, as certified by the commissioner and the Director of the Division of Budget and Accounting, to fund business retention and relocation grants of tax credits made under P.L.1996, c.25 (C.34:1B-112 et seq.), the amount of which shall not exceed the retained State tax revenues as defined in section 2 of P.L.1996, c.25 (C.34:1B-113).

**C.34:1B-120.2 Corporation business tax, insurance premiums tax credits.**

17. a. The commissioner shall establish a corporation business tax credit and insurance premiums tax credit certificate transfer program to allow businesses in this State with unused amounts of tax credits issued under P.L.1996, c.25 (C.34:1B-112 et seq.), and otherwise allowable, that cannot be applied by the business to which originally issued before the expiration of the credit, to surrender those tax credits for use by other corporation business and insurance premiums taxpayers in this State, provided that the taxpayer receiving the surrendered tax credits is not affiliated with the business that is surrendering its tax credits. 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 tax credits and the business that is surrendering the tax credits. The tax credits may be used on the corporation business tax and insurance premiums tax returns to be filed by those taxpayers in exchange for private financial assistance to be provided by the corporation business taxpayer or insurance premiums taxpayer that is the recipient of the corporation business tax credit certificate or insurance premiums tax credit certificate to assist in the funding of costs incurred by the relocating business.

b. The commissioner, in cooperation with the Director of 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.) and by taxpayers under the taxes imposed on insurers pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.), section 1 of P.L.1950, c.231 (C.17:32-15) and N.J.S.17B:23-5 to acquire surrendered tax benefits, which shall be issued in the form of corporation business tax credit and insurance premiums tax credit transfer certificates, in exchange for private financial assistance to be made by the taxpayer in an amount equal to at least 75% of the amount of the surrendered tax credit of a business relocating in the State. The private financial assistance shall assist in funding expenses incurred in connection with the operation of the business 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 commissioner to be necessary to carry out the purposes of P.L.1996, c.25 (C.34:1B-112 et seq.).

c. The commissioner shall coordinate the applications for surrender and acquisition of unused but otherwise allowable tax credits pursuant to



this section in a manner that can best stimulate and encourage the extension of private financial assistance to businesses in this State.

d. The commissioner shall, in consultation with the Director of the Division of Taxation, develop criteria for the approval or disapproval of applications.

18. 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 net operating loss carryover pursuant to subparagraph (B) of paragraph (6) of subsection (k) of 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.

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 net operating loss carryover pursuant to paragraph (6) of subsection (k) of 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 75% 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 net operating loss carryover is the amount of the loss multiplied by the new or expanding emerging technology or biotechnology company's anticipated allocation factor, as determined pursuant to section 6 of P.L.1945, c.162 (C.54:10A-6) 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 \$50,000,000 of tax benefits over State fiscal year 2000, \$40,000,000 of tax benefits over each State fiscal year 2001 through 2004, and \$60,000,000 over State fiscal year 2005 and each State fiscal year thereafter. If the total amount of transferable tax benefits requested to be surrendered by approved applicants exceeds \$50,000,000 for State fiscal year 2000, \$40,000,000 for each State fiscal year 2001 through 2004, or \$60,000,00 for State fiscal year 2005 and for each State fiscal year thereafter, 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 \$50,000,000 for State fiscal year 2000, more than \$40,000,000 for each State fiscal 2001 through 2004, or \$60,000,00 for State fiscal year 2005 and for each State fiscal year thereafter 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) an eligible applicant with more than \$250,000 of transferable tax benefits that was approved to surrender tax benefits in the prior fiscal year shall be authorized to surrender a minimum of 50% of the transferable tax benefits surrendered in the prior fiscal year or \$250,000 whichever is greater, provided that the amount of transferable tax benefits authorized shall not exceed the applicant's transferable tax benefits for the current fiscal year;

(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) or (3) 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 benefit approved under paragraphs (1), (2), (3) 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), (3) 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, \$5,000,000 shall be allocated for the surrender of transferable tax benefits exclusively by eligible companies that operate within the boundaries of the innovation zones during State fiscal year 2005, and \$10,000,000 shall be so allocated for State fiscal year 2006 and for each State fiscal year thereafter.

If the total amount of transferable tax benefits that would be authorized using the above method exceeds \$50,000,000 for State fiscal year 2000, \$40,000,000 for each State fiscal year 2001 through 2004, or \$60,000,00 for State fiscal year 2005 and for each State fiscal year thereafter, 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 \$50,000,000 for State fiscal year 2000, \$40,000,000 for each State fiscal year 2001 through 2004, or \$60,000,00 for State fiscal year 2005 and for each State fiscal year thereafter 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 carryover of net operating losses multiplied by the applicant's anticipated allocation factor as determined pursuant to section 6 of P.L. 1945, c.162 (C.54:10A-6) 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.

The maximum lifetime value of surrendered tax benefits that a corporation shall be permitted to surrender pursuant to the program is \$10,000,000. Applications must be received within 30 days from enactment of P.L.1999, c.140 (C.34:1B-7.42b et al.) for State fiscal year 2000 and on or before June 30 for each subsequent State fiscal year.

The private financial assistance shall be used to fund 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.

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 75% 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 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.

d. The authority shall coordinate the applications for surrender and acquisition of unused but otherwise allowable tax benefits pursuant to this section in a manner that can best stimulate and encourage the extension of private financial assistance to new and expanding emerging technology

and biotechnology companies in this State. The applications shall be submitted and the authority shall approve or disapprove the applications.

The authority shall, in consultation with the New Jersey Commerce and Economic Growth Commission, the New Jersey Commission on Science and Technology and any institution of higher education in New Jersey, develop criteria for the approval or disapproval of applications. Such criteria shall include, but need not be limited to, an evaluation of the new or expanding emerging technology or biotechnology company's actual or potential scientific and technological viability, a determination that the new or expanding emerging technology or biotechnology company's principal products or services are sufficiently innovative to provide a competitive advantage, a determination that the proposed financial assistance will result in significant growth in permanent, full-time employment in the State, a determination made by the authority that the new or expanding emerging technology or biotechnology company does not have sufficient resources to operate in the short term or cannot secure financial assistance from venture capital, stock issuance, product sales revenue, a parent corporation or other affiliates, bank or any other method of obtaining capital, and a determination that the financial assistance provided pursuant to this act demonstrates the prospect of a significant positive change in the applicant's net income. The authority shall establish the weight of importance to be given each criterion utilized in its application approval process. No application shall be approved in which the new or expanding technology or biotechnology company (1) has demonstrated positive net income in any of the two previous full years of ongoing operations as determined on its financial statements; or (2) has demonstrated a ratio in excess of 110% or greater of operating revenues divided by operating expenses in any of the two previous full years of operations as determined on its financial statements; or (3) is directly or indirectly at least 50% owned or controlled by another corporation that has demonstrated positive net income in any of the two previous full years of ongoing operations as determined on its financial statements 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 income in any of the two previous full years of ongoing operations as determined on its combined financial statements.

Once an application has been approved, the applicant shall be permitted to surrender, subject to the limitations set forth in subsection b. of this section and the net operating loss carryover and research and development tax credit carryover time periods pursuant to subparagraph (B) of paragraph (6) of subsection (k) of section 4 of P.L.1945, c.162 (C.54:10A-4) and subsection b. of section 1 of P.L.1993, c.175 (C.54:10A-5.24), the

surrendered tax benefits that are requested in the application regardless of whether the applicant continues to meet the eligibility criteria set forth in the act in subsequent years.

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.

**C.34:1B-185 Definitions relative to sales tax exemption program.**

19. As used in sections 19 through 22 of P.L.2004, c.65 (C.34:1B-185 through C.34:1B-188) the following terms shall have the following meanings:

"Eligible property" means machinery, equipment, furniture and furnishings, fixtures, and building materials, but "eligible property" shall not include "motor vehicles" as defined pursuant to section 2 of P.L.1966, c.30 (C.54:32B-2), parts with a useful life of one year or less, or tools or supplies used in connection with the eligible property;

"Headquarters" means the single location that serves as the national administrative center of a business, at which the primary office of the chief executive officer or chief operating officer of the business, as well as the offices of the management officials responsible for key businesswide functions such as finance, legal, marketing, and human resources, are located;

"Life sciences business" means a business engaged principally in the production of medical equipment, ophthalmic goods, medical or dental instruments, diagnostic substances, biopharmaceutical products; or physical and biological research; or biotechnology;

"Manufacturing facility" means a business location at which more than 50% of the business personal property that is housed in the facility is eligible for the sales tax exemption pursuant to subsection a. of section 25 of P.L.1980, c.105 (C. 54:32B-8.13) for machinery, apparatus or equipment used in the production of tangible personal property;

"Research and development facility" means a business location at which more than 50% of the business personal property that is purchased for the facility is eligible for the sales tax exemption pursuant to section 26 of P.L.1980, c.105 (C.54:32B-8.14) for property used in research and development; and

"Secretary" means the Chief Executive Officer and Secretary of the New Jersey Commerce and Economic Growth Commission.

**C.34:1B-186 Program to approve issuance of certificates to qualifying businesses.**

20. The secretary shall establish and administer a program to approve the issuance of sales and use tax exemption certificates to qualifying businesses as specified in sections 19 through 22 of P.L.2004, c.65 (C.34:1B-185 through C.34:1B-188). The receipts from the certificate holder's purchase of eligible property located or placed at the business location covered by the project approval within the period established pursuant to the terms and conditions of the project approval for the approved business location shall be exempt from the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

**C.34:1B-187 Submission of project application; eligibility.**

21. a. A business seeking to participate in the sales and use tax exemption certificate program established pursuant to sections 19 through 22 of P.L.2004, c.65 (C.34:1B-185 through C.34:1B-188) shall submit a project application to the secretary in such form as required by the secretary.

b. The location for the project shall be situated in designated Planning Area 1 or 2, as defined in the State Development and Redevelopment Plan adopted by the State Planning Commission; provided however, that a business project involving the renovation or expansion of an existing facility that is not located in designated Planning Area 1 or 2 may be eligible to participate in the program, at the determination of the secretary, if all other applicable criteria are satisfied.

A business located in an urban enterprise zone designated pursuant to the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) as of the effective date of this section shall not be eligible to participate in this program if the relocation project is from a facility within the urban enterprise zone to a facility outside an urban enterprise zone; provided however, that if the relocation is to a facility already owned or leased by the same business and that business already employs at least the same number of persons as those being relocated from the urban enterprise zone, it may be eligible to apply.

c. To be eligible to apply for the sales and use tax exemption certificate program, a business shall have operated continuously in this State, in whole or in part, in its current form or as a predecessor entity, for at least 10 years prior to filing an application and shall satisfy at least one of the following criteria:

(1) the business has 1,000 or more full-time employees in the State and the project involves relocating 500 or more full-time employees into a new business location or locations;

(2) the business is a life sciences business or a manufacturing facility and the project is: constructing one or more new research and development facilities, constructing one or more new manufacturing facilities in this State, or relocating to a new headquarters in this State that will employ 250 or more full-time employees;

(3) the business is a life sciences business or a manufacturing business and the project is constructing a new, or substantially rehabilitating a vacant, property that will separately or collectively:

(a) be predominately a new research and development facility;

(b) be predominately a new manufacturing facility;

(c) house the headquarters of the business; or

(d) separately or collectively be a combination of subparagraphs (a), (b) and (c);

provided, that the new or substantially rehabilitated facility will house a minimum of 250 full-time employees. For the purposes of this subparagraph, "predominantly" means a majority of the employees housed in the new facility are engaged in that activity, or a majority of the square footage of the new facility is used in that activity; or a majority of the total value of the investment made will be employed in that activity; or other measures of activity as may be determined by the secretary that demonstrate that a critical concentration of research and development, manufacturing, or both, will occur at the new facility; or

(4) the business is, at the time of enactment of this section, currently receiving a structured finance special guarantee pursuant to N.J.A.C.19:31-2.1(c)3.ii(5) for the project.

d. For the purposes of determining a number of full-time employees pursuant to subsection c. of this section, the full-time employees of the members of a "controlled group of corporations" as defined pursuant to section 1563 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1563, shall be considered the employees of a single employer.

e. A project may be completed in up to two phases provided that it will be the national headquarters of a life sciences or manufacturing company, and will include a significant research and development, a significant manufacturing facility, or combination thereof if: (1) the first completed phase will house at least 200 full-time employees and the second phase will house at least 100 additional employees; and (2) the project is pre-approved for phases and that all phases are completed within 30 months of project approval.

f. Upon approval of a project, the secretary shall notify the Director of the Division of Taxation in the Department of the Treasury of the terms and conditions of the project approval and the director shall issue a certificate of exemption pursuant to the terms and conditions of the project



approval. In general, the sales and use tax exemption certificate provided by sections 19 through 22 of P.L.2004, c.65 (C.34:1B-185 through C.34:1B-188) should not apply to purchases initiated by the business after the date that the temporary certificate of occupancy is issued, or in cases where no temporary certificate of occupancy is issued should not apply to purchases initiated by the business more than one year from the project commencement date; however, the duration of the certificate of exemption shall be pursuant to the terms and conditions of the project approval.

**C.34:1B-188 Rules, regulations.**

22. The secretary shall, after consultation with the Director of the Division of Taxation in the Department of the Treasury, adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.) necessary to govern the proper conduct and operation of the program consistent with the provisions of sections 19 through 22 of P.L.2004, c.65 (C.34:1B-185 through C.34:1B-188).

**C.52:27H-87.1 Exemption for some retail sales of energy and utility service.**

23. a. Retail sales of energy and utility service to:

(1) a qualified business that employs at least 500 people within an enterprise zone, at least 50% of whom are directly employed in a manufacturing process, for the exclusive use or consumption of such business within an enterprise zone, and

(2) a group of two or more persons: (a) each of which is a qualified business that are all located within a single redevelopment area adopted pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.); (b) that collectively employ at least 500 people within an enterprise zone, at least 50% of whom are directly employed in a manufacturing process; (c) are each engaged in a vertically integrated business, evidenced by the manufacture and distribution of a product or family of products that, when taken together, are primarily used, packaged and sold as a single product; and (d) collectively use the energy and utility service for the exclusive use or consumption of each of the persons that comprise a group within an enterprise zone; are exempt from the taxes imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.).

A qualified business will continue to be subject to applicable Board of Public Utilities tariff regulations except that its bills from utility companies and third party suppliers for energy and utility service shall not include charges for sales and use tax.

b. A business that meets the requirements of subsection a. of this section shall not be allowed the exemption granted pursuant to this section until it has complied with such requirements for obtaining the exemption

as may be provided pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) and P.L.1966, c.30 (C.54:32B-1 et seq.). The Chief Executive Officer and Secretary of the Commerce and Economic Growth Commission shall provide prompt notice to the President of the Board of Public Utilities and to the Director of the Division of Taxation in the Department of the Treasury, of a qualified business that has qualified for the exemption under this subsection, shall provide the president and the director an annual list of all businesses that qualify.

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) Taxes paid or accrued to the United States, a possession or territory of the United States, a state, a political subdivision thereof, or the District of Columbia, or to any foreign country, state, province, territory or subdivision thereof, on or measured by profits or income, or business presence or business activity, or the tax imposed by this act, or any tax paid or

accrued with respect to subsidiary dividends excluded from entire net income as provided in paragraph (5) of subsection (k) of this section;

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

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

(F) (i) The amount by which depreciation reported to the United States Treasury Department for property placed in service on and after January 1, 1981, but prior to taxpayer fiscal or calendar accounting years beginning on and after the effective date of P.L.1993, c.172, for purposes of computing federal taxable income in accordance with section 168 of the Internal Revenue Code in effect after December 31, 1980, exceeds the amount of depreciation determined in accordance with the Internal Revenue Code provisions in effect prior to January 1, 1981, but only with respect to a taxpayer's accounting period ending after December 31, 1981; provided, however, that where a taxpayer's accounting period begins in 1981 and ends in 1982, no modification shall be required with respect to this paragraph (F) for the report filed for such period with respect to property placed in service during that part of the accounting period which occurs in 1981. The provisions of this subparagraph shall not apply to assets placed in service prior to January 1, 1998 of a gas, gas and electric, and electric public utility that was subject to the provisions of P.L.1940, c.5 (C.54:30A-49 et seq.) prior to 1998.

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

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

(G) (i) The amount of any civil, civil administrative, or criminal penalty or fine, including a penalty or fine under an administrative consent order, assessed and collected for a violation of a State or federal environmental law, an administrative consent order, or an environmental ordinance or resolution of a local governmental entity, and any interest earned on the penalty or fine, and any economic benefits having accrued to the violator as a result of a violation, which benefits are assessed and recovered in a civil, civil administrative, or criminal action, or pursuant to an administrative consent order. The provisions of this paragraph shall not apply to a penalty or fine assessed or collected for a violation of a State or federal environmental law, or local environmental ordinance or resolution, if the penalty or fine was for a violation that resulted from fire, riot,

sabotage, flood, storm event, natural cause, or other act of God beyond the reasonable control of the violator, or caused by an act or omission of a person who was outside the reasonable control of the violator.

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

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

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

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

A deduction shall also be permitted to the extent that the taxpayer establishes by a preponderance of the evidence, as determined by the director, that the interest is directly or indirectly paid, accrued or incurred to (i) a related member in a foreign nation which has in force a comprehensive income tax treaty with the United States, provided however that the taxpayer shall disclose on its return for the privilege period the name of the related member, the amount of the interest, the relevant foreign nation, and such other information as the director may prescribe or (ii) to an

independent lender and the taxpayer guarantees the debt on which the interest is required.

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

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

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

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

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

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

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

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

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

(5) Entire net income shall exclude 100% of dividends which were included in computing such taxable income for federal income tax purposes, paid to the taxpayer by one or more subsidiaries owned by the taxpayer to the extent of the 80% or more ownership of investment described in subsection (d) of this section and shall exclude 50% of dividends which were included in computing such taxable income for federal income tax purposes, paid to the taxpayer by one or more subsidiaries owned by the taxpayer to the extent of 50% or more ownership of investment, such ownership of investment calculated in the same manner as the

80% or more of ownership of investment is calculated as described in subsection (d) of this section.

(6) (A) Net operating loss deduction. There shall be allowed as a deduction for the privilege period the net operating loss carryover to that period.

(B) Net operating loss carryover. A net operating loss for any privilege period ending after June 30, 1984 shall be a net operating loss carryover to each of the seven privilege periods following the period of the loss. The entire amount of the net operating loss for any privilege period (the "loss period") shall be carried to the earliest of the privilege periods to which the loss may be carried. The portion of the loss which shall be carried to each of the other privilege periods shall be the excess, if any, of the amount of the loss over the sum of the entire net income, computed without the exclusions permitted in paragraphs (4) and (5) of this subsection or the net operating loss deduction provided by subparagraph (A) of this paragraph, for each of the prior privilege periods to which the loss may be carried.

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

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

(E) Notwithstanding the provisions of this paragraph (6) of subsection (k) of this section to the contrary, for privilege periods beginning during calendar year 2002 and calendar year 2003, no deduction for any net operating loss carryover shall be allowed 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).

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

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

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

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

during any year on which gain or loss is recognized for federal income tax purposes as described in subparagraph (B) of this paragraph.

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

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

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

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

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

(11) No deduction shall be allowed for research and experimental expenditures, to the extent that those research and experimental expenditures are qualified research expenses or basic research payments for which an amount of credit is claimed pursuant to section 1 of P.L.1993, c.175

(C.54:10A-5.24) unless those research and experimental expenditures are also used to compute a federal credit claimed pursuant to section 41 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.41.

(12) (A) Notwithstanding the provisions of subsection (k) of section 168 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.168, and subsection (b) of section 1400L of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1400L, 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.

(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.

25. Section 3 of P.L.1993, c.171 (C.54:10A-5.18) is amended to read as follows:

**C.54:10A-5.18 Taxpayer credit.**

3. a. A taxpayer 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 2% of the investment credit base of qualified equipment placed in service in the tax year, up to a maximum allowed credit for the tax year of \$1,000,000; provided however, that if a taxpayer has 50 or fewer employees (an average number of full-time employees and full-time employee equivalents of 50 or less) and entire net income to be used as a measure of the tax determined pursuant to section 6 of P.L.1945, c.162 (C.54:10A-6) of less than \$5,000,000 for the tax year, the taxpayer 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 4% of the investment credit base of qualified equipment placed in service in the tax year, up to a maximum allowed credit for the tax year of \$1,000,000.

b. The tax imposed for the tax year pursuant to section 5 of P.L.1945, c.162, shall first be reduced by the amount of any credit allowed pursuant

to section 19 of P.L.1983, c.303 (C.52:27H-78), then by any credit allowed pursuant to section 12 of P.L.1985, c.227 (C.55:19-13), then by any credit allowed pursuant to section 42 of P.L.1987, c.102 (C.54:10A-5.3), prior to applying any credits allowable pursuant to this section. Credits allowable pursuant to this section shall be applied in the order of the credits' tax years. The amount of the credits applied under this section and section 4 of P.L.1993, c.171 (C.54:10A-5.19), against the tax imposed pursuant to section 5 of P.L.1945, c.162, for a tax year shall not exceed 50% of the tax liability otherwise due and shall not reduce the tax liability to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162.

c. The amount of tax year credit otherwise allowable under subsection a. of this section which cannot be applied for the tax year due to the limitations of subsection b. of this section may be carried over, if necessary, to the seven tax years following a credit's tax year. Provided however, that a taxpayer may not carry over any amount of credit or credits allowed under subsection a. of this section to a tax year 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 tax year, if the credit was allowed for a tax year prior to the year of acquisition, merger or consolidation; provided further, however, 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. "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.

d. (1) With respect to equipment that is three-year property, as described in subsection (e) of section 168 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.168, which is disposed of or ceases to be qualified equipment prior to the end of the 36-month period following being placed in service in this State, the amount of credit allowed shall be that portion of the credit provided for in subsection a. of this section which represents the ratio which the months of qualified use bear to 36, and the difference between the credit taken and the credit allowed for actual use shall be forfeited. Additionally, except when the property is damaged or destroyed by fire, flood, storm or other casualty, or is stolen, the taxpayer shall redetermine the amount of credit allowed for the tax year of the credit by reducing the investment credit base by the cost of the amount of the

disposed or disqualified equipment. If the redetermination of the credit results in an increase in final liability for any tax year in which the credit was applied, then, notwithstanding the four year limitation of subsection b. of R.S.54:49-6 to the contrary, the amount of unpaid liability, if any, shall be considered a deficiency for the purposes of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq. The amount of credit allowed for actual use shall be determined by multiplying the original credit by the ratio which the months of qualified use bear to 36.

(2) With respect to property other than that described in subparagraph (1) of this subsection which is disposed of or ceases to be qualified equipment prior to the end of the 60-month period following being placed in service in this State, the amount of credit allowed shall be that portion of the credit provided for in subsection a. of this section which represents the ratio which the months of qualified use bear to 60, and the difference between the credit taken and the credit allowed for actual use shall be forfeited. Additionally, except when the property is damaged or destroyed by fire, flood, storm or other casualty, or is stolen, the taxpayer shall redetermine the amount of credit allowed for the tax year of the credit by reducing the investment credit base by the cost of the amount of the disposed or disqualified equipment. If the redetermination of the credit results in an increase in final liability for any tax year in which the credit was applied, then, notwithstanding the four year limitation of subsection b. of R.S.54:49-6 to the contrary, the amount of unpaid liability, if any, shall be considered a deficiency for the purposes of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq. The amount of credit allowed for actual use shall be determined by multiplying the original credit by the ratio which the months of qualified use bear to 60.

**C.54A:5-1.2 Determination of category of income net of expenses or depreciation, certain; timing.**

26. a. For taxable years beginning on or after January 1, 2004, notwithstanding the provisions of N.J.S.54A:5-1, if any, or any other law to the contrary, for the purposes of determining the amount of a category of income pursuant to N.J.S.54A:5-1 that is net of expenses:

(1) 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 placed in service on or after January 1, 2004, the depreciation deduction otherwise allowed pursuant to section 167 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.167, shall be determined pursuant to the provisions of the federal

Internal Revenue Code of 1986 (26 U.S.C. s.1 et seq.) in effect on December 31, 2001; and

(2) 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 section, including, among others, those for determining the adjusted basis of the acquired property for the purposes of the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

27. This act shall take effect immediately; sections 1 through 17 shall apply to State fiscal years beginning July 1, 2004 and thereafter; and section 25 shall apply to qualified equipment placed in service during privilege periods beginning on or after July 1, 2004.

Approved June 30, 2004.

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## CHAPTER 66

AN ACT imposing a "general purpose fee" on certain realty transfers and a fee upon grantees under certain deeds conveying residential property and clarifying the law with respect to realty transfer fees generally, amending and supplementing P.L.1968, c.49, and amending P.L.1975, c.176 and P.L.1992, c.148.

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

1. Section 1 of P.L.1968, c.49 (C.46:15-5) is amended to read as follows:

**C.46:15-5 Definitions.**

1. As used in this act:

(a) "Deed" means a written instrument entitled to be recorded in the office of a county recording officer which purports to convey or transfer title to a freehold interest in any lands, tenements or other realty in this State by way of grant or bargain and sale thereof from the named grantor to the named grantee. A leasehold interest for 99 years or more or a



proprietary lease of a cooperative unit and any assignment of a proprietary lease of a cooperative unit, shall be treated as a "freehold" for the purpose of this act. Instruments providing for common driveways, for exchanges of easements or rights-of-way, for revocable licenses to use, to adjust or to clear defects of or clouds on title, to provide for utility service lines such as drainage, sewerage, water, electric, telephone or other such service lines, or to quitclaim possible outstanding interests, shall not be "deeds" for the purposes of this act.

(b) The terms "county recording officer" and "office of the county recording officer" mean the register of deeds and mortgages in counties having such an officer and office, and the county clerk and his office in the other counties.

(c) "Consideration" means in the case of any deed, 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 of title to the lands, tenements or other realty, 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 grantee and any other lien or encumbrance thereon not paid, satisfied or removed in connection with the transfer of title. The amount of liens for real property taxes, water or sewerage charges for the current or any subsequent year, or by way of added assessment or other adjustment, as well as of other like liens or encumbrances of a current and continuing nature ordinarily adjusted between the parties according to the period of ownership shall be excluded as an element in determining the consideration, notwithstanding that such amount is to be paid by the grantee.

In the case of a leasehold interest for 99 years or more as defined in subsection (a) of this section, the consideration shall be in the amount of the assessed value of the property at the date of the transaction for the purpose of levying local real property taxes adjusted to reflect the true value in accordance with the county percentage level established for the current year.

In the case of a proprietary lease of a cooperative unit or assignment thereof as defined in subsection (a) of this section, the consideration is the total price paid for the ownership interest held in conjunction with a cooperative unit, including the pro rata amount of any underlying mortgage or other obligation of the cooperative.

(d) "Blind person" means a person whose vision in his better eye with proper correction does not exceed 20/200 as measured by the Snellen chart or a person who has a field defect in his better eye with proper correction in which the peripheral field has contracted to such an extent that the

widest diameter of visual field subtends an angular distance no greater than 20°.

(e) "Disabled person" means any resident of this State who is permanently and totally disabled, unable to engage in gainful employment, and receiving disability benefits or any other compensation under any federal or State law.

(f) "Senior citizen" means any resident of this State of the age of 62 years or over.

(g) "New construction" means any conveyance or transfer of property upon which there is an entirely new improvement not previously occupied or used for any purpose.

(h) "Low and moderate income housing" means any residential premises, or part thereof, 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 income equal to 80% or less of the median gross household income for households of the same size within the housing region in which the housing is located, but shall include only those residential premises subject to resale controls pursuant to contractual guarantees.

(i) "Basic fee" means the fee established by paragraph (1) of subsection a. of section 3 of P.L.1968, c.49 (C.46:15-7), which fee shall consist of a State portion and a county portion as prescribed under that paragraph.

(j) "Additional fee" means the fee established by paragraph (2) of subsection a. of section 3 of P.L.1968, c.49.

(k) "General purpose fee" means the fee established by paragraph (3) of subsection a. of section 3 of P.L.1968, c.49.

(l) "Supplemental fee" means the fee established by subsection a. of section 2 of P.L.2003, c.113 (C.46:15-7.1).

2. Section 2 of P.L.1968, c.49 (C.46:15-6) is amended to read as follows:

**C.46:15-6 Requirements for recording of deed evidencing transfer of title.**

2. In addition to other prerequisites for recording, no deed evidencing transfer of title to real property shall be recorded in the office of any county recording officer unless it satisfies the following requirements:

a. If the transfer is subject to any fee established under section 3 of P.L.1968, c.49 (C.46:15-7) or section 2 of P.L.2003, c.113 (C.46:15-7.1), a statement of the true consideration for the transfer shall be contained in the deed, the acknowledgment, the proof of the execution, or an appended

affidavit by one of the parties to the deed or that party's legal representative.

b. If the transfer is exempt from any fee established under section 3 of P.L.1968, c.49 (C.46:15-7) or section 2 of P.L.2003, c.113 (C.46:15-7.1), an affidavit stating the basis for the exemption shall be appended to the deed.

c. If the transfer is of real property upon which there is new construction, the words "NEW CONSTRUCTION" in upper case lettering shall be printed clearly at the top of the first page of the deed, and an affidavit by the grantor stating that the transfer is of property upon which there is new construction shall be appended to the deed.

3. Section 3 of P.L.1968, c.49 (C.46:15-7) is amended to read as follows:

**C.46:15-7 Realty transfer fees.**

3. a. In addition to the recording fees imposed by section 2 of P.L.1965, c.123 (C.22A:4-4.1), a grantor shall pay to the county recording officer at the time the deed is offered for recording the following fees:

(1) A basic fee, which basic fee shall consist of (a) a State portion at the rate of \$1.25 for each \$500.00 of consideration or fractional part thereof recited in the deed, and (b) a county portion at the rate of \$0.50 for each \$500.00 of consideration or fractional part thereof so recited; provided however, that on and after the tenth day following a certification by the Director of the Division of Budget and Accounting in the Department of the Treasury pursuant to subsection b. of section 2 of P.L.1992, c.148 (C.46:15-10.2), the State portion of the basic fee shall not be imposed;

(2) An additional fee at the rate of \$0.75 for each \$500.00 of consideration or fractional part thereof recited in the deed in excess of \$150,000.00; provided however, that on and after the tenth day following a certification by the Director of the Division of Budget and Accounting in the Department of the Treasury pursuant to subsection b. of section 2 of P.L.1992, c.148 (C.46:15-10.2), the additional fee shall not be imposed; and

(3) A general purpose fee at the rate of:

(a) \$0.90 for each \$500.00 of consideration or fractional part thereof recited in the deed that is not in excess of \$550,000.00, except that in the case of a conveyance or transfer of property for which the total consideration recited in the deed does not exceed \$350,000.00, no general purpose fee shall be imposed;

(b) \$1.40 for each \$500.00 of consideration or fractional part thereof in excess of \$550,000.00 but not in excess of \$850,000.00 recited in the deed;

(c) \$1.90 for each \$500.00 of consideration or fractional part thereof in excess of \$850,000.00 but not in excess of \$1,000,000.00 recited in the deed; and

(d) \$2.15 for each \$500.00 of consideration or fractional part thereof in excess of \$1,000,000.00 recited in the deed.

b. A deed subject to any of the fees established by this section, which is in fact recorded, shall be deemed to have been entitled to recording, notwithstanding that the amount of the consideration shall have been incorrectly stated or that the correct amount of such fee shall not have been paid. No such defect shall in any way affect or impair the validity of the title conveyed or render the same unmarketable; but the person or persons required to pay said additional fee at the time of recording shall be and remain liable to the county recording officer for the payment of the proper amount thereof.

4. Section 4 of P.L.1968, c.49 (C.46:15-8) is amended to read as follows:

**C.46:15-8 County, State sharing of fee proceeds.**

4. a. The proceeds of the fees collected by the county recording officer, as authorized by P.L.1968, c.49 (C.46:15-5 et seq.), shall be accounted for and remitted to the county treasurer.

b. (1) The county portion of the basic fee collected pursuant to paragraph (1) of subsection a. of section 3 of P.L.1968, c.49 (C.46:15-7) shall be retained by the county treasurer for the use of the county.

(2) The State portion of the basic fee, the additional fee, and the general purpose fee shall be paid to the State Treasurer for the use of the State. Payments shall be made to the State Treasurer on the tenth day of each month following the month of collection.

c. (1) Amounts, not in excess of \$25,000,000, paid during the State fiscal year to the State Treasurer from the payment of the State portion of the basic fee shall be credited to the "Shore Protection Fund" created pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1), in the manner established under that section.

(2) All amounts paid to the State Treasurer from the payment of the additional fee shall be credited to the Neighborhood Preservation Nonlapsing Revolving Fund established pursuant to P.L.1985, c.222 (C.52:27D-301 et al.), in the manner established under section 20 thereof (C.52:27D-320).

5. Section 5 of P.L.1991, c.49 (C.46:15-9) is amended to read as follows:

**C.46:15-9 Falsifying consideration, failure to disclose new construction on deed and affidavits; penalty.**

5. a. Any person who knowingly falsifies the consideration recited in a deed or in the proof or acknowledgment of the execution of a deed or in an affidavit annexed to a deed declaring the consideration therefor or a declaration in an affidavit that a transfer is exempt from recording fee is guilty of a crime of the fourth degree.

b. Any grantor conveying title to real property upon which there is new construction who fails to subscribe and append to the deed an affidavit to that effect in accordance with the provisions of subsection c. of section 2 of P.L.1968, c.49 (C.46:15-6) is guilty of a disorderly persons offense.

6. Section 4 of P.L.1975, c.176 (C.46:15-10.1) is amended to read as follows:

**C.46:15-10.1 Partial fee exemptions.**

4. a. The following transfers of title to real property shall be exempt from payment of the State portion of the basic fee:

(1) The sale of any one- or two-family residential premises which are owned and occupied by a senior citizen, blind person or disabled person who is the seller in such transaction; provided, however, that except in the instance of a husband and wife no exemption shall be allowed if the property being sold is jointly owned and one or more of the owners is not a senior citizen, blind person or disabled person.

(2) The sale of low and moderate income housing.

b. Transfers of title to real property upon which there is new construction shall be exempt from payment, with respect to all consideration therefor up to \$150,000.00, of 80% of the State portion of the basic fee.

c. (1) The director shall promulgate rules, regulations and forms of certification or otherwise necessary to carry out the provisions of this section.

(2) No transfer shall be eligible for more than one exemption under this section.

d. The balance of the State portion of the basic fee and the additional fee collected on transfers subject to exemption under subsection b. of this section shall be remitted to the State Treasurer and shall be credited to the Neighborhood Preservation Nonlapsing Revolving Fund established pursuant to P.L.1985, c.222 (C.52:27D-301 et al.), to be spent in the manner established under section 20 thereof (C.52:27D-320).

e. Subsections a. through d. of this section shall be without effect on and after the tenth day following a certification by the Director of the

Division of Budget and Accounting in the Department of the Treasury pursuant to subsection b. of section 2 of P.L.1992, c.148 (C.46:15-10.2).

7. Section 2 of P.L.1992, c.148 (C.46:15-10.2) is amended to read as follows:

**C.46:15-10.2 Required provisions of annual appropriations act.**

2. a. The annual appropriations act for each State fiscal year shall, without other conditions, limitations or restrictions on the following:

(1) credit amounts paid to the State Treasurer, if any, in payment of fees collected pursuant to paragraph (1) or paragraph (2) of subsection a. of section 3 of P.L.1968, c.49 (C.46:15-7) to the "Shore Protection Fund" created pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1), and the Neighborhood Preservation Nonlapsing Revolving Fund established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320), pursuant to the requirements of section 4 of P.L.1968, c.49 (C.46:15-8);

(2) appropriate the balance of the "Shore Protection Fund" created pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1), for the purposes of that fund; and

(3) appropriate the balance of the Neighborhood Preservation Nonlapsing Revolving Fund established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320), for the purposes of that fund.

b. If the requirements of subsection a. of this section are not met on the effective date of an annual appropriations act for the State fiscal year, or if an amendment or supplement to an annual appropriations act for the State fiscal year should violate any of the requirements of subsection a. of this section, the Director of the Division of Budget and Accounting in the Department of the Treasury shall, not later than five days after the enactment of the annual appropriations act, or an amendment or supplement thereto, that violates any of the requirements of subsection a. of this section, certify to the Director of the Division of Taxation that the requirements of subsection a. of this section have not been met.

**C.46:15-7.2 Additional fee on certain transfers over \$1,000,000.**

8. In addition to all other fees imposed under P.L.1968, c.49 (C.46:15-5 et seq.), there is imposed upon the grantee of a deed for the transfer of real property zoned for residential use, whether improved or not, for consideration in excess of \$1,000,000 recited in the deed a fee in 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.

9. This act shall take effect immediately and apply to transfers of real property occurring on or after August 1, 2004.

Approved June 30, 2004.

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## CHAPTER 67

AN ACT concerning the taxation of cigarettes, amending and supplementing P.L.1948, c.65.

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

1. Section 301 of P.L.1948, c.65 (C.54:40A-8) is amended to read as follows:

**C.54:40A-8 Tax imposed; rate.**

301. Tax imposed; rate. A tax is hereby imposed on the sale, use or possession for sale or use within this State of all cigarettes at the rate of \$0.12 for each cigarette.

2. a. Each retail licensee under P.L.1948, c.65 (C.54:40A-1 et seq.), shall, on or before the first day of the second month after the effective date of P.L.2004, c.67, file a return under oath or certified under the penalties of perjury with the director on forms furnished by the director, showing the amount of cigarettes in the retail licensee's possession in the State at 12:01 a.m. on the effective date of P.L.2004, c.67, and shall at the time of filing that return pay the tax to the director. Failure to obtain such forms shall not be an excuse for the failure to make a return containing the information required by the director.

b. Notwithstanding the provisions of section 401 of P.L.1948, c.65 (C.54:40A-11) to the contrary, each licensed distributor and wholesale dealer under P.L.1948, c.65 (C.54:40A-1 et seq.), shall, on or before the first day of the second month after the effective date of P.L.2004, c.67, file a return under oath or certified under the penalties of perjury with the director on forms furnished by the director, showing the amount of cigarettes in the dealer's or wholesaler's possession in the State at the close of business prior to the effective date of P.L.2004, c.67. An amount of tax shall be due equal to the additional tax on the number of cigarettes bearing stamps, and unaffixed stamps on hand. Each licensed distributor and wholesale dealer shall at the time of filing that return pay the tax to the director. Failure to obtain such forms shall not be an excuse for the failure to make a return containing the information required by the director.

3. This act shall take effect July 1, 2004.

Approved June 30, 2004.

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## CHAPTER 68

AN ACT authorizing the issuance of cigarette tax securitization bonds, notes or other obligations by the New Jersey Economic Development Authority for the purposes of providing revenue to meet appropriations in any State fiscal year commencing on or after July 1, 2004, providing a source of payment and security for such bonds, notes or other obligations, supplementing P.L.1974, c.80 (C.34:1B-1 et seq.) and amending P.L.1997, c.264..

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

**C.34:1B-21.16 Short title.**

1. This act shall be known and may be cited as the "Cigarette Tax Securitization Act of 2004."

**C.34:1B-21.17 Definitions relative to issuance of cigarette tax securitization bonds.**

2. The following words or terms as used in this act shall have the following meanings unless a different meaning clearly appears from the context:

"Authority" means the New Jersey Economic Development Authority created pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.);

"Bonds" means any bonds, notes or other obligations issued or entered into by the authority pursuant to this act;

"Cigarette Tax" means the tax imposed by the State pursuant to the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.), as amended and supplemented, on the sale, use or possession for sale or use within the State of each cigarette;

"Cigarette Tax Securitization Fund" means the fund by that name created and established pursuant to section 7 of this act;

"Cigarette Tax Securitization Proceeds Fund" means the fund by that name created and established pursuant to section 3 of this act;

"Dedicated Cigarette Tax Revenue Fund" means the fund by that name created and established pursuant to section 5 of this act;

"Dedicated Cigarette Tax Revenues" means an amount equal to the revenue collected by the State during each State fiscal year beginning on and after July 1, 2006 from \$0.0325 of the cigarette tax; and



"Refunding Bonds" means any bonds, notes or other obligations issued by the authority to refinance bonds, notes or other obligations previously issued or entered into by the authority pursuant to this act.

**C.34:1B-21.18 "Cigarette Tax Securitization Proceeds Fund."**

3. a. The authority shall establish and maintain a special nonlapsing fund to be known as the "Cigarette Tax Securitization Proceeds Fund" into which shall be deposited the following moneys:

(1) the proceeds from the sale of all bonds (other than refunding bonds) issued by the authority pursuant to this act which are remaining after any required deposit to any reserve or other fund established for such bonds or any refunding bonds in accordance with subsection a. of section 4 of this act and after the payment of all costs, fees and other expenses related to, or incurred by the authority or the State in connection with, the issuance of such bonds or any refunding bonds;

(2) any amounts which shall be appropriated by the Legislature for the purposes of such fund; and

(3) any other amounts or funds which the authority shall determine to deposit into such fund.

Moneys on deposit in the Cigarette Tax Securitization Proceeds Fund shall be invested in such obligations as the authority may determine or as shall otherwise be provided in any contract between the authority and the State Treasurer authorized and entered into pursuant to section 6 of this act, and interest or other earnings on any such investments shall be credited to such fund.

b. Amounts on deposit in the Cigarette Tax Securitization Proceeds Fund shall be withdrawn by the authority from time to time, upon written request of the State Treasurer or as otherwise provided in any contract between the authority and the State Treasurer authorized and entered into pursuant to section 6 of this act, and paid to the State Treasurer for deposit into either the General Fund of the State or the Cigarette Tax Securitization Fund, as determined by the State Treasurer, and used for any lawful purpose of the State for which moneys on deposit in the General Fund may be used. All amounts withdrawn from the Cigarette Tax Securitization Proceeds Fund and deposited into the General Fund of the State as provided in this subsection shall represent financial resources and revenues of the State from that fund as certified by the Governor pursuant to Article VIII, Section II, paragraph 2 of the State Constitution for the State annual appropriation act for such State fiscal year, and as may be applicable for such annual appropriation act as may be amended and supplemented from time to time. Notwithstanding any provision of this subsection to the contrary, the State Treasurer shall not request the authority to pay, and the

authority shall not pay, to the State Treasurer during any State fiscal year amounts on deposit in the Cigarette Tax Securitization Proceeds Fund which are in excess of the amounts anticipated as revenues from such fund.

**C.34:1B-21.19 Powers of authority.**

4. Notwithstanding the provisions of any law, rule, regulation or order to the contrary:

a. The authority shall have the power, pursuant to and in accordance with the provisions of this act and P.L.1974, c.80 (C.34:1B-1 et seq.), to issue bonds and refunding bonds, incur indebtedness and borrow money secured, in whole or in part, by money received pursuant to this act for the purpose of providing funds

(1) for deposit into the Cigarette Tax Securitization Proceeds Fund;

(2) in the case of refunding bonds, to apply to the refunding, purchase or payment of any bonds issued pursuant to this act;

(3) to fund any capitalized interest on such bonds or refunding bonds;

(4) to fund any reserve or other fund as may be established by the authority for such bonds or refunding bonds and to further secure such bonds and refunding bonds as may be determined by the authority; and

(5) to pay all costs, fees and other expenses related to, or incurred by the authority or the State in connection with, the issuance of such bonds or refunding bonds.

b. The authority may, in any resolution authorizing the issuance of bonds or refunding bonds issued by the authority pursuant to this act, pledge any contract entered into with the State Treasurer pursuant to section 6 of this act, or any part thereof, to secure the payment, purchase or redemption of bonds or refunding bonds or any obligations of the authority under any contract or agreement entered into by the authority pursuant to subsection c. of this section 4, and covenant as to the use and disposition of money available to the authority for the payment, purchase or redemption of bonds and refunding bonds and the payment of any obligations of the authority under any contract or agreement entered into by the authority pursuant to subsection c. of this section 4. All costs, fees and other expenses related to, or incurred by the authority or the State in connection with, the issuance of bonds or refunding bonds by the authority for the purposes set forth in this act may be paid by the authority from amounts it receives from the proceeds of the bonds or refunding bonds and from amounts it receives pursuant to sections 5 and 6 of this act, which costs, fees and other expenses may include, but are not limited to, any initial or annual administrative costs and fees of the authority attributable to any bonds or refunding bonds issued pursuant to this act, all legal,

accounting, trustee or other professional fees, costs and expenses, and all other costs, fees, expenses, liabilities or obligations attributable to any agreement, contract or other commitment described in subsection c. of this section and any required rebate or other payment to the United States of America. The bonds or refunding bonds shall be authorized by resolution adopted by the authority, which shall stipulate the manner of execution and form of the bonds, whether the bonds or refunding bonds are to be issued in one or more series, the date or dates of issue, time or times of maturity, which shall not exceed 40 years, the rate or rates of interest payable on the bonds, which may be at fixed rates or variable rates, and which interest may be current interest or may accrue, the denomination or denominations in which the bonds are issued, conversion or registration privileges, the sources and medium of payment and place or places of payment, terms of redemption, privileges of exchangeability or interchangeability, and entitlement to priorities of payment or security in the amounts to be received by the authority pursuant to sections 5 and 6 of this act. The bonds may be sold at a public or private sale at a price or prices determined by the authority. The authority is authorized to enter into any agreements necessary or desirable to effectuate the purposes of this section, including agreements to sell bonds or refunding bonds to any person and to comply with the laws of any jurisdiction relating thereto.

c. In connection with any bonds or refunding bonds issued or to be issued pursuant to this act, the authority may also enter into any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest rate exchange agreement, currency exchange agreement, interest rate floor or cap, options, puts or calls to hedge payment, currency, rate, spread or similar exposure, or similar agreements (and in connection therewith, agreements establishing a line of credit, letter of credit, insurance or relating to the collateralization of the obligations thereunder), 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 as shall be determined and approved by the authority.

d. No resolution adopted by the authority authorizing the issuance of bonds or refunding bonds pursuant to this act shall be adopted or otherwise made effective without the approval in writing of the State Treasurer. Except as provided by subsection i. of section 4 of P.L.1974, c.80 (C.34:1B-4), bonds or refunding bonds may be issued without obtaining the consent of any department, division, commission, board, bureau or agency of the State, other than the approval as required by this subsection, and without any other proceedings or the occurrence of any other

conditions or other things other than those proceedings, conditions or things which are specifically required by this act.

e. Bonds and refunding bonds issued by the authority pursuant to this act shall be special and limited obligations of the authority payable from, and secured by, such funds and moneys determined by the authority in accordance with this section. Neither the members of the authority nor any other person executing the bonds or refunding bonds shall be personally liable with respect to payment of interest and principal on these bonds or refunding bonds. Bonds or refunding bonds issued pursuant to the provisions of this act shall not be a debt or liability of the State or any agency or instrumentality thereof, other than a special and limited obligation of the authority, either legal, moral or otherwise, and nothing contained in this act shall be construed to authorize the authority to incur any indebtedness on behalf of or in any way to obligate the State or any political subdivision thereof other than the authority, and all bonds and refunding bonds issued by the authority shall contain a statement to that effect on their face.

f. The authority is authorized to engage, subject to the approval of the State Treasurer and in such manner as the State Treasurer shall determine, the services of bond counsel, financial advisors and experts, placement agents, underwriters, trustees, verification agents, remarketing agents, auction agents, broker-dealers, appraisers, and such other advisors, consultants and agents as may be necessary to effectuate the purposes of this act.

g. All bonds or refunding bonds issued by the authority pursuant to this act are deemed to be issued by a body corporate and politic of the State for an essential governmental purpose, and the interest thereon and the income derived from all funds, revenues, incomes and other moneys received for or to be received by the authority and pledged and available to pay or secure the payment of bonds or refunding bonds and the interest thereon, shall be exempt from all taxes levied pursuant to the provisions of Title 54 of the Revised Statutes or Title 54A of the New Jersey Statutes, except for transfer inheritance and estate taxes levied pursuant to Subtitle 5 of Title 54 of the Revised Statutes.

h. The State hereby pledges and covenants with the holders of any bonds or refunding bonds issued pursuant to the provisions of this act, that it will not limit or alter the rights or powers vested in the authority by this act, nor limit or alter the rights or powers of the State Treasurer in any manner which would jeopardize the interest of the holders or any trustee of such holders, or inhibit or prevent performance or fulfillment by the authority or the State Treasurer with respect to the terms of any agreement made with the holders of these bonds or refunding bonds or agreements made pursuant to subsection c. of this section, except that the failure of

the Legislature to appropriate moneys for any purpose of this act shall not be deemed a violation of this section.

i. Notwithstanding any restriction contained in any other law, rule, regulation or order to the contrary, the State and all political subdivisions of the State, their officers, boards, commissioners, departments or other agencies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, saving and loan associations, investment companies and other persons carrying on a banking or investment business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries, and all other persons whatsoever who now are or may hereafter be authorized to invest in bonds or other obligations of the State, may properly and legally invest any sinking funds, moneys or other funds, including capital, belonging to them or within their control, in any bonds or refunding bonds issued by the authority under the provisions of this act; and said bonds and refunding bonds are hereby made securities which may properly and legally be deposited with, and received by any State or municipal officers or agency of the State, for any purpose for which the deposit of bonds or other obligations of the State is now, or may hereafter be, authorized by law.

**C.34:1B-21.20 "Dedicated Cigarette Tax Revenue Fund."**

5. a. There is hereby created and established in the Department of the Treasury a separate nonlapsing fund to be known as the "Dedicated Cigarette Tax Revenue Fund." During the State fiscal year beginning July 1, 2006 and during each succeeding State fiscal year in which the authority has outstanding bonds or refunding bonds which have been issued pursuant to this act or is obligated to make any payments under any contract or agreement entered into by the authority pursuant to subsection c. of section 4 of this act, the State Treasurer shall credit to such Fund, on a monthly basis, an amount equivalent to the dedicated cigarette tax revenues received by the State during each calendar month of such fiscal year. Provided however, that:

(1) no credits of dedicated cigarette tax revenues shall be made to the Dedicated Cigarette Tax Revenue Fund in any State fiscal year until the deposits of revenue from the cigarette tax required by section 4 of P.L.1997, c.264 (C.26:2H-18.58g) into the Health Care Subsidy Fund have been fully made in such fiscal year, and

(2) in each month of a State fiscal year beginning after the month in which the final deposits of revenue from the cigarette tax required by section 4 of P.L.1997, c.264 (C.26:2H-18.58g) into the Health Care Subsidy Fund have been fully made for such fiscal year, the State Treas-

surer shall credit to the Dedicated Cigarette Tax Revenue Fund an amount equivalent to all revenue collected by the State from the cigarette tax during such calendar month until the amount credited to the Dedicated Cigarette Tax Revenue Fund from the beginning of such fiscal year equals the amount that would have been credited to such Fund since the beginning of such fiscal year in accordance with the preceding sentence if the deposits of revenue from the cigarette tax required by section 4 of P.L.1997, c.264 (C.26:2H-18.58g) into the Health Care Subsidy Fund were not required to have been made.

b. In each State fiscal year during which the authority has outstanding bonds or refunding bonds which have been issued pursuant to this act or is obligated to make any payments under any contract or agreement entered into by the authority pursuant to subsection c. of section 4 of this act, the State Treasurer shall pay to the authority solely from the Dedicated Cigarette Tax Revenue Fund in accordance with the provisions of any contract between the authority and the State Treasurer authorized and entered into pursuant to section 6 of this act, an amount equal to the debt service payable on the authority's then outstanding bonds or refunding bonds issued pursuant to this act during such fiscal year and any amounts required to be paid by the authority during such fiscal year under any contract or agreement entered into by the authority pursuant to subsection c. of section 4 of this act and such other additional amounts as shall be authorized by this act and required to be paid to the authority pursuant to any contract between the authority and the State Treasurer authorized and entered into pursuant to section 6 of this act; provided, however, that the payment of all such amounts to the authority shall be subject to and dependent upon appropriations being made from time to time by the Legislature of the amounts thereof for the purposes of this act. Notwithstanding any other provision of any law, rule, regulation or order to the contrary, the authority shall be paid only such amounts as shall be required by the provisions of any contract between the authority and the State Treasurer authorized and entered into pursuant to section 6 of this act and the incurrence of any obligation of the State under any such contract, including any payments to be made thereunder from the Dedicated Cigarette Tax Revenue Fund, shall be subject to and dependent upon appropriations being made from time to time by the Legislature for the purposes of this act.

c. If the authority no longer has outstanding bonds or refunding bonds which have been issued pursuant to this act and is no longer obligated to make any payments under any contract or agreement entered into by the authority pursuant to subsection c. of section 4 of this act or to pay any other costs, fees, expenses, liabilities and other obligations incurred by the authority and the State pursuant to this act, then all monies on

deposit in the Dedicated Cigarette Tax Revenue Fund shall be transferred to the General Fund.

**C.34:1B-21.21 Contracts to implement payment arrangement.**

6. The State Treasurer and the authority are authorized to enter into one or more contracts to implement the payment arrangement that is provided for in section 5 of this act. The contract or contracts shall provide for payment by the State Treasurer of the amounts required to be paid from the Dedicated Cigarette Tax Revenue Fund pursuant to section 5 of this act and shall set forth the procedure for the transfer of moneys for the purpose of paying such amounts. The contract or contracts shall contain such terms and conditions as are determined by the authority and the State Treasurer, and shall include, but not be limited to, terms and conditions necessary and desirable to secure any bonds or refunding bonds of the authority issued pursuant to this act or any obligations of the authority under any contract or agreement entered into by the authority pursuant to subsection c. of section 4 of this act; provided however, that notwithstanding any other provision of any law, rule, regulation or order to the contrary, the authority shall be paid only such amounts as shall be required by the provisions of any contract or contracts, and the incurrence of any obligation of the State under any such contract or contracts, including any payments to be made thereunder from the Dedicated Cigarette Tax Revenue Fund, shall be subject to and dependent upon appropriations being made from time to time by the Legislature for the purposes of this act.

**C.34:1B-21.22 "Cigarette Tax Securitization Fund."**

7. There is hereby created and established in the Department of the Treasury a separate non-lapsing fund to be known as the "Cigarette Tax Securitization Fund." Revenue derived from the proceeds of bonds issued by the authority pursuant to this act may be deposited into the Cigarette Tax Securitization Fund and balances therein may be transferred to the General Fund.

8. Section 4 of P.L.1997, c.264 (C.26:2H-18.58g) is amended to read as follows:

**C.26:2H-18.58g Disposition of revenue collected from cigarette tax.**

4. Notwithstanding the provisions of any other law to the contrary,  
a. commencing July 1, 1998 and ending June 30, 2006: after the deposit required pursuant to section 5 of P.L.1982, c.40 (C.54:40A-37.1), the first \$150,000,000 of revenue collected annually from the cigarette tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) and the first \$5,000,000 of revenue collected annually from the "Tobacco Products

Wholesale Sales and Use Tax Act," P.L.1990, c.39 (C.54:40B-1 et seq.), shall be deposited into the Health Care Subsidy Fund established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58); and the next \$390,000,000 of revenue collected annually from the cigarette tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be appropriated annually for health programs, and the next \$50,000,000 of revenue collected annually from the cigarette tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be appropriated annually to the New Jersey Economic Development Authority for payment of debt service incurred by the authority for school facilities projects and in fiscal years commencing July 1, 2002 and July 1, 2003, the next \$30,000,000 of revenue collected annually from the cigarette tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be directed to the Department of Health and Senior Services to fund anti-smoking initiatives, except that the amount shall be \$40,000,000 in the fiscal year commencing July 1, 2004 and \$45,000,000 in the fiscal year commencing July 1, 2005; and

b. commencing with fiscal years beginning on and after July 1, 2006, after the deposit required pursuant to section 5 of P.L.1982, c.40 (C.54:40A-37.1), the first \$150,000,000 of revenue collected annually from the cigarette tax imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) and the first \$5,000,000 of revenue collected annually from the "Tobacco Products Wholesale Sales and Use Tax Act," P.L.1990, c.39 (C.54:40B-1 et seq.), shall be deposited into the Health Care Subsidy Fund established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58).

9. The provisions of this act shall be severable, and if any of the provisions hereof shall be held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of any of the remaining provisions of this act.

10. This act shall take effect immediately.

Approved June 30, 2004.

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## CHAPTER 69

AN ACT establishing a Merit Rating Plan Surcharge for unsafe driving, amending P.L.2000, c.75.

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



1. Section 1 of P.L.2000, c.75 (C.39:4-97.2) is amended to read as follows:

**C.39:4-97.2 Driving, operating a motor vehicle in an unsafe manner, offense created; fines; surcharge.**

1. a. Notwithstanding any other provision of law to the contrary, it shall be unlawful for any person to drive or operate a motor vehicle in an unsafe manner likely to endanger a person or property.

b. A person convicted of a first offense under subsection a. shall be subject to a fine of not less than \$50.00 or more than \$150.00 and shall not be assessed any motor vehicle penalty points pursuant to section 1 of P.L.1982, c.43 (C.39:5-30.5).

c. A person convicted of a second offense under subsection a. shall be subject to a fine of not less than \$100.00 or more than \$250.00 and shall not be assessed any motor vehicle penalty points pursuant to section 1 of P.L.1982, c.43 (C.39:5-30.5).

d. A person convicted of a third or subsequent offense under subsection a. shall be subject to a fine of not less than \$200.00 or more than \$500.00 and shall be assessed motor vehicle penalty points pursuant to section 1 of P.L.1982, c.43 (C.39:5-30.5).

e. An offense committed under this section that occurs more than five years after the prior offense shall not be considered a subsequent offense for the purpose of assessing motor vehicle penalty points under subsection d. of this section.

f. In addition to any fine, fee or other charge imposed pursuant to law, the court shall assess a person convicted of an offense under subsection a. of this section a surcharge of \$250 which shall be collected by the court and distributed to the Division of Revenue in the Department of the Treasury as a New Jersey Merit Rating Plan surcharge pursuant to subparagraph (a) of paragraph (2) of subsection b. of section 6 of P.L.1983, c.65 (C.17:29A-35).

2. This act shall take effect July 1, 2004.

Approved June 30, 2004.

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## CHAPTER 70

AN ACT authorizing the issuance of motor vehicle surcharges securitization bonds, notes or other obligations by the New Jersey Economic Development Authority for the purposes of providing revenue to meet

appropriations in any State fiscal year commencing on or after July 1, 2004, providing a source of payment and security for such bonds, notes or other obligations, supplementing P.L.1974, c.80 (C.34:1B-1 et seq.) and amending P.L.1994, c.57 and P.L.1983, c.65.

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

**C.34:1B-21.23 Short title.**

1. This act shall be known and may be cited as the "Motor Vehicle Surcharges Securitization Act of 2004."

**C.34:1B-21.24 Definitions relative to motor vehicle surcharges securitization bonds.**

2. The following words or terms as used in this act shall have the following meanings unless a different meaning clearly appears from the context:

"Authority" means the New Jersey Economic Development Authority created pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.);

"Bonds" means any bonds, notes or other obligations issued or entered into by the authority pursuant to this act;

"Dedicated Motor Vehicle Surcharge Revenues" means:

a. on and after July 1, 2006, moneys required to be transferred to the Motor Vehicle Surcharges Revenue Fund from the Facility Revenue Fund pursuant to subsection b. of section 7 of P.L.1994, c.57 (C.34:1B-21.7),

b. on and after July 1, 2006, all Unsafe Driving Surcharges required to be transferred to the Motor Vehicle Surcharges Revenue Fund from the Unsafe Driving Surcharges Fund pursuant to section 5 of this act, and

c. after such time as all Market Transition Facility bonds, notes and obligations and all New Jersey Motor Vehicle Commission bonds, notes and obligations issued pursuant to section 4 of P.L.1994, c.57 (C.34:1B-21.4), and the costs thereof are discharged and no longer outstanding, all other plan surcharges collected by the commission pursuant to subsection b. of section 6 of P.L.1983, c.65 (C.17:29A-35) and required to be transferred to the Motor Vehicle Surcharges Revenue Fund from the DMV Surcharge Fund pursuant to section 12 of P.L.1994, c.57 (C.34:1B-21.12);

"Division of Motor Vehicles Surcharge Fund" or "DMV Surcharge Fund" means the fund created pursuant to section 12 of P.L.1994, c.57 (C.34:1B-21.12);

"Market Transition Facility Revenue Fund" or "Facility Revenue Fund" means the fund created pursuant to section 7 of P.L.1994, c.57 (C.34:1B-21.7);

"Motor Vehicle Surcharges Revenue Fund" means the fund within the authority created and established pursuant to section 6 of this act;

"Motor Vehicle Surcharges Securitization Proceeds Fund" means the fund created and established pursuant to section 3 of this act;

"Refunding Bonds" means any bonds, notes or other obligations issued by the authority to refinance bonds, notes or other obligations previously issued by the authority pursuant to this act;

"Unsafe Driving Surcharges Fund" means the fund within the Department of the Treasury created and established pursuant to section 5 of this act; and

"Unsafe Driving Surcharges" means the revenues received by the State resulting from the plan surcharges established as such pursuant to subparagraph (a) of paragraph (2) of subsection b. of section 6 of P.L.1983, c.65 (C.17:29A-35) and assessed and collected pursuant to subsection f. of section 1 of P.L.2000, c.75 (C.39:4-97.2) for convictions for unsafe driving pursuant to that section.

**C.34:1B-21.25 "Motor Vehicle Surcharges Securitization Proceeds Fund."**

3. a. The authority shall establish and maintain a special nonlapsing fund to be known as the "Motor Vehicle Surcharges Securitization Proceeds Fund" into which shall be deposited the following moneys:

(1) the proceeds from the sale of all bonds (other than refunding bonds) issued by the authority pursuant to this act which are remaining after any required deposit to any reserve or other fund established for such bonds or refunding bonds in accordance with subsection a. of section 4 of this act and after the payment of all costs, fees and other expenses related to, or incurred by the authority or the State in connection with, the issuance of such bonds or refunding bonds;

(2) any amounts which shall be appropriated by the State Legislature for the purposes of such fund; and

(3) any other amounts or funds which the authority shall determine to deposit into such fund. Moneys on deposit in the Motor Vehicle Surcharges Securitization Proceeds Fund shall be invested in such obligations as the authority may determine or as shall otherwise be provided in any contract between the authority and the State Treasurer authorized and entered into pursuant to section 7 of this act, and interest or other earnings on any such investments shall be credited to such fund.

b. Amounts on deposit in the Motor Vehicle Surcharges Securitization Proceeds Fund shall be withdrawn by the authority from time to time, upon written request of the State Treasurer or as otherwise provided in any contract between the authority and the State Treasurer authorized and entered into pursuant to section 7 of this act, and paid to the State Trea-

surer for deposit either into the General Fund of the State or into the Motor Vehicle Surcharges Securitization Fund, as determined by the State Treasurer, and used for any lawful purpose of the State for which moneys on deposit in the General Fund may be used. All amounts withdrawn from the Motor Vehicle Surcharges Securitization Proceeds Fund and deposited into the General Fund of the State as provided in this paragraph shall represent financial resources and revenues of the State upon deposit into the General Fund. Notwithstanding any provision of this subparagraph to the contrary, the State Treasurer shall not request the authority to pay, and the authority shall not pay, to the State Treasurer during any State fiscal year for deposit into the General Fund of the State, amounts on deposit in the Motor Vehicle Surcharges Securitization Proceeds Fund which are in excess of the amounts anticipated as revenues from that fund as certified by the Governor pursuant to Article VIII, Section II, paragraph 2 of the State Constitution for the State annual appropriation act for such State fiscal year, and as may be applicable for such annual appropriation act as may be amended and supplemented from time to time.

**C.34:1B-21.26 Powers of authority.**

4. Notwithstanding the provisions of any law, rule, regulation or order to the contrary:

a. The authority shall have the power, pursuant to and in accordance with the provisions of this act and P.L.1974, c.80 (C.34:1B-1 et seq.), to issue bonds and refunding bonds, incur indebtedness and borrow money secured, in whole or in part, by money received pursuant to this act for the purpose of providing funds:

(1) for deposit into the Motor Vehicle Surcharges Securitization Proceeds Fund;

(2) in the case of refunding bonds, to apply to the refunding, purchase or payment of any bonds issued pursuant to this act;

(3) to fund any capitalized interest on such bonds or refunding bonds;

(4) to fund any reserve or other fund as may be established by the authority for such bonds or refunding bonds and to further secure such bonds and refunding bonds as may be determined by the authority; and

(5) to pay all costs, fees and other expenses related to, or incurred by the authority or the State in connection with, the issuance of such bonds or refunding bonds.

b. The authority may, in any resolution authorizing the issuance of bonds or refunding bonds issued by the authority pursuant to this act, or the execution and delivery of any agreement authorized pursuant to subsection c. of this section, pledge the amounts from time to time on deposit in the Motor Vehicle Surcharges Revenue Fund and any contract entered

into with the State Treasurer pursuant to section 7 of this act, or any part thereof, to secure the payment, purchase or redemption of the bonds or refunding bonds issued pursuant to this act or any obligations of the authority under any agreement entered into pursuant to subsection c. of this section, and covenant as to the use and disposition of money on deposit in the Motor Vehicle Surcharges Revenue Fund for payments of bonds and refunding bonds. All costs, fees and other expenses related to, or incurred by the authority or the State in connection with, the issuance of bonds or refunding bonds by the authority for the purposes set forth in this act may be paid by the authority from amounts it receives from the proceeds of the bonds or refunding bonds and from amounts it receives pursuant to sections 5 and 7 of this act, section 7 of P.L.1994, c.57 (C.34:1B-21.7) and section 12 of P.L.1994, c.57 (C.34:1B-21.12), which costs, fees and other expenses may include, but are not limited to, any initial or annual administrative costs and fees of the authority attributable to any bonds or refunding bonds issued pursuant to this act, all legal, accounting, trustee or other professional fees, costs and expenses, all other costs, fees and expenses (including, but not limited to, termination payments) attributable to any agreement, contract or other commitment described in subsection c. of this section and any required rebate or other payment to the United States of America. The bonds or refunding bonds shall be authorized by resolution adopted by the authority, which shall stipulate the manner of execution and form of the bonds, whether the bonds or refunding bonds are to be issued in one or more series, the date or dates of issue, time or times of maturity, which shall not exceed 40 years, the rate or rates of interest payable on the bonds, which may be at fixed rates or variable rates, and which interest may be current interest or may accrue, the denomination or denominations in which the bonds are issued, conversion or registration privileges, the sources and medium of payment and place or places of payment, terms of redemption, privileges of exchangeability or interchangeability, and entitlement to priorities of payment or security in the amounts to be received by the authority pursuant to sections 5 and 6 of this act. The bonds may be sold at a public or private sale at a price or prices determined by the authority. The authority is authorized to enter into any agreements necessary or desirable to effectuate the purposes of this section, including agreements to sell bonds or refunding bonds to any person and to comply with the laws of any jurisdiction relating thereto.

c. In connection with any bonds or refunding bonds issued or to be issued pursuant to this act, the authority may also enter into any revolving credit agreement, agreement establishing a line of credit or letter of credit, reimbursement agreement, interest rate exchange agreement, currency exchange agreement, interest rate floor or cap, options, puts or calls to

hedge payment, currency, rate, spread or similar exposure, or similar agreements, float agreements, forward agreements, insurance contract, surety bond, commitment to purchase or sell bonds, purchase or sale agreement, or commitments or other contracts or agreements and other security agreements approved by the authority.

d. No resolution adopted by the authority authorizing the issuance of bonds or refunding bonds pursuant to this act shall be adopted or otherwise made effective without the approval in writing of the State Treasurer. Except as provided by subsection i. of section 4 of P.L.1974, c.80 (C.34:1B-4), bonds or refunding bonds may be issued without obtaining the consent of any department, division, commission, board, bureau or agency of the State, other than the approval as required by this subsection, and without any other proceedings or the occurrence of any other conditions or other things other than those proceedings, conditions or things which are specifically required by this act.

e. Bonds and refunding bonds issued by the authority pursuant to this act shall be special and limited obligations of the authority payable from, and secured by, such funds and moneys determined by the authority in accordance with this section. Neither the members of the authority nor any other person executing the bonds or refunding bonds shall be personally liable with respect to payment of interest and principal on these bonds or refunding bonds. Bonds or refunding bonds issued pursuant to the provisions of this act shall not be a debt or liability of the State or any agency or instrumentality thereof, other than a special and limited obligation of the authority, either legal, moral or otherwise, and nothing contained in this act shall be construed to authorize the authority to incur any indebtedness on behalf of or in any way to obligate the State or any political subdivision thereof, other than the authority, and all bonds and refunding bonds issued by the authority shall contain a statement to that effect on their face.

f. The authority is authorized to engage, subject to the approval of the State Treasurer and in such manner as the State Treasurer shall determine, the services of bond counsel, financial advisors and experts, placement agents, underwriters, trustees, verification agents, remarketing agents, auction agents, broker-dealers, appraisers, and such other advisors, consultants and agents as may be necessary to effectuate the purposes of this act.

g. All bonds or refunding bonds issued by the authority pursuant to this act are deemed to be issued by a body corporate and politic of the State for an essential governmental purpose, and the interest thereon and the income derived from all funds, revenues, incomes and other moneys received for or to be received by the authority and pledged and available to pay or secure the payment of bonds or refunding bonds and the interest

thereon, shall be exempt from all taxes levied pursuant to the provisions of Title 54 of the Revised Statutes or Title 54A of the New Jersey Statutes, except for transfer inheritance and estate taxes levied pursuant to Subtitle 5 of Title 54 of the Revised Statutes.

h. The State hereby pledges and covenants with the holders of any bonds or refunding bonds issued pursuant to the provisions of this act, that it will not limit or alter the rights or powers vested in the authority by this act, nor limit or alter the rights or powers of the State Treasurer in any manner which would jeopardize the interest of the holders or any trustee of such holders, or inhibit or prevent performance or fulfillment by the authority or the State Treasurer with respect to the terms of any agreement made with the holders of these bonds or refunding bonds or agreements made pursuant to subsection c. of this section, except that the failure of the State Legislature to appropriate moneys for any purpose of this act shall not be deemed a violation of this section.

i. Notwithstanding any restriction contained in any other law, rule, regulation or order to the contrary, the State and all political subdivisions of this State, their officers, boards, commissioners, departments or other agencies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, saving and loan associations, investment companies and other persons carrying on a banking or investment business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries, and all other persons whatsoever who now are or may hereafter be authorized to invest in bonds or other obligations of the State, may properly and legally invest any sinking funds, moneys or other funds, including capital, belonging to them or within their control, in any bonds or refunding bonds issued by the authority under the provisions of this act; and said bonds and refunding bonds are hereby made securities which may properly and legally be deposited with, and received by any State or municipal officers or agency of the State, for any purpose for which the deposit of bonds or other obligations of the State is now, or may hereafter be, authorized by law.

**C.34:1B-21.27 "Unsafe Driving Surcharges Fund."**

5. There is hereby established in the Department of the Treasury a special nonlapsing fund to be known as the "Unsafe Driving Surcharges Fund" which, beginning July 1, 2006, shall be comprised of all unsafe driving surcharges and any interest or other income earned thereon. Moneys in the Unsafe Driving Surcharges Fund shall be managed and invested by the Division of Investment in the Department of the Treasury. All moneys in the Unsafe Driving Surcharges Fund shall be disbursed not

less frequently than monthly by the State Treasurer, upon appropriation, to the Motor Vehicle Surcharges Revenue Fund until all bonds and refunding bonds issued or entered into pursuant to section 4 of this act and the costs thereof have been paid in full.

**C.34:1B-21.28 "Motor Vehicle Surcharges Revenue Fund."**

6. a. There is created within the authority a special nonlapsing fund, to be known as the "Motor Vehicle Surcharges Revenue Fund." The Motor Vehicle Surcharges Revenue Fund shall consist of:

- (1) such moneys as may be appropriated to the Motor Vehicle Surcharges Revenue Fund by the Legislature and paid to the authority by the State Treasurer from Dedicated Motor Vehicle Surcharges Revenues;
- (2) interest or other income derived from the investment of moneys in the Motor Vehicle Surcharges Revenue Fund; and
- (3) any other moneys as may be deposited from time to time, except that such moneys shall not be appropriated from the General Fund.

b. In each State fiscal year during which the authority has outstanding bonds or refunding bonds which have been issued pursuant to this act, moneys in the Motor Vehicle Surcharges Revenue Fund may be used by the authority, in accordance with the provisions of any bond resolutions authorizing the issuance of bonds or refunding bonds pursuant to this act and any contract between the authority and the State Treasurer authorized and entered into pursuant to section 7 of this act, to pay debt service payable on the authority's then outstanding bonds or refunding bonds issued pursuant to this act and any amounts due in connection with any agreements entered into pursuant to subsection c. of section 4 of this act due in such fiscal year, to replenish any reserve or other fund established for such bonds or refunding bonds issued in accordance with subsection a. of section 4 of this act, and to pay any and all other additional amounts as shall be authorized by this act and required to be paid by the authority during such fiscal year, provided however, that the payment of all such amounts to the authority by the State Treasurer shall be subject to and dependent upon appropriations being made from time to time by the Legislature of the amounts thereof for the purposes of this act. Notwithstanding any other provision of any law, rule, regulation or order to the contrary, the authority shall be paid only such amounts as shall be required by the provisions of any contract between the authority and the State Treasurer authorized and entered into pursuant to section 7 of this act and the incurrence of any obligation of the State under any such contract, including any payments to be made thereunder, shall be subject to and dependent upon appropriations being made from time to time by the Legislature for the purposes of this act.



c. In each fiscal year beginning on or after July 1, 2006, all amounts on deposit in the Motor Vehicle Surcharges Revenue Fund in excess of the amount necessary to pay any amounts required to be paid by the authority pursuant to any bond resolutions authorizing the issuance of bonds or refunding bonds pursuant to this act or pursuant to any contract between the authority and the State Treasurer authorized or entered into pursuant to section 7 of this act and payable during such fiscal year shall be transferred to the General Fund, provided that the first \$7,500,000 of such moneys so transferred in each fiscal year shall be remitted to the "Alcohol Treatment Programs Fund" created in section 2 of P.L.2001, c.48 (C.26:2B-9.2).

**C.34:1B-21.29 Contracts to implement payment arrangement.**

7. The State Treasurer and the authority are authorized to enter into one or more contracts to implement the payment arrangement that is provided for in section 5 of this act. The contract or contracts shall provide for payment by the State Treasurer of the dedicated motor vehicle surcharge revenues and shall set forth the procedure for the transfer of moneys for the purpose of paying such amounts. The contract or contracts shall contain such terms and conditions as are determined by the authority and the State Treasurer, and shall include, but not be limited to, terms and conditions necessary and desirable to secure any bonds or refunding bonds of the authority issued under and pursuant to this act and the obligations of the authority under any agreement entered into pursuant to subsection c. of section 4 of this act; provided however, that notwithstanding any other provision of any law, rule, regulation or order to the contrary, the authority shall be paid only such amounts as shall be required by the provisions of any contract or contracts, and the incurrence of any obligation of the State under any such contract or contracts, including any payments to be made thereunder from the dedicated motor vehicle surcharge revenues, shall be subject to and dependent upon appropriations being made from time to time by the Legislature for the purposes of this act.

8. Section 7 of P.L.1994, c.57 (C.34:1B-21.7) is amended to read as follows:

**C.34:1B-21.7 "Market Transition Facility Revenue Fund."**

7. There is created within the authority a special nonlapsing fund, to be known as the "Market Transition Facility Revenue Fund." The Facility Revenue Fund shall consist of:

a. Such moneys as may be transferred to the Facility Revenue Fund by the State Treasurer, upon appropriation by the Legislature, pursuant to section 14 of P.L.1994, c.57 (C.34:1B-21.14);

b. Such moneys as may be appropriated to the Facility Revenue Fund by the Legislature from surcharges levied pursuant to the provisions of subsection b. of section 6 of P.L.1983, c.65 (C.17:29A-35), except that any such moneys in excess of the amounts required to be used by the authority pursuant to any bond resolutions authorizing the issuance of Market Transition Facility bonds and notes, the authority's agreement with the State Treasurer authorized by section 13 of P.L.1994, c.57 (C.34:1B-21.13) and any bond resolutions authorizing the issuance of Motor Vehicle Commission bonds and notes shall be at least annually remitted

(1) in each fiscal year commencing prior to July 1, 2006, to the General Fund provided that the first \$7,500,000 of such moneys so transferred in each such fiscal year shall be remitted to the "Alcohol Treatment Programs Fund" created in section 2 of P.L.2001, c.48 (C.26:2B-9.2); and

(2) in each fiscal year commencing on or after July 1, 2006, to the Motor Vehicle Surcharges Revenue Fund established pursuant to section 6 of the "Motor Vehicle Surcharges Securitization Act of 2004," P.L.2004, c.70 (C.34:1B-21.28), to be applied as set forth therein, until such time as all bonds, notes and other obligations issued or entered into pursuant to section 4 of P.L.2004, c.70 (C.34:1B-21.26) and the costs thereof are discharged and no longer outstanding;

c. Interest or other income derived from the investment of moneys in the Facility Revenue Fund; and

d. Any other moneys as may be deposited from time to time, except that such moneys shall not be appropriated from the General Fund.

Moneys in the Facility Revenue Fund shall be managed and invested by the Division of Investment in the Department of the Treasury.

9. Section 12 of P.L.1994, c.57 (C.34:1B-21.12) is amended to read as follows:

**C.34:1B-21.12 "Division of Motor Vehicles Surcharge Fund."**

12. There is created within the Department of the Treasury a special nonlapsing fund to be known as the "Division of Motor Vehicles Surcharge Fund," which, beginning September 1, 1996 or earlier as provided pursuant to this section, shall be comprised of moneys transferred to the DMV Surcharge Fund from the Market Transition Facility which, notwithstanding the provisions of this section to the contrary, may be appropriated, immediately upon receipt from the Market Transition Facility, by the Legislature to the Facility Revenue Fund and all moneys collected pursu-

ant to subsection b. of section 6 of P.L.1983, c.65 (C.17:29A-35) and any interest or other income earned thereon. Moneys in the DMV Surcharge Fund shall be managed and invested by the Division of Investment in the Department of the Treasury. Commencing September 1, 1996, or at such earlier time as may be certified by the commissioner that moneys on deposit in the New Jersey Automobile Insurance Guaranty Fund created pursuant to section 23 of P.L.1990, c.8 (C.17:33B-5) are sufficient to satisfy the current and anticipated financial obligations of the New Jersey Automobile Full Insurance Underwriting Association, the moneys in the DMV Surcharge Fund shall be disbursed from time to time by the State Treasurer, upon appropriation by the Legislature, to the Market Transition Facility Revenue Fund, for payment of principal, interest and premium on the Market Transition Facility bonds or notes and New Jersey Motor Vehicle Commission bonds or notes issued by the authority pursuant to section 4 of P.L.1994, c.57 (C.34:1B-21.4). From and after such time as all Market Transition Facility bonds, notes and obligations and all New Jersey Motor Vehicle Commission bonds, notes and obligations issued pursuant to section 4 of P.L.1994, c.57 (C.34:1B-21.4) and the costs thereof are discharged and no longer outstanding, all amounts on deposit in the DMV Surcharge Fund shall be disbursed from time to time by the State Treasurer, upon appropriation by the Legislature, to the Motor Vehicle Surcharges Revenue Fund established pursuant to section 6 of the "Motor Vehicle Surcharges Securitization Act of 2004," P.L.2004, c.70 (C.34:1B-21.28) to be applied as set forth in section 6 of P.L.2004, c.70 (C.34:1B-21.28) until such time as all bonds (including refunding bonds), notes and other obligations issued or entered into pursuant to section 4 of P.L.2004, c.70 (C.34:1B-21.26) and the costs thereof are discharged and no longer outstanding.

10. Section 6 of P.L.1983, c.65 (C.17:29A-35) is amended to read as follows:

**C.17:29A-35 New Jersey Merit Rating Plan.**

6. a. (Deleted by amendment, P.L.1997, c.151.)

b. There is created a New Jersey Merit Rating Plan which shall apply to all drivers and shall include, but not be limited to, the following provisions

(1) (a) Plan surcharges shall be levied, beginning on or after January 1, 1984, by the New Jersey Motor Vehicle Commission (hereafter the "commission") established by section 4 of P.L.2003, c.13 (C.39:2A-4) on any driver who, in the preceding 36-month period, has accumulated six or more motor vehicle points, as provided in Title 39 of the Revised

Statutes; except that the allowance for a reduction of points in Title 39 of the Revised Statutes shall not apply for the purpose of determining surcharges under this paragraph. The accumulation of points shall be calculated as of the date the point violation is posted to the driver history record and shall be levied pursuant to rules promulgated by the commission. Surcharges assessed pursuant to this paragraph shall be \$150.00 for six points, and \$25.00 for each additional point. No offense shall be selected for billing which occurred prior to February 10, 1983. No offense shall be considered for billing in more than three annual assessments.

(b) (Deleted by amendment, P.L.1984, c.1.)

(2) (a) Plan surcharges shall be levied pursuant to subsection f. of section 1 of P.L.2000, c.75 (C.39:4-97.2) for each offense of unsafe driving under subsection a. of that section.

(b) Plan surcharges shall be levied for convictions (i) under R.S.39:4-50 for violations occurring on or after February 10, 1983, and (ii) under section 2 of P.L.1981, c.512 (C.39:4-50.4a), or for offenses committed in other jurisdictions of a substantially similar nature to those under R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a), for violations occurring on or after January 26, 1984. Except as hereinafter provided, surcharges under this subparagraph (b) shall be levied annually for a three-year period, and shall be \$1,000.00 per year for each of the first two convictions, for a total surcharge of \$3,000 for each conviction, and \$1,500.00 per year for the third conviction occurring within a three-year period, for a total surcharge of \$4,500 for the third conviction. If a driver is convicted under both R.S.39:4-50 and section 2 of P.L.1981, c.512 (C.39:4-50.4a) for offenses arising out of the same incident, the driver shall be assessed only one surcharge for the two offenses.

If, upon written notification from the commission or its designee, mailed to the last address of record with the commission, a driver fails to pay a surcharge levied under subparagraph (b) of paragraph (2) of this subsection b., the driving privilege of the driver shall be suspended forthwith until the minimum payment requirement as set forth by rule by the commission is paid to the commission; except that the commission may authorize payment of the surcharge on an installment basis over a period not to exceed 12 months for assessments under \$2,300 or 24 months for assessments of \$2,300 or more. If a driver fails to pay the surcharge or any installments on the surcharge, the total surcharge shall become due immediately, except as otherwise prescribed by rule of the commission.

The commission may authorize any person to pay the surcharge levied under this section and collectible by the commission by use of a credit card, debit card or other electronic payment device, and the administrator is authorized to require the person to pay all costs incurred by the commis-

sion in connection with the acceptance of the credit card, debit card or other electronic payment device. If a surcharge or related administrative fee is paid by credit or debit cards or any other electronic payment device and the amount is subsequently reversed by the credit card company or bank, the driving privilege of the surcharged driver shall be suspended and the driver shall be subject to the fee imposed for dishonored checks pursuant to section 31 of P.L.1994, c.60 (C.39:5-36.1).

In addition to any other remedy provided by law, the commission is authorized to utilize the provisions of the SOIL (Set off of Individual Liability) program established pursuant to P.L.1981, c.239 (C.54A:9-8.1 et seq.) to collect any surcharge levied under this section that and collectible by the commission is unpaid on or after the effective date of this act. As an additional remedy, the commission may issue a certificate to the Clerk of the Superior Court stating that the person identified in the certificate is indebted under this surcharge law in such amount as shall be stated in the certificate. The certificate shall reference the statute under which the indebtedness arises. Thereupon the clerk to whom such certificate shall have been issued shall immediately enter upon the record of docketed judgments the name of such person as debtor; the State as creditor; the address of such person, if shown in the certificate; the amount of the debt so certified; a reference to the statute under which the surcharge is assessed, and the date of making such entries. The docketing of the entries shall have the same force and effect as a civil judgment docketed in the Superior Court, and the commission shall have all the remedies and may take all of the proceedings for the collection thereof which may be had or taken upon the recovery of a judgment in an action, but without prejudice to any right of appeal. Upon entry by the clerk of the certificate in the record of docketed judgments in accordance with this provision, interest in the amount specified by the court rules for post-judgment interest shall accrue from the date of the docketing of the certificate, however payment of the interest may be waived by the commission or its designee. In the event that the surcharge remains unpaid following the issuance of the certificate of debt and the commission takes any further collection action including referral of the matter to the Attorney General or his designee, the fee imposed, in lieu of the actual cost of collection, may be 20 percent of surcharges of \$1,000 or more. The administrator or his designee may establish a sliding scale, not to exceed a maximum amount of \$200, for surcharge principal amounts of less than \$1,000 at the time the certificate of debt is forwarded to the Superior Court for filing. The commission shall provide written notification to a driver of the proposed filing of the certificate of debt at least 10 days prior to the proposed filing; such notice shall be mailed to the driver's last address of record with the commission.

If a certificate of debt is satisfied following a credit card payment, debit card payment or payment by other electronic payment device and that payment is reversed, a new certificate of debt shall be filed against the surcharged driver unless the original is reinstated.

If the administrator or his designee approves a special payment plan for repayment of the certificate of debt, and the driver is complying with the approved plan, the plan may be continued for any new surcharge not part of the certificate of debt.

All moneys collectible by the commission under subparagraph (b) of paragraph (2) of this subsection b. shall be billed and collected by the commission except as provided in P.L.1997, c.280 (C.2B:19-10 et al.) for the collection of unpaid surcharges. Commencing on September 1, 1996, or such earlier time as the Commissioner of Banking and Insurance shall certify to the State Treasurer that amounts on deposit in the New Jersey Automobile Insurance Guaranty Fund are sufficient to satisfy the current and anticipated financial obligations of the New Jersey Automobile Full Insurance Underwriting Association, all plan surcharges collected by the commission under subparagraph (b) of paragraph (2) of this subsection b. shall be remitted to the Division of Motor Vehicles Surcharge Fund:

(i) for transfer to the Market Transition Facility Revenue Fund, as provided in section 12 of P.L.1994, c.57 (C.34:1B-21.12), for the purposes of section 4 of P.L.1994, c.57 (C.34:1B-21.4) until such a time as all the Market Transition Facility bonds, notes and obligations and all Motor Vehicle Commission bonds, notes and obligations issued pursuant to that section 4 of P.L.1994, c.57 (C.34:1B-21.4) and the costs thereof are discharged and no longer outstanding; and

(ii) from and after the date of certification by the Commissioner of Banking and Insurance that the moneys collectible under subparagraph (b) of paragraph (2) of this subsection b. are no longer needed to fund the association or at such time as all Market Transition Facility bonds, notes and obligations and all Motor Vehicle Commission bonds, notes and obligations issued pursuant to section 4 of P.L.1994, c.57 (C.34:1B-21.4) and the costs thereof are discharged and no longer outstanding, for transfer to the Motor Vehicle Surcharges Revenue Fund established pursuant to section 6 of the "Motor Vehicle Surcharges Securitization Act of 2004," P.L.2004, c.70 (C.34:1B-21.28) to be applied as set forth in section 6 that act. From and after such time as all bonds issued under section 4 of the "Motor Vehicle Surcharges Securitization Act of 2004," P.L.2004, c.70 (C.34:1B-21.26) and the costs thereof are discharged and no longer outstanding, all plan surcharges collected by the commission under subparagraph (b) of paragraph (2) of this subsection b. shall, subject to appropriation, be remitted to the New Jersey Property-Liability Insurance Guaranty

Association created pursuant to section 6 of P.L.1974, c.17 (C.17:30A-6) to be used for payment of any loans made by that association to the New Jersey Automobile Insurance Guaranty Fund pursuant to paragraph (10) of subsection a. of section 8 of P.L.1974, c.17 (C.17:30A-8); provided that all such payments shall be subject to and dependent upon appropriation by the State Legislature.

All surcharges collected by the courts as plan surcharges pursuant to subparagraph (a) of paragraph (2) of this subsection b. shall be forwarded not less frequently than monthly to the Division of Revenue. The Division of Revenue shall transfer: all such surcharges received prior to July 1, 2006, to the General Fund, and commencing July 1, 2006, all such surcharges to the Unsafe Driving Surcharge Revenue Fund established pursuant to section 5 of the "Motor Vehicle Surcharges Securitization Act of 2004," P.L.2004, c.70 (C.34:1B-21.27) to be applied as set forth in section 5 of that act. From and after such time as all bonds (including refunding bonds), notes and other obligations issued under section 4 of the "Motor Vehicle Surcharges Securitization Act of 2004," P.L.2004, c.70 (C.34:1B-21.26), and the costs thereof are discharged and no longer outstanding, all such plan surcharges collected by the courts pursuant to subparagraph (a) of paragraph (2) of this subsection b. and forwarded to the Division of Revenue shall be transferred to the General Fund.

Upon request, the Administrative Office of the Courts shall provide a monthly report to the Division of Revenue containing information on the number of convictions for the offense of unsafe driving pursuant to section 1 of P.L.2000, c.75 (C.39:4-97.2) that were entered during such month, the amount of the surcharges that were assessed by the courts pursuant to subsection f. of section 1 of P.L.2000, c.75 (C.39:4-97.2) for such month, and the amount of the surcharges collected by the courts pursuant to subsection f. of section 1 of P.L.2000, c.75 (C.39:4-97.2) during such month.

(3) In addition to any other authority provided in P.L.1983, c.65 (C.17:29A-33 et al.), the commissioner, after consultation with the commission, is specifically authorized (a) (Deleted by amendment, P.L.1994, c.64), (b) to impose, in accordance with subparagraph (a) of paragraph (1) of this subsection b., surcharges for motor vehicle violations or convictions for which motor vehicle points are not assessed under Title 39 of the Revised Statutes, or (c) to reduce the number of points for which surcharges may be assessed below the level provided in subparagraph (a) of paragraph (1) of this subsection b., except that the dollar amount of all surcharges levied under the New Jersey Merit Rating Plan shall be uniform on a Statewide basis for each filer, without regard to classification or territory. Surcharges adopted by the commissioner on or after January 1,

1984 for motor vehicle violations or convictions for which motor vehicle points are not assessable under Title 39 of the Revised Statutes shall not be retroactively applied but shall take effect on the date of the New Jersey Register in which notice of adoption appears or the effective date set forth in that notice, whichever is later.

c. No motor vehicle violation surcharges shall be levied on an automobile insurance policy issued or renewed on or after January 1, 1984, except in accordance with the New Jersey Merit Rating Plan, and all surcharges levied thereunder shall be assessed, collected and distributed in accordance with subsection b. of this section.

d. (Deleted by amendment, P.L.1990, c.8.)

e. The Commissioner of Banking and Insurance and the commission as may be appropriate, shall adopt any rules and regulations necessary or appropriate to effectuate the purposes of this section.

**C.34:1B-21.30 Motor Vehicle Surcharges Securitization Fund.**

11. There is hereby created in the Department of the Treasury a separate nonlapsing fund to be known as the Motor Vehicle Surcharges Securitization Fund. Revenue derived from bonds issued under the "Motor Vehicle Surcharges Securitization Act of 2004," P.L.2004, c.70 (C.34:1B-21.23 et al.) may be deposited into the Motor Vehicle Surcharges Securitization Fund and balances therein may be transferred to the General Fund.

12. The provisions of this act shall be severable, and if any of the provisions hereof shall be held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of any of the remaining provisions of this act.

13. This act shall take effect immediately.

Approved June 30, 2004.



**CHAPTER 71**

Note: In approving the following act, certain items were deleted or reduced by the Governor. For a statement of those items, see the Governor's statement appended to Senate Bill No. 2005, dated June 30, 2004.

AN ACT making appropriations for the support of the State Government and the several public purposes for the fiscal year ending June 30, 2005 and regulating the disbursement thereof.

**ANTICIPATED RESOURCES  
FOR THE FISCAL YEAR 2004 - 2005  
GENERAL FUND**

Undesignated Fund Balance July 1, 2004 ..... \$533,999,000

***Major Taxes***

|                                                    |                         |
|----------------------------------------------------|-------------------------|
| Sales .....                                        | \$6,600,000,000         |
| Corporation Business .....                         | 2,500,000,000           |
| Cigarette .....                                    | 678,000,000             |
| Motor Fuels .....                                  | 559,000,000             |
| Transfer Inheritance .....                         | 556,000,000             |
| Insurance Premiums .....                           | 449,000,000             |
| Motor Vehicle Fees .....                           | 301,094,000             |
| Realty Transfer .....                              | 286,000,000             |
| Petroleum Products Gross Receipts .....            | 212,000,000             |
| Corporation Banks and Financial Institutions ..... | 132,000,000             |
| Alcoholic Beverage Excise .....                    | 88,000,000              |
| Tobacco Products Wholesale Sales .....             | 10,000,000              |
| Public Utility Excise (Reform) .....               | <u>8,700,000</u>        |
| Total -- Major Taxes .....                         | <u>\$12,379,794,000</u> |

***Miscellaneous Taxes, Fees, Revenues***

Executive Branch --

Department of Agriculture:

|                                           |                  |
|-------------------------------------------|------------------|
| Fertilizer Inspection Fees .....          | \$291,000        |
| Miscellaneous Revenue .....               | <u>4,000</u>     |
| Subtotal, Department of Agriculture ..... | <u>\$295,000</u> |

Department of Banking and Insurance:

|                                          |           |
|------------------------------------------|-----------|
| Actuarial Services .....                 | \$52,000  |
| Bank Assessments .....                   | 3,800,000 |
| Banking -- Examination Fees .....        | 2,260,000 |
| Banking -- Licenses and Other Fees ..... | 6,000,000 |

**Matter within summary of appropriations is not enacted as part of the law and is intended to be for the purpose of displaying summaries of the items of appropriations set forth elsewhere.**

|                                                                               |                     |
|-------------------------------------------------------------------------------|---------------------|
| FAIR Act Administration .....                                                 | 15,000,000          |
| Fraud Fines .....                                                             | 2,000,000           |
| Insurance -- Special Purpose Assessment .....                                 | 16,500,000          |
| Insurance -- Examination Billings .....                                       | 2,100,000           |
| Insurance Fraud Prevention .....                                              | 34,000,000          |
| Insurance Licenses and Other Fees .....                                       | 12,530,000          |
| Real Estate Commission .....                                                  | <u>5,000,000</u>    |
| Subtotal, Department of Banking<br>and Insurance .....                        | <u>\$99,242,000</u> |
| Department of Community Affairs:                                              |                     |
| Affordable Housing and Neighborhood<br>Preservation --Fair Housing .....      | \$19,767,000        |
| Construction Fees .....                                                       | 12,372,000          |
| Divorce Filing Fees .....                                                     | 1,276,000           |
| Fire Safety .....                                                             | 14,745,000          |
| Housing Inspection Fees .....                                                 | 7,508,000           |
| Planned Real Estate Development Fees .....                                    | <u>828,000</u>      |
| Subtotal, Department of<br>Community Affairs .....                            | <u>\$56,496,000</u> |
| Department of Education:                                                      |                     |
| Audit Recoveries .....                                                        | \$1,000,000         |
| Audit of Enrollments .....                                                    | 1,600,000           |
| Local School District Loan Recoveries -- NJEDA . . .                          | 9,126,000           |
| Miscellaneous Revenue .....                                                   | 125,000             |
| Nonpublic Schools Handicapped and<br>Auxiliary Recoveries . . . . .           | 5,000,000           |
| Nonpublic Schools Textbook Recoveries .....                                   | 1,450,000           |
| School Construction Inspection Fees .....                                     | 3,246,000           |
| State Board of Examiners .....                                                | <u>2,554,000</u>    |
| Subtotal, Department of Education .....                                       | <u>\$24,101,000</u> |
| Department of Environmental Protection:                                       |                     |
| Air Pollution Fees .....                                                      | \$18,950,000        |
| Air Pollution Fines .....                                                     | 3,500,000           |
| Air Toxics Surcharge .....                                                    | 6,000,000           |
| Clean Water Enforcement Act .....                                             | 2,700,000           |
| Coastal Area Development Review Act .....                                     | 1,800,000           |
| Endangered Species Tax Check-Off .....                                        | 269,000             |
| Environmental Infrastructure Financing Program --<br>Administrative Fee ..... | 5,000,000           |
| Excess Diversion .....                                                        | 283,000             |
| Freshwater Wetlands Fees .....                                                | 2,800,000           |
| Freshwater Wetlands Fines .....                                               | 50,000              |
| Hazardous Waste Fees .....                                                    | 2,230,000           |
| Hazardous Waste Fines .....                                                   | 400,000             |
| Hunters' and Anglers' Licenses .....                                          | 12,897,000          |
| Industrial Site Recovery Act .....                                            | 1,200,000           |
| Laboratory Certification Fees .....                                           | 780,000             |

|                                                              |                      |
|--------------------------------------------------------------|----------------------|
| Laboratory Certification Fines .....                         | 20,000               |
| Marina Rentals .....                                         | 885,000              |
| Marine Lands -- Preparation and Filing Fees .....            | 170,000              |
| Medical Waste .....                                          | 3,800,000            |
| New Jersey Pollutant Discharge<br>Elimination System .....   | 12,100,000           |
| Parks Management Fees and Permits .....                      | 4,300,000            |
| Parks Management Fines .....                                 | 184,000              |
| Pesticide Control Fees .....                                 | 4,000,000            |
| Pesticide Control Fines .....                                | 40,000               |
| Radiation Protection Fees .....                              | 4,701,000            |
| Radiation Protection Fines .....                             | 90,000               |
| Radon Testers Certification .....                            | 260,000              |
| Shellfish and Marine Fisheries .....                         | 7,000                |
| Solid Waste -- Utility Regulation Assessments .....          | 3,100,000            |
| Solid Waste Fines -- DEP .....                               | 700,000              |
| Solid Waste Management Fees -- DEP .....                     | 13,303,000           |
| Solid and Hazardous Waste Disclosure .....                   | 3,000,000            |
| Spring Meadow Golf Course .....                              | 300,000              |
| Stormwater Permits .....                                     | 5,800,000            |
| Stream Encroachment .....                                    | 2,600,000            |
| Toxic Catastrophe Prevention Fees .....                      | 1,550,000            |
| Toxic Catastrophe Prevention Fines .....                     | 40,000               |
| Treatment Works Approval .....                               | 2,073,000            |
| Underground Storage Tanks Fees .....                         | 1,000,000            |
| Water Allocation .....                                       | 2,050,000            |
| Water Supply Management Regulations .....                    | 1,387,000            |
| Water/Wastewater Operators Licenses .....                    | 215,000              |
| Waterfront Development Fees .....                            | 2,400,000            |
| Well Permits/Well Drillers/Pump<br>Installers Licenses ..... | 1,070,000            |
| Wetlands .....                                               | 24,000               |
| Worker and Community Right to Know -- Fines .....            | 60,000               |
| Subtotal, Department of<br>Environmental Protection .....    | <u>\$130,088,000</u> |
| Department of Health and Senior Services:                    |                      |
| Admission Charge Hospital Assessment .....                   | \$6,000,000          |
| HMO Covered Lives .....                                      | 2,600,000            |
| Health Care Reform .....                                     | 1,200,000            |
| Licenses, Fines, Permits, Penalties, and Fees .....          | 790,000              |
| Miscellaneous Revenue .....                                  | <u>400,000</u>       |
| Subtotal, Department of Health and<br>Senior Services .....  | <u>\$10,990,000</u>  |
| Department of Human Services:                                |                      |
| Child Care Licensing/Adoption Law .....                      | \$350,000            |
| Early Periodic Screening, Diagnosis and Treatment .....      | 4,000,000            |
| Marriage License Fees .....                                  | 1,450,000            |

|                                                                                   |                      |
|-----------------------------------------------------------------------------------|----------------------|
| Medicaid Uncompensated Care -- Acute . . . . .                                    | 319,942,000          |
| Medicaid Uncompensated Care -- Mental Health . .                                  | 31,307,000           |
| Medicaid Uncompensated Care -- Psychiatric . . . .                                | 178,685,000          |
| Medical Assistance -- Federal Match on PAAD/<br>Medicaid Dual Eligibles . . . . . | 2,200,000            |
| Miscellaneous Revenue . . . . .                                                   | 47,400,000           |
| Patients' and Residents' Cost Recoveries:                                         |                      |
| Developmental Disability . . . . .                                                | 14,809,000           |
| Psychiatric Hospitals . . . . .                                                   | 61,643,000           |
| School Based Medicaid . . . . .                                                   | 19,000,000           |
| Subtotal, Department of Human Services . . .                                      | <u>\$680,786,000</u> |
| Department of Labor and Workforce Development:                                    |                      |
| Special Compensation Fund . . . . .                                               | \$1,670,000          |
| Workers' Compensation Assessment . . . . .                                        | 12,014,000           |
| Workplace Standards -- Licenses, Permits and Fines .                              | <u>2,820,000</u>     |
| Subtotal, Department of Labor and<br>Workforce Development . . . . .              | <u>\$16,504,000</u>  |
| Department of Law and Public Safety: . . . . .                                    |                      |
| Authorities Recruit Class Reimbursement . . . . .                                 | \$2,500,000          |
| Beverage Licenses . . . . .                                                       | 3,960,000            |
| Division of Consumer Affairs:                                                     |                      |
| General Revenues:                                                                 |                      |
| Charities Registration Section . . . . .                                          | 695,000              |
| Controlled Dangerous Substances . . . . .                                         | 100,000              |
| Legalized Games of Chance Control . . . . .                                       | 1,200,000            |
| Private Employment Agencies . . . . .                                             | 258,000              |
| Securities Enforcement . . . . .                                                  | 8,994,000            |
| Weights and Measures -- General . . . . .                                         | 2,612,000            |
| Professional Examining Board Fees:                                                |                      |
| New Jersey Cemetery Board . . . . .                                               | 132,000              |
| State Board of Architects . . . . .                                               | 480,000              |
| State Board of Audiology and Speech -- Language<br>Pathology Advisory . . . . .   | 25,000               |
| State Board of Certified Psychoanalysts . . . . .                                 | 50,000               |
| State Board of Certified Public Accountants . . . .                               | 176,000              |
| State Board of Chiropractors . . . . .                                            | 240,000              |
| State Board of Cosmetology and Hairstyling . . .                                  | 2,680,000            |
| State Board of Dentistry . . . . .                                                | 280,000              |
| State Board of Electrical Contractors . . . . .                                   | 40,000               |
| State Board of Marriage Counselor Examiners . . .                                 | 400,000              |
| State Board of Master Plumbers . . . . .                                          | 640,000              |
| State Board of Medical Examiners . . . . .                                        | 4,400,000            |
| State Board of Mortuary Science . . . . .                                         | 320,000              |
| State Board of Nursing . . . . .                                                  | 3,900,000            |
| State Board of Occupational Therapists<br>and Assistants . . . . .                | 60,000               |

|                                                                          |                      |
|--------------------------------------------------------------------------|----------------------|
| State Board of Ophthalmic Dispensers and<br>Ophthalmic Technicians ..... | 48,000               |
| State Board of Optometrists .....                                        | 400,000              |
| State Board of Orthotics and Prosthesis .....                            | 80,000               |
| State Board of Pharmacy .....                                            | 760,000              |
| State Board of Physical Therapy .....                                    | 120,000              |
| State Board of Professional Engineers and Land<br>Surveyors .....        | 360,000              |
| State Board of Professional Planners .....                               | 40,000               |
| State Board of Psychological Examiners .....                             | 180,000              |
| State Board of Real Estate Appraisers .....                              | 120,000              |
| State Board of Respiratory Care .....                                    | 25,000               |
| State Board of Shorthand Reporting .....                                 | 25,000               |
| State Board of Social Workers .....                                      | 700,000              |
| State Board of Veterinary Medical Examiners ...                          | 360,000              |
| EDA School Construction Recoveries .....                                 | 800,000              |
| Pleasure Boat Licenses .....                                             | 3,200,000            |
| State Police -- Fingerprint Fees .....                                   | 2,694,000            |
| State Police -- Other Licenses .....                                     | 204,000              |
| State Police -- Private Detective Licenses .....                         | 220,000              |
| Violent Crime Compensation .....                                         | <u>3,930,000</u>     |
| Subtotal, Department of Law<br>and Public Safety .....                   | <u>\$48,408,000</u>  |
| Department of Military and Veterans' Affairs:                            |                      |
| Soldiers' Homes .....                                                    | <u>\$28,765,000</u>  |
| Subtotal, Department of Military<br>and Veterans' Affairs .....          | <u>\$28,765,000</u>  |
| Department of Transportation:                                            |                      |
| Air Safety Fund .....                                                    | \$965,000            |
| Applications and Highway Permits .....                                   | 1,300,000            |
| Auto Body Repair Shop Licensing .....                                    | 550,000              |
| Autonomous Transportation Authorities .....                              | 2,500,000            |
| Drunk Driving Fines .....                                                | 350,000              |
| Good Driver .....                                                        | 61,000,000           |
| Graduated Driver's License .....                                         | 1,350,000            |
| Heavy Duty Diesel Fines .....                                            | 400,000              |
| Interest on Purchase of Right-of-Way .....                               | 5,000                |
| Logo Sign Program Fees .....                                             | 300,000              |
| Motor Vehicle Database -- Automated Access. ...                          | 55,327,000           |
| Motor Vehicle Inspection Fund .....                                      | 76,710,000           |
| Motor Vehicle Surcharge Program .....                                    | 360,000              |
| Outdoor Advertising .....                                                | 10,740,000           |
| Salvage Title Program .....                                              | 980,000              |
| Special Plate Fees .....                                                 | 750,000              |
| Uninsured Motorists Program .....                                        | <u>3,400,000</u>     |
| Subtotal, Department of Transportation ....                              | <u>\$216,987,000</u> |

## Department of the Treasury:

|                                                 |                      |
|-------------------------------------------------|----------------------|
| Assessment on Houses Greater Than \$1 Million   | \$24,000,000         |
| Assessments -- Cable TV                         | 3,976,000            |
| Assessments -- Public Utility                   | 24,600,000           |
| Coin Operated Telephones                        | 4,100,000            |
| Commercial Recording -- Expedited               | 2,853,000            |
| Commissions                                     | 1,100,000            |
| Dormitory Safety Trust Fund --                  |                      |
| Debt Service Recovery                           | 5,731,000            |
| Equipment Leasing Fund -- Debt Service Recovery | 4,642,000            |
| Escrow Interest -- Construction Accounts        | 15,000               |
| General Revenue -- Fees                         | 32,380,000           |
| Higher Education Capital Improvement Fund --    |                      |
| Debt Service Recovery                           | 11,250,000           |
| Hotel Occupancy Tax                             | 65,118,000           |
| Miscellaneous Revenue                           | 260,000              |
| NJ Economic Development Authority               | 2,200,000            |
| NJ Public Records Preservation                  | 39,000,000           |
| Nuclear Emergency Response Assessment           | 4,073,000            |
| ODS Mediation Fees                              | 158,000              |
| Public Defender Client Receipts                 | 5,340,000            |
| Public Utility -- Customer Specific Tax         | 1,868,000            |
| Public Utility Gross Receipts and               |                      |
| Franchise Taxes (Water/Sewer)                   | 69,000,000           |
| Railroad Tax -- Class II                        | 3,100,000            |
| Railroad Tax -- Franchise                       | 590,000              |
| Rate Payer Advocate                             | 6,769,000            |
| Sale of Real Property                           | 5,000,000            |
| Surplus Property                                | 950,000              |
| Tax Enforcement                                 | 25,000,000           |
| Tire Clean-up Surcharge                         | 12,300,000           |
| Transitional Energy Facilities Assessment       | 222,200,000          |
| Telephone Assessment                            | 118,000,000          |
| Subtotal, Department of the Treasury            | <u>\$695,573,000</u> |

## Other Sources:

|                         |                  |
|-------------------------|------------------|
| Miscellaneous Revenue   | <u>\$500,000</u> |
| Subtotal, Other Sources | <u>\$500,000</u> |

## Inter-Departmental Accounts:

|                                                 |              |
|-------------------------------------------------|--------------|
| Administration and Investment of Pension and    |              |
| Health Benefit Funds - Recoveries               | \$48,000,000 |
| Employee Maintenance Deductions                 | 300,000      |
| Fringe Benefit Recoveries from Colleges         |              |
| and Universities                                | 102,369,000  |
| Fringe Benefit Recoveries from Federal and      |              |
| Other Funds                                     | 159,825,000  |
| Fringe Benefit Recoveries from School Districts | 32,000,000   |
| Indirect Cost Recovery -- DEP Other Funds       | 11,040,000   |

|                                                                  |                        |
|------------------------------------------------------------------|------------------------|
| MTF Revenue Fund .....                                           | 86,500,000             |
| Rent of State Building Space .....                               | 1,376,000              |
| Social Security Recoveries from Federal<br>and Other Funds ..... | <u>45,000,000</u>      |
| Subtotal, Inter-Departmental Accounts .....                      | <u>\$486,410,000</u>   |
| The Judiciary:                                                   |                        |
| Court Fees .....                                                 | <u>\$59,515,000</u>    |
| Subtotal, Judicial Branch .....                                  | <u>\$59,515,000</u>    |
| Total -- Miscellaneous Taxes, Fees, Revenues ..                  | <u>\$2,554,660,000</u> |

*Interfund Transfers*

|                                                                                                       |            |
|-------------------------------------------------------------------------------------------------------|------------|
| Beaches and Harbor Fund .....                                                                         | \$15,000   |
| Clean Waters Fund .....                                                                               | 18,000     |
| Correctional Facilities Construction Fund .....                                                       | 6,000      |
| Correctional Facilities Construction Fund -- 1987 .....                                               | 7,000      |
| Cultural Center and Historic Preservation Fund -- 1987 .....                                          | 35,000     |
| Development Potential Bank Transfer Fund 89 .....                                                     | 117,000    |
| Developmental Disabilities Waiting List Reduction Fund ...                                            | 557,000    |
| Dredging and Containment Facility Fund .....                                                          | 1,816,000  |
| Economic Development Site 1996 .....                                                                  | 39,000     |
| Emergency Flood Control Fund .....                                                                    | 7,000      |
| Energy Conservation Fund .....                                                                        | 28,000     |
| Enterprise Zone Assistance Fund .....                                                                 | 2,050,000  |
| Environmental Clean-Up Fund -- 1996 .....                                                             | 194,000    |
| Garden State Farmland Preservation Trust Fund .....                                                   | 1,764,000  |
| Garden State Green Acres Preservation Trust Fund .....                                                | 5,006,000  |
| Garden State Historic Preservation Fund .....                                                         | 609,000    |
| Hazardous Discharge Fund .....                                                                        | 2,000      |
| Hazardous Discharge Fund of 1986 .....                                                                | 3,000      |
| Hazardous Discharge Site Cleanup Fund .....                                                           | 17,637,000 |
| Historic Preservation Fund -- 1995 .....                                                              | 39,000     |
| Housing Assistance Fund .....                                                                         | 50,000     |
| Institutions Construction Fund .....                                                                  | 1,000      |
| Jobs, Education and Competitiveness Fund .....                                                        | 50,000     |
| Judiciary Bail Fund .....                                                                             | 300,000    |
| Judiciary Child Support and Paternity Fund .....                                                      | 275,000    |
| Judiciary Probation Fund .....                                                                        | 105,000    |
| Judiciary Special Civil Fund .....                                                                    | 30,000     |
| Judiciary Superior Court Miscellaneous Fund .....                                                     | 55,000     |
| Legal Services Trust Fund .....                                                                       | 10,750,000 |
| Medical Education Facilities Fund .....                                                               | 5,000      |
| Mortgage Assistance Fund .....                                                                        | 760,000    |
| Motor Vehicle Security Responsibility Fund .....                                                      | 4,000      |
| New Jersey Bridge Rehabilitation and Improvement and<br>Railroad Right-of-Way Preservation Fund ..... | 55,000     |
| Natural Resources Fund .....                                                                          | 330,000    |

|                                                                                           |                         |
|-------------------------------------------------------------------------------------------|-------------------------|
| NJ Coastal Blue Acres Trust Fund .....                                                    | 97,000                  |
| New Jersey Green Acres Fund (Act of 1983) .....                                           | 197,000                 |
| New Jersey Green Acres Fund (Act of 1995) .....                                           | 300,000                 |
| New Jersey Green Trust Fund (Act of 1992) .....                                           | 855,000                 |
| New Jersey Green Trust Fund (Act of 1995) .....                                           | 1,000,000               |
| New Jersey Spill Compensation Fund .....                                                  | 11,661,000              |
| Pollution Prevention Fund .....                                                           | 2,380,000               |
| Public Purpose Buildings Construction Fund .....                                          | 1,000                   |
| Public Purpose Buildings and Community-Based Facilities<br>Construction Fund .....        | 42,000                  |
| Safe Drinking Water Fund .....                                                            | 2,339,000               |
| School Fund Investment Account .....                                                      | 2,931,000               |
| Shore Protection Fund .....                                                               | 181,000                 |
| Solid Waste Services Tax Fund .....                                                       | 50,000                  |
| State Disability Benefit Fund General Account .....                                       | 136,304,000             |
| State Land Acquisition and Development Fund .....                                         | 5,000                   |
| State Lottery Fund .....                                                                  | 795,000,000             |
| State Lottery Fund Administration .....                                                   | 21,491,000              |
| State Recreation and Conservation Land Acquisition and<br>Development (Act of 1974) ..... | 5,000                   |
| State Recycling Fund .....                                                                | 1,046,000               |
| State of New Jersey Cash Management Fund .....                                            | 3,256,000               |
| Statewide Transportation and Bridge Fund -- 1999 .....                                    | 2,100,000               |
| Supplemental Workforce Fund for Basic Skills .....                                        | 2,000,000               |
| Transportation Rehabilitation and Improvement<br>Fund of 1979 .....                       | 3,000                   |
| Unclaimed Insurance Payments .....                                                        | 20,000                  |
| Unclaimed Personal Property Trust Fund .....                                              | 194,075,000             |
| Unclaimed Utility Deposit .....                                                           | 45,000                  |
| Unemployment Compensation Tax Auxiliary Fund .....                                        | 17,530,000              |
| Universal Service Fund .....                                                              | 72,000,000              |
| Wage and Hour Trust Fund .....                                                            | 75,000                  |
| Wastewater Treatment Fund 1992 .....                                                      | 233,000                 |
| Water Conservation Fund .....                                                             | 20,000                  |
| Water Supply Fund .....                                                                   | 3,779,000               |
| Worker and Community Right to Know Fund .....                                             | 3,484,000               |
| Workforce Development Partnership Fund .....                                              | 17,042,000              |
| Cigarette Tax Securitization .....                                                        | 1,190,000,000           |
| Motor Vehicle Securitization .....                                                        | 740,000,000             |
| Mutual Workers' Compensation Security Fund .....                                          | 5,000,000               |
| Total -- Interfund Transfers .....                                                        | <u>\$3,269,266,000</u>  |
| Total State Revenues, General Fund .....                                                  | <u>\$18,203,720,000</u> |
| Total Resources, General Fund .....                                                       | <u>\$18,737,719,000</u> |

***Surplus Revenue Fund***

|                                               |                      |
|-----------------------------------------------|----------------------|
| Undesignated Fund Balance, July 1, 2004 ..... | <u>\$288,017,000</u> |
| Total Resources, Surplus Revenue Fund .....   | <u>\$288,017,000</u> |



***Property Tax Relief Fund***

|                                                 |                        |
|-------------------------------------------------|------------------------|
| Undesignated Fund Balance, July 1, 2004 .....   | \$0                    |
| Gross Income Tax .....                          | <u>8,855,000,000</u>   |
| Total Resources, Property Tax Relief Fund ..... | <u>\$8,855,000,000</u> |

***Casino Control Fund***

|                                               |                   |
|-----------------------------------------------|-------------------|
| Undesignated Fund Balance, July 1, 2004 ..... | \$2,339,000       |
| License Fees .....                            | <u>65,600,000</u> |
| Total Resources, Casino Control Fund .....    | <u>67,939,000</u> |

***Casino Revenue Fund***

|                                               |                      |
|-----------------------------------------------|----------------------|
| Undesignated Fund Balance, July 1, 2004 ..... | \$0                  |
| Casino Simulcasting Fund .....                | 700,000              |
| Gross Revenue Tax .....                       | 384,000,000          |
| Investment Earnings .....                     | 180,000              |
| Newly Enacted Casino Taxes and Fees .....     | <u>90,000,000</u>    |
| Total Resources, Casino Revenue Fund .....    | <u>\$474,880,000</u> |

***Gubernatorial Elections Fund***

|                                                     |                    |
|-----------------------------------------------------|--------------------|
| Undesignated Fund Balance, July 1, 2004 .....       | \$2,206,000        |
| Taxpayers' Designations .....                       | <u>1,500,000</u>   |
| Total Resources, Gubernatorial Elections Fund ..... | <u>\$3,706,000</u> |

Total Resources, All State Funds ..... \$28,427,261,000

***Federal Revenue*****Executive Branch --****Department of Agriculture:**

|                                              |                      |
|----------------------------------------------|----------------------|
| Child Care Food .....                        | \$48,000,000         |
| Child Nutrition -- School Breakfast .....    | 30,000,000           |
| Child Nutrition -- School Lunch .....        | 154,356,000          |
| Child Nutrition -- Special Milk .....        | 1,400,000            |
| Child Nutrition -- Summer Programs .....     | 9,247,000            |
| Child Nutrition -- Administration .....      | 3,725,000            |
| Cooperative Gypsy Moth Suppression .....     | 235,000              |
| Farm Risk Management Education Program ..... | 307,000              |
| Farmland Preservation .....                  | 6,000,000            |
| Fish Inspection Services .....               | 100,000              |
| Jobs Bill .....                              | 1,454,000            |
| Team Nutrition Training .....                | 225,000              |
| Various Federal Programs and Accruals .....  | <u>1,070,000</u>     |
| Subtotal, Department of Agriculture .....    | <u>\$256,119,000</u> |

**Department of Community Affairs:**

|                                        |              |
|----------------------------------------|--------------|
| Community Services Block Grant .....   | \$17,699,000 |
| Emergency Shelter Grants Program ..... | 1,600,000    |
| Fair Housing Initiatives Grant .....   | 85,000       |

|                                                      |                      |
|------------------------------------------------------|----------------------|
| Lead-Based Paint Abatement in Low and Moderate       |                      |
| Income Housing .....                                 | 3,000,000            |
| Moderate Rehabilitation Housing Assistance .....     | 11,925,000           |
| National Affordable Housing -- HOME                  |                      |
| Investment Partnerships .....                        | 8,167,000            |
| National Fire Academy Training Program .....         | 30,000               |
| Section 8 Housing Voucher Program .....              | 173,000,000          |
| Shelter Plus Care Program .....                      | 5,950,000            |
| Small Cities Block Grant Program .....               | 9,746,000            |
| Weatherization Assistance Program .....              | 5,169,000            |
| Various Federal Programs and Accruals .....          | <u>241,000</u>       |
| Subtotal, Department of                              |                      |
| Community Affairs .....                              | <u>\$236,612,000</u> |
| Department of Corrections:                           |                      |
| Project In-Side .....                                | \$541,000            |
| State Criminal Alien Assistance Program .....        | 3,832,000            |
| Various Federal Programs and Accruals .....          | <u>50,000</u>        |
| Subtotal, Department of Corrections .....            | <u>\$4,423,000</u>   |
| Department of Education:                             |                      |
| 21st Century Schools .....                           | \$21,893,000         |
| AIDS Prevention Education .....                      | 272,000              |
| Bilingual and Compensatory Education --              |                      |
| Homeless Children and Youth .....                    | 1,281,000            |
| Byrd Scholarship Program .....                       | 1,200,000            |
| Character Education Partnership .....                | 539,000              |
| Drug-Free Schools and Communities --                 |                      |
| Administration .....                                 | 2,196,000            |
| Drug-Free Schools and Communities --                 |                      |
| Discretionary .....                                  | 8,514,000            |
| Educational Technology .....                         | 13,390,000           |
| Even Start Family Literacy Grant -- Discretionary .. | 4,593,000            |
| Grants Management .....                              | 2,516,000            |
| IASA Consolidated Administration .....               | 5,362,000            |
| IDEA -- Handicapped .....                            | 319,767,000          |
| IDEA -- Preschool Incentive Grant .....              | 11,737,000           |
| Improving Teacher Quality -- Higher Education ..     | 1,800,000            |
| Language Acquisition State Grants .....              | 15,840,000           |
| Mathematics and Science Partnership Grants .....     | 2,504,000            |
| Migrant Education -- Administration/Discretionary .. | 2,117,000            |
| National Community Service --                        |                      |
| Learn and Serve America .....                        | 574,000              |
| Public Charter Schools .....                         | 4,000,000            |
| Refugee Children School Impact Program .....         | 618,000              |
| State Assessments .....                              | 9,637,000            |
| State Grants for Improving Teacher Quality .....     | 63,684,000           |
| State Improvement Grant, Administration .....        | 1,260,000            |
| Teacher Quality Enhancement -- DA .....              | <u>3,179,000</u>     |

|                                                                               |                      |
|-------------------------------------------------------------------------------|----------------------|
| Title I -- Comprehensive School Reform .....                                  | 7,350,000            |
| Title I -- LEA Disadvantaged .....                                            | 264,860,000          |
| Title I, Part D -- Neglected & Delinquent .....                               | 2,340,000            |
| Title I -- Reading First State Grant .....                                    | 17,860,000           |
| Title V Innovative Program Strategies .....                                   | 8,351,000            |
| Vocational Education Basic Grants,<br>Administration .....                    | 24,551,000           |
| Vocational Education Technical<br>Preparation Title III-E .....               | 2,251,000            |
| Various Federal Programs and Accruals .....                                   | 405,000              |
| Subtotal, Department of Education .....                                       | <u>\$826,441,000</u> |
| Department of Environmental Protection:                                       |                      |
| Air Pollution Maintenance Program .....                                       | \$6,319,000          |
| Americorps .....                                                              | 300,000              |
| Artificial Reef Program .....                                                 | 1,125,000            |
| Asian Longhorned Beetle Project .....                                         | 100,000              |
| Atlantic Coastal Cooperative Program .....                                    | 150,000              |
| Boat Access (Fish and Game) .....                                             | 1,000,000            |
| Brownfields .....                                                             | 5,000,000            |
| Cape May Penninsular Project (Sandritter Project) ...                         | 300,000              |
| Cheesequake Marshland Acquisition .....                                       | 1,000,000            |
| Clean Lakes Program .....                                                     | 500,000              |
| Clean Vessels .....                                                           | 1,000,000            |
| Coastal Estuarine Land Program .....                                          | 6,000,000            |
| Coastal Zone Management Implementation .....                                  | 6,200,000            |
| Community Assistance Program .....                                            | 200,000              |
| Community and Public Water Supply<br>Operators -- Expense Reimbursement ..... | 1,500,000            |
| Comprehensive Wildfire Conservation Plan<br>Coordination Federal Share .....  | 32,000               |
| Consolidated Forest Management .....                                          | 1,374,000            |
| Construction Grants Program .....                                             | 57,600,000           |
| Countrywide Wildfire Defense .....                                            | 50,000               |
| Defensible Space .....                                                        | 350,000              |
| Delaware Bay .....                                                            | 1,000,000            |
| Economic Action Program .....                                                 | 50,000               |
| Endangered Species .....                                                      | 75,000               |
| Endangered and Nongame Species Program<br>State Wildlife Grants .....         | 1,200,000            |
| Environmental Justice .....                                                   | 100,000              |
| Firewise in the Pines .....                                                   | 200,000              |
| Fish and Wildlife Health .....                                                | 190,000              |
| Forest Legacy .....                                                           | 10,040,000           |
| Forest Resource Management -- Cooperative<br>Forest Fire Control .....        | 1,725,000            |
| Grassland Habitat Project .....                                               | 200,000              |

|                                                  |            |
|--------------------------------------------------|------------|
| Hazardous Waste -- Resource Conservation         |            |
| Recovery Act                                     | 4,281,000  |
| Historic Preservation Survey & Planning          | 2,000,000  |
| Hunters' and Anglers' License Fund               | 6,365,000  |
| Intermodal Surface Transportation Efficiency Act | 10,320,000 |
| Investigation and Management of NJ's Nongame     |            |
| Freshwater Fisheries Resources                   | 150,000    |
| Land and Water Conservation Fund                 | 5,000,000  |
| Lower Cohansey Watershed                         | 1,000,000  |
| Marine Fisheries Investigation and Management    | 1,150,000  |
| Multi-Media                                      | 750,000    |
| Multi-Media Enforcement Grant                    | 1,000,000  |
| NJ Landowners Incentive                          | 1,450,000  |
| NJFO Bog Turtle Cooperative Agreement            | 50,000     |
| National Coastal Wetlands Conservation           | 2,215,000  |
| National Dam Safety Program (FEMA)               | 90,000     |
| National Geologic Mapping Program                | 200,000    |
| National Pollutant Discharge Elimination         |            |
| System Implementation Support Program            | 600,000    |
| National Recreational Trails                     | 1,500,000  |
| New Jersey Commercial Blue Crab Fishery          |            |
| Economic Assistance Federal Share                | 230,000    |
| Non-Point Source Implementation (319H)           | 4,400,000  |
| Particulate Monitoring Grant                     | 1,500,000  |
| Pesticide Mosquito Control Project               | 50,000     |
| Pesticide Recording Program                      | 20,000     |
| Pesticide Technology                             | 730,000    |
| Pinelands Grant -- Acquisition                   | 6,000,000  |
| Preliminary Assessments/Site Inspections         | 3,000,000  |
| Radon Program                                    | 500,000    |
| Regional Climate and Fire Damage                 |            |
| Modeling -- Pinelands                            | 100,000    |
| Safe Drinking Water Act                          | 22,200,000 |
| Shortnose Sturgeon Research                      | 150,000    |
| Southern New Jersey Drinking Water               |            |
| Sampling Project                                 | 50,000     |
| Southern Pine Beetle                             | 100,000    |
| State Wetlands Conservation Plan                 | 492,000    |
| State Wildlife Grant Projects                    | 1,200,000  |
| State/EPA Data Management Grant                  | 3,050,000  |
| Superfund Grants                                 | 30,450,000 |
| Telemetry Study of Red Knots and Atlantic Brant  | 80,000     |
| US ACE Beachnesters                              | 80,000     |
| Underground Storage Tanks                        | 2,055,000  |
| Various Federal Programs and Accruals            | 2,010,000  |
| Water Monitoring and Planning                    | 1,000,000  |
| Water Pollution Control Program                  | 4,250,000  |

|                                                                                         |                      |
|-----------------------------------------------------------------------------------------|----------------------|
| Wildland/Urban Interface II .....                                                       | 250,000              |
| Wildlife Education .....                                                                | 285,000              |
| Wildlife Management Area Planning .....                                                 | <u>300,000</u>       |
| Subtotal, Department of<br>Environmental Protection .....                               | <u>\$227,533,000</u> |
| Department of Health and Senior Services:                                               |                      |
| AIDS Incarcerated Individuals in Corrections .....                                      | \$900,000            |
| Abstinence Education -- FHS .....                                                       | 1,122,000            |
| Asthma Surveillance and Coalition Building .....                                        | 356,000              |
| Asthma and Hazardous Substances Applied Research .....                                  | 100,000              |
| Behavioral Risk Factor Surveillance Survey .....                                        | 261,000              |
| Bioterrorism Hospital Emergency Preparedness ..                                         | 16,000,000           |
| Birth Defects Surveillance Program .....                                                | 250,000              |
| Blood Borne Pathogen Exposure Study .....                                               | 253,000              |
| Center for Birth Defects Research and Prevention ..                                     | 1,600,000            |
| Childhood Lead Poisoning .....                                                          | 1,426,000            |
| Chronic Disease Prevention and Health Promotion --<br>Family Health Services .....      | 1,011,000            |
| Chronic Disease Prevention and Health Promotion --<br>Addiction Services .....          | 1,246,000            |
| Clinical Laboratory Improvement<br>Amendments Program .....                             | 497,000              |
| Comprehensive AIDS Resources Grant .....                                                | 65,000,000           |
| Demonstration Program to Conduct<br>Health Assessments .....                            | 578,000              |
| Early Hearing Detection and Intervention (EHDI)<br>Tracking, Research .....             | 334,000              |
| Early Intervention Program for Infants and Toddlers<br>with Disabilities (Part H) ..... | 13,000,000           |
| Eliminating Disparities in Perinatal Health .....                                       | 500,000              |
| Emergency Preparedness for Bioterrorism .....                                           | 31,528,000           |
| Evaluation of the Performance of Integrated<br>HIV/AIDS Surveillance .....              | 116,000              |
| Exposure -- Tremolite Asbestos -- Vermiculite .....                                     | 220,000              |
| Family Planning Program -- Title X .....                                                | 3,500,000            |
| Federal Lead Abatement Program .....                                                    | 420,000              |
| Federal Medicare Reimbursement .....                                                    | 994,000              |
| Federal Medicare Relief .....                                                           | 90,000,000           |
| Food Inspection .....                                                                   | 350,000              |
| HIV/AIDS Prevention and Education Grant .....                                           | 18,000,000           |
| HIV/AIDS Surveillance Grant .....                                                       | 7,214,000            |
| Housing Opportunities for Persons with AIDS .....                                       | 4,763,000            |
| Housing Opportunities for Incarcerated<br>Persons with AIDS .....                       | 900,000              |
| Immunization Project .....                                                              | 7,866,000            |
| Lead Training and Certification<br>(Enforcement) Program .....                          | 82,000               |

**New Jersey State Library**

|                                                                                      |                      |
|--------------------------------------------------------------------------------------|----------------------|
| MCH Early Childhood Comprehensive System . . . . .                                   | 100,000              |
| Maternal and Child Health Block Grant . . . . .                                      | 13,000,000           |
| Medicare/Medicaid Inspections of<br>Nursing Facilities . . . . .                     | 14,150,000           |
| Memorandum of Agreement with Emory<br>University -- National Down Syndrome Study . . | 150,000              |
| Minority AIDS Demo . . . . .                                                         | 150,000              |
| Morbidity & Mortality Review Program . . . . .                                       | 150,000              |
| NJ Ease for Caregivers -- Building Support Systems . .                               | 250,000              |
| National Cancer Prevention and Control --<br>Public Health . . . . .                 | 6,210,000            |
| National Family Caregiver Program . . . . .                                          | 4,100,000            |
| Nurse Aide Certification Program . . . . .                                           | 1,958,000            |
| Nursing Facilities Transition Grant . . . . .                                        | 600,000              |
| Older Americans Act -- Title III . . . . .                                           | 33,248,000           |
| Pediatric AIDS Health Care Demonstration Project .                                   | 2,850,000            |
| Pregnancy Risk Assessment Monitoring System . . . .                                  | 750,000              |
| Preventative Health and Health<br>Services Block Grant . . . . .                     | 3,896,000            |
| Public Health Laboratory Biomonitoring Planning . . .                                | 210,000              |
| Rape Prevention and Education Program . . . . .                                      | 1,237,000            |
| Research on Ecology of Lyme Disease in US . . . . .                                  | 300,000              |
| Senior Farmers Market Nutrition Program . . . . .                                    | 1,000,000            |
| Supplemental Food Program -- W.I.C. . . . .                                          | 90,000,000           |
| Surveillance, Epidemiology and<br>End Results (SEER) . . . . .                       | 1,200,000            |
| Tools For School Implementation Project . . . . .                                    | 80,000               |
| Traumatic Brain Injury Surveillance . . . . .                                        | 105,000              |
| Tuberculosis Control Program . . . . .                                               | 6,069,000            |
| USDA Older Americans Act -- Title III . . . . .                                      | 3,900,000            |
| Universal Newborn Hearing Screening . . . . .                                        | 250,000              |
| Venereal Disease Project . . . . .                                                   | 3,800,000            |
| Violence Related Injury Prevention . . . . .                                         | 160,000              |
| Viral Hepatitis Integration Study . . . . .                                          | 365,000              |
| Vital Statistics Component . . . . .                                                 | 850,000              |
| WIC Farmer's Market Nutrition Program . . . . .                                      | 2,000,000            |
| West Nile Virus -- Laboratory . . . . .                                              | 200,000              |
| West Nile Virus -- Public Health . . . . .                                           | 2,300,000            |
| Various Federal Programs and Accruals . . . . .                                      | <u>4,351,000</u>     |
| Subtotal, Department of Health and<br>Senior Services . . . . .                      | <u>\$470,326,000</u> |
| Department of Human Services:                                                        |                      |
| Access to Recovery . . . . .                                                         | \$8,000,000          |
| Block Grant Mental Health Services . . . . .                                         | 12,496,000           |
| Child Care Block Grant . . . . .                                                     | 108,959,000          |
| Child Support Enforcement Program . . . . .                                          | 142,356,000          |
| Community Based Residential Program Grant . . . . .                                  | 1,000,000            |

|                                                                                   |                        |
|-----------------------------------------------------------------------------------|------------------------|
| Developmental Disabilities Council .....                                          | 1,590,000              |
| Federal Independent Living .....                                                  | 1,116,000              |
| Food Stamp Program .....                                                          | 88,047,000             |
| Foster Grandparents Program .....                                                 | 1,051,000              |
| Low Income Energy Assistance Block Grant .....                                    | 75,770,000             |
| Projects for Assistance in Transition<br>from Homelessness (PATH) .....           | 1,745,000              |
| Refugee Resettlement Program .....                                                | 5,705,000              |
| Restricted Grant .....                                                            | 12,202,000             |
| Social Service Block Grant .....                                                  | 51,432,000             |
| State Data Infrastructure Project .....                                           | 100,000                |
| Substance Abuse Block Grant .....                                                 | 53,385,000             |
| Temporary Assistance to Needy<br>Families Block Grant .....                       | 500,865,000            |
| Title IV-B Child Welfare Services .....                                           | 6,120,000              |
| Title IV-E Foster Care .....                                                      | 119,696,000            |
| Title XIX Child Residential .....                                                 | 72,705,000             |
| Title XIX Community Care Waiver .....                                             | 226,083,000            |
| Title XIX ICF/MR .....                                                            | 218,233,000            |
| Title XIX Medical Assistance .....                                                | 3,195,316,000          |
| Title XXI Children's Health Insurance Program .....                               | 236,665,000            |
| Various Federal Programs and Accruals .....                                       | 5,869,000              |
| Vocational Rehabilitation Act -- Section 120 .....                                | 10,631,000             |
| Young Offender Reentry Program .....                                              | <u>490,000</u>         |
| Subtotal, Department of<br>Human Services .....                                   | <u>\$5,157,137,000</u> |
| Department of Labor and Workforce Development:                                    |                        |
| Adult Basic Education .....                                                       | \$18,222,000           |
| Comprehensive Services for Independent Living .....                               | 700,000                |
| Current Employment Statistics .....                                               | 2,591,000              |
| Disability Determination Services .....                                           | 46,020,000             |
| Disabled Veterans' Outreach Program .....                                         | 2,500,000              |
| ES Reemployment Services .....                                                    | 1,100,000              |
| Employment Services .....                                                         | 23,859,000             |
| Employment Services -- One Stop Shopping .....                                    | 325,000                |
| Employment Services Cost Reimbursable Grants --<br>Migrant Housing .....          | 50,000                 |
| Employment Services Grants --<br>Alien Labor Certification .....                  | 2,419,000              |
| Federal Public Employees Occupational<br>Safety and Health Act .....              | 1,900,000              |
| Local Veterans Employment Representatives .....                                   | 1,700,000              |
| National Council on Aging - Senior Community<br>Services Employment Project ..... | 3,025,000              |
| OASI (DDS) Intelligent Workstation Activities .....                               | 1,000,000              |
| OSHA Data Collection Survey .....                                                 | 81,000                 |
| Occupational Informational Coordinating Program ..                                | 159,000                |

|                                                        |                      |
|--------------------------------------------------------|----------------------|
| Occupational Safety Health Act ,                       |                      |
| On-Site Consultation .....                             | 2,012,000            |
| One Stop Labor Market Information .....                | 980,000              |
| Redesigned Occupational Safety and Health (ROSH) ..... | 230,000              |
| Rehabilitation of Supplemental Security Income         |                      |
| Beneficiaries .....                                    | 2,000,000            |
| Supported Employment .....                             | 1,200,000            |
| Technical Assistance Training .....                    | 1,700,000            |
| Technology Related Assistance Project .....            | 700,000              |
| Trade Adjustment Assistance Project .....              | 7,000,000            |
| Unemployment Insurance .....                           | 140,900,000          |
| Vocational Rehabilitation Act of 1973 .....            | 44,650,000           |
| WIA Title IIID Discretionary Funding .....             | 6,000,000            |
| Work Incentive Project Access .....                    | 700,000              |
| Work Opportunity Tax Credit .....                      | 750,000              |
| Workforce Investment Act .....                         | 56,830,000           |
| Workforce Investment Act - Title III                   |                      |
| Dislocated Workers .....                               | 19,000,000           |
| Various Federal Programs and Accruals .....            | <u>145,000</u>       |
| Subtotal, Department of Labor and                      |                      |
| Workforce Development .....                            | <u>\$390,448,000</u> |
| Department of Law and Public Safety:                   |                      |
| Bulletproof Vest Partnership .....                     | \$700,000            |
| Casework DNA Backlog Reduction Program .....           | 1,300,000            |
| Cert Program .....                                     | 550,000              |
| Challenge Grant .....                                  | 300,000              |
| Child Passenger Protection Education .....             | 500,000              |
| Combating Underage Drinking .....                      | 360,000              |
| Community Prosecutors Block Grant .....                | 1,000,000            |
| Convicted Offender In-House (DNA) .....                | 1,500,000            |
| Cops In Schools .....                                  | 1,000,000            |
| Domestic Marijuana Eradication                         |                      |
| Suppression Program .....                              | 200,000              |
| Domestic Preparedness Training .....                   | 56,000,000           |
| EMPG -- Non-Terrorism .....                            | 4,500,000            |
| Edward Byrne Memorial Grant .....                      | 14,028,000           |
| Equal Employment Opportunity Commission .....          | 600,000              |
| FEMA Pre-Disaster Mitigation Grant .....               | 300,000              |
| Financial Investigations & Money                       |                      |
| Laundering Initiative .....                            | 5,000,000            |
| Flood Mitigation Assistance .....                      | 946,000              |
| Forensic Crime Laboratory Improvement Program .....    | 2,000,000            |
| Forensic DNA Testing Program .....                     | 1,000,000            |
| Hazardous Materials Transportation .....               | 350,000              |
| Help America Vote Act .....                            | 43,000,000           |
| High Intensity Drug Trafficking Area (HIDTA) .....     | 50,000               |
| Incident Command .....                                 | 750,000              |



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|--------------------------------------------------------------------------------------|----------------------|
| Innovative Seat Belt Use . . . . .                                                   | 2,500,000            |
| Internet Crimes Against Children . . . . .                                           | 300,000              |
| Justice Assistance Grant (JAG) . . . . .                                             | 17,000,000           |
| Juvenile Accountability Incentive Block Grant . . . . .                              | 5,900,000            |
| Juvenile Justice Delinquency Prevention . . . . .                                    | 2,457,000            |
| Local Law Enforcement Block Grant . . . . .                                          | 1,400,000            |
| Medicaid Fraud Unit . . . . .                                                        | 3,000,000            |
| National Criminal History Program -- OAG . . . . .                                   | 2,000,000            |
| National Forensic Sciences Improvement<br>Act Program . . . . .                      | 110,000              |
| NHTSA Section 402 . . . . .                                                          | 4,488,000            |
| NHTSA Section 405 . . . . .                                                          | 1,500,000            |
| NHTSA Section 411 . . . . .                                                          | 1,500,000            |
| New Jersey Anti-Money Laundering Initiative . . . . .                                | 750,000              |
| Northeast Hazardous Waste Project -- RCRA . . . . .                                  | 250,000              |
| Protecting Our Urban Areas . . . . .                                                 | 12,000,000           |
| Public Safety Wireless Coordination<br>Council -- Initiative . . . . .               | 244,000              |
| Recreational Boating Safety . . . . .                                                | 2,000,000            |
| Residential Treatment for Substance Abuse . . . . .                                  | 1,600,000            |
| Safety Incentive Grants . . . . .                                                    | 5,000,000            |
| Section 163 Prevent Operations of Motor<br>Vehicles by Intoxicated Persons . . . . . | 3,000,000            |
| State Police In-Car Camera Technology Grant . . . . .                                | 200,000              |
| Title V Funding . . . . .                                                            | 1,500,000            |
| Victim Assistance Grants . . . . .                                                   | 12,000,000           |
| Victim Compensation Award . . . . .                                                  | 7,000,000            |
| Violence Against Women Act . . . . .                                                 | 4,000,000            |
| Various Federal Programs and Accruals . . . . .                                      | <u>1,295,000</u>     |
| Subtotal, Department of Law and<br>Public Safety . . . . .                           | <u>\$228,928,000</u> |
| Department of Military and Veterans' Affairs:                                        |                      |
| ARNG Transportation . . . . .                                                        | \$125,000            |
| Armory Renovations and Improvements . . . . .                                        | 1,000,000            |
| Army Facilities Service Contracts . . . . .                                          | 2,500,000            |
| Army National Guard Statewide Security Agreement . . . . .                           | 600,000              |
| Army Training and Technology Lab . . . . .                                           | 400,000              |
| Atlantic City Air Base -- Service Contracts . . . . .                                | 2,100,000            |
| Atlantic City Operations and Maintenance . . . . .                                   | 65,000               |
| Atlantic City Environmental . . . . .                                                | 50,000               |
| Brigadier General Doyle Memorial<br>Cemetery Building Project . . . . .              | 6,900,000            |
| DFAC AR Operations . . . . .                                                         | 700,000              |
| Facilities Support Contract . . . . .                                                | 3,500,000            |
| Federal VA Distance Learning Program . . . . .                                       | 456,000              |
| Fire Fighter/Crash Rescue Service<br>Cooperative Funding Agreement . . . . .         | 1,200,000            |

|                                                                                      |                     |
|--------------------------------------------------------------------------------------|---------------------|
| Hazardous Waste Environmental Protection Program .                                   | 550,000             |
| McGuire Air Force Base Environmental .....                                           | 50,000              |
| McGuire Air Force Base -- Service Contracts .....                                    | 2,295,000           |
| McGuire Operations and Maintenance .....                                             | 70,000              |
| Medicare Part A Receipts for Resident Care and<br>Operational Costs .....            | 4,518,000           |
| National Guard Communications Agreement .....                                        | 650,000             |
| New Jersey National Guard Challenge<br>Youth Program .....                           | 2,000,000           |
| New Jersey National Guard Counter Drug Program<br>Interservice State - Federal ..... | 12,000              |
| Training and Equipment -- Pool Sites .....                                           | 269,000             |
| Transitional Housing .....                                                           | 360,000             |
| Veterans' Education Monitoring .....                                                 | 542,000             |
| Various Federal Programs and Accruals .....                                          | <u>55,000</u>       |
| Subtotal, Department of Military<br>and Veterans' Affairs .....                      | <u>\$30,967,000</u> |
| Department of State:                                                                 |                     |
| Americorps Grant .....                                                               | \$5,739,000         |
| Leveraging Educational Assistance Partnership ....                                   | 3,376,000           |
| NJ GEAR UP .....                                                                     | 2,730,000           |
| National Endowment for the Arts Partnership .....                                    | 750,000             |
| National Health Service Corps -- Student Loan<br>Repayment Program .....             | 240,000             |
| National Telecommunications Information Agency ..                                    | 625,000             |
| Student Loan Administrative Cost<br>Deduction and Allowance .....                    | 20,344,000          |
| Various Federal Programs and Accruals .....                                          | <u>202,000</u>      |
| Subtotal, Department of State .....                                                  | <u>\$34,006,000</u> |
| Department of Transportation:                                                        |                     |
| Airport Fund .....                                                                   | \$10,000,000        |
| Highway Planning and Research .....                                                  | 15,180,000          |
| Metropolitan Planning Funds .....                                                    | 11,015,000          |
| Motor Carrier Safety Assistance Program .....                                        | 9,808,000           |
| Supportive Services Highway Construction<br>Training Program .....                   | <u>500,000</u>      |
| Subtotal, Department of Transportation .....                                         | <u>\$46,503,000</u> |
| Department of the Treasury:                                                          |                     |
| Diamond Shamrock Oil Overcharge Settlement ....                                      | \$617,000           |
| Division of Gas Expansion .....                                                      | 600,000             |
| State Energy Conservation Program .....                                              | 2,270,000           |
| Various Federal Programs and Accruals .....                                          | <u>700,000</u>      |
| Subtotal, Department of the Treasury .....                                           | <u>\$4,187,000</u>  |
| The Judiciary                                                                        |                     |
| Drug Court -- OJP -- Direct .....                                                    | \$200,000           |
| Juvenile Drug Court Grant .....                                                      | 1,478,000           |
| NJ Child Support Early Intervention Project .....                                    | 100,000             |

|                                             |                         |
|---------------------------------------------|-------------------------|
| Various Federal Programs and Accruals ..... | <u>800,000</u>          |
| Subtotal, The Judiciary .....               | <u>\$2,578,000</u>      |
| Special Transportation Fund -- Federal      |                         |
| Department of Transportation: .....         |                         |
| Federal Highway Administration .....        | \$716,391,273           |
| Federal Transit Administration .....        | <u>518,518,000</u>      |
| Subtotal, Special Transportation            |                         |
| Fund -- Federal .....                       | <u>\$1,234,909,273</u>  |
| Total -- Federal Revenue .....              | <u>\$9,151,117,273</u>  |
| Grand Total Resources, All Funds .....      | <u>\$37,578,378,273</u> |

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

1. The appropriations herein or so much thereof as may be necessary are hereby appropriated out of the General Fund, or such other sources of funds specifically indicated or as may be applicable, for the respective public officers and spending agencies and for the several purposes herein specified for the fiscal year ending on June 30, 2005. Unless otherwise provided, the appropriations herein made shall be available during said fiscal year and for a period of one month thereafter for expenditures applicable to said fiscal year. Unless otherwise provided, at the expiration of said one-month period, all unexpended balances shall lapse into the State Treasury or to the credit of trust, dedicated or non-State funds as applicable, except those balances held by encumbrances on file as of June 30, 2005 with the Director of the Division of Budget and Accounting or held by pre-encumbrances on file as of June 30, 2005 as determined by the Director of the Division of Budget and Accounting. The Director of the Division of Budget and Accounting shall provide the Legislative Budget and Finance Officer with a listing of all pre-encumbrances outstanding as of July 31, 2005 together with an explanation of their status. Nothing contained in this section or in this act shall be construed to prohibit the payment due upon any encumbrance or pre-encumbrance made under any appropriation contained in any appropriation act of the previous year or years. Furthermore, balances held by pre-encumbrances as of June 30, 2004 are available for payments applicable to fiscal year 2004 as determined by the Director of the Division of Budget and Accounting. The Director of the Division of Budget and Accounting shall provide the Legislative Budget and Finance Officer with a listing of all pre-encumbrances outstanding as of July 31, 2004 together with an explanation of their status. On or before December 1, 2004, the State Treasurer, in accordance with the provisions of section 37 of article 3 of P.L.1944, c.112 (C.52:27B-46), shall transmit to the Legislature the Annual Financial Report of the State of New Jersey for the fiscal year ending June 30, 2004, depicting the financial condition of the State and the results of operation for the fiscal year ending June 30, 2004.

## 01 LEGISLATURE

### 70 Government Direction, Management and Control

#### 71 Legislative Activities

**0001 Senate****DIRECT STATE SERVICES**

01-0001 Senate ..... \$11,494,000  
 Total Direct State Services Appropriation, Senate ... \$11,494,000

***Direct State Services:*****Personal Services:**

Senators (40) ..... (\$1,990,000)  
 Salaries and Wages ..... (4,304,000)  
 Members' Staff Services ..... (4,400,000)  
 Materials and Supplies ..... (150,000)  
 Services Other Than Personal ..... (540,000)  
 Maintenance and Fixed Charges ..... (80,000)  
 Additions, Improvements and Equipment . (30,000)  
 The unexpended balance as of June 30, 2004 in this account is appropriated.

**0002 Assembly****DIRECT STATE SERVICES**

01-0002 General Assembly ..... \$18,905,000  
 Total Direct State Services Appropriation,  
 General Assembly ..... \$18,905,000

***Direct State Services:*****Personal Services:**

Assemblypersons (80) ..... (\$3,937,000)  
 Salaries and Wages ..... (5,303,000)  
 Members' Staff Services ..... (8,800,000)  
 Materials and Supplies ..... (120,000)  
 Services Other Than Personal ..... (640,000)  
 Maintenance and Fixed Charges ..... (100,000)  
 Additions, Improvements and Equipment .. (5,000)  
 The unexpended balance as of June 30, 2004 in this account is appropriated.

**0003 Office of Legislative Services****DIRECT STATE SERVICES**

01-0003 Legislative Support Services ..... \$27,488,000  
 Total Direct State Services Appropriation, Office of  
 Legislative Services ..... \$27,488,000

***Direct State Services:*****Personal Services:**

Salaries and Wages ..... (\$19,368,000)  
 Materials and Supplies ..... (1,065,000)  
 Services Other Than Personal ..... (2,527,000)  
 Maintenance and Fixed Charges ..... (3,681,000)

**Special Purpose:**

03 Affirmative Action and Equal  
 Employment Opportunities ..... (29,000)

- 03 Senator Wynona Lipman Chair in  
Women's Political Leadership at the  
Eagleton Institute . . . . . (100,000)
- 03 Henry J. Raimondo New Jersey  
Legislative Fellows Program . . . . . (69,000)
- Additions, Improvements and Equipment . (649,000)
- The unexpended balance as of June 30, 2004 in this account is appropriated.
- Such sums as may be required for the cost of information system audits performed  
by the State Auditor are funded from the departmental data processing accounts  
of the department in which the audits are performed.
- In addition to the amounts appropriated hereinabove, there is appropriated an  
amount not to exceed \$5,983,000 less any funds previously appropriated in  
fiscal year 2004 for this purpose, as determined by the Computer Executive  
Group of the Legislative Information Systems Committee of the Legislative  
Services Commission, for the continuation and expansion of data processing  
systems for the Legislature in order to plan, acquire and install a comprehensive  
electronic data processing system, including software acquisition and training  
in connection with the system. No amounts so determined shall be obligated,  
expended or otherwise made available without the written prior authorization  
of the Senate President and the Speaker of the General Assembly.
- Receipts derived from fees and charges for public access to legislative information  
systems and the unexpended balance as of June 30, 2004 of such receipts are  
appropriated and shall be credited to a non-lapsing revolving fund established  
in and administered by the Office of Legislative Services for the purpose of  
continuing to modernize, maintain, and expand the dissemination and  
availability of legislative information.
- Such sums as are required for Master Lease payments, subject to the approval of the  
Director of the Division of Budget and Accounting and the Legislative Budget  
and Finance Officer, are appropriated.
- The Office of Legislative Services shall monitor, review and report to both houses  
of the Legislature on each new anti-smoking initiative funded in fiscal years  
2001, 2002, 2003 and 2004 from the Tobacco Settlement Fund.

***77 Legislative Commissions and Committees***

**DIRECT STATE SERVICES**

|                                                                              |                |
|------------------------------------------------------------------------------|----------------|
| 09-0010 Intergovernmental Relations Commission . . . . .                     | \$419,000      |
| 09-0014 Joint Committee on Public Schools . . . . .                          | 335,000        |
| 09-0018 State Commission of Investigation . . . . .                          | 4,400,000      |
| 09-0026 Commission on Business Efficiency<br>in the Public Schools . . . . . | 110,000        |
| 09-0053 New Jersey Law Revision Commission . . . . .                         | 321,000        |
| 09-0058 State Capital Joint Management Commission . . . .                    | 9,001,000      |
| 09-0061 Clean Ocean and Shore Trust Committee . . . . .                      | <u>144,000</u> |

Total Direct State Services Appropriation,  
Legislative Commissions and Committees . . . . . \$14,730,000

***Direct State Services:***

## Intergovernmental Relations Commission

09 Expenses of Commission . . . . . (\$36,000)

09 The Council of State Governments (151,000)

09 National Conference of State

Legislatures . . . . . (171,000)

09 Eastern Trade Council - The

Council of State Governments . . . . . (36,000)

09 Northeast States Association for

Agriculture Stewardship, Council

of State Governments . . . . . (25,000)

## Joint Committee on the Public Schools

09 Expenses of Commission . . . . . (\$335,000)

## State Commission on Investigation

09 Expenses of Commission . . . . . (\$4,400,000)

## Commission on Business Efficiency

in the Public Schools

09 Expenses of Commission . . . . . (\$110,000)

## New Jersey Law Revision Commission

09 Expenses of Commission . . . . . (\$321,000)

## State Capital Joint Management Commission

09 Expenses of Commission . . . . . (\$9,001,000)

## Clean Ocean and Shore Trust Committee

09 Expenses of Commission . . . . . (\$144,000)

The unexpended balances as of June 30, 2004 in these accounts are appropriated.

Such sums as are required for the establishment and operation of the Apportionment Commission are appropriated, subject to the approval of the Director of the Division of Budget and Accounting and the Legislative Budget and Finance Officer.

Such sums as are required for the establishment and operation of the New Jersey Redistricting Commission are appropriated, subject to the approval of the Director of the Division of Budget and Accounting and the Legislative Budget and Finance Officer.

Receipts from the rental of the Cafeteria and the Welcome Center and any other facility under the jurisdiction of the State Capitol Joint Management Commission are appropriated to defray custodial, security, maintenance and other related costs of these facilities.

The Legislature, Total State Appropriation . . . . . \$72,617,000

***Summary of Legislature Appropriations***  
**(For Display Purposes Only)**

***Appropriations by Category:***

Direct State Services . . . . . \$72,617,000

***Appropriations by Fund:***

General Fund . . . . . \$72,617,000

**06 OFFICE OF THE CHIEF EXECUTIVE**  
**70 Government Direction, Management and Control**  
**76 Management and Administration**

**DIRECT STATE SERVICES**

01-0300 Executive Management ..... \$5,267,000  
 Total Direct State Services Appropriation,  
 The Office of the Chief Executive ..... \$5,267,000

***Direct State Services:***

**Personal Services:**

Salaries and Wages ..... (\$4,324,000)  
 Materials and Supplies ..... (89,000)  
 Services Other Than Personal ..... (284,000)  
 Maintenance and Fixed Charges ..... (85,000)

**Special Purpose:**

01 National Governors' Association .. (158,000)  
 01 Coalition of Northeastern  
 Governors ..... (48,000)  
 01 Education Commission of  
 the States ..... (108,000)  
 01 National Conference of Commis-  
 sioners On Uniform State Laws ... (42,000)  
 01 Brian Stack Intern Program ..... (10,000)

Allowance to the Governor of  
 Funds Not Otherwise Appropriated,  
 For Official Reception on Behalf of  
 the State, Operation of an Official  
 Residence and Other Expenses .... (95,000)

Additions, Improvements and Equipment .. (24,000)

The unexpended balance as of June 30, 2004 in this account is appropriated.

Office of the Chief Executive,  
 Total State Appropriation ..... \$5,267,000

***Summary of The Office of the Chief Executive Appropriations***  
***(For Display Purposes Only)***

***Appropriations by Category:***

Direct State Services ..... \$5,267,000

***Appropriations by Fund:***

General Fund ..... \$5,267,000

**10 DEPARTMENT OF AGRICULTURE**

**40 Community Development and Environmental Management**  
**49 Agricultural Resources, Planning and Regulation**

**DIRECT STATE SERVICES**

01-3310 Animal Disease Control ..... \$1,180,000  
 02-3320 Plant Pest and Disease Control ..... 1,889,000  
 03-3330 Agriculture and Natural Resources ..... 1,024,000

|                                                                                                     |                    |
|-----------------------------------------------------------------------------------------------------|--------------------|
| 05-3350 Food and Nutrition Services .....                                                           | 338,000            |
| 06-3360 Marketing and Development Services .....                                                    | 2,309,000          |
| 08-3380 Farmland Preservation .....                                                                 | 1,740,000          |
| 99-3370 Administration and Support Services .....                                                   | <u>643,000</u>     |
| Total Direct State Services Appropriation, Agricultural<br>Resources, Planning and Regulation ..... | <u>\$9,123,000</u> |

**Direct State Services:****Personal Services:**

|                                     |               |
|-------------------------------------|---------------|
| Salaries and Wages .....            | (\$5,432,000) |
| Materials and Supplies .....        | (189,000)     |
| Services Other Than Personal .....  | (296,000)     |
| Maintenance and Fixed Charges ..... | (195,000)     |

**Special Purpose:**

|                                                                 |             |
|-----------------------------------------------------------------|-------------|
| 05 Temporary Emergency Food<br>Assistance Program .....         | (338,000)   |
| 06 Promotion/Market Development .....                           | (826,000)   |
| 08 Agricultural Right-to-<br>Farm Program .....                 | (90,000)    |
| 08 Open Space Administrative<br>Costs .....                     | (1,650,000) |
| 99 Expenses of State Board of<br>Agriculture .....              | (18,000)    |
| 99 Affirmative Action and Equal<br>Employment Opportunity ..... | (28,000)    |
| Additions, Improvements and Equipment ..                        | (61,000)    |

Receipts from laboratory test fees are appropriated to support the Animal Health Laboratory program. The unexpended balance as of June 30, 2004 in the Animal Health Laboratory receipt account is appropriated for the same purpose.

Receipts from the seed laboratory testing and certification programs are appropriated for program costs. The unexpended balance as of June 30, 2004 in the seed laboratory testing and certification receipt account is appropriated for the same purpose.

Receipts from Nursery Inspection fees are appropriated for Nursery Inspection program costs. The unexpended balance as of June 30, 2004 in the Nursery Inspection program is appropriated for the same purpose.

Receipts from the sale or studies of beneficial insects are appropriated to support the Beneficial Insect Laboratory. The unexpended balance as of June 30, 2004 in the Sale of Insects account is appropriated for the same purpose.

Receipts from Stormwater Discharge Permit program fees are appropriated for program costs. The unexpended balance as of June 30, 2004 in the Stormwater Discharge Permit Program account is appropriated for the same purpose.

Receipts from dairy licenses and inspections are appropriated for program costs. Receipts in excess of the amount anticipated from feed, fertilizer, and liming material registrations and inspections are appropriated for program costs.

Receipts from agriculture chemistry fees not to exceed \$150,000 shall be available to support the organic certification program.



Receipts from inspection fees derived from fruit, vegetable, fish, red meat, and poultry inspections are appropriated for the cost of conducting fruit, vegetable, fish, and poultry inspections.

An amount equal to receipts generated at the rate of \$.47 per gallon of wine, vermouth and sparkling wine sold by plenary winery and farm winery licensees issued pursuant to R.S.33:1-10, and certified by the Director of the Division of Taxation, are appropriated to the Department of Agriculture from the alcoholic beverage excise tax for expenses of the Wine Promotion Program.

Receipts derived from the distribution of commodities, sale of containers, and salvage of commodities, in accordance with applicable federal regulations, are appropriated for Commodity Distribution expenses.

Notwithstanding any other law to the contrary, an amount not to exceed \$1,650,000 shall be transferred from the Garden State Farmland Preservation Trust Fund to the General Fund and is appropriated to the State Agriculture Development Committee for Open Space Administrative Costs.

The unexpended balances as of June 30, 2004 in the Promotion/Market Development account are appropriated for the same purpose.

Notwithstanding any other law to the contrary, an amount not to exceed \$200,000 shall be transferred from the appropriate funds established in the Open Space Preservation Bond Act of 1989, P.L.1989, c.183, to the State Transfer of Development Bank account and is appropriated to the State Agriculture Development Committee for Transfer of Development Rights administrative costs.

#### **GRANTS-IN-AID**

|                                                      |                    |
|------------------------------------------------------|--------------------|
| 03-3330 Agriculture and Natural Resources . . . . .  | \$1,500,000        |
| 06-3360 Marketing and Development Services . . . . . | 75,000             |
| 08-3380 Farmland Preservation . . . . .              | <u>1,180,000</u>   |
| Total Grants-in-Aid Appropriation, Agricultural      |                    |
| Resources, Planning and Regulation . . . . .         | <u>\$2,755,000</u> |

#### ***Grants-in-Aid:***

|                                |               |
|--------------------------------|---------------|
| 03 Conservation Assistance     |               |
| Program . . . . .              | (\$1,500,000) |
| 06 Promotion/Market            |               |
| Development . . . . .          | (75,000)      |
| 08 Soil and Water Conservation |               |
| Grants . . . . .               | (1,180,000)   |

The expenditure of funds for the Conservation Cost Share program shall be based upon an expenditure plan subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary, \$540,000 shall be transferred from the Department of Environmental Protection's Water Resources Monitoring and Planning - Constitutional Dedication special purpose account to support the Conservation Cost Share program in the Department of Agriculture on or before September 1, 2004. Further additional sums may be transferred pursuant to a Memorandum of Understanding between the Department of Environmental Protection and the Department of Agriculture, from the Department of Environmental Protection's Water Resources Monitoring and Planning -

Constitutional Dedication account to support non-point source pollution control programs in the Department of Agriculture, subject to the approval of the Director of the Division of Budget and Accounting. The unexpended balance of this program as of June 30, 2004 is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, the State Agriculture Development Committee, in determining eligibility for funding from the amount hereinabove appropriated for Soil and Water Conservation projects, shall give consideration to applications pursuant to the following priority: a. lands from which a development easement has been permanently conveyed pursuant to section 17 of P.L.1983, c.32 (C.4:1C-24), section 5 of P.L.1988, c.4 (C.4:1C-31.1), section 39 of P.L.1999, c.152 (C.13:8C-39), section 40 of P.L.1999, c.152 (C.13:8C-40) or section 1 of P.L.1999, c.180 (C.4:1C-43.1); b. lands certified by the State Agriculture Development Committee to be within a municipally approved program or other farmland preservation program on or before January 1, 2004 pursuant to P.L.1983, c.32; c. lands certified by the State Agriculture Development Committee to be within a municipally approved program or other farmland preservation program subsequent to January 1, 2004 pursuant to P.L.1983, c.32.

Of the amounts appropriated hereinabove for the Conservation Assistance Program, an amount not to exceed \$750,000 is allocated for the administrative expenses of the Conservation Assistance Program, subject to the approval of the Director of the Division of Budget and Accounting.

#### **STATE AID**

|                                                                                                                 |               |
|-----------------------------------------------------------------------------------------------------------------|---------------|
| 05-3350 Food and Nutrition Services . . . . .                                                                   | \$11,035,000  |
| 08-3380 Farmland Preservation . . . . .                                                                         | <u>50,000</u> |
| Total State Aid Appropriation, Agricultural Resources,<br>Planning and Regulation . . . . . <u>\$11,085,000</u> |               |

***State Aid:***

|                                                             |               |
|-------------------------------------------------------------|---------------|
| 05 School Breakfast - State<br>Aid Grants . . . . .         | (\$3,212,000) |
| 05 Non-Public Nutrition Aid -<br>State Aid Grants . . . . . | (439,000)     |
| 05 School Lunch Aid - State<br>Aid Grants . . . . .         | (7,384,000)   |
| 08 Payments in Lieu of Taxes . . . . .                      | (50,000)      |

Of the amount appropriated hereinabove from the General Fund for the Department of Agriculture, such sums as the Director of the Division of Budget and Accounting shall determine from the amount listed under School Nutrition in the Department of Agriculture schedule included in the Governor's Budget Message dated February 24, 2004, first shall be charged to the State Lottery Fund.

|                                                                   |                     |
|-------------------------------------------------------------------|---------------------|
| Department of Agriculture,<br>Total State Appropriation . . . . . | <u>\$22,963,000</u> |
|-------------------------------------------------------------------|---------------------|

***Summary of Department of Agriculture Appropriations  
(For Display Purposes Only)***

*Appropriations by Category:*

|                             |             |
|-----------------------------|-------------|
| Direct State Services ..... | \$9,123,000 |
| Grants-in-Aid .....         | 2,755,000   |
| State Aid .....             | 11,085,000  |

*Appropriations by Fund:*

|                    |              |
|--------------------|--------------|
| General Fund ..... | \$22,963,000 |
|--------------------|--------------|

**14 DEPARTMENT OF BANKING AND INSURANCE**

***50 Economic Planning, Development and Security***

***52 Economic Regulation***

**DIRECT STATE SERVICES**

|                                                                         |                     |
|-------------------------------------------------------------------------|---------------------|
| 01-3110 Consumer Protection Services<br>and Solvency Regulation .....   | \$15,992,000        |
| 02-3120 Actuarial Services .....                                        | 5,820,000           |
| 03-3130 Regulation of the Real Estate Industry .....                    | 3,151,000           |
| 04-3110 Public Affairs, Legislative and<br>Regulatory Services .....    | 1,844,000           |
| 06-3110 Insurance Fraud Prevention .....                                | 31,976,000          |
| 07-3170 Supervision and Examination of<br>Financial Institutions .....  | 3,600,000           |
| 99-3150 Administration and Support Services .....                       | <u>4,320,000</u>    |
| Total Direct State Services Appropriation,<br>Economic Regulation ..... | <u>\$66,703,000</u> |

***Direct State Services:***

**Personal Services:**

|                                     |                |
|-------------------------------------|----------------|
| Salaries and Wages .....            | (\$29,532,000) |
| Materials and Supplies .....        | (317,000)      |
| Services Other Than Personal .....  | (5,009,000)    |
| Maintenance and Fixed Charges ..... | (203,000)      |

**Special Purpose:**

|                                                                 |              |
|-----------------------------------------------------------------|--------------|
| 01 Ombudsman Program .....                                      | (711,000)    |
| 02 Actuarial Services .....                                     | (600,000)    |
| 06 Insurance Fraud<br>Prosecution Services .....                | (29,877,000) |
| 99 Affirmative Action and Equal<br>Employment Opportunity ..... | (30,000)     |

Additions, Improvements and Equipment . (424,000)

Receipts derived from extraordinary financial condition examinations or actuarial certifications of loss reserves are appropriated for the conduct of such examinations or certifications, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2004 in the Public Adjusters' Licensing account, together with receipts derived from the "Public Adjusters' Licensing Act," P.L.1993, c.66 (C.17:22B-1 et seq.), are appropriated for the administration of the

act, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from the investigation of out-of-State land sales are appropriated for the conduct of those investigations.

There are appropriated from the Real Estate Guaranty Fund such sums as may be necessary to pay claims.

There are appropriated from the assessments imposed by the New Jersey Individual Health Coverage Program Board, created pursuant to the "Individual Health Insurance Reform Act," P.L.1992, c.161 (C.17B:27A-2 et seq.), and by the New Jersey Small Employer Health Benefits Program Board, created pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.), such sums as may be necessary to carry out the provisions of those acts, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of anticipated revenues from examination and licensing fees, bank assessments, fines and penalties, and the unexpended balances as of June 30, 2004, not to exceed \$400,000, are appropriated to the Division of Banking, subject to the approval of the Director of the Division of Budget and Accounting.

Proceeds from the sale of credits by the Pinelands Development Credit Bank pursuant to P.L.1985, c.310 (C.13:18A-30 et. seq.) shall be appropriated to the Pinelands Development Credit Bank for the same purpose.

The unexpended balance as of June 30, 2004 in the Pinelands Development Credit Bank account is appropriated for the same purpose.

In addition to the sum hereinabove, such other sums as the Director of the Division of Budget and Accounting shall determine, are appropriated from the assessments of the insurance industry pursuant to P.L.1995, c.156 (C.17:1C-19 et seq.).

The amount hereinabove for the Division of Insurance accounts is payable from receipts received from the Special Purpose Assessment of insurance companies pursuant to section 2 of P.L.1995, c.156 (C.17:1C-20). If the Special Purpose Assessment cap calculation is less than the amount herein appropriated for this purpose for the Division of Insurance, the appropriation shall be reduced to the level of funding supported by the Special Purpose Assessment cap calculation.

All monies deposited in the Division of Motor Vehicles Surcharge Fund are appropriated to the Market Transition Facility Revenue Fund in accordance with the provisions of P.L.1994, c.57 (C.34:1B-21.1 et seq.).

The amount appropriated hereinabove for FAIR Act Administration shall be funded from the additional taxes on the taxable premiums of insurers for the payment of Department of Banking and Insurance administrative costs related to its statutory duties, pursuant to P.L.1990, c.8 (C.17:33B-1 et al.).

There is appropriated such sums as are necessary to fund the administrative costs of the New Jersey Hospital Care Payment Commission pursuant to P.L.2003, c.112 (C.17B:30-41 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, such sums as the Director of the Division of Budget and Accounting determines are necessary for the administrative costs associated with the "New Jersey Medical Care Access and Responsibility and Patients First Act," P.L.2004, c.17 are

appropriated from the Medical Malpractice Liability Insurance Premium Assistance Fund. Such other sums as the Director of the Division of Budget and Accounting shall determine as necessary on behalf of State employees are appropriated to the Inter-Departmental Accounts, Unemployment Insurance Liability account for deposit in the Medical Malpractice Liability Insurance Premium Assistance Fund. If annual receipts deposited in the Medical Malpractice Liability Insurance Premium Assistance Fund are higher or lower than the amounts projected for specific spending categories in the "New Jersey Medical Care Access and Responsibility and Patients First Act," the difference shall be pro-rated among those categories in the same proportion as established in P.L.2004, c.17.

Department of Banking and Insurance,  
Total State Appropriation ..... \$66,703,000

***Summary of Department of Banking and Insurance Appropriations  
(For Display Purposes Only)***

***Appropriations by Category:***

Direct State Services ..... \$66,703,000

***Appropriations by Fund:***

General Fund ..... \$66,703,000

**22 DEPARTMENT OF COMMUNITY AFFAIRS**

***40 Community Development and Environmental Management***

***41 Community Development Management***

**DIRECT STATE SERVICES**

01-8010 Housing Code Enforcement ..... \$5,519,000

02-8020 Housing Services ..... 4,390,000

06-8015 Uniform Construction Code ..... 6,588,000

13-8027 Codes and Standards ..... 267,000

18-8017 Uniform Fire Code ..... 5,788,000

Total Direct State Services Appropriation,

Community Development Management ..... \$22,552,000

***Direct State Services:***

***Personal Services:***

Salaries and Wages ..... (\$16,508,000)

Materials and Supplies ..... (86,000)

Services Other Than Personal ..... (872,000)

Maintenance and Fixed Charges ..... (626,000)

***Special Purpose:***

02 Prevention of Homelessness ..... (243,000)

02 Neighborhood Preservation-Fair

Housing (P.L.1985, c.222) ..... (1,835,000)

02 Council on Affordable Housing . (2,007,000)

18 Local Fire Fighters' Training ..... (375,000)

The amount hereinabove for the Housing Code Enforcement program classification is payable out of the fees and penalties derived from bureau activities. If the

receipts are less than anticipated, the appropriation shall be reduced proportionately.

The unexpended balance as of June 30, 2004 in the Housing Code Enforcement program classification, together with any receipts in excess of the amount anticipated, is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2004, in the several Uniform Construction Code program classification fee accounts, together with any receipts in excess of the amounts anticipated, is appropriated for expenses of code enforcement activities, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2004 in the Planned Real Estate Development Full Disclosure Act fees account, together with any receipts in excess of the amount anticipated, is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amounts received by the Uniform Construction Code Revolving Fund attributable to that portion of the surcharge fee in excess of \$0.0006, and to surcharges on other construction, shall be dedicated to the general support of the Uniform Construction Code Program and, notwithstanding the provisions of section 2 of P.L. 1979, c. 121 (C.52:27D-124.1), shall be available for training and non-training purposes, except that the amounts attributable to \$0.00075 per cubic foot of new construction and \$0.39 per \$1000 of other construction shall be dedicated to the Smart Future Planning Grant-in-Aid program. Notwithstanding the provision of law to the contrary, unexpended balances as of June 30, 2004 in the Uniform Construction Code Revolving Fund are appropriated.

Such sums as may be required for the registration of builders and reviewing and paying claims under the "New Home Warranty and Builders' Registration Act," P.L. 1977, c. 467 (C.46:3B-1 et seq.), are appropriated from the New Home Warranty Security Fund in accordance with section 7 of P.L. 1977, c. 467 (C.46:3B-7), subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2004 in the Uniform Fire Code program classification, together with any receipts in excess of the amount anticipated, is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amounts hereinabove for the Uniform Fire Code program classification are payable out of the fees and penalties derived from code enforcement activities. If these receipts are less than anticipated, the appropriations shall be reduced proportionately.

Notwithstanding the provisions of any law to the contrary, receipts derived from fees associated with the Fire Protection Contractor's Certification program pursuant to P.L. 2001, c. 289 (C.52:27D-25n et seq.) are appropriated to the Department of Community Affairs Division of Fire Safety, necessary to operate the program subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Council on Affordable Housing and Neighborhood Preservation-Fair Housing accounts shall be payable from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1968, c.49 (C.46:15-8) and from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1975, c.176 (C.46:15-10.1). Any receipts in excess of the amount anticipated, and any unexpended balance as of June 30, 2004 are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from the New Jersey Housing and Mortgage Finance Agency charges for Housing Affordability Service to municipalities and the unexpended balance as of June 30, 2004 are appropriated for the operation of the Housing Affordability Service within the Division of Housing.

Pursuant to section 15 of P.L.1983, c.530 (C.55:14K-15), the Commissioner of the Department of Community Affairs shall determine, at least annually, the eligibility of each boarding house resident for rental assistance payments; and notwithstanding any provision of P.L.1983, c.530 (C.55:14K-1 et seq.) to the contrary, moneys held in the Boarding House Rental Assistance Fund that were originally appropriated from the General Fund may be used by the Commissioner for the purpose of providing life safety improvement loans, and any moneys held in the Boarding House Rental Assistance Fund may be used for the purpose of providing rental assistance for repayment of such loans. Notwithstanding any provision of P.L.1983, c.530 (C.55:14K-1 et seq.), the Commissioner shall have authority to disburse funds from the Boarding House Rental Assistance Fund established pursuant to section 14 of P.L.1983, c.530 (C.55:14K-14) for the purpose of repaying, through rental assistance or otherwise, loans made to the boarding house owners for the purpose of rehabilitating boarding houses.

Any receipts from the sale of truth in renting statements, including fees, fines, and penalties, are appropriated.

There is appropriated from the Petroleum Overcharge Reimbursement Fund the sum of \$300,000 for the expenses of the Green Homes Office in the Division of Housing and Community Resources, subject to the approval of the Director of the Division of Budget and Accounting.

Any receipts from the Boarding Home; Regulation and Assistance program, including fees, fines, and penalties, are appropriated.

#### **GRANTS-IN-AID**

|                                              |                     |
|----------------------------------------------|---------------------|
| 01-8010 Housing Code Enforcement .....       | \$919,000           |
| 02-8020 Housing Services .....               | 6,660,000           |
| 18-8017 Uniform Fire Code .....              | <u>8,571,000</u>    |
| Total Grants-in-Aid Appropriation, Community |                     |
| Development Management .....                 | <u>\$16,150,000</u> |

#### **Grants-in-Aid:**

|                                     |             |
|-------------------------------------|-------------|
| 01 Cooperative Housing Inspection . | (\$919,000) |
| 02 Shelter Assistance .....         | (2,300,000) |

- 02 Prevention of Homelessness . . . . (4,360,000)
- 18 Uniform Fire Code -- Local  
Enforcement Agency Rebates . . . (8,425,000)
- 18 Uniform Fire Code --  
Continuing Education . . . . . (146,000)

The amount hereinabove for the Housing Code Enforcement program classification is payable out of the fees and penalties derived from bureau activities. If these receipts are less than anticipated, the appropriation shall be reduced proportionately.

The unexpended balance as of June 30, 2004, in the Housing Code Enforcement program classification, together with any receipts in excess of the amount anticipated, is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Uniform Fire Code program classification is payable out of the fees and penalties derived from inspection and enforcement activities. If these receipts are less than anticipated, the appropriation shall be reduced proportionately.

The unexpended balance as of June 30, 2004 in the Uniform Fire Code program classification together with any receipts in excess of the amount anticipated is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for Shelter Assistance is payable from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1968, c.49 (C.46:15-8) and from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1975, c.176 (C.46:15-10.1). If the receipts are less than anticipated, the appropriation shall be reduced proportionately.

The unexpended balance as of June 30, 2004 in the Shelter Assistance account is appropriated.

Upon determination by the Commissioner that all eligible shelter assistance projects have received funding from the amount appropriated for Shelter Assistance from receipts of the portions of the realty transfer tax dedicated to the Neighborhood Preservation Nonlapsing Revolving Fund, any available balance in the Shelter Assistance account may be transferred to the Neighborhood Preservation-Fair Housing account, subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated to the Revolving Housing Development and Demonstration Grant Fund an amount not to exceed 50% of the penalties derived from bureau activities in the Housing Code Enforcement program classification, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from repayment of loans from the Downtown Business Improvement Loan Fund, together with the unexpended balance of such loan fund as of June 30, 2004 and any interest thereon, are appropriated for the purposes of P.L.1998, c.115 (C.40:56-71.1 et seq.).

Notwithstanding the provisions of section 35 of P.L.1975, c.326 (C.13:17-10.1), sections 10 and 11 of P.L.1981, c.306 (C.13:1E-109 and C.13:1E-110), section



8 of P.L.1985, c.368 (C.13:1E-176), or any rules and regulations adopted pursuant thereto, or any order issued by the Board of Public Utilities to the contrary, an amount equal to \$3,205,000 shall be withdrawn from the escrow accounts by the New Jersey Meadowlands Commission and paid to the State Treasurer for deposit in the General Fund and the amount so deposited shall be appropriated to the New Jersey Meadowlands Commission for operational costs. Of the amount so deposited and appropriated to the New Jersey Meadowlands Commission, \$110,000 shall be made available to the Hackensack Meadowlands Municipal Committee for operational costs.

Notwithstanding the provisions of section 35 of P.L.1975, c.326 (C.13:17-10.1), sections 10 and 11 of P.L.1981, c.306 (C.13:1E-109 and C.13:1E-110), section 8 of P.L.1985, c.368 (C.13:1E-176), or any rules and regulations adopted pursuant thereto, or any order issued by the Board of Public Utilities to the contrary, an amount equal to \$165,000 shall be withdrawn from the escrow accounts by the commission and paid to the State Treasurer for deposit in the General Fund, and the amount so deposited is appropriated for payment to the New Jersey Meadowlands Tax Sharing Stabilization Fund and paid to the commission in accordance with the certification of the fund's requirements, for distribution by the commission to municipalities entitled to payments from the fund for 2004.

Notwithstanding any law to the contrary, Revolving Housing Development and Demonstration Grant funds may be used to support loans and grants to non-profit entities for the purpose of economic development and historic preservation.

#### **STATE AID**

|                                          |              |
|------------------------------------------|--------------|
| 02-8020 Housing Services .....           | \$16,925,000 |
| Total State Aid Appropriation, Community |              |
| Development Management .....             | \$16,925,000 |

***State Aid:***

|                                      |              |
|--------------------------------------|--------------|
| 02 Relocation Assistance .....       | (\$250,000)  |
| 02 Neighborhood Preservation         |              |
| (P.L.1975, c.248 and c.249) ....     | (2,750,000)  |
| 02 Neighborhood Preservation --      |              |
| Fair Housing (P.L.1985, c.222) ..... | (13,925,000) |

In addition to the sum hereinabove for Relocation Assistance, such amounts as may be required to fund relocation costs of boarding home residents are appropriated from the Boarding Home Rental Assistance Fund.

Of the sum hereinabove for Neighborhood Preservation-Fair Housing, a sum not to exceed \$300,000 may be used for matching on a 50/50 basis for the administrative costs of the Federal Small Cities Block Grant.

Any receipts in excess of the amount anticipated in the Neighborhood Preservation-Fair Housing account are appropriated.

The amount hereinabove for Neighborhood Preservation-Fair Housing is payable from the receipts of the portion of the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1968, c.49 (C.46:15-8), and from the receipts of the portion of

the realty transfer tax directed to be credited to the Neighborhood Preservation Nonlapsing Revolving Fund pursuant to section 4 of P.L.1975, c.176 (C.46:15-10.1). If the receipts are less than anticipated, the appropriation shall be reduced proportionately.

Of the amount hereinabove for Neighborhood Preservation-Fair Housing, an amount not to exceed \$2,500,000 may be used to provide technical assistance grants to non-profit housing organizations and authorities for creating and supporting affordable housing and community development opportunities.

The unexpended balance as of June 30, 2004 in the Neighborhood Preservation-Fair Housing account is appropriated.

Notwithstanding any law to the contrary, funds appropriated for Neighborhood Preservation-Fair Housing may be provided directly to the housing project being assisted; provided however, that any such project have the support by resolution of the governing body of the municipality in which it is located.

### ***50 Economic Planning, Development and Security***

#### ***51 Economic Planning and Development***

##### ***8049 Office of Smart Growth***

##### **DIRECT STATE SERVICES**

49-8049 Office of Smart Growth ..... \$2,845,000

Total Direct State Services Appropriation,

Office of Smart Growth ..... \$2,845,000

##### ***Direct State Services:***

##### ***Personal Services:***

Salaries and Wages ..... (\$1,611,000)

Materials and Supplies ..... (55,000)

Services Other Than Personal ..... (245,000)

Maintenance and Fixed Charges ..... (6,000)

##### ***Special Purpose:***

49 Historic Trust/Open Space

Administrative Costs ..... (578,000)

49 State Planning Commission ..... (325,000)

49 Governor's Smart Growth

Policy Council ..... (25,000)

The Office of Smart Growth is authorized to collect reasonable fees for the distribution of its publications, and receipts derived from such fees are appropriated for the Office of Smart Growth.

The amount hereinabove for the New Jersey Historic Trust Program is appropriated for all administrative costs and expenses pursuant to the "New Jersey Cultural Trust Act," P.L.2000, c.76 (C.52:16A-72 et seq.); the "Garden State Preservation Trust Act," P.L.1999, c.152 (C.13:8C-1 et seq.); the "Historic Preservation Revolving Loan Fund," P.L.1991, c.41 (C.13:1B-15.115a et seq.); the "Green Acres, Clean Water, Farmland and Historic Preservation Bond Act of 1992," P.L.1992, c.88; and the "Green Acres, Farmland and Historic Preservation, and Blue Acres Bond Act of 1995," P.L.1995, c.204, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any other law to the contrary, an amount not to exceed \$578,000 shall be transferred from the Garden State Historic Preservation Trust Fund to the General Fund and is appropriated to the Department of Community Affairs for Historic Trust/Open Space Administrative Costs.

#### **GRANTS-IN-AID**

49-8049 Office of Smart Growth ..... \$2,700,000  
 Total Grants-in-Aid Appropriation,  
 Office of Smart Growth ..... \$2,700,000

#### **Grants-in-Aid:**

49 Smart Future Planning Grants .. (2,700,000)

#### **55 Social Services Program DIRECT STATE SERVICES**

05-8050 Community Resources ..... \$485,000  
 15-8051 Women's Programs ..... 1,168,000  
 Total Direct State Services Appropriation, Social  
 Services Programs ..... \$1,653,000

#### **Direct State Services:**

##### **Personal Services:**

Salaries and Wages ..... (\$828,000)  
 Materials and Supplies ..... (70,000)  
 Services Other Than Personal ..... (174,000)  
 Maintenance and Fixed Charges ..... (6,000)

##### **Special Purpose:**

05 Center for Hispanic Policy,  
 Research and Development ..... (75,000)  
 15 Address Confidentiality Program ... (93,000)  
 15 Expenses of the New Jersey  
 Commission on Women ..... (7,000)  
 15 Office on the Prevention of  
 Violence Against Women ..... (400,000)

Notwithstanding the provision of any law to the contrary, receipts derived from the increases in divorce filing fees enacted in the amendment to N.J.S.22A:2-12 by section 41 of P.L.2003, c.117 are appropriated for transfer to the General Fund as general State revenue, subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated from the Petroleum Overcharge Reimbursement Fund such amount as may be required to provide the State 25% cost share for the Low-Income Weatherization Assistance Program, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

05-8050 Community Resources ..... \$22,390,000  
 15-8051 Women's Programs ..... 3,115,000  
 Total Grants-in-Aid Appropriation,  
 Social Services Programs ..... \$25,505,000

***Grants-in-Aid:***

|                                                                    |               |
|--------------------------------------------------------------------|---------------|
| 05 Center for Hispanic Policy,<br>Research and Development . . . . | (\$3,000,000) |
| 05 Recreation for the Handicapped . .                              | (650,000)     |
| 05 Special Olympics . . . . .                                      | (450,000)     |
| 05 Grant to ASPIRA . . . . .                                       | (500,000)     |
| 05 Boys and Girls Clubs<br>of New Jersey . . . . .                 | (1,500,000)   |
| 05 Big Brothers/Big Sisters . . . . .                              | (750,000)     |
| 05 United Way 2-1-1 System . . . . .                               | (350,000)     |
| 05 Nutley Township -<br>Park Development . . . . .                 | (840,000)     |
| 05 Ewing Township -<br>Municipal Purposes . . . . .                | (1,500,000)   |
| 05 Essex County - South Mountain<br>Arena Renovations . . . . .    | (1,800,000)   |
| 05 Ethnic Advisory Council . . . . .                               | (50,000)      |
| 05 Larc School - Bellmawr . . . . .                                | (1,000,000)   |
| 05 Lead Hazard Control<br>Assistance Fund . . . . .                | (10,000,000)  |
| 15 Grants to Hispanic Women's<br>Resource Centers . . . . .        | (500,000)     |
| 15 Women's Referral Central . . . . .                              | (25,000)      |
| 15 Rape Prevention . . . . .                                       | (1,000,000)   |
| 15 Job Training Center for Urban<br>Women Act . . . . .            | (315,000)     |
| 15 Grants to Women's Shelters . . . . .                            | (25,000)      |
| 15 Grants to Displaced<br>Homemaker Centers . . . . .              | (1,250,000)   |

In addition to the amount hereinabove for the Lead Hazard Control Assistance Fund, after program expenditures reach \$7,000,000, there are appropriated such sums as are required not to exceed \$4,000,000 in accordance with the provisions of the "Lead Hazard Control Assistance Act," P.L.2003, c.311 (C.52:27D-437.1 et seq.), subject to approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2004 in the Women's Micro-Business Pilot Program account is appropriated.

Of the amount appropriated hereinabove for Boys and Girls Clubs of New Jersey, not less than \$250,000 shall be awarded to clubs that were not recipients from this account in the prior fiscal year.

***70 Government Direction, Management and Control******75 State Subsidies and Financial Aid*****DIRECT STATE SERVICES**

|                                                                                           |                    |
|-------------------------------------------------------------------------------------------|--------------------|
| 04-8030 Local Government Services . . . . .                                               | <u>\$4,518,000</u> |
| Total Direct State Services Appropriation, State<br>Subsidies and Financial Aid . . . . . | <u>\$4,518,000</u> |

**Direct State Services:****Personal Services:**

|                                                   |             |
|---------------------------------------------------|-------------|
| Local Finance Board Members<br>(7@\$12,000) ..... | (\$84,000)  |
| Salaries and Wages .....                          | (2,500,000) |
| Materials and Supplies .....                      | (50,000)    |
| Services Other Than Personal .....                | (320,000)   |
| Maintenance and Fixed Charges .....               | (18,000)    |

**Special Purpose:**

|                                                        |             |
|--------------------------------------------------------|-------------|
| 04 Special Municipal Aid Act -<br>Administration ..... | (1,138,000) |
| 04 Municipal Rehabilitation/<br>Recovery Act .....     | (408,000)   |

Receipts from the Division of Local Government Services are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

**GRANTS-IN-AID**

|                                                                               |                     |
|-------------------------------------------------------------------------------|---------------------|
| 04-8030 Local Government Services .....                                       | <u>\$10,000,000</u> |
| Total Grants-in-Aid Appropriation, State<br>Subsidies and Financial Aid ..... | <u>\$10,000,000</u> |

**Grants-in-Aid:**

|                                        |               |
|----------------------------------------|---------------|
| 04 Local Library Grants .....          | (\$4,000,000) |
| 04 Statewide Livable Communities ..... | (6,000,000)   |

The unexpended balance as of June 30, 2004 in the Local Library Grants program account is appropriated subject to the approval of the Director of the Division of Budget and Accounting.

**STATE AID**

|                                                                           |                        |
|---------------------------------------------------------------------------|------------------------|
| 04-8030 Local Government Services .....                                   | <u>\$1,015,840,000</u> |
| (From General Fund .....                                                  | \$86,271,000)          |
| (From Property Tax Relief Fund .                                          | 929,569,000)           |
| Total State Aid Appropriation, State Subsidies and<br>Financial Aid ..... | <u>\$1,015,840,000</u> |
| (From General Fund. ....                                                  | \$86,271,000)          |
| (From Property Tax Relief Fund .                                          | 929,569,000)           |

**State Aid:**

|                                                                                               |                |
|-----------------------------------------------------------------------------------------------|----------------|
| 04 Extraordinary Aid<br>(C.52:27D-118.36) .....                                               | (\$41,000,000) |
| 04 Consolidated Municipal<br>Property Tax Relief<br>Aid (PTRF) .....                          | (835,447,000)  |
| 04 County Prosecutors Salary<br>Increase (P.L.1996, c.99) .....                               | (821,000)      |
| 04 Legislative Initiative Municipal<br>Block Grant Program (PTRF) .                           | (34,825,000)   |
| 04 Domestic Violence Training<br>Cost Reimbursement - Local Law<br>Enforcement Agencies ..... | (250,000)      |

|                                                                        |              |
|------------------------------------------------------------------------|--------------|
| 04 Trenton Capitol City<br>Aid (PTRF) .....                            | (16,500,000) |
| 04 Regional Efficiency<br>Development Incentive<br>Grant Program ..... | (4,200,000)  |
| 04 Regional Efficiency Aid<br>Program (PTRF) .....                     | (10,992,000) |
| 04 County Prosecutor Funding<br>Initiative Pilot Program .....         | (8,000,000)  |
| 04 Municipal Homeland Security<br>Assistance Aid .....                 | (32,000,000) |
| 04 Special Municipal Aid<br>Act (PTRF) .....                           | (29,305,000) |
| 04 Taxpayer Hero Grants (PTRF) ..                                      | (2,500,000)  |

Notwithstanding any provisions of the "Local Budget Law," N.J.S.40A:4-1 et seq., to the contrary, the Director of the Division of Local Government Services may require any municipality which is determined to be experiencing fiscal distress pursuant to the provisions of the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.), to anticipate and include in its annual budget any additional item or amount of revenue as the director deems to be appropriate and fiscally prudent.

Notwithstanding any provision of law to the contrary, municipal appropriations for "Reserve for Tax Appeals" may be made in exception to spending limitations pursuant to section 3 of P.L.1976, c.68 (C.40A:4-45.3).

Notwithstanding any provision of law to the contrary, any qualified municipality as defined in section 1 of P.L.1978, c.14 (C.52:27D-178) for fiscal year 2004 shall continue to be a qualified municipality thereunder for fiscal year 2005.

In addition to the amount hereinabove for the County Prosecutors Salary Increase, there is appropriated an amount not to exceed \$40,000, subject to the approval of the Director of the Division of Budget and Accounting.

Loan repayments received in the Regional Efficiency Developmental Incentive Grant Program account, established pursuant to P.L.2003, c.122, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for Extraordinary Aid shall be charged first to receipts of the supplemental fee established pursuant to section 2 of P.L.2003, c.113 (C.46:15-7.1), credited to the Extraordinary Aid account.

Notwithstanding the provisions of any other law to the contrary, the amount hereinabove for Extraordinary Aid shall be distributed subject to the determination of the Director of the Division of Local Government Services.

The unexpended balance as of June 30, 2004 in the Regional Efficiency Development Incentive Grant Program account is appropriated subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary, whenever funds appropriated as State aid and payable to any municipality, which municipality requests and receives the approval of the Local Finance Board, such funds may be pledged as a guarantee for payment of principal and interest on any bond anticipation notes issued

pursuant to section 11 of P.L.2003, c.15 (C.40A:2-8.1) and any tax anticipation notes issued pursuant to N.J.S.40A:4-64 by such municipality. Such funds, if so pledged, shall be made available by the State Treasurer upon receipt of a written notification by the Director of the Division of Local Government Services that the municipality does not have sufficient funds available for prompt payment of principal and interest on such notes, and shall be paid by the State Treasurer directly to the holders of such notes at such time and in such amounts as specified by the director, notwithstanding that payment of such funds does not coincide with any date for payment otherwise fixed by law.

The amount hereinabove for Consolidated Municipal Property Tax Relief Aid shall be distributed on the following schedule: on or before August 1, 45% of the total amount due; September 1, 30% of the total amount due; October 1, 15% of the total amount due; November 1, 5% of the total amount due; and December 1, 5% of the total amount due.

Notwithstanding any law to the contrary, from the amount received from the Consolidated Municipal Property Tax Relief Aid program, each municipality shall be required to distribute to each fire district within its boundaries the amount received by the fire district from the Supplementary Aid for Fire Services program pursuant to the provisions of the fiscal year 1995 annual appropriations act, P.L.1994, c.67.

Notwithstanding any law to the contrary, the amount hereinabove for Consolidated Municipal Property Tax Relief Aid shall be distributed in the same amounts, and to the same municipalities which received funding pursuant to the fiscal year 2004 annual appropriations act, P.L.2003, c.122, provided further, however, that from the amount hereinabove there is transferred to the Energy Tax Receipts Property Tax Relief Fund account such sums as were determined for fiscal year 2003 pursuant to subsection e. of section 2 of P.L.1997, c.167 (C.52:27D-439) as amended by P.L.1999, c.168, and except that the amount received by the city of Newark shall be further reduced by an amount certified by the Division of Taxation and appropriated to the Division of Taxation for any aspect of the revaluation of real property in Newark, subject to the approval of the Director of the Division of Budget and Accounting. The Director of the Division of Local Government Services shall further take such actions as may be necessary to ensure that the Consolidated Municipal Property Tax Relief Aid appropriated to offset losses from business personal property tax that would have otherwise been used for the support of public schools will be used to reduce the school property tax levy for those affected school districts with the remaining State Aid used as municipal property tax relief. The chief financial officer of the municipality shall pay to the school districts such amounts as may be due by December 31, 2004.

The amount appropriated hereinabove for the Legislative Initiative Municipal Block Grant Program (PTRF) shall be distributed to the same municipalities and in the same proportions as the distributions received therefrom during fiscal year 2004.

Notwithstanding the provisions of P.L.1999, c.61 (C.54:4-8.76 et seq.) to the contrary, the amount appropriated hereinabove for the Regional Efficiency Aid

Program (REAP) shall be distributed to the same municipalities and in the same proportion as was distributed in fiscal year 2004.

Municipalities that received Municipal Revitalization Program aid in fiscal year 1995 pursuant to the provisions of P.L. 1994, c.67 shall continue to be subject to the provisions of the "Special Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.), and the Director of the Division of Local Government Services may withhold aid payments or portions thereof from any municipality that fails to comply with those provisions, until such time as the director determines the municipality to be in compliance.

The State Treasurer, in consultation with the Commissioner of the Department of Community Affairs, is empowered to direct the Director of the Division of Budget and Accounting to transfer from any State department to any other State department sums as may be necessary to provide a loan for a term not to exceed 30 days to a municipality faced with a fiscal crisis, including but not limited to a potential default on tax anticipation notes. Extension of a loan shall be conditioned on the municipality being an "eligible municipality" pursuant to P.L.1987, c.75 (C.52:27D-118.24 et seq.).

### **76 Management and Administration**

#### **DIRECT STATE SERVICES**

99-8070 Administration and Support Services . . . . . \$4,013,000  
 Total Direct State Services Appropriation,  
 Management and Administrative Services . . . . . \$4,013,000

#### **Direct State Services:**

##### **Personal Services:**

Salaries and Wages . . . . . (\$2,799,000)  
 Materials and Supplies . . . . . (10,000)  
 Services Other Than Personal . . . . . (281,000)  
 Maintenance and Fixed Charges . . . . . (26,000)

##### **Special Purpose:**

99 Government Records Council . . . . (792,000)  
 99 Affirmative Action and Equal  
 Employment Opportunity . . . . . (60,000)  
 Additions, Improvements and Equipment . . (45,000)

Notwithstanding any provision of law to the contrary, from the amount appropriated hereinabove for the Government Records Council, the Council shall expend such amount as is necessary to employ staff legal counsel other than counsel provided by the Office of the Attorney General.

Department of Community Affairs,  
 Total State Appropriation . . . . . \$1,122,701,000

Notwithstanding the provisions of any prior law to the contrary, deposits of any funds into the Revolving Housing Development and Demonstration Grant Fund are subject to prior approval of the Director of the Division of Budget and Accounting.



**Summary of Department of Community Affairs Appropriations  
(For Display Purposes Only)**

*Appropriations by Category:*

|                             |               |
|-----------------------------|---------------|
| Direct State Services ..... | \$35,581,000  |
| Grants-in-Aid .....         | 54,355,000    |
| State Aid .....             | 1,032,765,000 |

*Appropriations by Fund:*

|                                |               |
|--------------------------------|---------------|
| General Fund .....             | \$193,132,000 |
| Property Tax Relief Fund ..... | 929,569,000   |

**26 DEPARTMENT OF CORRECTIONS**

**10 Public Safety and Criminal Justice**

**16 Detention and Rehabilitation**

**DIRECT STATE SERVICES**

|                                                                                  |                      |
|----------------------------------------------------------------------------------|----------------------|
| 07-7040 Institutional Control and Supervision .....                              | \$430,338,000        |
| 08-7040 Institutional Care and Treatment .....                                   | 96,390,000           |
| 99-7040 Administration and Support Services ..                                   | <u>80,869,000</u>    |
| Total Direct State Services Appropriation,<br>Detention and Rehabilitation ..... | <u>\$707,597,000</u> |

**Direct State Services:**

Personal Services:

|                                     |                 |
|-------------------------------------|-----------------|
| Salaries and Wages .....            | (\$464,489,000) |
| Food in Lieu of Cash .....          | (1,968,000)     |
| Materials and Supplies .....        | (76,260,000)    |
| Services Other Than Personal .....  | (113,424,000)   |
| Maintenance and Fixed Charges ..... | (12,571,000)    |

Special Purpose:

|                                                                       |              |
|-----------------------------------------------------------------------|--------------|
| 07 Adult Offender Boot Camp at<br>Albert C. Wagner YCF .....          | (3,625,000)  |
| 07 Jones Farm - Repopulation .....                                    | (1,752,000)  |
| 07 SSCF - New Unit Expansion ...                                      | (7,062,000)  |
| 07 Gang Management Unit .....                                         | (746,000)    |
| 07 Civilly Committed Sexual<br>Offender Facility .....                | (8,538,000)  |
| 07 Civilly Committed Sexual<br>Offender Facility - Annex .....        | (14,433,000) |
| 08 Byrne Grant -Therapeutic<br>Community Program .....                | (82,000)     |
| 08 State Match - Residential Substance<br>Abuse Treatment Grant ..... | (268,000)    |
| 08 State Match - Social Services<br>Block Grant .....                 | (33,000)     |
| 99 Sewage Hauling and<br>Disposal Costs .....                         | (145,000)    |
| Additions, Improvements<br>and Equipment .....                        | (2,201,000)  |

In order to permit flexibility and ensure the appropriate levels of services to the civilly committed, amounts may be transferred between the Civilly Committed Sexual Offender Facility and the Civilly Committed Sexual Offender Facility - Annex accounts, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from the Upholstery Program at the Albert C. Wagner Youth Correctional Facility, and any unexpended balance as of June 30, 2004 are appropriated for the operation of the program with surplus funds being credited to the institution's Inmate Welfare Fund, subject to the approval of the Director of the Division of Budget and Accounting.

#### **CAPITAL CONSTRUCTION**

07-7040 Institutional Control and Supervision ..... \$500,000  
 Total Capital Construction Appropriation,  
 Detention and Rehabilitation ..... \$500,000

#### **Capital Project:**

07 Bayside State Prison -  
 Locking System ..... (\$500,000)

#### **7025 System-Wide Program Support**

#### **DIRECT STATE SERVICES**

07-7025 Institutional Control and Supervision ..... \$17,589,000  
 13-7025 Institutional Program Support ..... 68,868,000  
 Total Direct State Services Appropriation, System-  
 Wide Program Support . . . . . \$86,457,000

#### **Direct State Services:**

##### **Personal Services:**

Salaries and Wages ..... (\$31,010,000)  
 Materials and Supplies ..... (203,000)  
 Services Other Than Personal ..... (16,905,000)

##### **Special Purpose:**

07 Central Office Transportation  
 Unit ..... (273,000)  
 07 Special Operations Group ..... (75,000)  
 13 Integrated Information Systems  
 Development ..... (7,758,000)  
 13 Augment Medical Care  
 At Institutions ..... (862,000)  
 13 State Match - Gang Prevention  
 and Awareness Program ..... (49,000)  
 13 State Match - Discharge  
 Planning Unit ..... (27,000)  
 13 Drug Interdiction Unit -  
 State Match ..... (44,000)  
 13 Inmate Work Details Program .. (1,590,000)  
 13 Return of Escapees and  
 Absconders ..... (223,000)

- 13 Mutual Agreement Program . . . (1,168,000)
- 13 Recruit Screening Program . . . . . (180,000)
- 13 Bulletproof Vests . . . . . (340,000)
- 13 DOC/DOT Work Details . . . . . (537,000)
- 13 Video Teleconferencing . . . . . (300,000)
- 13 Additional Mental Health  
Treatment Services . . . . . (24,478,000)
- 13 Drug Testing - Assumption of  
Federal Funding . . . . . (314,000)
- Additions, Improvements and Equipment . (121,000)
- The unexpended balance as of June 30, 2004 in the Integrated Information Systems  
Development account is appropriated to provide funding for the cost of  
replacing the Department of Corrections S/36 Correctional Management  
Information System, subject to the approval of the Director of the Division of  
Budget and Accounting, the expenditures of which shall directly improve the  
department's ability to collect fines, restitutions, penalties, surcharges or other  
debts owed by inmates.
- In addition to the sums appropriated above, funds may be transferred from the  
Victims of Crime Compensation Board to the Department of Corrections for  
the department's new computer system, which will facilitate the collection of  
monies owed by inmates, subject to the approval of the Director of the Division  
of Budget and Accounting.
- Of the sums appropriated hereinabove for Video Teleconferencing, an amount shall  
be transferred to the Judiciary and the Office of the Public Defender for  
telephone line charges, subject to the approval of the Director of the Division  
of Budget and Accounting.
- The unexpended balance as of June 30, 2004 in the Services Other Than Personal  
account is appropriated for the same purpose, subject to the approval of the  
Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

- 13-7025 Institutional Program Support . . . . . \$83,605,000
- Total Grants-in-Aid Appropriation, System-Wide  
Program Support . . . . . \$83,605,000

#### ***Grants-in-Aid:***

- 13 Purchase of Service for Inmates  
Incarcerated In County Penal  
Facilities . . . . . (\$20,510,000)
- 13 Purchase of Service for  
Inmates Incarcerated In Out-  
of-State Facilities . . . . . (100,000)
- 13 Purchase of Community Services (61,495,000)
- 13 Life Skills Academy . . . . . (1,500,000)
- A portion of the total amount appropriated in the Purchase of Service for Inmates  
Incarcerated in County Penal Facilities account is available for operational costs  
of additional State facilities for inmate housing, which become ready for  
occupancy and other programs which reduce the number of State inmates in

county facilities, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2004 in the Purchase of Service for Inmates Incarcerated in County Penal Facilities account is appropriated for the same purpose.

Any change by the Department of Corrections in the per diem rates paid for Inmates Incarcerated in County Penal Facilities and for Community Services shall first be approved by the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2004 in the Purchase of Community Services account is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

### **10 Public Safety and Criminal Justice**

#### **17 Parole**

##### **DIRECT STATE SERVICES**

|                                                        |                     |
|--------------------------------------------------------|---------------------|
| 03-7010 Parole .....                                   | \$40,206,000        |
| 05-7280 State Parole Board .....                       | 12,164,000          |
| 99-7280 Administration and Support Services .....      | <u>3,103,000</u>    |
| Total Direct State Services Appropriation, Parole .... | <u>\$55,473,000</u> |

##### **Direct State Services:**

###### **Personal Services:**

|                                     |                |
|-------------------------------------|----------------|
| Salaries and Wages .....            | (\$36,450,000) |
| Materials and Supplies .....        | (962,000)      |
| Services Other Than Personal .....  | (2,740,000)    |
| Maintenance and Fixed Charges ..... | (1,560,000)    |

###### **Special Purpose:**

|                                                            |             |
|------------------------------------------------------------|-------------|
| 03 Payments to Inmates Discharged<br>from Facilities ..... | (120,000)   |
| 03 Parolee Electronic Monitoring<br>Program .....          | (5,331,000) |
| 03 Intensive Supervision/<br>Surveillance Program .....    | (3,641,000) |
| 03 Parolee Drug Treatment .....                            | (2,309,000) |
| 03 Mutual Agreement<br>Program (MAP) .....                 | (437,000)   |
| 03 Sex Offender Management Unit .....                      | (1,895,000) |

Additions, Improvements and Equipment .. (28,000)

Any change by the Division of Parole in the per diem rates affecting Special Caseload accounts shall first be approved by the Director of the Division of Budget and Accounting.

From the appropriations hereinabove, the Executive Director shall make payment to the Interstate Commission for Adult Offender Supervision in the amount of \$32,000 for the New Jersey state assessment in fiscal year 2005.

The unexpended balances as of June 30, 2004 in the Division of Parole's accounts, not to exceed \$700,000, are appropriated to the Administration and Support Services accounts, for the purpose of modifying the automated algorithm used

to calculate parole eligibility and maximum sentence dates, subject to the approval of the Director of the Division of Budget and Accounting.

#### GRANTS-IN-AID

03-7010 Parole ..... \$29,994,000  
 Total Grants-in-Aid Appropriation, Parole ..... \$29,994,000

#### *Grants-in-Aid:*

03 Re-Entry Substance Abuse  
 Program ..... (\$3,714,000)  
 03 Halfway Back Program ..... (14,497,000)  
 03 Mutual Agreement Program  
 (MAP) ..... (2,690,000)  
 03 Day Reporting Program ..... (9,093,000)

Any change by the Division of Parole in the per diem rates affecting Special Caseload accounts shall first be approved by the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2004 in the Halfway Back Program is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

#### *10 Public Safety and Criminal Justice*

#### *19 Central Planning, Direction and Management*

#### DIRECT STATE SERVICES

99-7000 Administration and Support Services ..... \$17,711,000  
 Total Direct State Services Appropriation, Central  
 Planning, Direction and Management ..... \$17,711,000

#### *Direct State Services:*

##### Personal Services:

Salaries and Wages ..... (\$13,951,000)  
 Materials and Supplies ..... (562,000)  
 Services Other Than Personal ..... (1,832,000)  
 Maintenance and Fixed Charges ..... (615,000)

##### Special Purpose:

99 Affirmative Action and Equal  
 Employment Opportunity ..... (655,000)

Additions, Improvements and Equipment . . . (96,000)

Receipts derived from the Culinary Arts Vocational Program, and any unexpended balance as of June 30, 2004, are appropriated for the operation of the program, subject to the approval of the Director of the Division of Budget and Accounting.

Department of Corrections,

Total State Appropriation ..... \$981,337,000

Balances on hand as of June 30, 2004 of funds held for the benefit of inmates in the several institutions, and such funds as may be received, are appropriated for the use of such inmates.

Payments received by the State from employers of prisoners on their behalf, as part of any work release program, are appropriated for the purposes provided under P.L.1969, c.22 (C.30:4-91.4 et seq.).

***Summary of Department of Corrections Appropriations  
(For Display Purposes Only)***

***Appropriations by Category:***

|                             |               |
|-----------------------------|---------------|
| Direct State Services ..... | \$867,238,000 |
| Grants-in-Aid .....         | 113,599,000   |
| Capital Construction .....  | 500,000       |

***Appropriations by Fund:***

|                    |               |
|--------------------|---------------|
| General Fund ..... | \$981,337,000 |
|--------------------|---------------|

**34 DEPARTMENT OF EDUCATION**

***30 Educational, Cultural and Intellectual Development***

***31 Direct Educational Services and Assistance***

**DIRECT STATE SERVICES**

|                                                                                                |                  |
|------------------------------------------------------------------------------------------------|------------------|
| 04-5062 Adult and Continuing Education .....                                                   | \$398,000        |
| 05-5064 Bilingual Education .....                                                              | 212,000          |
| 07-5065 Special Education .....                                                                | <u>54,000</u>    |
| Total Direct State Services Appropriation, Direct<br>Educational Services and Assistance ..... | <u>\$664,000</u> |

***Direct State Services:***

***Personal Services:***

|                                     |             |
|-------------------------------------|-------------|
| Salaries and Wages .....            | (\$319,000) |
| Materials and Supplies .....        | (21,000)    |
| Services Other Than Personal .....  | (62,000)    |
| Maintenance and Fixed Charges ..... | (1,000)     |

***Special Purpose:***

|                                                  |           |
|--------------------------------------------------|-----------|
| 04 General Education Development --<br>GED ..... | (261,000) |
|--------------------------------------------------|-----------|

**STATE AID**

|                                                 |                         |
|-------------------------------------------------|-------------------------|
| 01-5120 General Formula Aid .....               | \$5,583,029,000         |
| <i>(From General Fund .....</i>                 | <i>\$1,098,227,000)</i> |
| <i>(From Property Tax Relief Fund</i>           | <i>4,484,802,000)</i>   |
| 02-5120 Nonpublic School Aid .....              | 104,118,000             |
| 03-5120 Miscellaneous Grants-In-Aid .....       | 67,996,000              |
| <i>(From General Fund .....</i>                 | <i>10,505,000)</i>      |
| <i>(From Property Tax Relief Fund ..</i>        | <i>57,491,000)</i>      |
| 04-5062 Adult and Continuing Education .....    | 1,424,000               |
| 05-5120 Bilingual Education .....               | 65,578,000              |
| <i>(From Property Tax Relief Fund ..</i>        | <i>65,578,000)</i>      |
| 06-5064 Programs for Disadvantaged Youths ..... | 199,512,000             |
| <i>(From Property Tax Relief Fund ..</i>        | <i>199,512,000)</i>     |
| 07-5120 Special Education .....                 | <u>948,420,000</u>      |
| <i>(From General Fund .....</i>                 | <i>52,000,000)</i>      |

*(From Property Tax Relief Fund . 896,420,000)*  
 Total State Aid Appropriation, Direct Educational  
 Services and Assistance . . . . . \$6,970,077,000  
*(Total From General Fund . . . \$1,266,274,000)*  
*(Total From Property*  
*Tax Relief Fund . . . . . 5,703,803,000)*

**Less:**

*Stabilization Growth Limitation . . . \$73,576,000*  
*Growth Savings – Payment Changes 5,000,000*  
*Total Deductions . . . . . \$78,576,000*  
 Total State Appropriation, Direct Educational  
 Services and Assistance . . . . . \$6,891,501,000  
*(Total From General Fund . . . \$1,266,274,000)*  
*(Total From Property Tax*  
*Relief Fund . . . . . 5,625,227,000)*

**State Aid:**

01 Core Curriculum  
 Standards Aid . . . . . (\$1,098,227,000)  
 01 Core Curriculum  
 Standards Aid (PTRF) . . . . . (1,982,091,000)  
 01 Supplemental Core  
 Curriculum Standards  
 Aid (PTRF) . . . . . (251,768,000)  
 01 Additional Formula  
 Aid (PTRF) . . . . . (90,000,000)  
 01 High Expectations for Learning  
 Proficiencies (PTRF) . . . . . (17,000,000)  
 01 Early Childhood Aid (PTRF) . . . (330,630,000)  
 01 Positive Achievement and Cost  
 Effectiveness (PTRF) . . . . . (2,500,000)  
 01 Instructional Supplement  
 (PTRF) . . . . . (15,621,000)  
 01 Stabilization Aid (PTRF) . . . . . (111,626,000)  
 01 Large Efficient District  
 Aid (PTRF) . . . . . (5,250,000)  
 01 Aid for Districts with High  
 Senior Citizen Populations  
 (PTRF) . . . . . (1,231,000)  
 01 Stabilization Aid II (PTRF) . . . . . (2,491,000)  
 01 Stabilization Aid III (PTRF) . . . . . (11,402,000)  
 01 Regionalization Incentive  
 Aid (PTRF) . . . . . (18,295,000)  
 01 Consolidated Aid (PTRF) . . . . . (130,127,000)  
 01 Education Opportunity  
 Aid (PTRF) . . . . . (1,103,414,000)  
 01 Education Access Aid (PTRF) . . . (195,000,000)

|                                                                                                   |               |
|---------------------------------------------------------------------------------------------------|---------------|
| 01 Abbott Preschool Expansion<br>Aid (PTRF) . . . . .                                             | (182,400,000) |
| 01 Early Launch to Learning<br>Initiative (PTRF) . . . . .                                        | (15,000,000)  |
| 01 Aid for Enrollment<br>Adjustments (PTRF) . . . . .                                             | (16,456,000)  |
| 01 Above Average Enrollment<br>Growth (PTRF) . . . . .                                            | (12,000,000)  |
| 02 Nonpublic Textbook Aid . . . . .                                                               | (12,271,000)  |
| 02 Nonpublic Handicapped Aid . . . . .                                                            | (26,789,000)  |
| 02 Nonpublic Auxiliary<br>Services Aid . . . . .                                                  | (34,912,000)  |
| 02 Nonpublic Auxiliary/<br>Handicapped Transportation Aid . . . . .                               | (3,610,000)   |
| 02 Nonpublic Nursing<br>Services Aid . . . . .                                                    | (14,636,000)  |
| 02 Nonpublic Technology<br>Initiative . . . . .                                                   | (7,900,000)   |
| 02 Nonpublic Capital Projects Aid . . . . .                                                       | (3,000,000)   |
| 02 Settlement Music School . . . . .                                                              | (1,000,000)   |
| 03 Lawrence Township (Mercer)<br>School District Extraordinary Aid . . . . .                      | (750,000)     |
| 03 North Bergen School District -<br>Facilities Leasing . . . . .                                 | (1,900,000)   |
| 03 EIRC - P20 Program . . . . .                                                                   | (125,000)     |
| 03 Emergency Fund . . . . .                                                                       | (200,000)     |
| 03 Educational Information and<br>Resource Center . . . . .                                       | (450,000)     |
| 03 Bridge Loan Interest and Approved<br>Borrowing Cost . . . . .                                  | (50,000)      |
| 03 Payments for Institutionalized<br>Children - Unknown District of<br>Residence (PTRF) . . . . . | (21,400,000)  |
| 03 Community Relations Committee<br>of the United Jewish Federation<br>of Metrowest . . . . .     | (30,000)      |
| 03 Montclair Board of Education -<br>Minority Student Achievement<br>Network . . . . .            | (1,000,000)   |
| 03 Montclair Board of Education -<br>Desegregation Aid . . . . .                                  | (500,000)     |
| 03 Englewood Implementation Aid . . . . .                                                         | (4,000,000)   |
| 03 School District of Trenton -<br>Security . . . . .                                             | (1,500,000)   |
| 03 Character Education (PTRF) . . . . .                                                           | (4,750,000)   |
| 03 Teacher Quality<br>Mentoring (PTRF) . . . . .                                                  | (2,500,000)   |



|                                      |               |
|--------------------------------------|---------------|
| 03 County Special Services           |               |
| Restoration Aid (PTRF) . . . . .     | (120,000)     |
| 03 Adult and Postsecondary           |               |
| Education Grants (PTRF) . . . . .    | (28,721,000)  |
| 04 Evening School for the Foreign    |               |
| Born . . . . .                       | (211,000)     |
| 04 High School Equivalency . . . . . | (1,213,000)   |
| 05 Bilingual Education               |               |
| Aid (PTRF) . . . . .                 | (65,578,000)  |
| 06 Demonstrably Effective            |               |
| Program Aid (PTRF) . . . . .         | (199,512,000) |
| 07 Special Education                 |               |
| Aid (PTRF) . . . . .                 | (896,420,000) |
| 07 Extraordinary Special             |               |
| Education Costs Aid . . . . .        | (52,000,000)  |

**Less:**

**Stabilization Growth Limitation (PTRF) . . . . . 73,576,000**

**Growth Savings - Payment Changes (PTRF) . . . . . 14,500,000**

Receipts from nonpublic schools handicapped and auxiliary recoveries are appropriated for the payment of additional aid in accordance with section 17 of P.L.1977, c.192 (C.18A:46A-14) and section 14 of P.L.1977, c.193 (C.18A:46-19.8).

Notwithstanding the provisions of section 14 of P.L.1977, c.193 (C.18A:46-19.8) for the purpose of computing Nonpublic Handicapped Aid for pupils requiring the following services, the per pupil amounts for the 2004-2005 school year shall be: \$1,225.00 for an initial evaluation or reevaluation for examination and classification; \$380.00 for an annual review for examination and classification; \$930.00 for speech correction; and \$826.00 for supplementary instruction services.

Notwithstanding the provisions of section 9 of P.L.1977, c.192 (C.18A:46A-9), the per pupil amount for compensatory education for the 2004-2005 school year for the purposes of computing Nonpublic Auxiliary Services Aid shall equal \$856.25.

Notwithstanding the provisions of section 9 of P.L.1991, c.226 (C.18A:40-31), the amount appropriated hereinabove for Nonpublic Nursing Services Aid shall be made available to local school districts based upon the number of pupils enrolled in each nonpublic school on the last day prior to October 16, 2003 and the rate per pupil shall be \$74.25.

Nonpublic Technology Initiative aid shall be paid to school districts and allocated for nonpublic school pupils at the rate of \$40.00 per pupil in a manner that is consistent with the provisions of the federal and State constitutions.

Of the amount hereinabove in the High School Equivalency account, such sums as are necessary may be transferred to an applicant State department.

The amount hereinabove for Extraordinary Special Education Costs Aid shall be charged first to receipts of the supplemental fee established pursuant to section 2 of P.L.2003, c.113 (C.46:15-7.1) credited to the Extraordinary Aid Account.

The amount appropriated hereinabove for Nonpublic Capital Projects Aid shall be distributed by the Commissioner of Education as grants to nonpublic high

schools for capital projects, including capital projects completed during the 2003-2004 school year. Grants shall be awarded in accordance with criteria established by the commissioner which shall include but not be limited to: that the nonpublic high school have a significant minority or low-income student enrollment, and that the capital project be used for a secular purpose. A grant shall be awarded upon submission of an application by the nonpublic school to the commissioner and the commissioner's approval of that application. The amount of a grant shall not exceed \$500,000.

Additional Formula Aid shall be provided to each "non-Abbott" school district in an amount that equals 3% of the total State aid amount payable for the 2003-2004 school year for the following aid categories: Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid, Early Childhood Aid, Instructional Supplement Aid, Demonstrably Effective Program Aid, Stabilization Aid, Stabilization Aid II, Stabilization Aid III, Large Efficient District Aid, Aid for Districts with High Senior Citizen Populations, Regionalization Incentive Aid, Adult and Post-Secondary Education Grants, Bilingual Education Aid, Special Education Aid, County Vocational Program Aid, Transportation Aid, School Choice, Aid for Enrollment Adjustments, and Consolidated Aid. Notwithstanding any other law or regulation to the contrary, the amount provided to each district as Consolidated Aid and Additional Formula Aid shall be included in the calculation of the spending growth limitation pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5).

The amount appropriated hereinabove for Positive Achievement and Cost Effectiveness aid shall be distributed to school districts demonstrating high levels of academic achievement while incurring low education expenditures. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of Education shall be authorized to develop the criteria for distributing this aid and shall adopt regulations that shall be deemed adopted and effective immediately upon filing with the Office of Administrative Law. Upon receiving this award, districts will be expected to share information about their practices with the State and other districts.

The Commissioner of Education shall not authorize the disbursement of funds to any "Abbott district" until the commissioner is satisfied that all educational expenditures in the district will be spent effectively and efficiently in order to enable those students to achieve the core curriculum content standards. The commissioner shall be authorized to take any necessary action to fulfill this responsibility, including but not limited to, the adoption of regulations related to the receipt and/or expenditure of State aid by the "Abbott districts" and the programs, services and positions supported thereby. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.), any such regulations adopted by the commissioner shall be deemed adopted immediately upon filing with the Office of Administrative Law. In order to expeditiously fulfill the responsibilities of the commissioner under Abbott v. Burke, determinations by the commissioner hereunder shall be considered to be final agency action and appeal of that action shall be directly to the Appellate Division of the Superior Court.

Of the amount appropriated hereinabove for Education Opportunity Aid, an amount not to exceed \$14,686,000, shall be transferred to the Department of

Education's operating budget, subject to the approval of the Director of the Division of Budget and Accounting, for the purpose of managing and supervising implementation of Abbott remedies. In addition, the unexpended balance as of June 30, 2004, in the Abbott v. Burke Parity Remedy account is appropriated to the Education Opportunity Aid account and shall also be transferred to the Department of Education's operating budget, for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

The amount appropriated hereinabove for Education Opportunity Aid will provide resources to equalize spending between "I" and "J" districts and "Abbott districts," and provide aid to fund additional needs of "Abbott districts". Notwithstanding any other law to the contrary, Education Opportunity Aid shall be provided to each "Abbott district" whose per pupil regular education expenditure for 2004-2005 under P.L.1996, c.138 is below the estimated per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2004-2005. The amount of aid shall be determined as follows: funds shall be allocated in the amount of the difference between each "Abbott district's" per pupil regular education expenditure for 2004-2005 and the actual per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2003-2004 indexed by the actual percentage increase in the per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2003-2004 over the per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2002-2003. In calculating the per pupil regular education expenditure of each "Abbott district" for 2004-2005, regular education expenditure shall equal the sum of the general fund tax levy for 2003-2004, Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid and all forms of stabilization aid pursuant to section 10 of P.L.1996, c.138 (C.18A:7F-10); enrollments shall initially be those resident enrollments for preschool through grade 12 contained on the Application for State School Aid for 2004-2005 indexed by the district's enrollment growth rate used to determine the estimated enrollments of October 2004; enrollments shall be calculated at their full-time equivalent and reduced by preschool and one half of full-day kindergarten enrollments. State aid shall be adjusted upon receipt of resident enrollment for the "Abbott districts" as of October 15, 2004 as reflected on the Application for State School Aid for 2005-2006. State aid shall also be adjusted based on the actual per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2004-2005. In calculating the actual per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2004-2005, regular education expenditure shall equal the sum of the general fund tax levy for 2004-2005, Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid and all forms of stabilization aid pursuant to section 10 of P.L.1996, c.138 (C.18A:7F-10); enrollments shall be the resident enrollment for preschool through grade 12 as of October 15, 2004 as reflected on the Application for State School Aid for 2005-2006; enrollments shall be calculated at their full-time equivalent and reduced by preschool and one half

of full-day kindergarten enrollments in districts receiving Early Childhood Program Aid.

The amount appropriated hereinabove for Education Opportunity Aid shall also be used for the award of supplemental funding to "Abbott districts" for programs, services and positions that the Commissioner of Education determines are essential to the provision of a thorough and efficient education in those districts. Before the commissioner establishes the amount of the supplemental award, he shall determine whether some or all of the additional funds sought can be achieved by reallocating non-instructional expenditures or by achieving economies and efficiencies in the delivery of services and programs. If the commissioner determines that the district does have available such reallocations or achievement of economies and efficiencies, the commissioner shall direct that the district undertake those steps and use those funds to support, in part or in full, the requested programs and services. The supplemental award shall be adjusted based on the annual audit filed pursuant to N.J.S.18A:23-1, and other financial statements and information, of each "Abbott district" that has requested these discretionary funds. Any district that fails to submit the required documentation or fails to submit its annual audit by November 15, 2004 may have its State aid withheld upon the commissioner's request to the Director of the Division of Budget and Accounting. In making any adjustment to the supplemental award, the commissioner shall consider all of the district's available resources and any appropriate reallocations, including, but not limited to, a reallocation of the district's undesignated general fund balances in excess of two percent.

Notwithstanding any other law to the contrary, as a condition of receiving Education Opportunity Aid, an "Abbott district" shall raise a general fund tax levy which shall be no less than the general fund tax levy of the prior year.

The amount appropriated hereinabove as Abbott Preschool Expansion Aid is for the purpose of funding the increase in the approved budgeted costs from 2001-2002 to 2004-2005 for the projected expansion of preschool programs in "Abbott districts." Payments of Abbott Preschool Expansion Aid shall be based on documented expansion of the preschool program. Upon the Commissioner of Education's request, "Abbott districts" shall be required to provide such supporting documentation as deemed necessary to verify that the actual expansion in the preschool program has occurred in the 2004-2005 fiscal year. Such documentation may include expenditure, enrollment and attendance data that may be subject to an audit. Appropriate adjustments to a district's Abbott Preschool Expansion Aid amount may be made by the commissioner based on actual need.

From the amount appropriated hereinabove for Early Launch to Learning Initiative, such funds as are necessary for the support of two staff persons to administer the program shall be transferred to the Office of Early Childhood Education in direct state services, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for Above Average Enrollment Growth Aid shall be distributed to school districts whose projected enrollment for the 2004-05 school year exceeds its enrollment for the 2003-04 school year by at least 3.5

percent, as determined by the commissioner. Each such school district shall receive an amount equal to \$765 multiplied by its projected increase in enrollment if its projected increase is less than 7.5 percent, and an amount equal to \$1,600 multiplied by its projected increase in enrollment if its projected increase is equal to or greater than 7.5 percent. Any amount remaining in this account after distribution is made pursuant to these criteria shall be distributed by the commissioner to school districts meeting substantially similar circumstances

The amount hereinabove for the New Jersey Character Education Partnership Initiative shall be made available to school districts according to a formula to be administered by the Commissioner of Education which will assure that each district that elects to participate shall receive funding for at least one school. Of the amount appropriated hereinabove, up to \$100,000 may be used to fund the costs of operating this program, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any other law to the contrary, the amount of State aid made available to the Department of Human Services pursuant to "The State Facilities Education Act of 1979," P.L.1979, c.207 (C.18A:7B-1 et al.), to defray the costs of educating eligible children in approved private schools under contract with the Department of Human Services shall not exceed the actual costs of the education of those children in such private schools.

Notwithstanding any other law to the contrary, Special Education Aid for pupils classified as severe cognitive impairment shall be paid directly to the resident school district; provided however, that for pupils under contract for service in a regional day school operated by or under contract with the Department of Human Services, tuition shall be withheld and paid to the Department of Human Services.

Notwithstanding the provisions of section 3 of P.L.1971, c.271, (C.18A:46-31), a portion of the district tuition amounts payable to a county special services school district operating an extended school year program may be transferred to the county special services school district prior to the first of September in the event the board shall file a written request with the Commissioner of Education stating the needs for the funds. The commissioner shall review the board's request and determine whether to grant the request after an assessment of whether the district needs to spend the funds prior to September and after considering the availability of district surplus. The commissioner shall transfer the payment for the portion of the tuition payable for which need has been demonstrated.

Of the amount appropriated hereinabove for County Special Services Restoration Aid, \$15,000 shall be distributed to each of the eight County Special Services Districts.

Of the amount hereinabove for High Expectation for Learning Proficiency Aid, \$15,000,000 shall be distributed to school districts, other than those designated as Abbott districts as of June 21, 2004, that are not county-based or non-operating as determined by the commissioner, and that are either (a) in district factor group A or B and whose equalized valuation per pupil is less than \$380,000; (b) in district factor group A, B, CD or DE, and has a concentration

of low income pupils that is greater than or equal to 14 percent and has an equalized valuation per pupil that is less than \$1,100,000 per pupil, and either has a general fund tax levy per pupil that exceeds \$9,000 or a concentration of low income pupils that exceeds 30 percent; or (c) contiguous to a designated Abbott school district, have at least one school with a concentration of low income pupils equal to or greater than 20 percent and have not received Early Childhood Program Aid in the 2003-04 school year. Each such district shall receive the same proportion of \$15,000,000 as its October 2003 resident enrollment bears to the total October 2003 resident enrollment of all such districts. As used hereinabove, "district factor group" shall be as determined by the commissioner using 2000 federal decennial census data; "equalized valuation per pupil" and "general fund tax levy per pupil" shall be as determined by the commissioner for the school year 2003-04; and "concentration of low income pupils" shall be as defined in section 3 of P.L.1996, c.138 (C.18A:7F-3), except that the ASSA data shall be as of October 2003. Any amount remaining in this account after distribution is made pursuant to these criteria shall be distributed by the commissioner to school districts meeting substantially similar circumstances.

Notwithstanding any other law to the contrary, as a condition of receiving discretionary Education Opportunity Aid (PTRF), an "Abbott district" shall examine all available group options for every insurance policy held by the district, including any self-insurance plan administered by the New Jersey School Boards Association Insurance Group on behalf of districts, and shall participate in the most cost effective plans. As a further condition, all "Abbott districts" shall take steps to maximize the district's participation in the federal Universal Service Program (E-rate) and the ACT telecommunications program offered through the New Jersey Association of School Business Administrators, shall participate in the ACES energy program offered through the New Jersey School Boards Association unless a district can demonstrate that it receives the goods or services at a cost less than or equal to the cost achieved by participants, and shall take appropriate steps to maximize the district's participation in the Special Education Medicaid Initiative (SEMI) program, with maximum participation defined by the Commissioner of Education and shall refinance all outstanding debt for which a three percent net present value savings threshold is achievable. An "Abbott district" that fails to meet any of these requirements may have its award of discretionary Education Opportunity Aid (PTRF) reduced by the approximate amount of potential savings and/or increased federal funding as determined by the Commissioner of Education. The commissioner is authorized to establish any additional condition on the disbursement of discretionary Education Opportunity Aid (PTRF) that the commissioner deems appropriate to ensure the effective and efficient spending in the "Abbott districts."

Notwithstanding any provision of law to the contrary, of the amount appropriated hereinabove for Additional Formula Aid (PTRF), \$1,000,000 shall be allocated to any "non-Abbott" school district that enrolled less than 50 percent of the district's resident school aged population as measured in the 2000 Decennial Census and whose local share calculated pursuant to section 14 of

P.L.1996, c.138 (C.18A:7F:14) for fiscal 2002 is greater than 80 percent and whose low income concentration rate for fiscal 2002 exceeds 45 percent.

### **32 Operation and Support of Educational Institutions**

#### **DIRECT STATE SERVICES**

12-5011 Marie H. Katzenbach School for the Deaf . . . . \$11,201,000  
     *(From General Fund . . . . . \$2,899,000)*  
     *(From All Other Funds . . . . . 8,302,000)*  
 13-5011 Program For Behaviorally Difficult Deaf Pupils . . 1,160,000  
     *(From All Other Funds . . . . . 1,160,000)*  
 Total Appropriation, State and All Other Funds . . . . \$12,361,000  
     *(From General Fund . . . . . \$2,899,000)*  
     *(From All Other Funds . . . . . 9,462,000)*

**Less:**

*All Other Funds . . . . . \$9,462,000*  
     *Total Deductions . . . . . \$9,462,000*  
 Total Direct State Services Appropriation,  
     Operations and Support of Educational  
     Institutions . . . . . \$2,899,000

**Direct State Services:**

Personal Services:

    Salaries and Wages . . . . . (\$10,003,000)  
     Materials and Supplies . . . . . (1,129,000)  
     Services Other Than Personal . . . . . (294,000)  
     Maintenance and Fixed Charges . . . . . (537,000)

Special Purpose:

    12 Transportation Expenses  
         for Students . . . . . (40,000)  
     Additions, Improvements and Equipment . . (358,000)

**Less:**

*All Other Funds . . . . . 9,462,000*

Notwithstanding the provisions of N.J.S.18A:61-1 and N.J.S.18A:46-13, or any other statute, in addition to the amount appropriated hereinabove to the Marie H. Katzenbach School for the Deaf for the 2004-2005 academic year, payments from local boards of education to the school at an annual rate and payment schedule adopted by the Commissioner of Education and the Director of the Division of Budget and Accounting are appropriated.

Any income from the rental of vacant space at the Marie H. Katzenbach School for the Deaf is appropriated for the operation and maintenance cost of the facility and for capital costs at the school, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2004, in the receipt account of the Marie H. Katzenbach School for the Deaf is appropriated for expenses of operating the school.

The unexpended balance as of June 30, 2004, in the receipt account of the Positive Learning Understanding Support (PLUS) program is appropriated for the expenses of operating the Marie H. Katzenbach School for the Deaf.

**CAPITAL CONSTRUCTION**

Notwithstanding any law to the contrary, accumulated and current year interest earnings in the State Facilities for the Handicapped Fund established pursuant to section 12 of P.L.1973, c.149 are appropriated for capital improvements and maintenance of facilities for the eleven regional day schools throughout the State and the Marie H. Katzenbach School for the Deaf as authorized in the State Facilities for the Handicapped Bond Act, P.L.1973, c.149, subject to the approval of the Director of the Division of Budget and Accounting.

**33 Supplemental Education and Training Programs****DIRECT STATE SERVICES**

20-5062 General Vocational Education ..... \$277,000  
 Total Direct State Services Appropriation,  
 Supplemental Education and Training Programs ... \$277,000

**Direct State Services:****Personal Services:**

Salaries and Wages ..... (\$226,000)  
 Materials and Supplies ..... (26,000)  
 Services Other Than Personal ..... (25,000)

**STATE AID**

20-5062 General Vocational Education ..... \$43,808,000  
*(From General Fund ..... \$4,860,000)*  
*(From Property Tax*  
*Relief Fund ..... 38,948,000 )*  
 Total State Aid Appropriation,  
 Supplemental Education and  
 Training Programs ..... \$43,808,000  
*(From General Fund ..... \$4,860,000)*  
*(Total From Property Tax*  
*Relief Fund ..... 38,948,000)*

**State Aid:**

20 Vocational Education ..... (\$4,860,000)  
 20 County Vocational Program  
 Aid (PTRF) ..... (38,948,000)

**34 Educational Support Services****DIRECT STATE SERVICES**

29-5029 Educational Technology ..... \$218,000  
 30-5063 Educational Programs and Assessment ..... 26,019,000  
 31-5060 Grants Management ..... 528,000  
 32-5061 Professional Development and Licensure ..... 2,143,000  
 33-5067 Service to Local Districts ..... 5,013,000  
 34-5068 Office of School Choice ..... 659,000  
 35-5069 Early Childhood Education ..... 120,000  
 36-5120 Pupil Transportation ..... 415,000  
 38-5120 Facilities Planning and School Building Aid . . . . 3,246,000



40-5064 Health, Safety and Community Services . . . . . 1,348,000  
 Total Direct State Services Appropriation,  
 Educational Support Services . . . . . \$39,709,000

***Direct State Services:***

**Personal Services:**

Salaries and Wages . . . . . (\$13,801,000)  
 Materials and Supplies . . . . . (425,000)  
 Services Other Than Personal . . . . . (1,335,000)  
 Maintenance and Fixed Charges . . . . . (52,000)

**Special Purpose:**

30 Improved Basic Skills/Special  
 Review Assessment . . . . . (55,000)  
 30 Statewide Assessment Program (16,225,000)  
 30 Professional Development --  
 Recruitment . . . . . (135,000)  
 30 Continuing Education . . . . . (152,000)  
 30 Governor's Literacy Initiative . . (6,650,000)  
 30 Teacher Preparation . . . . . (500,000)  
 40 New Jersey Commission on  
 Holocaust Education . . . . . (244,000)  
 40 Commission on Italian American  
 Heritage Cultural and Educational  
 Programs . . . . . (135,000)

Receipts from the NJ School of the Arts and the unexpended balance of such receipts as of June 30, 2004, are appropriated for the cost of operation.

From the amount appropriated hereinabove for the Governor's Literacy Initiative, the sum of \$300,000 may be transferred to the Commission for the Blind and Visually Impaired for increased Braille lessons for blind children, subject to the approval of the Director of the Division of Budget and Accounting.

From the amount appropriated hereinabove for the Governor's Literacy Initiative, such additional sums as are necessary to fund grant agreements with eligible school districts for the continuation of reading coach services may be transferred to the Governor's Literacy Initiative account in grants-in-aid, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from the State Board of Examiners' fees in excess of those anticipated, not to exceed \$700,000, and the unexpended program balances of such receipts as of June 30, 2004, are appropriated for the operation of the Professional Development and Licensure programs.

The unexpended balance as of June 30, 2004, in the inspection of school construction account and receipts in excess of the amount anticipated, are appropriated for the operation of the school construction inspection program.

From the amount appropriated hereinabove for the Governor's Literacy Initiative, there is allocated \$300,000 for a grant for the Learning Through Listening program at the New Jersey Unit of the Recording for the Blind and Dyslexic.

From the amount appropriated hereinabove for the Governor's Literacy Initiative, there is allocated \$150,000 for a grant for Literacy Volunteers.

**GRANTS-IN-AID**

|                                                                              |                     |
|------------------------------------------------------------------------------|---------------------|
| 30-5063 Educational Programs and Assessment . . . . .                        | \$10,544,000        |
| 40-5064 Health, Safety and Community Services . . . . .                      | <u>15,000,000</u>   |
| Total Grants-in-Aid Appropriation, Educational<br>Support Services . . . . . | <u>\$25,544,000</u> |

***Grants-in-Aid:***

|                                                               |               |
|---------------------------------------------------------------|---------------|
| 30 Governor's School . . . . .                                | (\$1,929,000) |
| 30 Liberty Science Center -<br>Educational Services . . . . . | (6,100,000)   |
| 30 Summer Academy for<br>Professional Development . . . . .   | (1,000,000)   |
| 30 Teacher Recruitment . . . . .                              | (415,000)     |
| 30 Governor's Literacy Initiative . . . . .                   | (750,000)     |
| 40 New Jersey After 3 . . . . .                               | (15,000,000)  |
| 30 Teacher Preparation . . . . .                              | (350,000)     |

The amount appropriated hereinabove for the Governor's School is payable to the seven Governor's Schools: The College of New Jersey - Governor's School of the Arts, The Richard Stockton College of New Jersey - Governor's School on the Environment, Monmouth University - Governor's School of Public Issues, Drew University - Governor's School in the Sciences, Ramapo College of New Jersey - Governor's School of International Studies, Rutgers, The State University, Camden - Governor's School for Business Education and Rutgers, The State University - Governor's School of Engineering and Technology.

The amount hereinabove for the Liberty Science Center-Educational Services shall be used to provide educational services to students in the "Abbott districts" in the science education component of the comprehensive core curriculum standards as established by law.

The amount appropriated hereinabove for the Teacher Recruitment program shall be expended for the fourth-year incentives for teachers deemed eligible for this program in fiscal 2004 in accordance with provisions established by the Department of Education, and who continue to teach preschool in a district defined as an "Abbott district" under section 3 of P.L.1996, c.138 (C.18A:7F-3), or for a community provider under contract with an "Abbott district" to provide preschool programs to 3 and 4 year old children. Incentives will be provided to eligible teachers to have a portion of their outstanding student loan indebtedness cancelled and/or to receive tuition reimbursement for graduate studies at any of New Jersey's four-year colleges and universities. The total value of the incentives for High Achiever recipients is up to \$3,333 and up to \$2,167 for Regular Achiever recipients. In order to maintain eligibility in the program, the school districts in which the teachers are working or in which they are employed by a community provider under contract with the district must maintain a participation agreement with the department and the district must provide, in a manner specified by the department, information regarding the teachers qualified for incentives working in said district and certifications of completion of a full year of teaching service. Incentives may only be paid upon satisfactory completion of a full year of teaching service and will be contingent upon the teacher's completion of all applicable professional development

requirements and other conditions of employment, such as satisfactory evaluations by supervisors and submission of documentation as may be required by the department.

The sums provided hereinabove for New Jersey After 3 shall be conditioned upon the State Treasurer and the grant recipient entering into a grant agreement; shall be available for grants and reasonable administrative costs of New Jersey After 3, Inc. and shall be available for funding programs, activities, functions and facilities consistent with recommendations and proposals of the New Jersey After 3 Advisory Committee.

#### STATE AID

|                                                         |                        |
|---------------------------------------------------------|------------------------|
| 34-5068 Office of School Choice .....                   | \$23,969,000           |
| <i>(From Property Tax Relief Fund . \$23,969,000)</i>   |                        |
| 36-5120 Pupil Transportation .....                      | 307,287,000            |
| <i>(From Property Tax Relief Fund . 307,287,000)</i>    |                        |
| 38-5120 Facilities Planning and School Building Aid ... | 306,218,000            |
| <i>(From General Fund ..... 305,263,000)</i>            |                        |
| <i>(From Property Tax Relief Fund .... 955,000)</i>     |                        |
| 39-5095 Teachers' Pension and Annuity Assistance ...    | <u>1,311,521,000</u>   |
| Total State Aid Appropriation, Educational              |                        |
| Support Services .....                                  | <u>\$1,948,995,000</u> |
| <i>(Total From General Fund .. \$1,616,784,000)</i>     |                        |
| <i>(Total From Property Tax</i>                         |                        |
| <i>Relief Fund ..... 332,211,000)</i>                   |                        |

#### State Aid:

|                                  |               |
|----------------------------------|---------------|
| 34 School Choice (PTRF) .....    | (\$7,969,000) |
| 34 Charter School Aid (PTRF) ... | (10,500,000)  |
| 34 Charter Schools - Council on  |               |
| Local Mandates Decision          |               |
| Offset Aid (PTRF) .....          | (5,500,000)   |
| 36 Transportation Aid (PTRF) ..  | (307,187,000) |
| 36 School Bus Crossing           |               |
| Arms (PTRF) .....                | (100,000)     |
| 38 School Building Aid Debt      |               |
| Service (PTRF) .....             | (955,000)     |
| 38 School Building Aid .....     | (121,272,000) |
| 38 School Construction &         |               |
| Renovation Fund .....            | (183,991,000) |
| 39 Teachers' Pension and         |               |
| Annuity Fund - Post              |               |
| Retirement Medical .....         | (524,979,000) |
| 39 Social Security Tax .....     | (624,750,000) |
| 39 Minimum Pension for Pre-      |               |
| 1955 Retirees .....              | (1,000)       |
| 39 Post Retirement Medical Other |               |
| Than TPAF .....                  | (82,012,000)  |

## 39 Debt Service on Pension

Obligation Bonds . . . . . (79,779,000)

Of the amount appropriated hereinabove for School Building Aid, the calculation of each eligible district's allocation shall include the amount based on school bond and lease purchase agreement payments for interest and principal payable during the 2004-2005 school year pursuant to section 10 of P.L.2000, c.72 (C.18A:7G-10) and the adjustments required based on the difference between the amounts calculated using actual 2002-2003 principal and interest amounts and the amounts allocated and paid in 2002-2003.

Notwithstanding the provisions of section 9 of P.L.2000, c.72 (C.18A:7G-9), for the purpose of calculating a district's State debt service aid, "DAP x 1.15" shall not be less than 40%. Notwithstanding the provisions of section 10 of P.L.2000, c.72 (C.18A:7G-10), for the purposes of calculating aid, CCSAID will be equal to the district's core curriculum standards aid calculated pursuant to section 15 of P.L.1996, c.138 (C.18A:7F-15) for fiscal 2002 and TEBUD shall be equal to the district's T&E budget calculated pursuant to subsection d. of section 13 of P.L.1996, c.138 (C.18A:7F-13) for fiscal 2002.

Of the amount hereinabove for School Construction and Renovation Fund, an amount equal to the total earnings of investments of the School Fund shall first be charged to such fund.

In addition to the sum hereinabove appropriated to make payments under the contracts authorized pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18), there are hereby appropriated such other sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts.

The unexpended balance as of June 30, 2004 in the School Construction and Renovation Fund account is appropriated for the same purpose.

Notwithstanding any provision of law to the contrary, in addition to the amount hereinabove appropriated for the Teachers' Pension and Annuity Fund - Post Retirement Medical, there is hereby appropriated an amount as determined by the State Treasurer to fund the pension cost contribution by the State to the Teachers' Pension and Annuity Fund, payment for which shall be credited against amounts on deposit in the benefit enhancement fund created pursuant to N.J.S.18A:66-16.

Such additional sums as may be required for Teachers' Pension and Annuity Fund - Post Retirement Medical and Post Retirement Medical Other Than TPAF are appropriated, as the Director of the Division of Budget and Accounting shall determine.

In addition to the amounts hereinabove for Social Security Tax, there are appropriated such sums as are required for payment of Social Security Tax on behalf of members of the Teachers' Pension and Annuity Fund.

Notwithstanding the provisions of N.J.S.18A:66-18, amounts hereinabove appropriated in the Teachers Pension and Annuity Assistance program classification, exclusive of amounts appropriated for Social Security Tax, are subject to the condition that the rate for member contributions of State employees in the Teachers' Pension and Annuity Fund shall be 3% for the period of July 1, 2004 through December 31, 2004.

Notwithstanding the provisions of P.L.1999, c.413 (C.18A:36B-1 et seq.), for purposes of the calculation of 2004-2005 choice aid, the projected enrollment of choice students shall be the sum of the actual choice students reported in the October 15, 2003 Application for State School Aid inflated by the choice district's growth rate and the new choice students accepted during the first application cycle and the estimated second cycle acceptances for the 2004-2005 school year.

Notwithstanding any law to the contrary, amounts appropriated hereinabove for Charter School aid shall be used to distribute aid to any charter school which operates a full-day kindergarten program and which is located in an "Abbott district" in accordance with the formula contained in section 1 of P.L.1999, c.385, except that "KPP" which is defined therein as the amount paid by the district to the charter school for each kindergarten pupil pursuant to section 12 of P.L.1995, c.426 (C.18A:36A-12), shall be the sum of the amount paid by the district and the State to the charter school for each kindergarten pupil; when a charter school's district of residence is an "Abbott district," to distribute an amount equal to the difference between the per pupil T&E amount for a given grade level and the program budget of an "Abbott district" when that "Abbott district's" program budget is below the T&E amount; to distribute \$40 for each student enrolled in the charter school; and to distribute aid to charter schools pursuant to the provisions of subsection d. of section 12 of P.L.1995, c.426 (C.18A:36A-12).

Notwithstanding the provisions of section 12 of P.L.1995, c.426 (C.18A:36A-12) and any other provision to the contrary, if necessary, the State shall pay on behalf of a resident district an amount not to exceed the difference between the district's 2004-2005 total actual charter school payment and the estimated appropriations used in completing the school district's 2003-2004 budget as stated in the 2003-2004 Potential Charter School Aid notification letter.

Notwithstanding the provisions of section 1 of P.L.1997, c.53 (C.18A:39-11.1) districts shall not be reimbursed for administrative fees paid to Cooperative Transportation Service Agencies.

For any school district receiving amounts from the amount appropriated hereinabove for Pupil Transportation, and notwithstanding the provisions of N.J.S.18A:39-1 to the contrary, if the school district is located in a county of the third class or a county of the second class with a population of less than 235,000, according to the 1990 federal decennial census, transportation shall be provided to school pupils residing in this school district in going to and from any remote school other than a public school, not operated for profit in whole or in part, located within the State not more than 30 miles from the residence of the pupil.

Notwithstanding the provisions of section 2 of P.L.1996, c.96 (C.39:3B-1.2) and section 3 of P.L.1996, c.96 (C.39:3B-1.3) or any other law or regulation to the contrary, the amount appropriated hereinabove for School Bus Crossing Arms shall be provided to the owners of newly manufactured vehicles equipped with a crossing control arm with a manufacture date of 2004 or later, as noted on the vehicle registration, upon submission to the Department of Education of a complete application for reimbursement within one year of the vehicle purchase date.

**35 Education Administration and Management****DIRECT STATE SERVICES**

|                                                                                                 |                     |
|-------------------------------------------------------------------------------------------------|---------------------|
| 42-5120 School Finance . . . . .                                                                | \$3,152,000         |
| 43-5092 Compliance and Auditing . . . . .                                                       | 1,690,000           |
| 99-5095 Administration and Support Services . . . . .                                           | <u>10,768,000</u>   |
| Total Direct State Services Appropriation,<br>Education Administration and Management . . . . . | <u>\$15,610,000</u> |

**Direct State Services:****Personal Services:**

|                                         |                |
|-----------------------------------------|----------------|
| Salaries and Wages . . . . .            | (\$12,283,000) |
| Materials and Supplies . . . . .        | (300,000)      |
| Services Other Than Personal . . . . .  | (1,092,000)    |
| Maintenance and Fixed Charges . . . . . | (67,000)       |

**Special Purpose:**

|                                                                             |             |
|-----------------------------------------------------------------------------|-------------|
| 99 State Board of Education Expenses . . . . .                              | (50,000)    |
| 99 Student Registration and<br>Record System . . . . .                      | (1,500,000) |
| 99 Affirmative Action and Equal<br>Employment Opportunity Program . . . . . | (68,000)    |
| 99 Efficiency and Effectiveness Study . . . . .                             | (250,000)   |

Receipts derived from fees for school district personnel background checks and unexpended balances as of June 30, 2004 of such receipts are appropriated for the cost of operation.

In addition to the amount appropriated, such sums as may be necessary for the Department of Education to conduct comprehensive compliance investigations are appropriated, subject to the recommendation of the Commissioner of Education and the approval of the Director of the Division of Budget and Accounting.

Additional sums as may be necessary for the Department of Education in preparation for implementation of P.L.1987, c.399 (C.18A:7A-34 et seq.) are appropriated, subject to the recommendation of the Commissioner of Education and the approval of the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee or its successor.

Additional sums as may be necessary for the Department of Education for the cost of the internal audit function in a State-operated school district pursuant to section 8 of P.L.1987, c.399 (C.18A:7A-41) are appropriated, subject to the recommendation of the Commissioner of Education and the approval of the Director of the Division of Budget and Accounting.

**Department of Education,**

Total State Appropriation . . . . . \$8,969,007,000

Of the amount appropriated hereinabove from the General Fund for the Department of Education, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule included in the Governor's Budget Message dated February 24, 2004, first shall be charged to the State Lottery Fund.

Notwithstanding any other provision of law or this act to the contrary, monies directed to be paid to the Department of Education as a result of settlement of litigation by the Board of Public Utilities or to be paid to the Department of Education in connection with a stipulation of settlement in a merger approved by the Board of Public Utilities are appropriated for the purposes specified in the settlement agreement or stipulation, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balances as of June 30, 2004 in the State Aid accounts, not to exceed \$650,000, are appropriated to the State Aid Supplemental Funding account.

In the event that sufficient funds are not appropriated to fully fund any State Aid item, the Commissioner of Education shall apportion such appropriation among the districts in proportion to the State Aid each district would have been apportioned had the full amount of State Aid been appropriated.

Notwithstanding any law to the contrary, should appropriations in the Property Tax Relief Fund exceed available revenues, the Director of the Division of Budget and Accounting is authorized to transfer General Fund revenues into the Property Tax Relief Fund, providing unrestricted balances are available from the General Fund, as determined by the Director of the Division of Budget and Accounting.

Notwithstanding any other law or regulation to the contrary, each district shall receive no less of a total State aid amount payable for the 2004-2005 school year than the sum of the district's total State aid amount payable for the 2003-2004 school year for the following aid categories: Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid, Early Childhood Program Aid, Instructional Supplement Aid, Demonstrably Effective Program Aid, Stabilization Aid, Stabilization Aid II, Stabilization Aid III, Large Efficient District Aid, Aid for Districts with High Senior Citizen Populations, Regionalization Incentive Aid, Adult and Postsecondary Education Grants, Bilingual Education Aid, Special Education Aid, County Vocational Program Aid, Transportation Aid, School Choice, Consolidated Aid and Aid for Enrollment Adjustments, taking into consideration the June 2004 payment made in July 2004.

The Director of the Division of Budget and Accounting may transfer from one State Aid appropriations account for the Department of Education in the General Fund to another appropriations account in the same department in the Property Tax Relief Fund such funds as are necessary to effect the intent of the provisions of the appropriations act governing the allocation of State Aid to local school districts and to effect the intent of legislation enacted subsequent to the enactment of the appropriations act, provided that sufficient funds are available in the appropriations for that department.

Notwithstanding the provisions of section 8 of P.L.1996, c.138 (C.18A:7F-8), five percent of the total payments to local districts for Education Opportunity Aid, Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid, Special Education, Transportation, Early Childhood programs, Demonstrably Effective programs, Instructional Supplement, Bilingual, County Vocational Educational program, other aid pursuant to P.L.1996, c.138, School Choice, Consolidated Aid and Additional Formula Aid, as provided by the Department of Education to the local school districts for the 2004-2005 school year in the 2004-05 General Fund and Special Revenue Fund State Aid

Payments Schedule, shall be paid on the 8th and 22nd of each month from September through June, with the last school aid payment being subject to the approval of the State Treasurer.

From the amounts hereinabove, such sums as are required to satisfy delayed June 2004 school aid payments are appropriated and the State Treasurer is hereby authorized to make such payment in July 2004.

Notwithstanding any other law to the contrary, any school district receiving a final judgment or order against the State to assume the fiscal responsibility for the residential placement of a special education student shall have the amount of the judgment or order deducted from the State aid to be allocated to that district.

Notwithstanding any other law to the contrary, the Commissioner of Education may reduce State aid to a school district in which the "2004-05 Proposed Budget" per pupil "Total Administrative Costs" as shown in the "Advertised Per Pupil Cost Calculations" report of the district's budget for the 2004-2005 school year exceeds the 2002-03 actual average per pupil administrative expenditures plus one standard deviation inflated by 6.09 percent for districts in its region. The State aid reduction shall not exceed the amount of the excess or the amount of State aid awarded to the district for fiscal 2005. The administrative expenses of non-operating districts and county vocational districts shall not be used in the calculation to determine the average education expenditures and such districts shall not be subject to a reduction of State aid. The commissioner may, upon receipt of a revised district budget or Comprehensive Annual Financial Report, recalculate a district's 2004-2005 per pupil "Total Administrative Costs" and assess the district with an additional reduction or relieve the district of a previously imposed administrative spending State aid reduction.

The Director of the Division of Budget and Accounting may transfer from one appropriations account for the Department of Education in the Property Tax Relief Fund to another account in the same department and fund such funds as are necessary to effect the intent of the provisions of the appropriations act governing the allocation of State Aid to local school districts, provided that sufficient funds are available in the appropriations for that department.

***Summary of Department of Education Appropriations  
(For Display Purposes Only)***

***Appropriations by Category:***

|                             |               |
|-----------------------------|---------------|
| Direct State Services ..... | \$59,159,000  |
| Grants-in-Aid .....         | 25,544,000    |
| State Aid .....             | 8,884,304,000 |

***Appropriations by Fund:***

|                                |                 |
|--------------------------------|-----------------|
| General Fund .....             | \$2,972,621,000 |
| Property Tax Relief Fund ..... | 5,996,386,000   |

**42 DEPARTMENT OF ENVIRONMENTAL PROTECTION**

***40 Community Development and Environmental Management***

***42 Natural Resource Management***

**DIRECT STATE SERVICES**

|                                          |             |
|------------------------------------------|-------------|
| 11-4870 Forest Resource Management ..... | \$6,691,000 |
|------------------------------------------|-------------|



|                                                                                 |                     |
|---------------------------------------------------------------------------------|---------------------|
| 12-4875 Parks Management .....                                                  | 36,106,000          |
| 13-4880 Hunters' and Anglers' License Fund .....                                | 12,897,000          |
| 14-4885 Shellfish and Marine Fisheries Management .....                         | 1,321,000           |
| 20-4880 Wildlife Management .....                                               | 348,000             |
| 21-4895 Natural Resources Engineering .....                                     | 1,533,000           |
| 24-4876 Palisades Interstate Park Commission .....                              | <u>2,214,000</u>    |
| Total Direct State Services Appropriation, Natural<br>Resource Management ..... | <u>\$61,110,000</u> |

***Direct State Services:*****Personal Services:**

|                                     |                |
|-------------------------------------|----------------|
| Salaries and Wages .....            | (\$41,922,000) |
| Employee Benefits .....             | (2,487,000)    |
| Materials and Supplies .....        | (3,344,000)    |
| Services Other Than Personal .....  | (2,167,000)    |
| Maintenance and Fixed Charges ..... | (2,823,000)    |

**Special Purpose:**

|                                                         |             |
|---------------------------------------------------------|-------------|
| 11 Fire Fighting Costs .....                            | (1,759,000) |
| 12 Cape May Point State Park --<br>Staffing .....       | (85,000)    |
| 12 Green Acres/Open Space<br>Administration .....       | (4,683,000) |
| 12 Liberty State Park Commission .....                  | (11,000)    |
| 12 Natural Lands Trust .....                            | (109,000)   |
| 12 Natural Areas Council .....                          | (3,000)     |
| 20 Wildlife Monitoring -<br>West Nile Virus .....       | (79,000)    |
| 20 Endangered Species Tax Check-<br>Off Donations ..... | (269,000)   |
| 21 Dam Safety .....                                     | (1,263,000) |

Additions, Improvements and Equipment . (106,000)

In addition to the amount hereinabove for Forest Resource Management, an amount not to exceed \$500,000 shall be made available from the Water Resources Monitoring and Planning - Constitutional Dedication special purpose account, to support nonpoint source pollution and watershed management programs in the Bureau of Forestry.

Notwithstanding any other law to the contrary, the amount hereinabove for the Green Acres/Open Space Administration account is transferred from the Garden State Preservation Trust to the General Fund, together with an amount not to exceed \$198,000, and is appropriated to the Department of Environmental Protection for Green Acres/Open Space Administration subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from police court, stands, concessions and self-sustaining activities operated or supervised by the Palisades Interstate Park Commission, and the unexpended balance as of June 30, 2004 of such receipts, are appropriated.

The amount hereinabove for the Hunters' and Anglers' License Fund is payable out of that Fund and any amount remaining therein and the unexpended balance as of June 30, 2004 in the Hunters' and Anglers' License Fund, together with any

receipts in excess of the amount anticipated, are appropriated. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

Pursuant to section 2 of P.L.1993, c.303 (C.23:3-1f), there are appropriated such sums as may be necessary to offset revenue losses associated with the issuance of free hunting and fishing licenses to active members of the New Jersey State National Guard and disabled veterans. The amount to be appropriated shall be certified by the Division of Fish and Wildlife and is subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Endangered Species Tax Check-Off Donations account is payable out of receipts, and the unexpended balances in the Endangered Species Tax Check-Off Donations account as of June 30, 2004, together with receipts in excess of the amount anticipated, are appropriated. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

An amount not to exceed \$2,339,000 is allocated from the capital construction appropriation for Shore Protection Fund Projects for costs attributable to planning, operation, and administration of the shore protection program, subject to the approval of the Director of the Division of Budget and Accounting.

An amount not to exceed \$399,000 is allocated from the capital construction appropriation for HR-6 Flood Control for costs attributable to the operation and administration of the State Flood Control Program, subject to the approval of the Director of the Division of Budget and Accounting.

An amount not to exceed \$392,000 is allocated from the capital construction appropriation for Shore Protection Fund Projects for the operation and maintenance of the Bayshore Flood Control facility.

Receipts in excess of the amount anticipated from fees and permit receipts from the use of State park and marina facilities, and the unexpended balance as of June 30, 2004 of such receipts, are appropriated for Parks Management, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

|                                    |                     |
|------------------------------------|---------------------|
| 12-4875 Parks Management .....     | <u>\$10,250,000</u> |
| Total Grants-in-Aid Appropriation, |                     |
| Natural Resource Management .....  | <u>\$10,250,000</u> |

#### ***Grants-in-Aid:***

|                           |              |
|---------------------------|--------------|
| 12 Waterloo Village ..... | (\$250,000)  |
| 12 Statewide Livable      |              |
| Communities .....         | (10,000,000) |

Loan repayments received from dam rehabilitation projects pursuant to P.L. 1999, c.347 are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

#### **CAPITAL CONSTRUCTION**

|                                                   |                     |
|---------------------------------------------------|---------------------|
| 12-4895 Parks Management .....                    | \$4,000,000         |
| 21-4895 Natural Resources Engineering .....       | <u>32,233,000</u>   |
| Total Capital Construction Appropriation, Natural |                     |
| Resource Management .....                         | <u>\$36,233,000</u> |

***Capital Projects:***

|                                             |               |
|---------------------------------------------|---------------|
| 12 Parks Improvement . . . . .              | (\$2,000,000) |
| 12 Liberty Science Center . . . . .         | (2,000,000)   |
| 21 Shore Protection Fund Projects . . . . . | (25,000,000)  |
| 21 HR-6 Flood Control . . . . .             | (7,233,000)   |

Notwithstanding the provisions of P.L.1954, c.48 (C.52:34-6 et seq.), of the amounts appropriated for improvements in State parks, the Department of Environmental Protection may enter into a contract with the Waterloo Foundation for the Arts for improvements to existing State-owned structures or for the construction of new facilities at Waterloo Village.

The amount hereinabove for Shore Protection Fund Projects is payable from the receipts of the portion of the realty transfer tax directed to be credited to the Shore Protection Fund pursuant to section 1 of P.L.1992, c.148 (C.13:19-16.1).

An amount not to exceed \$900,000 is allocated from the capital construction appropriation for Shore Protection Fund Projects for repairs to the Bayshore Flood Control facility.

In addition to the amount appropriated hereinabove for Parks Improvement there is appropriated \$2,000,000 from the Division of Fish and Wildlife property sales revenue.

The unexpended balance as of June 30,2004 for public and private dam repair, made available through a transfer to the Department of Environmental Protection from the unexpended balances in accounts established pursuant to the "Emergency Disaster Relief Act of 1999," P.L.1999, c.262, and from the Emergency Services Fund allocation for Hurricane Floyd, is appropriated. Further, the department shall transfer an amount not to exceed \$1,500,000 for the replacement of Aids to Navigation equipment which shall include the replacement of the buoy tender and work boat and facility upgrades. The department also may transfer an amount not to exceed \$300,000 for an agreement with the New Jersey State Council on the Arts for the design competition costs related to the State's urban park initiative. The department also may transfer an amount not to exceed \$1,800,000 for the replacement of the Division of Parks and Forestry's vehicles and forest fire equipment.

***43 Science and Technical Programs*****DIRECT STATE SERVICES**

|                                                                                        |                     |
|----------------------------------------------------------------------------------------|---------------------|
| 05-4840 Water Supply . . . . .                                                         | \$7,631,000         |
| 15-4890 Land Use Regulation . . . . .                                                  | 9,661,000           |
| 18-4810 Science, Research and Technology . . . . .                                     | 3,019,000           |
| 29-4850 Environmental Remediation and Monitoring . . .                                 | <u>11,440,000</u>   |
| Total Direct State Services Appropriation,<br>Science and Technical Programs . . . . . | <u>\$31,751,000</u> |

***Direct State Services:*****Personal Services:**

|                                        |               |
|----------------------------------------|---------------|
| Salaries and Wages . . . . .           | (\$7,697,000) |
| Materials and Supplies . . . . .       | (22,000)      |
| Services Other Than Personal . . . . . | (1,597,000)   |

Maintenance and Fixed Charges . . . . . (52,000)

Special Purpose:

- 05 Administrative Costs Water  
Supply Bond Act of 1981 -  
Management . . . . . (1,317,000)
  - 05 Administrative Costs Water  
Supply Bond Act of 1981 -  
Watershed and Aquifer . . . . . (1,480,000)
  - 05 Administrative Costs Water  
Supply Bond Act of 1981 -  
Planning and Standards . . . . . (982,000)
  - 05 Water/Wastewater  
Operators Licenses . . . . . (43,000)
  - 05 Office of the Rivermaster . . . . . (58,000)
  - 05 Safe Drinking Water Fund . . . . . (2,339,000)
  - 15 Tidelands Resource Council . . . . . (12,000)
  - 15 Tidelands Peak Demands . . . . . (2,676,000)
  - 15 Office of Permit Information  
and Assistance . . . . . (604,000)
  - 18 Environmental Indicators and  
Monitoring . . . . . (604,000)
  - 18 Greenhouse Gas Action Plan . . . . . (577,000)
  - 18 Hazardous Waste Research . . . . . (250,000)
  - 29 Water Resources Monitoring  
and Planning - Constitutional  
Dedication . . . . . (11,440,000)
  - 90 Additions, Improvements  
and Equipment . . . . . (1,000)
- The amounts hereinabove for the Administrative Costs Water Supply Bond Act of 1981 - Management; Watershed and Aquifer; and Planning and Standards accounts are appropriated from the "Water Supply Bond Act of 1981," P.L.1981, c.261, together with an amount not to exceed \$403,000, for costs attributable to administration of water supply programs, subject to the approval of the Director of the Division of Budget and Accounting.
- There is appropriated from the Safe Drinking Water Fund an amount not to exceed \$800,000 to administer the Private Well Testing Program.
- The amounts hereinabove for the Safe Drinking Water Fund account are payable out of receipts, and receipts in excess of the amount anticipated, not to exceed \$1,298,000, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting. If receipts are less than anticipated, the appropriation shall be reduced proportionately.
- Notwithstanding the provisions of P.L.1991, c.235 (C.13:1D-35 et seq.) or any other law to the contrary, the amount appropriated hereinabove for Greenhouse Gas Action Plan is chargeable to receipts anticipated from the Pollution Prevention Fund, together with an amount not to exceed \$239,000 for costs attributable to administration of the Greenhouse Gas Action Plan, subject to the approval of the Director of the Division of Budget and Accounting.

- The amount hereinabove for the Environmental Remediation and Monitoring program classification shall be provided from revenue received from the Corporation Business Tax, pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as dedicated by Article VIII, Section II, paragraph 6 of the State Constitution. The unexpended balance as of June 30, 2004 in the Water Resources Monitoring and Planning - Constitutional Dedication special purpose account is appropriated to be used in a manner consistent with the requirements of the constitutional dedication.
- Notwithstanding any law to the contrary, funds shall be made available from the Water Resources Monitoring and Planning - Constitutional Dedication special purpose account to support nonpoint source pollution and watershed management programs, consistent with the constitutional dedication, within the Department of Environmental Protection in the amounts of \$1,536,000 for Water Monitoring and Standards, \$1,392,000 for New Jersey Geological Survey, \$157,000 for Watershed Management, \$500,000 for Forestry Management, and \$900,000 for Water Quality - Stormwater Management, and \$540,000 transferred to support the Conservation Cost Share program in the Department of Agriculture on or before September 1, 2004.
- Notwithstanding the provisions of the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.) and the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), the Commissioner of the Department of Environmental Protection may utilize from the funds appropriated from those sources hereinabove such sums as the Commissioner may determine as necessary to broaden the department's research efforts to address emerging environmental issues.
- In addition to the federal funds amount hereinabove for the Water Supply program classification, such additional sums that may be received from the federal government for the Drinking Water State Revolving Fund program are appropriated.
- Receipts in excess of those anticipated for Water Allocation fees are appropriated to the Department of Environmental Protection for expansion of the Water Supply program, subject to the approval of the Director of the Division of Budget and Accounting.
- Notwithstanding the provisions of the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.) or any law to the contrary, the amounts appropriated hereinabove for the Office of Permit Information and Assistance account and the Science, Research and Technology program classification, excluding the Greenhouse Gas Action Plan account, are chargeable to receipts anticipated from the New Jersey Spill Compensation Fund, subject to the approval of the Director of the Division of Budget and Accounting.
- The unexpended balance as of June 30, 2004 in the Water Supply Fund established in section 14 of the "Water Supply Bond Act of 1981," P.L.1981, c.261, not to exceed \$35,080,000, is appropriated to the Department of Environmental Protection to be used for water supply demonstration projects consistent with the "Water Supply Bond Act of 1981," P.L.1981, c.261.

**GRANTS-IN-AID**

|                                                                                |                    |
|--------------------------------------------------------------------------------|--------------------|
| 29-4850 Environmental Remediation and Monitoring . . .                         | <u>\$6,000,000</u> |
| Total Grants-in-Aid Appropriation, Science and<br>Technical Programs . . . . . | <u>\$6,000,000</u> |

**Grants-in-Aid:**

|                                              |               |
|----------------------------------------------|---------------|
| 29 Stormwater Management<br>Grants . . . . . | (\$6,000,000) |
|----------------------------------------------|---------------|

Notwithstanding any law to the contrary, the amount appropriated hereinabove for Stormwater Management Grants shall be payable from revenues received from the Corporation Business Tax, pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as dedicated by Article VIII, Section II, paragraph 6 of the State Constitution. The unexpended balance as of June 30, 2004 in the Stormwater Management Grants account is appropriated.

Of the amount hereinabove for the Stormwater Management Grants program, such sums as are necessary or required may be transferred to the Water Resources Monitoring and Planning - Constitutional Dedication special purpose account, subject to the approval of the Director of the Division of Budget and Accounting.

**44 Site Remediation and Waste Management****DIRECT STATE SERVICES**

|                                                                                               |                     |
|-----------------------------------------------------------------------------------------------|---------------------|
| 23-4910 Solid and Hazardous Waste Management . . . . .                                        | \$8,790,000         |
| 27-4815 Remediation Management and Response . . . . .                                         | 30,453,000          |
| 29-4815 Environmental Remediation and Monitoring . . . . .                                    | <u>6,960,000</u>    |
| Total Direct State Services Appropriation, Site<br>Remediation and Waste Management . . . . . | <u>\$46,203,000</u> |

**Direct State Services:****Personal Services:**

|                                         |                |
|-----------------------------------------|----------------|
| Salaries and Wages . . . . .            | (\$13,885,000) |
| Materials and Supplies . . . . .        | (302,000)      |
| Services Other Than Personal . . . . .  | (3,861,000)    |
| Maintenance and Fixed Charges . . . . . | (516,000)      |

**Special Purpose:**

|                                                                                       |              |
|---------------------------------------------------------------------------------------|--------------|
| 23 Office of Dredging and<br>Sediment Technology . . . . .                            | (338,000)    |
| 23 Recycling of Solid Waste . . . . .                                                 | (1,046,000)  |
| 27 Hazardous Discharge Site<br>Cleanup Fund -- Responsible<br>Party . . . . .         | (17,637,000) |
| 27 Underground Storage Tanks . . . . .                                                | (832,000)    |
| 29 Cleanup Projects Administrative<br>Costs -- Constitutional<br>Dedication . . . . . | (6,960,000)  |

Additions, Improvements and Equipment . . (826,000)

The amount hereinabove for the Office of Dredging and Sediment Technology is appropriated from the "1996 Dredging and Containment Facility Fund,"

created pursuant to section 18 of P.L.1996, c.70, the "Port of New Jersey Revitalization, Dredging, Environmental Cleanup, Lake Restoration, and Delaware Bay Area Economic Bond Act of 1996," together with an amount not to exceed \$225,000 for the administration of the Dredging and Sediment Technology program, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding section 5 of P.L.1981, c.278 (C.13:1E-96), the amount hereinabove for the Recycling of Solid Waste account is appropriated from the State Recycling Fund, together with an amount not to exceed \$415,000, for the administration of the Recycling of Solid Waste program, subject to the approval of the Director of the Division of Budget and Accounting. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

There are appropriated from the Sanitary Landfill Facility Contingency Fund such sums as may be required to carry out the provisions of the "Sanitary Landfill Facility Closure and Contingency Fund Act," P.L.1981, c.306 (C.13:1E-100 et seq.).

In addition to site specific charges, the amounts hereinabove for the Remediation Management and Response program classification, excluding the Hazardous Discharge Site Cleanup Fund - Responsible Party and the Underground Storage Tanks accounts, are appropriated from the New Jersey Spill Compensation Fund, in accordance with the provisions of P.L.1976, c.141 (C.58:10-23.11 et seq.), together with an amount not to exceed \$5,885,000, for administrative costs associated with the cleanup of hazardous waste sites, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Hazardous Discharge Site Cleanup Fund - Responsible Party account is appropriated from responsible party cost recoveries deposited in the Hazardous Discharge Site Cleanup Fund, together with an amount not to exceed \$10,496,000, for administrative costs associated with the cleanup of hazardous waste sites, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the federal funds amount for the Publicly-Funded Site Remediation program classification, such additional sums that may be received from the federal government for the Superfund Grants program are hereby appropriated.

The amount hereinabove for the Environmental Remediation and Monitoring program classification shall be provided from revenue received from the Corporation Business Tax, pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as dedicated by Article VIII, Section II, paragraph 6 of the State Constitution. The unexpended balance as of June 30, 2004 in the Cleanup Projects Administrative Costs - Constitutional Dedication account is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated from the Clean Communities Program Fund such sums as may be available to meet the following requirements: 1) 25% of the estimated annual balance up to \$4,000,000, as determined by the Director of the Division of Budget and Accounting, to the State Recycling Fund established pursuant to section 5 of P.L.1981, c.278 (C.13:1E-96); 2) \$300,000 of the estimated annual balance to the Department of Environmental Protection for an

organization under contract with the department which meets the requirements pursuant to subsection d. of section 6 of P.L.2002, c.128 (C.13:1E-218); and 3) the balance, as determined by the Director of the Division of Budget and Accounting, of the Clean Communities Program Fund established pursuant to section 5 of P.L.2002, c.128 (C.13:1E- 217) for the purposes set forth in subsections a., b., c. and d. of that section.

Receipts derived from the sale of salvaged materials are appropriated to offset costs incurred in the cleanup and removal of hazardous substances.

Receipts deposited to the Resource Recovery Investment Tax Fund and the Solid Waste Services Tax Fund are appropriated.

There are appropriated from the New Jersey Spill Compensation Fund such sums as may be required for cleanup operations, adjusters and paying approved claims for damages in accordance with the provisions of P.L.1976, c.141 (C.58:10-23.11 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated from Solid Waste Utility Regulation are appropriated to the Solid and Hazardous Waste program classification for costs incurred to develop an Economic Competition Model, and to oversee the State's recycling efforts and other solid waste program activities.

#### **STATE AID**

23-4910 Solid and Hazardous Waste Management . . . . . \$2,300,000  
Total State Aid Appropriation, Site Remediation . . . . . \$2,300,000

#### **State Aid:**

23 Local Tire Management  
Program . . . . . (\$2,300,000)

The amount hereinabove for the Local Tire Management Program account is payable from receipts derived from a surcharge on the sale of new tires subject to the enactment of enabling legislation.

#### **CAPITAL CONSTRUCTION**

29-4815 Environmental Remediation and Monitoring . . . \$80,220,000  
Total Capital Construction Appropriation,  
Site Remediation . . . . . \$80,220,000

#### **Capital Projects:**

29 Hazardous Substance Discharge  
Remediation -- Constitutional  
Dedication . . . . . (\$45,350,000)  
29 Private Underground Tank  
Remediation - Constitutional  
Dedication . . . . . (17,435,000)  
29 Hazardous Substance Discharge  
Remediation Loans and Grants -  
Constitutional Dedication . . . . . (17,435,000)

The amounts hereinabove for Hazardous Substance Discharge Remediation - Constitutional Dedication, Private Underground Storage Tank Remediation - Constitutional Dedication, and Hazardous Substance Discharge Remediation



Loans and Grants - Constitutional Dedication shall be provided from revenue received from the Corporation Business Tax, pursuant to the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), as dedicated by Article VIII, Section II, paragraph 6 of the State Constitution.

Of the amount hereinabove appropriated for Hazardous Substance Discharge Remediation - Constitutional Dedication, such sums as necessary, as determined by the Director of the Division of Budget and Accounting, shall be made available for site remediation costs associated with State-owned properties and State-owned underground storage tanks.

All natural resource damages recovered by the State shall be deposited in the Hazardous Discharge Site Cleanup Fund established pursuant to section 1 of P.L.1985, c.247 (C.58:10-23.34), and are appropriated for the direct and indirect costs of restoration and associated consulting and legal services.

Funds made available for the remediation of the discharges of hazardous substances pursuant to the amendments effective December 4, 2003, to Article VIII, Section II, paragraph 6 of the State Constitution and appropriated hereinabove, shall be allocated to the Economic Development Authority's Hazardous Discharge Site Remediation Fund and the Department of Treasury's Brownfield Site Reimbursement Fund, subject to the approval of the Director of the Division of Budget and Accounting.

#### ***45 Environmental Regulation***

##### **DIRECT STATE SERVICES**

|                                            |                     |
|--------------------------------------------|---------------------|
| 01-4820 Radiation Protection .....         | \$6,583,000         |
| 02-4892 Air Pollution Control ..           | 16,630,000          |
| 08-4891 Water Pollution Control .....      | 7,609,000           |
| 09-4860 Public Wastewater Facilities ..... | <u>2,935,000</u>    |
| Total Direct State Services Appropriation, |                     |
| Environmental Regulation .....             | <u>\$33,757,000</u> |

##### ***Direct State Services:***

###### **Personal Services:**

|                                     |                |
|-------------------------------------|----------------|
| Salaries and Wages .....            | (\$19,425,000) |
| Materials and Supplies .....        | (198,000)      |
| Services Other Than Personal .....  | (3,460,000)    |
| Maintenance and Fixed Charges ..... | (232,000)      |

###### **Special Purpose:**

|                                    |             |
|------------------------------------|-------------|
| 01 Nuclear Emergency Response ..   | (2,217,000) |
| 01 Quality Assurance -- Lab        |             |
| Certification Programs .....       | (1,571,000) |
| 02 Pollution Prevention .....      | (1,803,000) |
| 02 Toxic Catastrophe Prevention .. | (1,084,000) |
| 02 Worker and Community Right to   |             |
| Know Act .....                     | (1,087,000) |
| 02 Oil Spill Prevention .....      | (2,607,000) |

Additions, Improvements and Equipment .. (73,000)

The amount hereinabove for the Nuclear Emergency Response account is payable from receipts received pursuant to the assessments of electrical utility

companies under P.L.1981, c.302 (C.26:2D-37 et seq.), and the unexpended balances as of June 30, 2004 in the Nuclear Emergency Response account, together with receipts in excess of the amount anticipated, not to exceed \$928,000, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

There is allocated from the Commercial Vehicle Enforcement Fund, established pursuant to section 17 of P.L.1995, c.157 (C.39:8-75), such sums as may be necessary to fund the costs of the regulation of the Diesel Exhaust Emissions program, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Pollution Prevention account is appropriated from receipts received pursuant to the "Pollution Prevention Act," P.L.1991, c.235 (C.13:1D-35 et seq.), together with an amount not to exceed \$701,000, for administration of the Pollution Prevention program, subject to the approval of the Director of the Division of Budget and Accounting. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

Notwithstanding the provisions of the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.), the amount hereinabove for the Worker and Community Right to Know Act account is payable out of the Worker and Community Right to Know Fund, and the receipts in excess of the amount anticipated, not to exceed \$458,000, are appropriated. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

The amount hereinabove for the Oil Spill Prevention account is payable out of the New Jersey Spill Compensation Fund, and the receipts in excess of those anticipated, not to exceed \$1,144,000, from the New Jersey Spill Compensation Fund for the Oil Spill Prevention program are appropriated, in accordance with the provisions of P.L.1990, c.76 (C.58:10-23.11f2 et seq.), P.L.1990, c.78 (C.58:10-23.11d1 et seq.), and P.L.1990, c.80 (C.58:10-23.11f1), subject to the approval of the Director of the Division of Budget and Accounting.

Any funds received by the New Jersey Environmental Infrastructure Trust from any State agency to offset the Trust's annual operating expenses are appropriated.

In addition to the federal funds amount for the Public Wastewater Facilities program classification, such additional sums that may be received from the federal government for the Clean Water State Revolving Fund program are appropriated.

Notwithstanding the provisions of the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.) or any law to the contrary, the amount appropriated hereinabove for the Quality Assurance - Lab Certification Programs account is chargeable to receipts anticipated from the New Jersey Spill Compensation Fund, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated from fees and permit receipts from the Title V Operating Permits are appropriated.

#### ***46 Environmental Planning and Administration*** **DIRECT STATE SERVICES**

26-4805 Regulatory and Governmental Affairs . . . . . \$2,172,000

99-4800 Administration and Support Services . . . . . 17,348,000  
 Total Direct State Services Appropriation,  
 Environmental Planning and Administration . . . . \$19,520,000

***Direct State Services:***

**Personal Services:**

Salaries and Wages . . . . . (\$16,015,000)  
 Materials and Supplies . . . . . (117,000)  
 Services Other Than Personal . . . . . (1,000,000)  
 Maintenance and Fixed Charges . . . . . (267,000)

**Special Purpose:**

99 New Jersey Environmental  
 Management System . . . . . (1,500,000)  
 99 Affirmative Action and Equal  
 Employment Opportunity . . . . . (98,000)  
 Additions, Improvements and Equipment . . (523,000)

**STATE AID**

99-4800 Administration and Support Services . . . . . \$14,454,000  
*(From General Fund . . . . . \$6,454,000)*  
*(From Property Tax Relief Fund . . . 8,000,000)*  
 Total State Aid Appropriation, Environmental  
 Planning and Administration . . . . . \$14,454,000  
*(From General Fund . . . . . \$6,454,000)*  
*(From Property Tax Relief Fund . . . 8,000,000)*

***State Aid:***

99 Mosquito Control, Research,  
 Administration and Operations . . (\$1,500,000)  
 99 Payment in Lieu of  
 Taxes (PTRF) . . . . . (8,000,000)  
 99 Administration and Operations  
 of the Highlands Council . . . . . (2,000,000)  
 99 Administration, Planning and  
 Development Activities of the  
 Pinelands Commission . . . . . (2,954,000)  
 Receipts derived from permit fees issued by the Pinelands Commission on behalf  
 of the Department of Environmental Protection, pursuant to a memorandum of  
 agreement between the Pinelands Commission and the Department of  
 Environmental Protection, are hereby appropriated to the Pinelands  
 Commission.

The unexpended balance as of June 30, 2004 in the Mosquito Control, Research,  
 Administration and Operations aid account is appropriated subject to the  
 approval of the Director of the Division of Budget and Accounting.

If the amount appropriated herein for Payment in Lieu of Taxes is insufficient to  
 compensate municipalities for land owned by the State for conservation and  
 recreation purposes, as determined according to the formula for payments in  
 lieu of taxes in the "Garden State Preservation Trust Act" P.L.1999, c.152

(C.13:8C-1 et seq.) such additional sums as are necessary are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of subsection d. of section 29 of P.L.1999, c.152 (C.13:8C-29) or subsection d. of section 30 of P.L.1999, c.152 (C.13:8C-30), or any other law to the contrary, all payments to municipalities in lieu of taxes for lands acquired by the State for recreation and conservation purposes shall be retained by the municipality and not apportioned in the same manner as the general tax rate of the municipality.

#### ***47 Compliance and Enforcement***

##### **DIRECT STATE SERVICES**

|                                                                                |                     |
|--------------------------------------------------------------------------------|---------------------|
| 02-4855 Air Pollution Control .....                                            | \$4,250,000         |
| 04-4835 Pesticide Control .....                                                | 2,251,000           |
| 08-4855 Water Pollution Control .....                                          | 5,570,000           |
| 15-4855 Land Use Regulation .....                                              | 1,925,000           |
| 23-4855 Solid and Hazardous Waste Management .....                             | <u>3,860,000</u>    |
| Total Direct State Services Appropriation,<br>Compliance and Enforcement ..... | <u>\$17,856,000</u> |

##### ***Direct State Services:***

###### **Personal Services:**

|                                     |                |
|-------------------------------------|----------------|
| Salaries and Wages .....            | (\$15,091,000) |
| Materials and Supplies .....        | (126,000)      |
| Services Other Than Personal .....  | (1,390,000)    |
| Maintenance and Fixed Charges ..... | (390,000)      |

###### **Special Purpose:**

|                                                   |           |
|---------------------------------------------------|-----------|
| 15 Tidelands Peak Demands .....                   | (856,000) |
| 15 Additions, Improvements<br>and Equipment ..... | (3,000)   |

Receipts deposited into the Coastal Protection Trust Fund pursuant to P.L.1993, c.168 (C.39:3-27.47 et seq.) are appropriated in an amount not to exceed \$600,000 for the cleanup or maintenance of beaches or shores, an amount not to exceed \$200,000 for the cost of providing monitoring, surveillance and enforcement activities for the Cooperative Coastal Monitoring Program, an amount not to exceed \$50,000 for the implementation of the "New Jersey Adopt a Beach Act," P.L.1992, c.213 (C.13:19-22 et seq.), and an amount not to exceed \$150,000 for a program of grants for the operation of a sewage pump-out boat and the construction of sewage pump-out devices for marine sanitation devices and portable toilet emptying receptacles at public and private marinas and boatyards in furtherance of the provisions of P.L.1988, c.117 (C.58:10A-56 et seq.). Receipts deposited to the Coastal Protection Trust Fund in excess of \$1,000,000 are appropriated to finance emergency shore protection projects and the cleanup of discharges into the ocean.

In addition to the amounts hereinabove, there is appropriated an amount not to exceed \$2,166,000, which shall be charged first to any fees authorized by the "Highlands Water Protection and Planning Act," P.L.2004, c.120, for the coordination of the Highlands Water Protection and Planning Council activities

as they relate to water supply, water quality, land use management and open space preservation, and any Highlands Preservation Area approvals issued under the regulatory authorities of the Department of Environmental Protection, subject to the approval of the Director of the Division of Budget and Accounting.

#### STATE AID

08-4855 Water Pollution Control ..... \$3,453,000  
 Total State Aid Appropriation, Compliance and  
 Enforcement Policy ..... \$3,453,000

#### *State Aid:*

08 County Environmental  
 Health Act ..... (\$3,453,000)

Notwithstanding the provisions of the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10-23.11 et seq.) or any law to the contrary, the amount appropriated hereinabove for the County Environmental Health Act account is chargeable to receipts anticipated from the New Jersey Spill Compensation Fund, subject to the approval of the Director of the Division of Budget and Accounting.

Department of Environmental Protection,  
 Total State Appropriation ..... \$363,107,000

The amounts hereinabove for the Tidelands Peak Demands accounts are appropriated from receipts derived from the sales, grants, leases, licensing, and rentals of State riparian lands, together with an amount not to exceed \$2,265,000, subject to the approval of the Director of the Division of Budget and Accounting. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

Notwithstanding any other law, the Commissioner of the Department of Environmental Protection shall obtain concurrence from the Director of the Division of Budget and Accounting before altering fee schedules or any other revenue-generating mechanism under the department's purview.

Notwithstanding the provisions of the "Environmental Fee Fund Accountability Act of 1991," P.L.1991, c.426 (C.52:27B-20.1 et seq.) and P.L.1991, c.427 (C.13:1D-9.1 et seq.), all revenues from fees and fines collected by the Department of Environmental Protection, unless otherwise dedicated herein, shall be deposited into the State General Fund without regard to their specific dedication.

Notwithstanding any other provisions in this act, of the Federal Fund amounts appropriated for the programs included in the Performance Partnership Grant Agreement with the United States Environmental Protection Agency, the Department of Environmental Protection is authorized to reallocate the appropriations, in accordance with the Grant Agreement and subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of P.L.1954, c.48 (C.52:34-6 et seq.) or any other law to the contrary, of the amounts appropriated for site remediation, the

Department of Environmental Protection may enter into a contract with the United States Environmental Protection Agency (EPA) to provide the State's statutory matching share for EPA-led Superfund remedial actions pursuant to the State Superfund Contract (SSC).

Notwithstanding any other law to the contrary, any grants awarded during the fiscal year ending June 30, 2004, or during any preceding fiscal year, by the Department of Environmental Protection, or its predecessors, from the proceeds of bonds issued pursuant to P.L.1969, c.127; P.L.1976, c.92; P.L.1980, c.70; P.L.1981, c.261; P.L.1985, c.329; P.L.1989 c.181 or P.L.1992, c.88 or other grants awarded pursuant to other grant programs administered by the department, shall not be considered to be impaired by a structured financing transaction undertaken by a governmental entity which is authorized by section 10 of P.L.1999, c.157 (C.52:31C-10) as amended by section 1 of P.L.2000, c.54, to undertake such transactions, nor shall any State interest created by the award of any such grant be determined to be so impaired by a structured financing transaction undertaken by any local governmental entity pursuant to section 10 of P.L.1999, c.157. Any such grant, and any provisions, covenants and conditions contained in the award thereof, shall not (i) limit, restrict or impair the rights of the local governmental entity to transfer or encumber its facilities or assets for purposes of entering into a structured financing transaction pursuant to that section, (ii) be violated by the completion of a structured financing transaction undertaken pursuant to that section and (iii) cause the Department of Environmental Protection to rescind or annul any grant, or undertake any other enforcement actions, including the revocation of any permit or license granted, in response to a structured financing transaction undertaken pursuant to that section.

Receipts in excess of the amount anticipated for Air Pollution, Clean Water Enforcement, Land Use, Solid Waste, and Hazardous Waste fines, not to exceed \$1,500,000, are appropriated for the expansion of compliance, enforcement and permitting efforts in the department, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of those anticipated for the Stormwater Management Program are appropriated to the Department of Environmental Protection for expansion of the Stormwater Management Program to meet new federal mandates relating to the regulation of municipal stormwater management, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of P.L.1954, c.48 (C.52:34-6 et seq.) or any law to the contrary, of the amounts appropriated for water resource evaluation studies and monitoring, the Department of Environmental Protection may enter into contracts with the United States Geological Survey to provide the State's match to joint funding agreements for water resource evaluation studies and monitoring analyses.

Of the amount hereinabove for the Hazardous Substance Discharge Remediation Loans and Grants - Constitutional Dedication account, an amount not to exceed \$2,000,000 shall be allocated for costs associated with the State Underground Storage Tank Inspection Program, pursuant to the amendments effective December 4, 2003, to Article VIII, Section II, paragraph 6 of the State

Constitution. The unexpended balance as of June 30, 2004 in the Underground Storage Tank Inspection Program account is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amounts hereinabove, there is appropriated an amount not to exceed \$300,000, which shall be charged first to any fees derived from pending diesel emissions legislation, for the Department's initiative to reduce diesel exhaust emissions, subject to the approval of the Director of the Division of Budget and Accounting.

***Summary of Department of Environmental Protection Appropriations  
(For Display Purposes Only)***

***Appropriations by Category:***

|                       |               |
|-----------------------|---------------|
| Direct State Services | \$210,197,000 |
| Grants-in-Aid         | 16,250,000    |
| State Aid             | 20,207,000    |
| Capital Construction  | 116,453,000   |

***Appropriations by Fund:***

|                          |               |
|--------------------------|---------------|
| General Fund             | \$355,107,000 |
| Property Tax Relief Fund | 8,000,000     |

**46 DEPARTMENT OF HEALTH AND SENIOR SERVICES**

***20 Physical and Mental Health***

***21 Health Services***

**DIRECT STATE SERVICES**

|                                                               |                     |
|---------------------------------------------------------------|---------------------|
| 01-4215 Vital Statistics                                      | \$1,085,000         |
| 02-4220 Family Health Services                                | 12,420,000          |
| 03-4230 Public Health Protection Services                     | 33,476,000          |
| 08-4280 Laboratory Services                                   | 7,697,000           |
| 12-4245 AIDS Services                                         | <u>1,850,000</u>    |
| Total Direct State Services Appropriation,<br>Health Services | <u>\$56,528,000</u> |

***Direct State Services:***

***Personal Services:***

|                               |                |
|-------------------------------|----------------|
| Salaries and Wages            | (\$14,271,000) |
| Materials and Supplies        | (2,229,000)    |
| Services Other Than Personal  | (964,000)      |
| Maintenance and Fixed Charges | (153,000)      |

***Special Purpose:***

|                                                                    |             |
|--------------------------------------------------------------------|-------------|
| 02 WIC Farmers Market Program                                      | (87,000)    |
| 02 Women's Health Awareness                                        | (5,000,000) |
| 02 Breast Cancer Public Awareness<br>Campaign                      | (90,000)    |
| 02 Identification System for<br>Children's Health and Disabilities | (300,000)   |
| 02 Public Awareness Campaign for<br>Black Infant Mortality         | (500,000)   |

- 02 Cancer Screening - Early Detection and Education Program ..... (5,400,000)
  - 03 Cardiovascular Program ..... (2,000,000)
  - 03 New Jersey Domestic Security Preparedness ..... (1,450,000)
  - 03 Medical Emergency Disaster Preparedness for Bioterrorism .. (4,000,000)
  - 03 Cancer Registry ..... (400,000)
  - 03 Cancer Investigation and Education ..... (500,000)
  - 03 Implementation of Comprehensive Cancer Control Program ..... (1,500,000)
  - 03 Emergency Medical Services for Children ..... (50,000)
  - 03 New Jersey State Commission on Cancer Research ..... (1,000,000)
  - 03 Medical Waste Management Program ..... (720,000)
  - 03 Animal Welfare ..... (200,000)
  - 03 Anti-Smoking Program ..... (4,000,000)
  - 03 School Based Programs and Youth Anti-Tobacco ..... (7,000,000)
  - 03 Worker and Community Right to Know Program ..... (2,074,000)
  - 03 New Jersey Coalition to Promote Cancer Prevention, Early Detection and Treatment ..... (200,000)
  - 08 New Jersey Domestic Security Preparedness ..... (1,800,000)
  - 08 West Nile Virus - Laboratory .... (640,000)
- The unexpended balance, as of June 30, 2004, in the New Jersey Emergency Medical Service Helicopter Response Program account is appropriated.
- Notwithstanding the provisions of any other law to the contrary, there is appropriated from the "Emergency Medical Technician Training Fund" \$79,000 for Emergency Medical Services and \$125,000 for the First Response EMT Cardiac Training Program.
- In addition to the amount appropriated above for Emergency Medical Services for Children, \$150,000 is appropriated from the hospital and other health care initiatives account, established pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62), for the same purpose.
- The amount hereinabove for the New Jersey State Commission on Cancer Research is charged to the Cancer Research Fund pursuant to section 5 of P.L.1982, c.40 (C.54:40A-37.1).
- The unexpended balance, as of June 30, 2004, in the New Jersey State Commission on Cancer Research account is appropriated.



Amounts deposited in the "New Jersey Breast Cancer Research Fund" from the gross income tax check-offs pursuant to the provisions of P.L.1995, c.26 (C.54A:9-25.7 et al.) are appropriated to the New Jersey State Commission on Cancer Research for breast cancer research projects, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance, as of June 30, 2004, in the Comprehensive Regulated Medical Waste Management Act account, together with any receipts received by the Department of Health and Senior Services pursuant to the provisions of the "Comprehensive Regulated Medical Waste Management Act," P.L.1989, c.34 (C.13:1E-48.1 et seq.), is appropriated.

Notwithstanding the provisions of the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.), the amount hereinabove for the Worker and Community Right to Know account is payable out of the Worker and Community Right to Know Fund, and the receipts in excess of the amount anticipated, not to exceed \$763,000, are appropriated. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

Receipts derived from the agency surcharge on vehicle rentals pursuant to section 54 of P.L.2002, c.34 (C.App.A:9-78), not to exceed \$7,500,000, are appropriated for the Medical Emergency Disaster Preparedness for Bioterrorism program and shall be deposited into a dedicated account, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law to the contrary, the amounts appropriated hereinabove for the two anti-smoking programs (School Based Programs and Youth Anti-Smoking, and Anti-Smoking Programs) shall be charged to the proceeds of the increase in the cigarette tax, established pursuant to P.L.2002, c.33.

Notwithstanding the provisions of section 4 of P.L.1997, c.264 (C.26:2H-18.58g), \$11,000,000 is appropriated for anti-smoking programs (School Based Programs and Youth Anti-Smoking, and Anti-Smoking Programs).

In order to permit flexibility in the handling of the various appropriations for anti-tobacco initiative accounts hereinabove, funds may be transferred to and from the following items of appropriations: School Based Programs and Youth Anti-Smoking, and Anti-Smoking Programs. Such transfers are subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

The Director of the Division of Budget and Accounting is empowered to transfer or credit appropriations to the Department of Health and Senior Services for diagnostic laboratory services provided to any other agency or department; provided further, however, that funds have been appropriated or allocated to such agency or department for the purpose of purchasing these services.

Receipts from fees established by the Commissioner of Health and Senior Services for licensing of clinical laboratories, pursuant to P.L.1975, c.166 (C.45:9-42.26 et seq.), and blood banks, pursuant to P.L.1963, c.33 (C.26:2A-2 et seq.), are appropriated.

Receipts from licenses, permits, fines, penalties and fees collected by the Department of Health and Senior Services in Health Services, in excess of those anticipated, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

#### GRANTS-IN-AID

|                                                 |                       |
|-------------------------------------------------|-----------------------|
| 02-4220 Family Health Services .....            | \$23,340,000          |
| <i>(From General Fund .....</i>                 | <i>\$22,840,000)</i>  |
| <i>(From Casino Revenue Fund .....</i>          | <i>500,000)</i>       |
| 03-4230 Public Health Protection Services ..... | 47,545,000            |
| 12-4245 AIDS Services .....                     | <u>35,155,000</u>     |
| Total Grants-in-Aid Appropriation,              |                       |
| Health Services .....                           | <u>\$106,040,000</u>  |
| <i>(From General Fund .....</i>                 | <i>\$105,540,000)</i> |
| <i>(From Casino Revenue Fund. ....</i>          | <i>500,000)</i>       |
| <b>Grants-in-Aid:</b>                           |                       |
| 02 Family Planning Services ....                | (\$4,300,000)         |
| 02 Hemophilia Services .....                    | (1,033,000)           |
| 02 Special Health Services for                  |                       |
| Handicapped Children .....                      | (2,059,000)           |
| 02 Chronic Renal Disease                        |                       |
| Services .....                                  | (430,000)             |
| 02 Pharmaceutical Services for                  |                       |
| Adults with Cystic Fibrosis .....               | (308,000)             |
| 02 Birth Defects Registry .....                 | (25,000)              |
| 02 Statewide Birth Defects                      |                       |
| Registry (CRF) .....                            | (500,000)             |
| 02 Cost-of-Living Adjustment,                   |                       |
| Family Health Services .....                    | (6,072,000)           |
| 02 Maternal and Child                           |                       |
| Health Services .....                           | (3,403,000)           |
| 02 Lead Testing Kits for                        |                       |
| Expectant Mothers .....                         | (1,000,000)           |
| 02 Lead Poisoning Program .....                 | (795,000)             |
| 02 Poison Control Center .....                  | (490,000)             |
| 02 Cleft Palate Programs .....                  | (610,000)             |
| 02 Tourette Syndrome Association                |                       |
| of New Jersey .....                             | (1,250,000)           |
| 02 SIDS Assistance Act .....                    | (185,000)             |
| 02 Services to Victims of                       |                       |
| Huntington's Disease .....                      | (280,000)             |
| 02 St. Barnabas Medical Center .....            | (250,000)             |
| 02 Stroke Centers .....                         | (3,000,000)           |
| 02 Camden Optometric                            |                       |
| Eye Center .....                                | (300,000)             |
| 02 New Jersey Council on Physical               |                       |
| Fitness and Sports .....                        | (50,000)              |

|                                                                        |              |
|------------------------------------------------------------------------|--------------|
| 03 Tuberculosis Services . . . . .                                     | (1,304,000)  |
| 03 Cost of Living Adjustment,<br>Public Health Protection . . . . .    | (246,000)    |
| 03 Immunization Services . . . . .                                     | (795,000)    |
| 03 AIDS Communicable<br>Disease Control . . . . .                      | (424,000)    |
| 03 Garden State Cancer Center . . . .                                  | (1,000,000)  |
| 03 Hackensack Medical Center<br>Stem Cell Research Institute . . . . . | (900,000)    |
| 03 New Jersey Collaborating Center<br>for Nursing . . . . .            | (345,000)    |
| 03 Cancer Institute of New Jersey .                                    | (36,000,000) |
| 03 St. Barnabas Medical Center -<br>Cancer Center . . . . .            | (3,250,000)  |
| 03 Worker and Community<br>Right to Know . . . . .                     | (281,000)    |
| 12 Cost of Living Adjustment,<br>AIDS Services . . . . .               | (1,443,000)  |
| 12 Rapid AIDS Testing . . . . .                                        | (3,000,000)  |
| 12 AIDS Drug Distribution<br>Program . . . . .                         | (11,700,000) |
| 12 AIDS Grants . . . . .                                               | (19,012,000) |

An amount not to exceed \$1,830,000 is appropriated to the Department of Health and Senior Services from the hospital and other health care initiatives account, established pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62), to fund the Infant Mortality Reduction Program.

There is appropriated \$570,000 from the Alcohol Education, Rehabilitation and Enforcement Fund to fund the Fetal Alcohol Syndrome Program.

Such sums as are necessary for a grant, loan or loans to the Coriell Institute for Medical Research - New Jersey Cord Blood Resource Center are appropriated, subject to the approval of the Director of the Division of Budget and Accounting. The Commissioner of Health and Senior Services shall issue such a grant or loans upon the Coriell Institute's execution of an agreement with any qualified New Jersey-based entities as determined appropriate by the Commissioner for the purpose of establishing a Statewide New Jersey Allogenic Cord Blood Bank. Grant or loan funds shall be used solely for the collection and long-term storage of cord blood samples and for research directed at the growth of stem cells in such samples. The collection and storage of cord blood samples shall occur in New Jersey and shall be done on a not-for-profit basis. Funds loaned pursuant to this appropriation shall be loaned on an interest-free basis and shall be repaid under terms to be determined by the Commissioner.

From the amount appropriated hereinabove for the Cancer Institute of New Jersey, \$250,000 shall be provided to the Ovarian Cancer Research Fund, \$9,000,000 shall be provided to the Cancer Institute of New Jersey, South Jersey Program to be used by Cooper University Hospital, an affiliate of the Cancer Institute of New Jersey, to develop a cancer treatment program for southern New Jersey to

be located in Voorhees, with the participation of the UMDNJ - Robert Wood Johnson Medical School - Camden and the UMDNJ - School of Osteopathic Medicine-Stratford, and \$9,000,000 shall be provided to the UMDNJ in Newark for its cancer program.

There are appropriated from the New Jersey Emergency Medical Service Helicopter Response Program Fund, established pursuant to section 2 of P.L.1992, c.87 (C.26:2K-36.1), such sums as are necessary to pay the reasonable and necessary expenses of the operation of the New Jersey Emergency Medical Service Helicopter Response Program, established pursuant to P.L.1986, c.106 (C.26:2K-35 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary, the Commissioner of the Department of Health and Senior Services shall establish guidelines to develop a formulary for the AIDS Drug Distribution Program subject to the requirements of the federal Ryan White Care Act and its amendments.

Of the amount appropriated hereinabove for AIDS Grants, an amount not to exceed \$2,000,000, may be transferred to Direct State Services in the Department of Health and Senior Services to provide education and public awareness of HIV and AIDS prevention and treatment programs, subject to the approval of the Director of the Division of Budget and Accounting.

#### **STATE AID**

|                                                      |                     |
|------------------------------------------------------|---------------------|
| 02-4220 Family Health Services .....                 | \$52,946,000        |
| 03-4230 Public Health Protection Services .....      | <u>2,400,000</u>    |
| Total State Aid Appropriation, Health Services ..... | <u>\$55,346,000</u> |

#### **State Aid:**

|                                               |                |
|-----------------------------------------------|----------------|
| 02 Early Childhood Intervention Program ..... | (\$52,946,000) |
| 03 Public Health Priority Funding ..          | (2,400,000)    |

In addition to the amount hereinabove, receipts from the federal Medicaid (Title XIX) program for handicapped infants are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The capitation is set not to exceed 40 cents for the year ending June 30, 2005 for the purposes prescribed in P.L.1966, c.36 (C.26:2F-1 et seq.).

Notwithstanding any provision of law to the contrary, the amount appropriated hereinabove for the Public Health Priority Funding shall not be allocated to county health departments.

#### **22 Health Planning and Evaluation**

##### **DIRECT STATE SERVICES**

|                                                                                 |                    |
|---------------------------------------------------------------------------------|--------------------|
| 06-4260 Long Term Care Systems .....                                            | \$2,949,000        |
| 07-4270 Health Care Systems Analysis .....                                      | <u>2,125,000</u>   |
| Total Direct State Services Appropriation, Health Planning and Evaluation ..... | <u>\$5,074,000</u> |

#### **Direct State Services:**

##### **Personal Services:**

|                          |               |
|--------------------------|---------------|
| Salaries and Wages ..... | (\$3,787,000) |
|--------------------------|---------------|

Materials and Supplies . . . . . (60,000)  
 Services Other Than Personal . . . . . (179,000)  
 Maintenance and Fixed Charges . . . . . (69,000)

**Special Purpose:**

06 Nursing Home Background  
     Checks/Nursing Aide  
     Certification Program . . . . . (979,000)

Receipts from licenses, permits, fines, penalties and fees collected by the Department of Health and Senior Services in Health Planning and Evaluation, in excess of those anticipated, are appropriated subject to a plan approved by the Director of the Division of Budget and Accounting.

In addition to the amounts appropriated hereinabove, \$1,000,000 is appropriated for the Implementation of Statewide Health Information Network, from the hospital and other health care initiatives account, established pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62) for establishing HIPAA compliance. Of this amount, \$250,000 shall be allocated to Thomas A. Edison State College.

Available funds are appropriated to the "Health Care Facilities Improvement Fund" to provide available resources in an emergency situation at a health care facility, as defined by the Commissioner of Health and Senior Services, or for closure of a health care facility, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from fees charged for processing Certificate of Need applications, and the unexpended balances of such receipts as of June 30, 2004, are appropriated for the cost of this program, subject to the approval of the Director of the Division of Budget and Accounting.

**GRANTS-IN-AID**

07-4270 Health Care Systems Analysis . . . . . \$310,725,000  
     Total Grants-in-Aid Appropriation, Health  
     Planning and Evaluation. . . . . \$310,725,000

**Grants-in-Aid:**

07 Health Care Subsidy  
     Fund Payments . . . . . (\$280,725,000)  
     07 Hospital Assistance Grants . . . . . (20,000,000)  
     07 Federally Qualified Health  
         Centers - Services to Family  
         Care Clients . . . . . (10,000,000)

There are appropriated such sums as are necessary to pay prior-year obligations of programs within the Health Care Subsidy Fund, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, \$6,000,000 of the amount hereinabove for the Health Care Subsidy Fund payments account is appropriated from the Admission Charge Hospital Assessment revenue item.

Notwithstanding the provisions of any law to the contrary, the amounts appropriated hereinabove for Health Care Subsidy Fund Payments and Hospital Assistance Grants shall be charged to the proceeds of the increase in the cigarette tax,

pursuant to the passage of enabling legislation, and to the proceeds of the Second Referral Debt Collection-Hospitals revenue item.

The amount appropriated hereinabove for the Hospital Assistance Fund shall be distributed as grants as follows: Saint Mary's Hospital, Hoboken, \$500,000; Palisades General Hospital, \$3,750,000; Cooper University Hospital, \$3,000,000; Hackensack University Medical Center, \$1,000,000; Cathedral Health Care System, \$1,000,000; Saint Barnabas Health Care System, \$3,000,000; East Orange General Hospital, \$2,000,000; Solaris Hospital System, \$4,000,000, Our Lady of Lourdes, Willingboro, \$750,000, CentraState Health Care System, \$1,000,000.

Notwithstanding any provision of law to the contrary, in fiscal year 2005 reimbursed documented charity care shall be priced at the Medicaid rate for calendar year 2002 as published by the Department of Health and Senior Services in September 2003; except that the total amount distributed in fiscal year 2005 shall not exceed \$583,400,000, and if the charity care payments to hospitals pursuant to P.L.2004, c.113 (C.26:2H-18.59i et al.) result in any remainder, the Commissioner of Health and Senior Services shall prorate and distribute the remainder in accordance with the methodology provided pursuant to P.L.2004, c.113 (C.26:2H-18.59i et al.).

### **25 Health Administration**

#### **DIRECT STATE SERVICES**

99-4210 Administration and Support Services . . . . . \$4,688,000  
 Total Direct State Services Appropriation,  
 Health Administration . . . . . \$4,688,000

#### **Direct State Services:**

##### **Personal Services:**

Salaries and Wages . . . . . (\$2,468,000)  
 Materials and Supplies . . . . . (49,000)  
 Services Other Than Personal . . . . . (587,000)

##### **Special Purpose:**

99 Office of Minority and  
 Multicultural Health . . . . . (1,500,000)  
 99 Affirmative Action and Equal  
 Employment Opportunity .....(84,000)

### **26 Senior Services**

#### **DIRECT STATE SERVICES**

22-4275 Medical Services for the Aged . . . . . \$5,733,000  
 24-4275 Pharmaceutical Assistance to the  
 Aged and Disabled . . . . . 8,560,000  
 56-4275 Programs for the Aged . . . . . 1,333,000  
 (From General Fund . . . . . \$462,000)  
 (From Casino Revenue Fund . . . . . 871,000)  
 56-4275 Office of the Ombudsman . . . . . 826,000  
 57-4275 Office of the Public Guardian . . . . . 681,000

Total Direct State Services Appropriation,  
 Senior Services ..... \$17,133,000  
**(Total From General Fund . . . . . 16,262,000)**  
**(Total From Casino Revenue Fund .. 871,000)**

**Direct State Services:**

Personal Services:

Salaries and Wages ..... (\$9,422,000)  
 Salaries and Wages (CRF) ..... (658,000)  
 Employee Benefits (CRF) ..... (138,000)  
**(Total From General Fund . . . . . 9,422,000)**  
**(Total From Casino Revenue Fund .. 796,000)**

Materials and Supplies ..... (170,000)  
 Materials and Supplies (CRF) ..... (14,000)  
 Services Other Than Personal ..... (1,178,000)  
 Services Other Than Personal (CRF) ..... (47,000)  
 Maintenance and Fixed Charges ..... (450,000)  
 Maintenance and Fixed Charges (CRF) ..... (2,000)

Special Purpose

22 Fiscal Agent -- Medical Services  
     for the Aged . . . . . (737,000)  
 24 Payments to Fiscal Agent - PAA (4,134,000)  
 55 Federal Programs for the  
     Aging (State Share) . . . . . (143,000)

Additions, Improvements and Equipment .. (28,000)

Additions, Improvements and

Equipment (CRF) ..... (12,000)

When any action by a county welfare agency, whether alone or in combination with the Division of Medical Assistance and Health Services in the Department of Human Services or the Department of Health and Senior Services, results in a recovery of improperly granted medical assistance, the Division of Medical Assistance and Health Services or the Department of Health and Senior Services may reimburse the county welfare agency in the amount of 25% of the gross recovery.

Notwithstanding the provisions of any other State law to the contrary, any third party, as defined in subsection m. of section 3 of P.L.1968, c.413 (C.30:4D-3), writing health, casualty or malpractice insurance policies in the State or covering residents of this State, shall enter into an agreement with the Department of Health and Senior Services to permit and assist the matching of the Department of Health and Senior Services' program eligibility and/or adjudication claims files against that third party's eligibility and/or adjudicated claims files for the purpose of the coordination of benefits, utilizing, if necessary, social security numbers as common identifiers.

The unexpended balances as of June 30, 2004 in the Payments to Fiscal Agent - PAA account are appropriated.

Such sums as may be necessary, not to exceed \$1,591,000, may be credited from the Energy Assistance program account in the Board of Public Utilities to the Lifeline program account and shall be applied in accordance with a

Memorandum of Understanding between the President of the Board of Public Utilities and the Commissioner of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting.  
 Receipts from the Office of the Public Guardian for Elderly Adults are appropriated.

#### GRANTS-IN-AID

|                                                                     |                        |
|---------------------------------------------------------------------|------------------------|
| 22-4275 Medical Services for the Aged .....                         | \$810,241,000          |
| <i>(From General Fund .....</i>                                     | <i>\$781,780,000)</i>  |
| <i>(From Casino Revenue Fund .....</i>                              | <i>28,461,000)</i>     |
| 24-4275 Pharmaceutical Assistance to the<br>Aged and Disabled ..... | 439,150,000            |
| <i>(From General Fund .....</i>                                     | <i>155,020,000)</i>    |
| <i>(From Casino Revenue Fund .....</i>                              | <i>284,130,000)</i>    |
| 55-4275 Programs for the Aged .....                                 | <u>30,939,000</u>      |
| <i>(From General Fund .....</i>                                     | <i>16,577,000)</i>     |
| <i>(From Casino Revenue Fund .....</i>                              | <i>14,362,000)</i>     |
| Total Grants-in-Aid Appropriation,<br>Senior Services .....         | <u>\$1,280,330,000</u> |
| <i>(Total From General Fund. ....</i>                               | <i>\$953,377,000)</i>  |
| <i>(Total From Casino Revenue Fund</i>                              | <i>326,953,000)</i>    |

#### Grants-in-Aid:

|                                                                                   |                |
|-----------------------------------------------------------------------------------|----------------|
| 22 Assisted Living Program ....                                                   | (\$23,540,000) |
| 22 Community Care<br>Alternatives (CRF) .....                                     | (28,026,000)   |
| 22 Payments for Medical<br>Assistance Recipients --<br>Nursing Homes .....        | (680,917,000)  |
| 22 Medical Day Care Services ...                                                  | (48,446,000)   |
| 22 Medicaid High Occupancy --<br>Nursing Homes .....                              | (9,000,000)    |
| 22 ElderCare Initiatives .....                                                    | (19,877,000)   |
| 22 Home Care Expansion (CRF) ....                                                 | (235,000)      |
| 22 Hearing Aid Assistance for the<br>Aged and Disabled (CRF) .....                | (200,000)      |
| 24 Pharmaceutical Assistance to the<br>Aged and Disabled -- Claims ..             | (29,835,000)   |
| 24 Pharmaceutical Assistance to the<br>Aged and Disabled -- Claims ..             | (100,238,000)  |
| 24 Pharmaceutical Assistance to<br>the Aged and Disabled --<br>Claims (CRF) ..... | (284,130,000)  |
| 24 Senior Gold Prescription<br>Assistance Program .....                           | (24,947,000)   |
| 55 Arthritis Quality of Life<br>Initiative Act .....                              | (620,000)      |
| 55 Purchase of Social Services ....                                               | (8,673,000)    |



|                                                                                     |             |
|-------------------------------------------------------------------------------------|-------------|
| 55 ElderCare Advisory Commission<br>Initiatives .....                               | (2,500,000) |
| 55 Cost-of-Living Adjustment,<br>Senior Services .....                              | (1,164,000) |
| 55 Alzheimer's Disease Program .....                                                | (775,000)   |
| 55 Demonstration Adult Day Care<br>Center Program - Alzheimer's<br>Disease (CRF) .. | (2,632,000) |
| 55 Adult Protective Services .....                                                  | (845,000)   |
| 55 Adult Protective Services (CRF) ..                                               | (1,780,000) |
| 55 Senior Citizen Housing -- Safe<br>Housing and Transportation<br>(CRF) .....      | (1,668,000) |
| 55 NJ Caring for Caregivers<br>Initiative .....                                     | (2,000,000) |
| 55 Respite Care for the<br>Elderly (CRF) .....                                      | (5,359,000) |
| 55 Congregate Housing Support<br>Services (CRF) .....                               | (1,938,000) |
| 55 Home Delivered Meals<br>Expansion (CRF) .....                                    | (985,000)   |

The amounts hereinabove appropriated for Payments for Medical Assistance Recipients - Nursing Homes are available for the payment of obligations applicable to prior fiscal years.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from the various items of appropriation within the General Medical Services program classification in the Division of Medical Assistance and Health Services in the Department of Human Services and the Medical Services for the Aged program classification in Senior Services in the Department of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

All funds recovered pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) and P.L.1975, c.194 (C.30:4D-20 et seq.) during the fiscal year ending June 30, 2005 are appropriated for payments to providers in the same program class from which the recovery originated.

Notwithstanding the provisions of any other law to the contrary, a sufficient portion of receipts generated or savings realized in the Medical Services for the Aged Grants-In-Aid accounts from initiatives included in the fiscal year 2005 annual appropriations act may be transferred to administration accounts to fund costs incurred in realizing these additional receipts or savings, subject to the approval of the Director of the Division of Budget and Accounting.

The Division of Medical Assistance and Health Services in the Department of Human Services and the Department of Health and Senior Services, subject to federal approval, shall implement policies that would limit the ability of persons

who have the financial ability to provide for their own long-term care needs to manipulate current Medicaid rules to avoid payment for that care. The Division of Medical Assistance and Health Services and the Department of Health and Senior Services shall require, in the case of a married individual requiring long-term care services, that the portion of the couple's resources which are not protected for the needs of the community spouse be used solely for the purchase of long-term care services.

Such sums as may be necessary are appropriated from enhanced audit recoveries obtained by the Department of Health and Senior Services to fund the costs of enhanced audit recovery efforts of the department within the Medical Services for the Aged program classification, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, effective July 1, 2004, reimbursement for nursing facility services, which are funded hereinabove in the Payments for Medical Assistance Recipients - Nursing Homes account, shall be 90% of the per diem rate when a Medicaid beneficiary is hospitalized. These payments shall be limited to the first 10 days of the hospitalization. Medicaid reimbursement for nursing facility services shall be discontinued beyond the 10th day of the hospitalization.

The funds appropriated hereinabove for Payments for Medical Assistance Recipients-Medicaid High Occupancy - Nursing Homes shall be distributed for patient services among those nursing homes where the Medicaid patient day occupancy level is at or above 75%. Each such facility shall receive its distribution through a prospective per diem rate adjustment according to the following formula:  $E = A \text{ Medicaid days} / T \text{ Medicaid days} \times F$ ; where E is the entitlement for a specific nursing home resulting from this allocation; A Medicaid days is an individual nursing home's reported Medicaid days on June 30, 2004; T Medicaid days is the total reported Medicaid days for all affected nursing homes; and F is the total amount of State and federal funds to be distributed. No nursing home shall receive a total allocation greater than the amount lost, due to adjustments in Medicaid reimbursement methodology, which became effective April 1, 1995. Any balances remaining undistributed, from the abovementioned amount, shall be deposited in a reserve account in the General Fund.

The amounts hereinabove appropriated for payments for the Pharmaceutical Assistance to the Aged and Disabled program, P.L.1975, c.194 (C.30:4D-20 et seq.), and the Senior Gold Prescription Discount Program, P.L.2001, c.96 (C.30:4D-43 et seq.), are available for the payment of obligations applicable to prior fiscal years.

Benefits provided under the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program, P.L.1975, c.194 (C.30:4D-20 et seq.), and the Senior Gold Prescription Discount Program, P.L.2001, c.96 (C.30:4D-43 et seq.), shall be the last resource benefits, notwithstanding any provisions contained in contracts, wills, agreements or other instruments. Any provision in a contract of insurance, will, trust agreement or other instrument which reduces or excludes coverage or payment to an individual because of that individual's eligibility for, or receipt of PAAD or Senior Gold Prescription Discount

- Program benefits shall be void, and no PAAD and Senior Gold Prescription Discount Program payments shall be made as a result of any such provision. Of the amount appropriated hereinabove in the Pharmaceutical Assistance to the Aged and Disabled - Claims program, notwithstanding the provisions of section 3 of P.L.1975, c.194 (C.30:4D-22) to the contrary, the copayment in the Pharmaceutical Assistance to the Aged and Disabled program shall be \$5.00.
- Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2004, each prescription order dispensed in the Pharmaceutical Assistance to the Aged and Disabled program and the Senior Gold Prescription Discount Program for Maximum Allowable Cost (MAC) drugs, which are appropriated hereinabove in the Pharmaceutical Assistance to the Aged and Disabled - Claims program and Senior Gold Prescription Discount Program, shall state "Brand Medically Necessary" in the prescriber's own handwriting if the prescriber determines that it is necessary to override generic substitution of drugs, and each prescription order shall follow the requirements of P.L.1977, c.240 (C.24:6E-1 et seq.).
- Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2003, no State funds are appropriated for a Drug Utilization Review Council in the Department of Health and Senior Services and therefore the functions of the Council shall cease.
- Notwithstanding the provisions of any other law to the contrary, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program, pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.), and the Senior Gold Prescription Discount Program, pursuant to P.L.2001, c.96 (C.30:4D-43 et seq.), shall be expended unless participating pharmaceutical manufacturing companies execute contracts with the Department of Health and Senior Services, through the Department of Human Services, providing for the payment of rebates to the State. Furthermore, rebates from pharmaceutical manufacturing companies for prescriptions purchased by the PAAD program and the Senior Gold Prescription Discount Program shall continue during the fiscal year 2005, provided that the manufacturer's rebates for the Senior Gold Prescription Discount Program shall apply only to the amount paid by the State under the Senior Gold Prescription Discount Program. All revenues from such rebates during the fiscal year ending June 30, 2005 are appropriated for the PAAD program and the Senior Gold Prescription Discount Program.
- Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2004 consistent with the notice provisions of 42 CFR 447.205 where applicable, no funds appropriated in the Pharmaceutical Assistance to the Aged and Disabled program classification and the Senior Gold Prescription Assistance Program account shall be expended except under the following conditions: (a) reimbursement for prescription drugs, shall be based on the Average Wholesale Price less a 12.5% discount; (b) the current prescription drug dispensing fee structure set as a variable rate of \$3.73 to \$4.07 in effect on June 30, 2004 shall remain in effect through fiscal year 2005, including the current increments for patient consultation, impact allowances and allowances for 24-hour emergency services; and (c) multisource generic and single source brand name drugs shall be dispensed without prior authorization but

multisource brand name drugs shall require prior authorization issued by the Department of Health and Senior Services or its authorizing agent, however, a 10-day supply of the multisource brand name drug shall be dispensed pending receipt of prior authorization. Certain multisource brand name drugs with a narrow therapeutic index, other drugs recommended by the Drug Utilization Review Board or brand name drugs with a lower cost per unit than the generic may be excluded from prior authorization by the Department of Health and Senior Services.

Notwithstanding the provisions of any other law to the contrary, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled program and the Senior Gold Prescription Discount Program shall be used to pay for quantities of erectile dysfunction therapy medication in excess of four treatments per month. Moreover, payment will only be provided if the diagnosis of erectile dysfunction is written on the prescription form and the treatment is provided to males over the age of 18 years.

In addition to the amount hereinabove, there are appropriated from the General Fund and available federal matching funds such additional sums as may be required for the payment of claims, credits and rebates, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program and the Senior Gold Prescription Discount Program are available to pharmacies that have not submitted an application to enroll as an approved medical supplier in the Medicare program, unless they already are an approved Medicare medical supplier. Pharmacies will not be required to bill Medicare directly, but must agree to allow PAAD to bill Medicare on their behalf by completing and submitting an electronic data interchange (EDI) form to PAAD. Beneficiaries are responsible for the applicable PAAD or Senior Gold Prescription Discount Program copayment.

Notwithstanding the provisions of any other law to the contrary, the Commissioner of Health and Senior Services shall establish a retrospective Polypharmacy drug utilization review program to study the efficacy, necessity and safety of prescriptions in excess of 10 per month per PAAD or Senior Gold Prescription Discount Program client and shall approve or disallow future payments for clients whose prescriptions exceed 10 per client per month if the prescriptions have been proven inefficient, unnecessary or unsafe.

Notwithstanding the provisions of any law or regulation to the contrary, the Department of Health and Senior Services shall have the authority to establish a voluntary prescription drug mail-order program. The mail-order program may waive, discount or rebate the beneficiary copay and mail-order pharmacy providers may dispense up to a 90-day supply on prescription refills with the voluntary participation of the beneficiary, subject to the approval of the Commissioner of Health and Senior Services and the Director of the Division of Budget and Accounting.

At any point during the year, and notwithstanding the provisions of any other law or regulation to the contrary, subject to the approval of a plan by the Commissioner of Health and Senior Services, no funds appropriated for the

Pharmaceutical Assistance to the Aged and Disabled program, pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.), or the Senior Gold Prescription Discount Program, pursuant to P.L.2001, c.96 (C.30:4D-43 et seq.), shall be expended unless participating pharmaceutical manufacturing companies execute contracts with the Department of Health and Senior Services, through the Department of Human Services, providing for the payment of rebates to the State on the same basis as provided for in section 1927 (a) through (c) of the federal Social Security Act, 42 U.S.C. s.1396r-8(a)-(c).

Notwithstanding the provisions of any law or regulation to the contrary, from the amount appropriated hereinabove for the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program and Senior Gold Prescription Discount Program, the Commissioner of Health and Senior Services shall establish a disease management program to improve the quality of care for beneficiaries and reduce costs in the PAAD program and Senior Gold Prescription Discount Program.

From the amount appropriated hereinabove for the Senior Gold Prescription Discount Program, an amount not to exceed \$3,850,000 may be transferred to various accounts as required, including Direct State Services accounts, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary and subject to the notice provisions of 42 CFR 447.205, for rates implemented on or after July 1, 2000, target occupancy as determined pursuant to N.J.A.C.10:63-3.16 shall not apply to those facilities receiving enhanced rates of reimbursement pursuant to N.J.A.C.10:63-2.21. The per diem amounts for all other expenses of the enhanced rates shall be based upon reasonable base period costs divided by actual base period patient days, but no less than 85% of licensed bed days shall be used.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred between the various items of appropriation within the Medical Services for the Aged, and Programs for the Aged program classifications to ensure the continuity of long-term care support services for beneficiaries receiving services within the Medical Services for the Aged program classification in the Division of Senior Services in the Department of Health and Senior Services, subject to the approval of the Director of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

Notwithstanding the provisions of any law or regulation to the contrary, effective July 1, 2004, reimbursement for pediatric and adult day health services, including services provided in nursing home-based, hospital-based, and freestanding facilities, as appropriated hereinabove in the Medical Day Care Services account, shall be limited to the rates in effect in FY 2004.

Notwithstanding the provisions of any law to the contrary, effective January 1, 2005, no payment for Medicaid Adult or Pediatric Medical Day Care services, as appropriated hereinabove in the Medical Day Care Services account, shall be provided unless the services are prior authorized by professional staff designated by the Department of Health and Senior Services.

- From the amount appropriated for the Payments for Medical Assistance Recipients - Nursing Homes account, funds shall be made available to supplement the Assisted Living Program account in order to increase the number of Assisted Living (AL) services slots, subject to the approval of the Director of the Division of Budget and Accounting.
- From the amount appropriated hereinabove for Payments for Medical Assistance Recipients - Nursing Homes, the Commissioner of Health and Senior Services shall increase the reasonableness limit for total nursing care up to 120% of the median costs in the Medicaid nursing home rate-setting system during State fiscal year 2005.
- The amounts appropriated hereinabove, not to exceed \$70,840,000 for payments for the Lifeline Credit and Tenants' Assistance programs are available to the Department of Health and Senior Services to fund the payments associated with the Lifeline Credit and Tenants' Assistance programs in accordance with a Memorandum of Understanding between the President of the Board of Public Utilities and the Commissioner of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting.
- In addition to the amount hereinabove, there are appropriated from the Casino Revenue Fund and available federal matching funds, such additional sums as may be required for the payment of claims, credits and rebates, subject to the approval of the Director of the Division of Budget and Accounting.
- All funds recovered under P.L.1968, c.413 (C.30:4D-1 et seq.) and P.L.1975, c.194 (C.30:4D-20 et seq.), during the fiscal year ending June 30, 2005, are appropriated for payments to providers in the same program class from which the recovery originated.
- In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from the various items of appropriation within the Medical Services for the Aged program classification, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.
- For the purposes of account balance maintenance, all object accounts in the Medical Services for the Aged program classification shall be considered as one object. This will allow timely payment of claims to providers of medical services, but ensure that no overspending will occur in the program classification.
- Notwithstanding the provisions of P.L.1988, c.92 (C.30:4E-5 et seq.) to the contrary, funds appropriated for the Home Care Expansion Program (HCEP) shall be paid only for individuals enrolled in the program as of June 30, 1996 who are not eligible for the Community Care Program for the Elderly and Disabled or alternative programs, and only for so long as those individuals require services covered by the HCEP. Individuals enrolled in the HCEP as of June 30, 1996 and eligible for the Community Care Program for the Elderly and Disabled, may apply to be enrolled in that program.
- Notwithstanding the provisions of any other law to the contrary, a sufficient portion of receipts generated or savings realized in Casino Revenue Fund Medical Services for the Aged or Pharmaceutical Assistance to the Aged and Disabled

Grants-In-Aid accounts from initiatives included in the fiscal year 2005 annual appropriations act may be transferred to administration accounts to fund costs incurred in realizing these additional receipts or savings, subject to the approval of the Director of the Division of Budget and Accounting.

The amounts hereinabove appropriated for payments for the Pharmaceutical Assistance to the Aged and Disabled program, P.L.1975, c.194 (C.30:4D-20 et seq.), are available for the payment of obligations applicable to prior fiscal years.

Benefits provided under the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program, P.L.1975, c.194 (C.30:4D-20 et seq.), shall be the last resource benefits, notwithstanding any provision contained in contracts, wills, agreements or other instruments. Any provision in a contract of insurance, will, trust agreement or other instrument which reduces or excludes coverage or payment to an individual because of that individual's eligibility for or receipt of PAAD benefits shall be void, and no PAAD payments shall be made as a result of any such provision.

Of the amount appropriated hereinabove in the Pharmaceutical Assistance to the Aged and Disabled - Claims program, notwithstanding the provisions of section 3 of P.L.1975, c.194 (C.30:4D-22) to the contrary, the copayment in the Pharmaceutical Assistance to the Aged and Disabled program shall be \$5.00.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2004, each prescription order dispensed in the Pharmaceutical Assistance to the Aged and Disabled program and the Senior Gold Prescription Discount Program for Maximum Allowable Cost (MAC) drugs, which are appropriated hereinabove in the Pharmaceutical Assistance to the Aged and Disabled - Claims program and Senior Gold Prescription Discount Program, shall state "Brand Medically Necessary" in the prescriber's own handwriting if the prescriber determines that it is necessary to override generic substitution of drugs, and each prescription order shall follow the requirements of P.L.1977, c.240 (C.24:6E-1 et seq.).

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2003, no State funds are appropriated for a Drug Utilization Review Council in the Department of Health and Senior Services and therefore the functions of the Council shall cease.

Notwithstanding the provisions of any other law to the contrary, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program, pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.), shall be expended unless participating pharmaceutical manufacturing companies execute contracts with the Department of Health and Senior Services, through the Department of Human Services, providing for the payment of rebates to the State. Furthermore, rebates from pharmaceutical manufacturing companies for prescriptions purchased by the PAAD program and the Senior Gold Prescription Discount Program shall continue during the fiscal year 2005, provided that the manufacturer's rebates for the Senior Gold Prescription Discount Program shall apply only to the amount paid by the State under the Senior Gold Prescription Discount program. All revenues from such rebates

during the fiscal year ending June 30, 2005 are appropriated for the PAAD program and the Senior Gold Prescription Discount Program.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2004 consistent with the notice provisions of 42 CFR 447.205 where applicable, no funds appropriated in the Pharmaceutical Assistance to the Aged and Disabled program classification and the Senior Gold Prescription Assistance Program account shall be expended except under the following conditions: (a) reimbursement for prescription drugs, shall be based on the Average Wholesale Price less a 12.5% discount; (b) the current prescription drug dispensing fee structure set as a variable rate of \$3.73 to \$4.07 in effect on June 30, 2004 shall remain in effect through fiscal year 2005, including the current increments for patient consultation, impact allowances and allowances for 24-hour emergency services; and (c) multisource generic and single source brand name drugs shall be dispensed without prior authorization but multisource brand name drugs shall require prior authorization issued by the Department of Health and Senior Services or its authorizing agent, however, a 10-day supply of the multisource brand name drug shall be dispensed pending receipt of prior authorization. Certain multisource brand name drugs with a narrow therapeutic index, other drugs recommended by the Drug Utilization Review Board or brand name drugs with a lower cost per unit than the generic may be excluded from prior authorization by the Department of Health and Senior Services.

Notwithstanding the provisions of any other law to the contrary, no funds appropriated for the Pharmaceutical Assistance to the Aged and the Disabled program shall be used to pay for quantities of erectile dysfunction therapy medication in excess of four treatments per month. Moreover, payment will only be provided if the diagnosis of erectile dysfunction is written on the prescription form and the treatment is provided to males over the age of 18 years.

Notwithstanding the provisions of any other law to the contrary, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program are available to pharmacies that have not submitted an application to enroll as an approved medical supplier in the Medicare program, unless they already are an approved Medicare medical supplier. Pharmacies will not be required to bill Medicare directly, but must agree to allow PAAD to bill Medicare on their behalf by completing and submitting an electronic data interchange (EDI) form to PAAD. Beneficiaries are responsible for the applicable PAAD copayment.

Notwithstanding the provisions of any law or regulation to the contrary, the Commissioner of Health and Senior Services shall establish a retrospective Polypharmacy drug utilization review program to study the efficacy, necessity and safety of prescriptions in excess of 10 per month per PAAD or Senior Gold Prescription Discount Program client and shall approve or disallow future payments for clients whose prescriptions exceed 10 per client per month if the prescriptions have been proven inefficient, unnecessary or unsafe.

Notwithstanding the provisions of any law or regulation to the contrary, the Department of Health and Senior Services shall have the authority to establish



a voluntary prescription drug mail-order program. The mail-order program may waive, discount or rebate the beneficiary copay and mail-order pharmacy providers may dispense up to a 90-day supply on prescription refills with the voluntary participation of the beneficiary, subject to the approval of the Commissioner of Health and Senior Services and the Director of the Division of Budget and Accounting.

At any point during the year, and notwithstanding the provisions of any other law or regulation to the contrary, subject to the approval of a plan by the Commissioner of Health and Senior Services, no funds appropriated for the Pharmaceutical Assistance to the Aged and Disabled program, pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.), or the Senior Gold Prescription Discount Program, pursuant to P.L.2001, c.96 (C.30:4D-43 et seq.), shall be expended unless participating pharmaceutical manufacturing companies execute contracts with the Department of Health and Senior Services, through the Department of Human Services, providing for the payment of rebates to the State on the same basis as provided for in section 1927 (a) through (c) of the federal Social Security Act, 42 U.S.C. s.1396r-8(a)-(c).

Notwithstanding the provisions of any law or regulation to the contrary, from the amount appropriated hereinabove for the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program, the Commissioner of Health and Senior Services shall establish a disease management program to improve the quality of care for beneficiaries and reduce costs in the PAAD program.

Notwithstanding the provisions of section 2 of P.L.1988, c.114 (C.26:2M-10) to the contrary, private for-profit agencies shall be eligible grantees for funding from the Demonstration Adult Day Care Center Program - Alzheimer's Disease account.

Notwithstanding the provisions of any other law to the contrary, of the amount appropriated hereinabove for the Respite Care for the Elderly (CRF) account, \$700,000 shall be charged to the Casino Simulcasting Fund.

#### **STATE AID**

|                                                          |                    |
|----------------------------------------------------------|--------------------|
| 55-4275 Programs for the Aged . . . . .                  | <u>\$7,108,000</u> |
| Total State Aid Appropriation, Senior Services . . . . . | <u>\$7,108,000</u> |

**State Aid:**

|                                     |               |
|-------------------------------------|---------------|
| 55 County Office on Aging . . . . . | (\$2,832,000) |
| 55 Older Americans Act --           |               |
| State Share . . . . .               | (4,276,000)   |

|                                           |                        |
|-------------------------------------------|------------------------|
| Department of Health and Senior Services, |                        |
| Total State Appropriation . . . . .       | <u>\$1,842,972,000</u> |

Notwithstanding the provisions of any other law to the contrary, there is appropriated to the Department of Health and Senior Services from the Health Care Subsidy Fund, established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58), to continue to fund programs established pursuant to section 25 of P.L.1991, c.187 (C.26:2H-18.47), section 30 of P.L.1997, c.192 and section 15 of P.L.1998, c.43, through the hospital and other health care

initiatives account established pursuant to section 12 of P.L.1992, c.160 (C.26:2H-18.62). However, available funding shall first provide for the Community Care Program for the Elderly and Disabled, the expansion of Medicaid to 185% of poverty and the Infant Mortality Reduction Program. Of the funds remaining, \$11,000,000 is available for payments to federally qualified health centers. Any remaining available funds may be used to increase payments to federally qualified health centers and to fund programs established pursuant to section 25 of P.L.1991, c.187 (C.26:2H-18.47), section 30 of P.L.1997, c.192 and section 15 of P.L.1998, c.43, as determined by the Commissioner of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting. Any unexpended balance as of June 30, 2004 in the Health Care Subsidy Fund received through the hospital and other health care initiatives account during fiscal year 2004 is appropriated.

Receipts from licenses, permits, fines, penalties and fees collected by the Department of Health and Senior Services, in excess of those anticipated, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of section 7 of P.L.1992, c.160 (C.26:2H-18.57) or any other law to the contrary, the first \$1,200,000 in per adjusted admission charge assessment revenues, attributable to \$10.00 per adjusted admission charge assessments made by the Department of Health and Senior Services, shall be anticipated as revenue in the General Fund available for health-related purposes. Furthermore, it is recommended that the remaining revenue attributable to this fee shall be available to carry out the provisions of section 7 of P.L.1992, c.160 (C.26:2H-18.57), as determined by the Commissioner of Health and Senior Services, and subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, the State Treasurer shall transfer to the Health Care Subsidy Fund, established pursuant to section 8 of P.L.1992, c.160 (C.26:2H-18.58), only those additional revenues generated from third party liability recoveries, excluding Medicaid, by the State arising from a review by the Director of the Division of Budget and Accounting of hospital payments reimbursed from the Health Care Subsidy Fund with service dates that are after the date of enactment of P.L.1996, c.29.

Notwithstanding the provisions of any other law to the contrary, the Commissioner of Health and Senior Services shall devise, at the commissioner's discretion, rules or guidelines that allocate reductions in health service grants to the extent possible toward administration, and not client services.

Any change in program eligibility criteria and increases in the types of services or rates paid for services to or on behalf of clients for all programs under the purview of the Department of Health and Senior Services, not mandated by federal law, shall first be approved by the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law to the contrary, fees, fines, penalties and assessments owed to the Department of Health and Senior

Services shall be offset against payments due and owing from other appropriated funds.

In addition to the amount hereinabove, receipts from the federal Medicaid (Title XIX) program for health services-related programs throughout the Department of Health and Senior Services are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

In order to permit flexibility in implementing the ElderCare Initiatives within the Medical Services for the Aged program classification, amounts may be transferred between Direct State Services and Grants-In-Aid accounts, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

In order to permit flexibility in implementing the ElderCare Advisory Commission Initiatives within the Programs for the Aged program classification, amounts may be transferred between Direct State Services and Grants-In-Aid accounts, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

There are appropriated such sums as are necessary to counties with Class II Governmental Nursing Facilities, effective July 1, 2004, to satisfy obligations incurred in connection with the Intergovernmental Transfer Program.

Notwithstanding the provisions of any other law to the contrary, there are appropriated such amounts to the Department of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting, as are necessary to pay such supplemental payments in accordance with the Medicaid State Plan amendments to any participating governmental entity for certain Class II Governmental Nursing Facilities. There are appropriated to the Department of Health and Senior Services and the Department of the Treasury such additional sums as are necessary to pay costs incurred by the State Treasurer or any other State agency in connection with the execution and delivery of any agreements authorized under P.L.2000, c.28 (C.30:4D-19.2 et seq.), including the costs of professional services and attorneys, and other costs necessary to complete the intergovernmental transfer.

Such sums as may be necessary are appropriated or transferred from existing appropriations within the Department of Health and Senior Services for the purpose of promoting awareness to increase participation in programs that are administered by the departments, subject to the approval of the Director of the Division of Budget and Accounting.

***Summary of Department of Health and Senior Services Appropriations  
(For Display Purposes Only)***

***Appropriations by Category:***

|                             |               |
|-----------------------------|---------------|
| Direct State Services ..... | \$83,423,000  |
| Grants-in-Aid .....         | 1,697,095,000 |
| State Aid .....             | 62,454,000    |

***Appropriations by Fund:***

|                    |                 |
|--------------------|-----------------|
| General Fund ..... | \$1,514,648,000 |
|--------------------|-----------------|

Casino Revenue Fund . . . . . 328,324,000

**54 DEPARTMENT OF HUMAN SERVICES**

**20 Physical and Mental Health**

**23 Mental Health Services**

**7700 Division of Mental Health Services**

**DIRECT STATE SERVICES**

99-7700 Administration and Support Services . . . . . \$10,555,000

Total Direct State Services Appropriation,

Division of Mental Health Services . . . . . \$10,555,000

**Direct State Services:**

**Personal Services:**

Salaries and Wages . . . . . (\$8,845,000)

Materials and Supplies . . . . . (21,000)

Services Other Than Personal . . . . . (609,000)

Maintenance and Fixed Charges . . . . . (155,000)

**Special Purpose:**

99 Fraud and Abuse Initiative . . . . . (300,000)

99 Nursing Incentive Program . . . . . (625,000)

**GRANTS-IN-AID**

08-7700 Community Services . . . . . \$240,492,000

Total Grants-in-Aid Appropriation,

Division of Mental Health Services . . . . . \$240,492,000

**Grants-in-Aid:**

08 Greystone Park Psychiatric

Hospital Bridge Fund . . . . . (\$29,975,000)

08 Community Care . . . . . (192,452,000)

08 Community Mental Health

Center -- University of Medicine  
and Dentistry, Newark . . . . . (6,205,000)

08 Community Mental Health

Center -- University of Medicine  
and Dentistry, Piscataway . . . . . (11,860,000)

From the amount appropriated hereinabove for the Greystone Park Psychiatric Hospital Bridge Fund account, such funds as are necessary may be transferred to various accounts as required, including Direct State Services or State Aid accounts, subject to the approval of the Director of the Division of Budget and Accounting of a phase-in plan which relates to "Redirection II" as shall be submitted by the Commissioner of Human Services.

The amount appropriated hereinabove for the Community Mental Health Centers and the amount appropriated to the University of Medicine and Dentistry of New Jersey are first charged to the federal disproportionate share hospital reimbursements anticipated as Medicaid Uncompensated Care.

With the exception of disproportionate share hospital revenues that may be received, federal and other funds received for the operation of community

mental health centers at the New Jersey Medical School and the Robert Wood Johnson Medical School shall be available to the University of Medicine and Dentistry of New Jersey for the operation of the centers.

Revenues that may be received from fees derived from the licensing of all community mental health agencies as specified in N.J.A.C.10:37-10.1 et seq. are appropriated to the Division of Mental Health Services to offset the costs of performing the required reviews.

#### **STATE AID**

08-7700 Community Services ..... \$93,510,000  
 Total State Aid Appropriation,  
 Division of Mental Health Services ..... \$93,510,000

#### **State Aid:**

08 Support of Patients in County  
 Psychiatric Hospitals ..... (93,510,000)

The appropriation for the Support of Patients in County Psychiatric Hospitals account is available to pay liabilities applicable to prior fiscal years, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2004, in the Support of Patients in County Psychiatric Hospitals account is appropriated.

With the exception of all past, present, and future revenues representing federal financial participation received by the State from the United States that is based on payments to hospitals that serve a disproportionate share of low-income patients, which shall be retained by the State, the sharing of revenues received to defray the costs of maintaining patients in State and county psychiatric hospitals and facilities for the developmentally disabled shall be based on the same percent as costs are shared.

State aid reimbursement payments for maintenance of patients in county psychiatric facilities shall be limited to inpatient services only, except that such reimbursement shall be paid to a county for outpatient and partial hospitalization services as defined by the Department of Human Services, if outpatient and/or partial hospitalization services had been previously provided at the county psychiatric facility prior to January 1, 1998. These outpatient and partial hospitalization payments shall not exceed the amount of State aid funds paid to reimburse outpatient and partial hospitalization services provided during calendar year 1997.

The amount appropriated for the Division of Mental Health Services for State facility operations and the amount appropriated as State aid for the costs of county facility operations first are charged to the federal disproportionate share hospital reimbursements anticipated as Medicaid Uncompensated Care.

#### **7710 Greystone Park Psychiatric Hospital**

##### **DIRECT STATE SERVICES**

10-7710 Patient Care and Health Services ..... \$47,185,000  
 99-7710 Administration and Support Services ..... 12,431,000  
 Total Direct State Services Appropriation,  
 Greystone Park Psychiatric Hospital ..... \$59,616,000

***Direct State Services:*****Personal Services:**

Salaries and Wages ..... (\$53,484,000)  
 Materials and Supplies ..... (3,306,000)  
 Services Other Than Personal ..... (1,346,000)  
 Maintenance and Fixed Charges ..... (898,000)

**Special Purpose:**

10 Interim Assistance ..... (50,000)  
 Additions, Improvements and Equipment .. (532,000)

***7720 Trenton Psychiatric Hospital*****DIRECT STATE SERVICES**

10-7720 Patient Care and Health Services ..... \$43,907,000  
 99-7720 Administration and Support Services ..... 10,814,000  
 Total Direct State Services Appropriation,  
 Trenton Psychiatric Hospital ..... \$54,721,000

***Direct State Services:*****Personal Services:**

Salaries and Wages ..... (\$48,520,000)  
 Materials and Supplies ..... (2,954,000)  
 Services Other Than Personal ..... (1,818,000)  
 Maintenance and Fixed Charges ..... (799,000)

**Special Purpose:**

10 Interim Assistance ..... (150,000)  
 Additions, Improvements and Equipment .. (480,000)

***7725 Ann Klein Forensic Center*****DIRECT STATE SERVICES**

10-7725 Patient Care and Health Services ..... \$16,955,000  
 99-7725 Administration and Support Services ..... 2,522,000  
 Total Direct State Services Appropriation,  
 Ann Klein Forensic Center ..... \$19,477,000

***Direct State Services:*****Personal Services:**

Salaries and Wages ..... (\$17,545,000)  
 Materials and Supplies ..... (1,214,000)  
 Services Other Than Personal ..... (520,000)  
 Maintenance and Fixed Charges ..... (98,000)  
 Additions, Improvements and Equipment .. (100,000)

***7740 Ancora Psychiatric Hospital*****DIRECT STATE SERVICES**

10-7740 Patient Care and Health Services ..... \$54,145,000  
 99-7740 Administration and Support Services ..... 13,060,000  
 Total Direct State Services Appropriation,  
 Ancora Psychiatric Hospital . . . . . \$67,205,000

***Direct State Services:*****Personal Services:**

Salaries and Wages ..... (\$59,968,000)  
 Materials and Supplies ..... (3,610,000)  
 Services Other Than Personal ..... (1,974,000)  
 Maintenance and Fixed Charges ..... (917,000)

**Special Purpose:**

10 Interim Assistance ..... (120,000)  
 Additions, Improvements and Equipment . (616,000)

***7750 Arthur Brisbane Child Treatment Center*****DIRECT STATE SERVICES**

10-7750 Patient Care and Health Services ..... \$8,343,000  
 99-7750 Administration and Support Services ..... 2,261,000  
 Total Direct State Services Appropriation,  
 Arthur Brisbane Child Treatment Center ..... \$10,604,000

***Direct State Services:*****Personal Services:**

Salaries and Wages ..... (\$9,550,000)  
 Materials and Supplies ..... (456,000)  
 Services Other Than Personal ..... (326,000)  
 Maintenance and Fixed Charges ..... (132,000)  
 Additions, Improvements and Equipment . (140,000)

***7760 Senator Garrett W. Hagedorn Gero-Psychiatric Hospital*****DIRECT STATE SERVICES**

10-7760 Patient Care and Health Services ..... \$24,205,000  
 99-7760 Administration and Support Services ..... 7,992,000  
 Total Direct State Services Appropriation, Senator  
 Garrett W. Hagedorn Gero-Psychiatric Hospital . . \$32,197,000

***Direct State Services:*****Personal Services:**

Salaries and Wages ..... (\$28,102,000)  
 Materials and Supplies ..... (1,941,000)  
 Services Other Than Personal ..... (1,052,000)  
 Maintenance and Fixed Charges ..... (426,000)

**Special Purpose:**

10 Interim Assistance . . . . . (14,000)  
 Additions, Improvements and Equipment . (662,000)

***Mental Health Services***

Receipts recovered from advances made under the Interim Assistance program in the mental health institutions during the fiscal year ending June 30, 2005 are appropriated for the same purpose.

The unexpended balances as of June 30, 2004, in the Interim Assistance program accounts in the mental health institutions are appropriated for the same purpose.

The amount appropriated for the Division of Mental Health Services for State facility operations and the amount appropriated as State aid for the costs of county facility operations first are charged to the federal disproportionate share hospital reimbursements anticipated as Medicaid Uncompensated Care.

**24 Special Health Services**  
**7540 Division of Medical Assistance and Health Services**  
**DIRECT STATE SERVICES**

21-7540 Health Services Administration  
 and Management ..... \$23,255,000  
 Total Direct State Services Appropriation,  
 Division of Medical Assistance and  
 Health Services ..... \$23,255,000

***Direct State Services:***

Personal Services:

Salaries and Wages ..... (\$13,455,000)  
 Materials and Supplies ..... (180,000)  
 Services Other Than Personal ..... (5,000,000)  
 Maintenance and Fixed Charges ..... (308,000)

Special Purpose:

21 Payments to Fiscal Agents ..... (3,043,000)  
 21 Professional Standards  
 Review Organization--  
 Utilization Review ..... (1,179,000)  
 21 Drug Utilization Review Board --  
 Administrative Costs ..... (90,000)

The unexpended balances as of June 30, 2004, in the Payments to Fiscal Agents account are appropriated.

Sufficient funds from the Health Care Subsidy Fund are appropriated to the Division of Medical Assistance and Health Services for payment to disproportionate share hospitals for uncompensated care as defined in P.L.1991, c.187 (C.26:2H-18.24 et al.), and for subsidized children's health insurance in the NJ KidCare program (Children's Health Care Coverage Program) established in P.L.1997, c.272 (C.30:4I-1 et seq.) to maximize federal Title XXI funding.

Additional federal Title XIX revenue generated from the claiming of uncompensated care payments made to disproportionate share hospitals shall be deposited in the General Fund as anticipated revenue.

Notwithstanding any State law to the contrary, any third party as defined in subsection m. of section 3 of P.L.1968, c.413 (C.30:4D-3), writing health, casualty, workers' compensation or malpractice insurance policies in the State or covering residents of this State, shall enter into an agreement with the Division of Medical Assistance and Health Services to permit and assist the matching no less frequently than on a monthly basis of the Medicaid, Charity Care, and Work First New Jersey General Assistance eligibility files and/or adjudicated claims files against that third party's eligibility file, including indication of Transitional Assistance Program coverage from the Medicare



Prescription Drug Discount Card Program, and/or adjudicated claims file for the purpose of the coordination of benefits, utilizing, if necessary, social security numbers as common identifiers.

Notwithstanding the provisions of any law to the contrary, all past, present and future revenues representing federal financial participation received by the State from the United States and that are based on payments made by the State to hospitals that serve a disproportionate share of low-income patients shall be deposited in the General Fund and may be expended only upon appropriation by law.

Notwithstanding the provisions of any law to the contrary, all revenues received from health maintenance organizations shall be deposited in the General Fund. Additional federal Title XIX revenue generated from the claiming of medical service payments on behalf of individuals enrolled in the second year of Medicaid Extension is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

22-7540 General Medical Services . . . . . \$2,179,539,000

Total Grants-in-Aid Appropriation, Division of

Medical Assistance and Health Services . . . . . \$2,179,539,000

#### ***Grants-in-Aid:***

22 Payments for Medical  
Assistance Recipients --  
Personal Care . . . . . (\$14,060,000)  
22 Managed Care Initiative . . . . . (525,217,000)  
22 Hospital Relief Offset Payment (70,845,000)  
22 Payments for Medical  
Assistance Recipients - Other  
Treatment Facilities . . . . . (5,900,000)  
22 Payments for Medical  
Assistance Recipients -  
Inpatient Hospital . . . . . (200,695,000)  
22 Payments for Medical  
Assistance Recipients -  
Prescription Drugs . . . . . (468,449,000)  
22 Payments for Medical  
Assistance Recipients -  
Outpatient Hospital . . . . . (176,517,000)  
22 Payments for Medical  
Assistance Recipients -  
Physician . . . . . (34,204,000)  
22 Payments for Medical  
Assistance Recipients -  
Home Health . . . . . (17,728,000)  
22 Payments for Medical  
Assistance Recipients -  
Medicare Premiums . . . . . (85,437,000)

|    |                                                                               |               |
|----|-------------------------------------------------------------------------------|---------------|
| 22 | Payments for Medical Assistance Recipients - Dental .                         | (11,520,000)  |
| 22 | Payments for Medical Assistance Recipients - Psychiatric Hospital . . . . .   | (13,956,000)  |
| 22 | Payments for Medical Assistance Recipients - Medical Supplies . . . . .       | (15,996,000)  |
| 22 | Payments for Medical Assistance Recipients - Clinic .                         | (41,445,000)  |
| 22 | Payments for Medical Assistance Recipients - Transportation . . . . .         | (45,616,000)  |
| 22 | Payments for Medical Assistance Recipients - Other Services . . . .           | (2,369,000)   |
| 22 | Unit Dose Contract Services . . . .                                           | (6,000,000)   |
| 22 | Consulting Pharmacy Services . .                                              | (3,600,000)   |
| 22 | Eligibility Determination Services . . . . .                                  | (4,800,000)   |
| 22 | Health Benefit Coordination Services . . . . .                                | (4,420,000)   |
| 22 | General Assistance Medical Services . . . . .                                 | (122,515,000) |
| 22 | NJ Family Care - Affordable and Accessible Health Coverage Benefits . . . . . | (130,776,000) |
| 22 | Children's Behavioral Health Services - Residential . . . . .                 | (123,939,000) |
| 22 | Children's Behavioral Health Services . . . . .                               | (47,485,000)  |
| 22 | Programs for Assertive Community Treatment . . . . .                          | (6,050,000)   |

The amounts hereinabove appropriated for Payments for Medical Assistance Recipients are available for the payment of obligations applicable to prior fiscal years.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from the Payments for Medical Assistance Recipients-Personal Care and Payments for Medical Assistance Recipients-Other Services accounts within the General Medical Services program classification in the Division of Medical Assistance and Health Services and the Payments for Medical Assistance Recipients-Personal Care and Payments for Medical Assistance Recipients-Other Services accounts in the Division of Disability Services in the Department of Human Services. Amounts may also be transferred to and from various items of appropriations within the General Medical Services program classification of the Division of Medical Assistance and Health Services in the Department of Human Services and the Medical Services for the Aged program

- classification in the Division of Senior Services in the Department of Health and Senior Services, excluding the Children's Behavioral Health Services and Children's Behavioral Health Services-Residential accounts. All such transfers are subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.
- For the purposes of account balance maintenance, all object accounts in the General Medical Services program classification, excluding the Children's Behavioral Health Services and Children's Behavioral Health Services-Residential accounts, shall be considered as one object. This will allow timely payment of claims to providers of medical services but ensure that no overspending will occur in the program classification.
- Notwithstanding any law to the contrary, of the amount appropriated hereinabove funding is available for the Department of Human Services to provide education and public awareness concerning the use of the new rapid AIDS test.
- For the purposes of account balance maintenance, the Children's Behavioral Health Services and Children's Behavioral Health Services-Residential accounts shall be considered as one object. This will allow timely payment of claims to providers of medical services but ensure that no overspending will occur in the program.
- Notwithstanding any law to the contrary, the Commissioner of Human Services shall have the authority to convert individuals enrolled in a State-funded program who are also eligible for a federally matchable program, to the federally matchable program without the need for regulations.
- In addition to the amounts hereinabove for payments to providers on behalf of medical assistance recipients, such additional sums as may be required are appropriated from the General Fund to cover costs consequent to the establishment of presumptive eligibility for children and pregnant women in the Medicaid (Title XIX) program and the NJ KidCare program (Children's Health Care Coverage Program) established in P.L.1997, c.272 (C.30:4I- 1 et seq.).
- When any action by a county welfare agency, whether alone or in combination with the Division of Medical Assistance and Health Services, results in a recovery of improperly granted medical assistance, the Division of Medical Assistance and Health Services may reimburse the county welfare agency in the amount of 25% of the gross recovery.
- Notwithstanding the provisions of P.L.1962, c.222 (C.44:7-76 et seq.), the Medical Assistance for the Aged program is eliminated.
- All funds recovered pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) and P.L.1975, c.194 (C.30:4D-20 et seq.) during the fiscal year ending June 30, 2004 are appropriated for payments to providers in the same program class from which the recovery originated.
- The amount appropriated hereinabove for the Division of Medical Assistance and Health Services first is to be charged to the federal disproportionate share hospital reimbursements anticipated as Medicaid uncompensated care.
- Notwithstanding any other law to the contrary, a sufficient portion of receipts generated or savings realized in Medical Assistance Grants-in-Aid accounts from initiatives may be transferred to the Health Services Administration and

Management accounts to fund costs incurred in realizing these additional receipts or savings, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary and subject to federal approval, the Commissioner of Human Services is authorized to develop and introduce Optional Service Plan Innovations to enhance client choice for users of Medicaid optional services, while containing expenditures.

Notwithstanding any law to the contrary and subject to the notice provisions of 42 CFR 447.205, of the amount hereinabove for Payments for Medical Assistance Recipients - Personal Care, personal care assistant services shall be limited to no more than 25 hours per week.

The Division of Medical Assistance and Health Services, subject to federal approval, shall implement policies that would limit the ability of persons who have the financial ability to provide for their own long-term care needs to manipulate current Medicaid rules to avoid payment for that care. The division shall require, in the case of a married individual requiring long-term care services, that the portion of the couple's resources which is not protected for the needs of the community spouse be used solely for the purchase of long-term care services.

Such sums as may be necessary are appropriated from the General Fund for the payment of any provider assessments to Intermediate Care Facilities/Mental Retardation facilities, subject to the approval of the Director of the Division of Budget and Accounting of a plan as shall be submitted by the Commissioner of Human Services.

The Division of Medical Assistance and Health Services is empowered to competitively bid and contract for performance of federally mandated inpatient hospital utilization reviews, and the funds necessary for the contracted utilization review of these hospital services are made available from the Payments for Medical Assistance Recipients-Inpatient Hospital account, subject to the approval of the Director of the Division of Budget and Accounting.

Such sums as may be necessary are available from the Health Care Subsidy Fund to supplement Payments for Medical Assistance Recipients-Inpatient Hospital, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any other laws to the contrary, State funding for the New Jersey Health ACCESS program shall cease, and all enrollment shall be terminated as of July 1, 2001, or at such later date as shall be established by the Commissioner of Human Services.

Notwithstanding any law to the contrary, a New Jersey major teaching acute medical/surgical care hospital that has been recognized by the State Medicaid program as an eligible non-State owned or operated government facility shall be eligible to receive an enhanced payment as appropriated in the Payments for Medical Assistance Recipients-Inpatient Hospital program for providing inpatient and outpatient services to Medicaid and NJ FamilyCare fee-for-service beneficiaries. Effective July 1, 2004, interim payments shall be made in equal monthly lump sum amounts, based on an estimate of the total enhanced amount

payable to a qualifying hospital, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law or regulation to the contrary, the NJ FamilyCare program benefit service packages, premium contributions, copayment levels, enrollment levels, and any other program features or operations may be modified as the Commissioner of Human Services deems necessary based upon a plan approved by the Director of the Division of Budget and Accounting to ensure that monies expended for the NJ FamilyCare program do not exceed the amount appropriated hereunder.

Notwithstanding any provision of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the Commissioner of Human Services shall adopt immediately upon filing with the Office of Administrative Law such regulations as the Commissioner deems necessary to ensure that monies expended for the NJ FamilyCare program do not exceed the amount appropriated hereunder. Such regulation may change or adjust the financial and non-financial eligibility requirements for some or all of the applicants or beneficiaries in the program, the benefits provided, cost-sharing amounts, or may suspend in whole or in part the processing of applications for any or all categories of individuals covered by the program.

Notwithstanding any other law to the contrary, those hospitals that are eligible to receive a Hospital Relief Subsidy Fund (HRSF) payment as appropriated hereinabove in the Payments for Medical Assistance Recipients-Inpatient Hospital program shall receive enhanced payments from the Medicaid program for providing services to Medicaid and NJ FamilyCare beneficiaries. The total payments shall not exceed the amount appropriated and shall be allocated among hospitals proportionately based on the amount of HRSF payments (excluding any adjustments to the HRSF for other Medicaid payment increases). Effective July 1, 2004, interim payments shall be made from the Hospital Relief Offset Payment account, based on an estimate of the total enhanced amount payable to a qualifying hospital, and subject to cost settlement. The enhanced payment, determined at cost settlement, will be an amount approved by the Director of the Division of Budget and Accounting per Medicaid patient day, adjusted by a volume variance factor (the ratio of expected Medicaid inpatient days to actual Medicaid inpatient days for the rate year) and an HRSF factor (the ratio of the hospital's HRSF payments to total HRSF payments) and subject to a pro rata adjustment so that the total enhanced per diem amounts are equivalent to the total State and federal funds appropriated not to exceed an amount to be approved by the Director of the Division of Budget and Accounting. The total of these payments shall be reduced by an amount equal to any increase in Medicaid and NJ FamilyCare fee-for-service payments to New Jersey hospitals enacted herein or subsequent to this legislation.

Notwithstanding any other law to the contrary for those hospitals that qualify for a Hospital Relief Subsidy Fund payment, the State Medicaid program shall reimburse those hospitals Graduate Medical Education outpatient payments up to the amount the hospital would have received under Medicare principles of reimbursement for Medicaid and NJ FamilyCare fee-for-service beneficiaries.

Effective July 1, 2004, payments shall be made from and are appropriated hereinabove in the Hospital Relief Offset Payment account, and shall be based on the qualifying hospitals' first finalized 1996 cost reports. The amount that the qualifying hospital would otherwise be eligible to receive from the Hospital Relief Subsidy Fund shall be reduced by the amount of this Graduate Medical Education outpatient payment. The total amount of these payments shall not exceed an amount approved by the Director of the Division of Budget and Accounting in combined State and federal funds. In no case shall these payments and all other enhanced payments related to those services primarily used by Medicaid and NJ FamilyCare beneficiaries that the hospital receives exceed the amount the hospital would otherwise have been eligible to receive from the Hospital Relief Subsidy Fund in the State fiscal year.

Of the amounts appropriated in State and federal funds in the Hospital Relief Offset Payment accounts in the Department of Human Services, Division of Medical Assistance and Health Services, such sums as may be necessary shall be transferred to the Hospital Relief Subsidy Fund within the Health Care Subsidy Fund established pursuant to P.L.1992, c.160 (C26:2H-18.51 et seq.) to maximize federal revenues related to these accounts and maintain an appropriate level of hospital payments, subject to the approval of the Director of the Division of Budget and Accounting.

Rebates from pharmaceutical manufacturing companies during the fiscal year ending June 30, 2004 for prescription expenditures made to providers on behalf of Medicaid clients are appropriated for the Payments for Medical Assistance Recipients-Prescription Drugs account.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2004, or at the earliest date thereafter consistent with the notice provisions of 42 CFR 447.205 where applicable, no funds appropriated for prescription drugs in the Payments for Medical Assistance Recipients-Prescription Drugs or General Assistance Medical Services account shall be expended except under the following conditions: (a) reimbursement for the cost of legend, and non-legend drugs, and nutritional supplements, shall not exceed their Average Wholesale Price (AWP) less a 12.5% discount; (b) the current prescription drug dispensing fee structure set as a variable rate of \$3.73 to \$4.07 in effect on June 30, 2004 shall remain in effect through fiscal year 2005, including the current increments for patient consultation, impact allowances, and allowances for 24-hour emergency services; and (c) multisource generic and single source brand name drugs shall be dispensed without prior authorization but multisource brand name drugs shall require prior authorization issued by the Division of Medical Assistance and Health Services or its authorizing agent, however, a 10-day supply of the multisource brand name drug shall be dispensed pending receipt of prior authorization. Certain multisource brand name drugs with a narrow therapeutic index, other drugs recommended by the Drug Utilization Review Board or brand name drugs with lower cost per unit than the generic, may be excluded from prior authorization by the Division of Medical Assistance and Health Services.

Notwithstanding any laws or regulations to the contrary, payments from the Payments for Medical Assistance Recipients-Prescription Drugs account, the

General Assistance drug program or the fee-for-service portion of NJ FamilyCare shall not cover quantities of erectile dysfunction drug therapies in excess of four treatments per month. Moreover, payments will only be provided if the diagnosis of erectile dysfunction is written on the prescription form and the treatment is provided to males over the age of 18 years.

Notwithstanding any law to the contrary and subject to the notice provisions of 42 CFR 447.205, effective July 1, 2004, approved nutritional supplements which are funded hereinabove in the Payments for Medical Assistance Recipients-Prescription Drug program will be reimbursed in accordance with a fee schedule set by the Director of the Division of Medical Assistance and Health Services.

Effective July 1, 2004, no funding shall be provided from the Payments for Cost of General Assistance or NJ FamilyCare programs for anti-retroviral drugs for the treatment of HIV/AIDS, as specified in the Department of Health and Senior Services' formulary for the AIDS Drugs Distribution Program (ADDP).

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2004, the following provisions shall apply to the dispensing of prescription drugs through the General Assistance Medical Services account: (a) all Maximum Allowable Cost (MAC) drugs dispensed shall state "Brand Medically Necessary" in the prescriber's own handwriting if the prescriber determines that it is necessary to override generic substitution of drugs; and (b) each prescription order shall follow the requirements of P.L.1977, c.240 (C.24:6E-1 et seq.). The list of drugs substituted shall conform to all requirements pertaining to drug substitution and federal upper limits for MAC drugs as administered by the State Medicaid program.

Such sums as may be necessary are appropriated from enhanced audit recoveries obtained by the Division of Medical Assistance and Health Services to fund the costs of enhanced audit recovery efforts of the division within the General Medical Services program classification, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2004, each prescription order for protein nutritional supplements and specialized infant formulas dispensed in the Medicaid, General Assistance Medical Services, NJ FamilyCare and NJ KidCare fee-for-service programs shall be filled with the generic equivalent unless the prescription order states "Brand Medically Necessary" in the prescriber's own handwriting.

Of the amount hereinabove appropriated for Payments for Medical Assistance Recipients-Outpatient Hospital, an amount not to exceed \$1,900,000 is allocated for limited prenatal medical care for New Jersey pregnant women who, except for financial requirements, are not eligible for any other State or federal health insurance program.

Of the revenues received as a result of sanctions to health maintenance organizations participating in Medicaid Managed Care, an amount not to exceed \$500,000 is appropriated to the Payments for Medical Assistance Recipients-Physician account, subject to the approval of the Director of the Division of Budget and Accounting.

- Non-contracted hospitals providing emergency services to Medicaid or NJ FamilyCare members enrolled in the managed care program shall accept, as payment in full, the amounts that the non-contracted hospital would receive from Medicaid for the emergency services and/or any related hospitalization if the beneficiary were enrolled in Medicaid fee-for-service.
- Notwithstanding the provisions of subsection (b) of N.J.A.C.10:60-5.3 and subsection (a) of N.J.A.C.10:60-5.4 to the contrary, a person receiving the maximum number of Early and Periodic Screening, Diagnosis and Treatment/Private Duty Nursing (EPSDT/PDN) services, that is, 16 hours in any 24-hour period, may be authorized to receive additional PDN hours if private health insurance is available to cover the cost of the additional hours and appropriate medical documentation is provided which indicates that additional PDN hours are required and that the primary caregiver is not qualified to provide the additional PDN hours.
- Of the amount hereinabove appropriated for Payments for Medical Assistance Recipients-Clinic, an amount not to exceed \$1,900,000 is allocated for limited prenatal medical care provided by clinics, or in the case of radiology and clinical laboratory services ordered by a clinic, for New Jersey pregnant women who, except for financial requirements, are not eligible for any other State or federal health insurance program.
- Additional federal Title XIX revenue generated from the claiming of family planning services payments on behalf of individuals enrolled in the Medicaid managed care program is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.
- Effective July 1, 2004, the Division of Medical Assistance and Health Services (DMAHS) is authorized to pay financial rewards to individuals or entities who report instances of health care-related fraud and/or abuse involving the programs administered by DMAHS (including, but not limited to, the State Medicaid, NJ FamilyCare and NJ KidCare programs), or the Pharmaceutical Assistance to the Aged and Disabled (PAAD) or Work First New Jersey General Public Assistance programs. Rewards may be paid only when the reports result in a recovery by DMAHS, and only if other conditions established by DMAHS are met, and shall be limited to 10% of the recovery or \$1,000, whichever is less. Notwithstanding any State law to the contrary, but subject to any necessary federal approval and/or change in federal law, receipt of such rewards shall not affect an applicant's individual financial eligibility for the programs administered by DMAHS, or for PAAD or Work First New Jersey General Public Assistance programs.
- The Division of Medical Assistance and Health Services, in coordination with the county welfare agencies, shall continue a program to outstation eligibility workers in disproportionate share hospitals and federally qualified health centers.
- Of the amount hereinabove appropriated for Eligibility Determination, an amount not to exceed \$630,000 is allocated for increased eligibility determination costs related to immigrant services.



Premiums received from families enrolled in the NJ KidCare program (Children's Health Care Coverage Program) established pursuant to P.L.1997, c.272 (C.30:4I-1 et seq.) are appropriated for NJ KidCare payments.

Premiums received from families enrolled in the NJ FamilyCare program (FamilyCare Health Coverage Program) established pursuant to P.L.2000, c.71 (C.30:4J-1 et seq.) are appropriated for NJ FamilyCare payments.

Of the amount hereinabove appropriated for the NJ FamilyCare program, there shall be transferred to various accounts, including Direct State Services and State Aid accounts, such amounts, not to exceed \$6,000,000, as are necessary to pay for the administrative costs of the program, subject to the approval of the Director of the Division of Budget and Accounting.

The Commissioners of the Departments of Human Services and Health and Senior Services shall establish a system to utilize unopened prescription drugs at nursing facilities issued to patients at such facilities and which have not exceeded their expiration date.

Notwithstanding the provisions of any law or regulation to the contrary, from the amount appropriated hereinabove for the Payments for Medical Assistance Recipients-Inpatient Hospital program, the Commissioner of Human Services shall establish a disease management program to improve the quality of care for beneficiaries of the Division of Medical Assistance and Health Services and reduce costs in the General Medical Services program.

The unexpended balance as of June 30, 2004, in the NJ FamilyCare-Affordable and Accessible Health Coverage Benefits account is appropriated.

Notwithstanding the provisions of any other law to the contrary, no funds appropriated for the Medicaid program as appropriated hereinabove in the Payments for Medical Assistance Recipients-Prescription Drugs account are available to any pharmacy that does not agree to allow Medicaid to bill on its behalf any third party, as defined in subsection m. of section 3 of P.L.1968, c.413 (C.30:4D-3), by participating in a billing agreement executed between the State and the pharmacy.

Notwithstanding the provisions of any other law to the contrary, effective January 1, 2005, inpatient hospital reimbursements for Medical Assistance services for dually eligible individuals shall exclude Medicare Part A crossover payments and shall be based upon the Medicare exhausted days, according to a plan designed by the Commissioner of Human Services and approved by the Director of the Division of Budget and Accounting.

No funds appropriated for personal care assistant or other personal care services shall be expended for payment after January 1, 2005 to a health care services firm for personal care services, as those terms are defined in P.L.2002, c.126 (C.34:8-45.1) unless the provider agrees to file the following cost reports with the Department of Human Services. The department shall develop annual calendar year cost reports, beginning with the calendar year 2005 report, which shall contain information on costs and revenues in comparable detail as that required of other providers that submit cost reports to the Medicaid program. The reports shall be filed on an annual basis using a format as shall be specified by the department.

Notwithstanding the provisions of N.J.A.C.10:49-7.3 et seq. to the contrary and subject to approval by the federal government, the Division of Medical Assistance and Health Services shall increase reimbursement for ambulance services, including BLS emergency and nonemergency ambulance services and specialty care transport services, provided to Medicaid recipients who are also Medicare eligible to the applicable Medicare rate.

**27 Disability Services**

**7545 Division of Disability Services**

**DIRECT STATE SERVICES**

99-7545 Division of Disability Services ..... \$984,000  
 Total Direct State Services Appropriation,  
 Division of Disability Services ..... \$984,000

**Direct State Services:**

**Personal Services:**

Salaries and Wages ..... (\$942,000)  
 Materials and Supplies ..... (4,000)  
 Services Other Than Personal ..... (29,000)  
 Maintenance and Fixed Charges ..... (9,000)

**GRANTS-IN-AID**

27-7545 Division of Disability Services ..... \$170,875,000  
*(From General Fund ..... \$90,547,000)*  
*(From Casino Revenue Fund ..... 80,328,000)*  
 Total Grants-in-Aid Appropriation, Division of  
 Disability Services ..... \$170,875,000  
*(From General Fund ..... \$90,547,000)*  
*(From Casino Revenue Fund ..... 80,328,000)*

**Grants-in-Aid:**

27 Personal Assistance  
 Services Program ..... (\$3,251,000)  
 27 Personal Assistance Services  
 Program (CRFG) ..... (3,734,000)  
 27 Community Supports to Allow  
 Discharge from Nursing Homes . (2,000,000)  
 27 Payments for Medical  
 Assistance Recipients -  
 Personal Care ..... (81,030,000)  
 27 Payments for Medical  
 Assistance Recipients -  
 Personal care (CRFG) ..... (60,092,000)  
 27 Payments for Medical  
 Assistance Recipients -  
 Waiver Initiatives ..... (2,332,000)  
 27 Payments for Medical  
 Assistance Recipients -  
 Waiver Initiatives (CRFG) .... (16,502,000)

## 27 Payments for Medical

Assistance - Other Services . . . . (1,934,000)

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from the various items of appropriation within the Disability Services program classification. Amounts may also be transferred to and from Payments for Medical Assistance Recipients-Personal Care and Payments for Medical Assistance Recipients-Other Services within the General Medical Services program classification in the Division of Medical Assistance and Health Services and the Payments for Medical Assistance Recipients-Personal Care and the Payments for Medical Assistance Recipients-Other Services accounts in the Division of Disability Services within the Department of Human Services. All such transfers are subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

Notwithstanding any law to the contrary and subject to the notice provisions of 42 CFR 447.205, of the amount appropriated hereinabove for Payments for Medical Assistance Recipients - Personal Care, personal care assistant services shall be authorized prior to the beginning of services by the Director of the Division of Disability Services. The hourly weekend rate shall not exceed \$16.00.

No funds appropriated for personal care assistant or other personal care services shall be expended for payment after January 1, 2005 to a health care services firm for personal care services, as those terms are defined in P.L.2002, c.126 (C.34:8-45.1) unless the provider agrees to file the following cost reports with the Department of Human Services. The department shall develop annual calendar year cost reports, beginning with the calendar year 2005 report, which shall contain information on costs and revenues in comparable detail as that required of other providers that submit cost reports to the Medicaid program. The reports shall be filed on an annual basis using a format as shall be specified by the department.

No funds appropriated for personal care assistant or other personal care services shall be expended for payment after January 1, 2005 to a health care services firm for personal care services, as those terms are defined in P.L.2002, c.126 (C.34:8-45.1) unless the provider agrees to file the following cost reports with the Department of Human Services. The department shall develop annual calendar year cost reports, beginning with the calendar year 2005 report, which shall contain information on costs and revenues in comparable detail as that required of other providers that submit cost reports to the Medicaid program. The reports shall be filed on an annual basis using a format as shall be specified by the department.

**30 Educational, Cultural and Intellectual Development****32 Operation and Support of Educational Institutions****7600 Division of Developmental Disabilities****DIRECT STATE SERVICES**99-7600 Administration and Support Services . . . . . \$10,716,000*(From General Fund . . . . . \$4,215,000)*

|                                                                                                                                                                                                                                                                                                   |                     |                     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|---------------------|
| <i>(From Federal Funds</i> .....                                                                                                                                                                                                                                                                  | <i>6,501,000)</i>   |                     |
| Total Appropriation, State and Federal Funds .....                                                                                                                                                                                                                                                |                     | <u>\$10,716,000</u> |
| <i>(From General Fund</i> .....                                                                                                                                                                                                                                                                   | <i>\$4,215,000)</i> |                     |
| <i>(From Federal Funds</i> .....                                                                                                                                                                                                                                                                  | <i>6,501,000)</i>   |                     |
| <b>Less:</b>                                                                                                                                                                                                                                                                                      |                     |                     |
| <i>Federal Funds</i> .....                                                                                                                                                                                                                                                                        | <i>\$6,501,000</i>  |                     |
| <i>Total Deductions</i> .....                                                                                                                                                                                                                                                                     | <i>\$6,501,000</i>  |                     |
| Total Direct State Services Appropriation,<br>Division of Developmental Disabilities .....                                                                                                                                                                                                        |                     | <u>\$4,215,000</u>  |
| <b>Direct State Services:</b>                                                                                                                                                                                                                                                                     |                     |                     |
| Personal Services:                                                                                                                                                                                                                                                                                |                     |                     |
| Salaries and Wages .....                                                                                                                                                                                                                                                                          | (\$8,676,000)       |                     |
| Materials and Supplies .....                                                                                                                                                                                                                                                                      | (64,000)            |                     |
| Services Other Than Personal .....                                                                                                                                                                                                                                                                | (252,000)           |                     |
| Maintenance and Fixed Charges .....                                                                                                                                                                                                                                                               | (99,000)            |                     |
| Special Purpose:                                                                                                                                                                                                                                                                                  |                     |                     |
| 99 Foster Grandparents Program ...                                                                                                                                                                                                                                                                | (669,000)           |                     |
| 99 Developmental Disabilities<br>Council .....                                                                                                                                                                                                                                                    | (306,000)           |                     |
| 99 Nursing Incentive Program .....                                                                                                                                                                                                                                                                | (625,000)           |                     |
| Additions, Improvements and Equipment ..                                                                                                                                                                                                                                                          | (25,000)            |                     |
| <b>Less:</b>                                                                                                                                                                                                                                                                                      |                     |                     |
| <i>Federal Funds</i> .....                                                                                                                                                                                                                                                                        | <i>6,501,000</i>    |                     |
| An amount not to exceed \$223,000 from receipts from individuals for whom the<br>Division of Developmental Disabilities in the Department of Human<br>Services is the representative payee is appropriated for participation in the<br>Foster Grandparents Program and Senior Companions program. |                     |                     |

#### **7601 Community Programs**

##### **DIRECT STATE SERVICES**

|                                                                  |                      |
|------------------------------------------------------------------|----------------------|
| 01-7601 Purchased Residential Care .....                         | \$7,453,000          |
| <i>(From General Fund</i> .....                                  | <i>\$3,364,000)</i>  |
| <i>(From Federal Funds</i> .....                                 | <i>4,089,000)</i>    |
| 02-7601 Social Supervision and Consultation .....                | 22,978,000           |
| <i>(From General Fund</i> .....                                  | <i>1,117,000)</i>    |
| <i>(From Federal Funds</i> .....                                 | <i>21,861,000)</i>   |
| 03-7601 Adult Activities .....                                   | 1,911,000            |
| <i>(From General Fund</i> .....                                  | <i>1,055,000)</i>    |
| <i>(From Federal Funds</i> .....                                 | <i>856,000)</i>      |
| 04-7601 Education and Day Training .....                         | <u>28,803,000</u>    |
| <i>(From General Fund</i> .....                                  | <i>7,665,000)</i>    |
| <i>(From Federal Funds</i> .....                                 | <i>1,953,000)</i>    |
| <i>(From All Other Funds</i> .....                               | <i>19,185,000)</i>   |
| Total Appropriation, State, Federal and All<br>Other Funds ..... | <u>\$61,145,000</u>  |
| <i>(From General Fund</i> .....                                  | <i>\$13,201,000)</i> |
| <i>(From Federal Funds</i> .....                                 | <i>28,759,000)</i>   |

*(From All Other Funds . . . . . 19,185,000)*  
**Less:**  
*Federal Funds . . . . . \$28,759,000*  
*All Other Funds . . . . . 19,185,000*  
*Total Deductions . . . . . \$47,944,000*  
 Total Direct State Services Appropriation,  
     Community Programs . . . . . \$13,201,000  
 Direct State Services:  
 Personal Services:  
     Salaries and Wages . . . . . (\$50,368,000)  
     Materials and Supplies . . . . . (1,356,000)  
     Services Other Than Personal . . . . . (1,928,000)  
     Maintenance and Fixed Charges . . . . . (1,643,000)  
 Special Purpose:  
     01 Developmental Center  
         Enhancement . . . . . (5,166,000)  
     02 Guardianship Program . . . . . (285,000)  
     02 Homemaker Services (State Share) (167,000)  
 Additions, Improvements and Equipment . (232,000)

#### GRANTS-IN-AID

01-7601 Purchased Residential Care . . . . . \$526,953,000  
*(From General Fund . . . . . \$297,393,000)*  
*(From Casino Revenue Fund . . . . . 28,827,000)*  
*(From Federal Funds . . . . . 162,103,000)*  
*(From All Other Funds . . . . . 38,630,000)*  
 02-7601 Social Supervision and Consultation . . . . . 48,021,000  
*(From General Fund . . . . . 40,243,000)*  
*(From Casino Revenue Fund . . . . . 2,208,000)*  
*(From Federal Funds . . . . . 5,570,000)*  
 03-7601 Adult Activities . . . . . 127,013,000  
*(From General Fund . . . . . 82,497,000)*  
*(From Casino Revenue Fund . . . . . 7,374,000)*  
*(From Federal Funds . . . . . 37,142,000)*  
 Total State, Federal and All Other Funds . . . . . \$701,987,000  
*(From General Fund . . . . . 420,133,000)*  
*(From Casino Revenue Fund . . . . . 38,409,000)*  
*(From Federal Funds . . . . . 204,815,000)*  
*(From All Other Funds . . . . . 38,630,000)*  
**Less:**  
*Federal Funds . . . . . \$204,815,000*  
*All Other Funds . . . . . 38,630,000*  
*Total Deductions . . . . . \$243,445,000*  
 Total Grants-in-Aid Appropriation,  
     Community Programs.. . . . \$458,542,000  
**Grants-in-Aid:**  
     01 Dental Program for  
         Non-Institutionalized Children . . (\$814,000)

|                                                                                          |               |
|------------------------------------------------------------------------------------------|---------------|
| 01 Private Institutional Care . . . . .                                                  | (37,393,000)  |
| 01 Private Institutional<br>Care (CRFG) . . . . .                                        | (1,311,000)   |
| 01 Skill Development Homes . . . . .                                                     | (25,657,000)  |
| 01 Skill Development<br>Homes (CRFG) . . . . .                                           | (1,141,000)   |
| 01 Group Homes . . . . .                                                                 | (341,006,000) |
| 01 Group Homes (CRFG) . . . . .                                                          | (26,247,000)  |
| 01 Family Care . . . . .                                                                 | (5,135,000)   |
| 01 Family Care (CRFG) . . . . .                                                          | (128,000)     |
| 01 Community Nursing Care<br>Initiative - FY2002 . . . . .                               | (1,604,000)   |
| 01 Community Services Waiting<br>List Reduction Initiative -<br>FY 2001 . . . . .        | (34,486,000)  |
| 01 Community Services Waiting<br>List Reduction Initiative -<br>FY 2002 . . . . .        | (28,359,000)  |
| 01 FY 2003 Planning Initiative . . . . .                                                 | (2,600,000)   |
| 01 CSWL Initiative Development . . . . .                                                 | (7,243,000)   |
| 01 Developmental Center<br>Enhancement . . . . .                                         | (3,910,000)   |
| 01 Community Transition Initiative -<br>FY 2002 . . . . .                                | (9,919,000)   |
| 02 Essex ARC - Expanded Respite<br>Care for Families with Autistic<br>Children . . . . . | (75,000)      |
| 02 Autism Respite Care . . . . .                                                         | (1,000,000)   |
| 02 Developmental Disabilities<br>Council . . . . .                                       | (1,183,000)   |
| 02 Home Assistance . . . . .                                                             | (37,697,000)  |
| 02 Home Assistance (CRFG) . . . . .                                                      | (1,657,000)   |
| 02 Purchase of After School and<br>Camp Services . . . . .                               | (1,339,000)   |
| 02 Purchase of After School and<br>Camp Services (CRFG) . . . . .                        | (551,000)     |
| 02 Social Services . . . . .                                                             | (4,048,000)   |
| 02 Case Management . . . . .                                                             | (471,000)     |
| 03 Purchase of Adult<br>Activity Services . . . . .                                      | (119,639,000) |
| 03 Purchase of Adult Activity<br>Services (CRFG) . . . . .                               | (7,374,000)   |

**Less:**

**Federal Funds . . . . . 204,815,000**

**All Other Funds . . . . . 38,630,000**

The Division of Developmental Disabilities is authorized to transfer funds from the Dental Program for Non-Institutionalized Children account to the Division of

- Medical Assistance and Health Services, in proportion to the number of program participants who are Medicaid eligible.
- Excess State funds realized by federal involvement through Medicaid in the Dental Program for Non-Institutionalized Children are committed for the program's support during the subsequent fiscal year, rather than for expansion.
- Amounts required to return persons with mental retardation or developmental disabilities presently residing in out-of-State institutions to group homes within the State may be transferred from the Private Institutional Care account to the Group Homes account, subject to the approval of the Director of the Division of Budget and Accounting.
- Amounts that become available as a result of the return of persons from private institutional care placements, including in-State and out-of-State placements, shall be available for transfer to community and community support programs, subject to the approval of the Director of the Division of Budget and Accounting.
- Skill development homes cost recoveries during the fiscal year ending June 30, 2005, not to exceed \$12,500,000, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.
- The total amount appropriated in the Community Services Waiting List Reduction Initiatives - FY2001, FY2002 and the Community Transition Initiative - FY2002 and the Community Nursing Care Initiative - FY2002 accounts are available for transfer to community support programs, subject to the approval of the Director of the Division of Budget and Accounting.
- Notwithstanding the provisions of Title 30 of the Revised Statutes or any other law or regulation to the contrary, the Director of the Division of Developmental Disabilities is authorized to waive statutory, regulatory, or licensing requirements in the use of funds appropriated hereinabove for the implementation of a self-determination pilot program including participants from the Community Services Waiting List Reduction Initiatives - FY1997 through FY2002, subject to the approval of a plan by the Director of the Division of Developmental Disabilities, which will allow an individual to be removed from the waiting list. This waiver also applies to those persons identified as part of the Community Transition Initiative - FY2001 and FY2002 and the Community Nursing Care Initiative - FY2002 who choose self-determination.
- Cost recoveries from developmentally disabled patients and residents collected during the fiscal year ending June 30, 2005, not to exceed \$5,500,000, are appropriated for the continued operation of the Group Homes program, and an additional amount, not to exceed \$20,000,000, is appropriated for Community Services Waiting List Reduction Initiatives, subject to the approval of the Director of the Division of Budget and Accounting.
- Notwithstanding any law to the contrary, the State Treasurer, in consultation with the Commissioner of Human Services, may transfer, pursuant to the terms and conditions the State Treasurer deems to be in the best interest of the State, the operation, care, custody, maintenance and control of State-owned buses utilized for transportation of clients of the Adult Activity Centers funded from appropriations in the Adult Activities program classification in the Division of

Developmental Disabilities to any party under contract with the Department of Human Services to operate an Adult Activity Center. That transfer shall be for a time to run concurrent with the contract for the operation of the Adult Activity Center. That transfer as a non-cash award, and in conjunction with a cash appropriation, shall complete the terms of any contract with the Department of Human Services for the operation of the Adult Activity Center. Upon termination of any contract for the operation of an Adult Activity Center, the operation, care, custody, maintenance and control of the State-owned buses shall revert to the State. The State Treasurer shall execute any agreements necessary to effectuate the purpose of this provision.

Such sums as may be necessary are appropriated from the General Fund for the payment of any provider assessments to State Intermediate Care Facilities/Mental Retardation facilities, subject to the approval of the Director of the Division of Budget and Accounting of a plan to be submitted by the Commissioner of Human Services. Notwithstanding any other law to the contrary, only the federal share of funds anticipated from these assessments shall be available to the Department of Human Services for the purposes set forth in P.L.1998, c.40 (C.30:6D-43 et seq.).

From the amounts appropriated hereinabove for the Community Services Waiting List Reduction Initiative - FY2002 and the Community Transition Initiative - FY2002 accounts, such funds as are necessary may be transferred to various administrative accounts as required, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary, expenditures of federal Community Care Waiver funds received for community-based programs in the Division of Developmental Disabilities are limited to \$205,768,000. Federal funding received above this level must be approved by the Director of the Division of Budget and Accounting in accordance with a plan submitted by the Department of Human Services.

In order to permit flexibility in the handling of appropriations and assure timely payment of provider services, funds may be transferred within the Grants-in-Aid accounts in the Division of Developmental Disabilities, subject to the approval of the Director of the Division of Budget and Accounting.

The amount appropriated for Vocational Rehabilitation Services/Extended Employment Program from the Community Care Waiver will become available pending approval from the Center for Medicare and Medicaid Services (CMS), completion of necessary systems and program changes, in accordance with a Memorandum of Understanding between the Commissioners of the Department of Human Services and Labor.

Amounts required to return persons with mental retardation or developmental disabilities presently residing in out-of-State institutions to group homes within the State may be transferred from the Private Institutional Care account to the Group Homes account, subject to the approval of the Director of the Division of Budget and Accounting.

Cost recoveries from skill development homes during the fiscal year ending June 30, 2005, not to exceed \$12,500,000, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.



Cost recoveries from developmentally disabled patients and residents, collected during the fiscal year ending June 30, 2005, not to exceed \$5,500,000, are appropriated for the continued operation of the Group Homes program, and an additional amount, not to exceed \$20,000,000, is appropriated for Community Services Waiting List Reduction Initiatives, subject to the approval of the Director of the Division of Budget and Accounting.

**7610 Green Brook Regional Center**

**DIRECT STATE SERVICES**

05-7610 Residential Care and Habilitation Services . . . . . \$8,342,000  
     *(From General Fund . . . . . \$549,000)*  
     *(From Federal Funds . . . . . 7,793,000)*  
 99-7610 Administration and Support Services . . . . . 3,351,000  
     *(From General Fund . . . . . 898,000)*  
     *(From Federal Funds . . . . . 2,453,000)*  
 Total Appropriation, State and Federal Funds . . . . . \$11,693,000  
     *(From General Fund . . . . . \$1,447,000)*  
     *(From Federal Funds . . . . . 10,246,000)*

**Less:**

*Federal Funds . . . . . \$10,246,000*  
*Total Deductions . . . . . \$10,246,000*  
 Total Direct State Services Appropriation,  
     Green Brook Regional Center . . . . . \$1,447,000

**Direct State Services:**

Personal Services:

    Salaries and Wages . . . . . (\$10,246,000)  
     Materials and Supplies . . . . . (875,000)  
     Services Other Than Personal . . . . . (262,000)  
     Maintenance and Fixed Charges . . . . . (210,000)

Special Purpose:

    Additions, Improvements  
         and Equipment . . . . . (100,000)

**Less:**

*Federal Funds . . . . . 10,246,000*

**7620 Vineland Developmental Center**

**DIRECT STATE SERVICES**

05-7620 Residential Care and Habilitation Services . . . . . \$65,117,000  
     *(From General Fund . . . . . \$39,757,000)*  
     *(From Federal Funds . . . . . 25,360,000)*  
 99-7620 Administration and Support Services . . . . . 14,218,000  
     *(From General Fund . . . . . 12,197,000)*  
     *(From Federal Funds . . . . . 2,021,000)*  
 Total Appropriation, State and Federal Funds . . . . . \$79,335,000  
     *(From General Fund . . . . . \$51,954,000)*  
     *(From Federal Funds . . . . . 27,381,000)*

**Less:**

**Federal Funds** ..... \$27,381,000  
**Total Deductions** ..... \$27,381,000  
 Total Direct State Services Appropriation,  
 Vineland Developmental Center . . . . . \$51,954,000

**Direct State Services:**

## Personal Services:

Salaries and Wages ..... (\$71,883,000)  
 Materials and Supplies ..... (5,050,000)  
 Services Other Than Personal ..... (1,467,000)  
 Maintenance and Fixed Charges ..... (673,000)

## Special Purpose:

05 Family Care ..... (6,000)  
 Additions, Improvements and Equipment . . (256,000)

**Less:**

**Federal Funds** ..... 27,381,000

**7630 North Jersey Developmental Center****DIRECT STATE SERVICES**

05-7630 Residential Care and Habilitation Services . . . . \$37,536,000  
 (From General Fund ..... \$16,250,000)  
 (From Federal Funds ..... 21,286,000)  
 99-7630 Administration and Support Services ..... 9,188,000  
 (From General Fund ..... 7,341,000)  
 (From Federal Funds ..... 1,847,000)  
 Total Appropriation, State and Federal Funds . . . . . \$46,724,000  
 (From General Fund ..... \$23,591,000)  
 (From Federal Funds ..... 23,133,000)

**Less:**

**Federal Funds** ..... \$23,133,000  
**Total Deductions** ..... \$23,133,000  
 Total Direct State Services Appropriation,  
 North Jersey Developmental Center . . . . . \$23,591,000

## Direct State Services:

## Personal Services:

Salaries and Wages ..... (\$40,751,000)  
 Materials and Supplies ..... (3,069,000)  
 Services Other Than Personal ..... (2,058,000)  
 Maintenance and Fixed Charges ..... (587,000)

## Special Purpose:

Additions, Improvements  
 and Equipment ..... (259,000)

**Less:**

**Federal Funds** ..... 23,133,000

**7640 Woodbine Developmental Center****DIRECT STATE SERVICES**

|                                                                                       |                            |
|---------------------------------------------------------------------------------------|----------------------------|
| 05-7640 Residential Care and Habilitation Services . . . .                            | \$48,369,000               |
| (From General Fund . . . . .)                                                         | <u>\$25,771,000</u>        |
| (From Federal Funds . . . . .)                                                        | <u>22,598,000</u>          |
| 99-7640 Administration and Support Services . . . . .                                 | <u>12,702,000</u>          |
| (From General Fund . . . . .)                                                         | <u>9,054,000</u>           |
| (From Federal Funds . . . . .)                                                        | <u>3,648,000</u>           |
| Total Appropriation, State and Federal Funds . . . . .                                | <u>\$61,071,000</u>        |
| (From General Fund . . . . .)                                                         | <u>\$34,825,000</u>        |
| (From Federal Funds . . . . .)                                                        | <u>26,246,000</u>          |
| <b>Less:</b>                                                                          |                            |
| <b>Federal Funds . . . . .</b>                                                        | <b><u>\$26,246,000</u></b> |
| <b>Total Deductions . . . . .</b>                                                     | <b><u>\$26,246,000</u></b> |
| Total Direct State Services Appropriation,<br>Woodbine Developmental Center . . . . . | <u>\$34,825,000</u>        |

**Direct State Services:****Personal Services:**

|                                         |                |
|-----------------------------------------|----------------|
| Salaries and Wages . . . . .            | (\$54,432,000) |
| Materials and Supplies . . . . .        | (4,391,000)    |
| Services Other Than Personal . . . . .  | (1,415,000)    |
| Maintenance and Fixed Charges . . . . . | (576,000)      |

**Special Purpose:**

|                                                    |           |
|----------------------------------------------------|-----------|
| Additions, Improvements<br>and Equipment . . . . . | (257,000) |
|----------------------------------------------------|-----------|

**Less:**

|                                |                   |
|--------------------------------|-------------------|
| <b>Federal Funds . . . . .</b> | <b>26,246,000</b> |
|--------------------------------|-------------------|

**7650 New Lisbon Developmental Center****DIRECT STATE SERVICES**

|                                                                                         |                            |
|-----------------------------------------------------------------------------------------|----------------------------|
| 05-7650 Residential Care and Habilitation Services . . . .                              | \$61,510,000               |
| (From General Fund . . . . .)                                                           | <u>\$29,669,000</u>        |
| (From Federal Funds . . . . .)                                                          | <u>31,841,000</u>          |
| 99-7650 Administration and Support Services . . . . .                                   | <u>9,920,000</u>           |
| (From General Fund . . . . .)                                                           | <u>5,862,000</u>           |
| (From Federal Funds . . . . .)                                                          | <u>4,058,000</u>           |
| Total Appropriation, State and Federal Funds . . . . .                                  | <u>\$71,430,000</u>        |
| (From General Fund . . . . .)                                                           | <u>\$35,531,000</u>        |
| (From Federal Funds . . . . .)                                                          | <u>35,899,000</u>          |
| <b>Less:</b>                                                                            |                            |
| <b>Federal Funds . . . . .</b>                                                          | <b><u>\$35,899,000</u></b> |
| <b>Total Deductions . . . . .</b>                                                       | <b><u>\$35,899,000</u></b> |
| Total Direct State Services Appropriation,<br>New Lisbon Developmental Center . . . . . | <u>\$35,531,000</u>        |

**Direct State Services:****Personal Services:**

|                              |                |
|------------------------------|----------------|
| Salaries and Wages . . . . . | (\$66,055,000) |
|------------------------------|----------------|

Materials and Supplies ..... (3,436,000)  
 Services Other Than Personal ..... (1,125,000)  
 Maintenance and Fixed Charges ..... (533,000)

Special Purpose:

Additions, Improvements  
 and Equipment ..... (281,000)

**Less:**

**Federal Funds ..... 35,899,000**

**7660 Woodbridge Developmental Center**

**DIRECT STATE SERVICES**

05-7660 Residential Care and Habilitation Services . . . \$50,398,000

*(From General Fund ..... \$24,178,000)*

*(From Federal Funds ..... 26,165,000)*

*(From All Other Funds ..... 55,000)*

99-7660 Administration and Support Services ..... 8,090,000

*(From General Fund ..... 6,614,000)*

*(From Federal Funds ..... 1,476,000)*

Total Appropriation, State, Federal  
 and All Other Funds ..... \$58,488,000

*(From General Fund ..... \$30,792,000)*

*(From Federal Funds ..... 27,641,000)*

*(From All Other Funds ..... 55,000)*

**Less:**

**Federal Funds ..... \$27,641,000**

**All Other Funds ..... 55,000**

**Total Deductions ..... \$27,696,000**

Total Direct State Services Appropriation,  
 Woodbridge Developmental Center ..... \$30,792,000

**Direct State Services:**

Personal Services:

Salaries and Wages ..... (\$52,956,000)

Materials and Supplies ..... (3,746,000)

Services Other Than Personal ..... (1,049,000)

Maintenance and Fixed Charges ..... (468,000)

Special Purpose:

Additions, Improvements  
 and Equipment ..... (269,000)

**Less:**

**Federal Funds ..... 27,641,000**

**All Other Funds ..... 55,0007670**

**Hunterdon Developmental Center**

**DIRECT STATE SERVICES**

05-7670 Residential Care and Habilitation Services . . . \$50,283,000

*(From General Fund ..... \$24,101,000)*

*(From Federal Funds ..... 26,157,000)*

*(From All Other Funds ..... 25,000)*

|                                                   |                            |
|---------------------------------------------------|----------------------------|
| 99-7670 Administration and Support Services ..... | <u>12,073,000</u>          |
| (From General Fund .....                          | 8,516,000)                 |
| (From Federal Funds .....                         | 3,557,000)                 |
| Total Appropriation, State, Federal and           |                            |
| All Other Funds .....                             | <u>\$62,356,000</u>        |
| (From General Fund .....                          | \$32,617,000)              |
| (From Federal Funds .....                         | 29,714,000)                |
| (From All Other Funds .....                       | 25,000)                    |
| <b>Less:</b>                                      |                            |
| <b>Federal Funds .....</b>                        | <b>\$29,714,000</b>        |
| <b>All Other Funds .....</b>                      | <b>25,000</b>              |
| <b>Total Deductions .....</b>                     | <b><u>\$29,739,000</u></b> |
| Total Direct State Services Appropriation,        |                            |
| Hunterdon Developmental Center .....              | <u>\$32,617,000</u>        |
| <b>Direct State Services:</b>                     |                            |
| Personal Services:                                |                            |
| Salaries and Wages .....                          | (\$54,805,000)             |
| Materials and Supplies .....                      | (5,618,000)                |
| Services Other Than Personal .....                | (1,089,000)                |
| Maintenance and Fixed Charges .....               | (567,000)                  |
| Special Purpose:                                  |                            |
| Additions, Improvements                           |                            |
| and Equipment .....                               | (277,000)                  |
| <b>Less:</b>                                      |                            |
| <b>Federal Funds .....</b>                        | <b>29,714,000</b>          |
| <b>All Other Funds .....</b>                      | <b>25,000</b>              |

#### ***Division of Developmental Disabilities***

In addition to the amount hereinabove for Operation and Support of Educational Institutions of the Division of Developmental Disabilities in the Department of Human Services, such other sums as the Director of the Division of Budget and Accounting shall determine, provided in Inter-Departmental accounts for employee benefits, are considered as appropriated on behalf of the Developmental Centers and are available for matching federal funds.

The State appropriation is based on ICF/MR revenues of \$218,233,000, provided that if the ICF/MR revenues exceed \$218,233,000, there will be placed in reserve a portion of the State appropriation equal to the excess amount of ICF/MR revenues, subject to the approval of the Director of the Division of Budget and Accounting.

#### ***33 Supplemental Education and Training Programs*** ***7560 Commission for the Blind and Visually Impaired***

##### **DIRECT STATE SERVICES**

|                                                            |                    |
|------------------------------------------------------------|--------------------|
| 11-7560 Services for the Blind and Visually Impaired . . . | \$6,985,000        |
| 99-7560 Administration and Support Services .....          | <u>1,350,000</u>   |
| Total Direct State Services Appropriation,                 |                    |
| Commission for the Blind and Visually Impaired . .         | <u>\$8,335,000</u> |

**Direct State Services:****Personal Services:**

Salaries and Wages . . . . . (\$6,788,000)  
 Materials and Supplies . . . . . (123,000)  
 Services Other Than Personal . . . . . (476,000)  
 Maintenance and Fixed Charges . . . . . (80,000)

**Special Purpose:**

11 Technology for the  
     Visually Impaired . . . . . (848,000)  
 Additions, Improvements  
     and Equipment . . . . . (20,000)

Notwithstanding the provisions of N.J.S.18A:61-1 and N.J.S.18A:46-13, or any other law to the contrary, local boards of education shall reimburse the Commission for the Blind and Visually Impaired for the documented costs of providing services to children who are classified as "educationally handicapped," provided however, that each local board of education shall pay that portion of cost which the number of children classified "educationally handicapped" bears to the total number of such children served, provided further, however, that payments shall be made by each local board in accordance with a schedule adopted by the Commissioners of Education and Human Services, and further the Director of the Division of Budget and Accounting is authorized to deduct such reimbursements from the State aid payments to the local boards of education.

The unexpended balances as of June 30, 2004 in the Technology for the Visually Impaired account are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove appropriated, the amount of \$300,000 is transferred from the Governor's Literacy Initiative to the Commission for the Blind and Visually Impaired for increased Braille lessons for blind children, subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated from funds recovered from audits or other collection activities, an amount sufficient to pay vendors' fees to compensate the recoveries and the administration of the State's vending machine program, subject to the approval of the Director of the Division of Budget and Accounting. Receipts in excess of \$130,000 are appropriated for the purpose of expanding vision screening services and other prevention services, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance of such receipts as of June 30, 2004 are appropriated.

**GRANTS-IN-AID**

11-7560 Services for the Blind and Visually Impaired . . . \$4,178,000

Total Grants-in-Aid Appropriation, Commission  
     for the Blind and Visually Impaired . . . . . \$4,178,000

**Grants-in-Aid:**

11 Camp Marcella . . . . . (\$52,000)  
 11 Psychological Counseling . . . . . (154,000)

|                                                |             |
|------------------------------------------------|-------------|
| 11 Recording for the Blind, Inc. ....          | (52,000)    |
| 11 Educational Services<br>for Children .....  | (2,167,000) |
| 11 Services to Rehabilitation<br>Clients ..... | (1,753,000) |

**50 Economic Planning, Development and Security****53 Economic Assistance and Security****7550 Division of Family Development****DIRECT STATE SERVICES**

|                                                    |                       |
|----------------------------------------------------|-----------------------|
| 15-7550 Income Maintenance Management .....        | <u>\$97,993,000</u>   |
| (From General Fund .....                           | <u>\$26,335,000</u> ) |
| (From Federal Funds .....                          | <u>71,658,000</u> )   |
| Total Appropriation, State and Federal Funds ..... | <u>\$97,993,000</u>   |
| (From General Fund .....                           | <u>\$26,335,000</u> ) |
| (From Federal Funds .....                          | <u>71,658,000</u> )   |

**Less:**

|                                                                                    |                            |
|------------------------------------------------------------------------------------|----------------------------|
| <b>Federal Funds</b> .....                                                         | <b>\$71,658,000</b>        |
| <b>Total Deductions</b> .....                                                      | <b><u>\$71,658,000</u></b> |
| Total Direct State Services Appropriation,<br>Division of Family Development ..... | <u>\$26,335,000</u>        |

**Direct State Services:****Personal Services:**

|                                     |                |
|-------------------------------------|----------------|
| Salaries and Wages .....            | (\$28,087,000) |
| Materials and Supplies .....        | (749,000)      |
| Services Other Than Personal .....  | (20,201,000)   |
| Maintenance and Fixed Charges ..... | (1,490,000)    |

**Special Purpose:**

|                                                              |              |
|--------------------------------------------------------------|--------------|
| 15 Electronic Benefit Transfer/<br>Distribution System ..... | (3,173,000)  |
| 15 Child Support Medical Notice ..                           | (2,135,000)  |
| 15 Hospital Paternity Program ....                           | (1,453,000)  |
| 15 Work First New Jersey Child<br>Support Initiatives .....  | (10,032,000) |
| 15 Work First New Jersey -<br>Technology Investment .....    | (27,829,000) |
| 15 SSI Attorney Fees .....                                   | (2,600,000)  |
| Additions, Improvements and Equipment .                      | (244,000)    |

**Less:****Federal Funds** ..... **71,658,000**

Receipts derived from counties and local governments for data processing services and the unexpended balance of such receipts as of June 30, 2004 are appropriated.

In order to permit flexibility, amounts may be transferred between various items of appropriation within the Income Maintenance Management program classification, subject to the approval of the Director of the Division of Budget

and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

The unexpended balances as of June 30, 2004 in accounts where expenditures are required to comply with Maintenance of Effort requirements as specified in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193 are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount appropriated hereinabove for the Work First New Jersey-Technology Investment account, such additional sums as may be required are appropriated from the General Fund, not to exceed \$3,000,000, to meet the timely implementation of Work First New Jersey technology initiatives, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

|                                                    |                        |
|----------------------------------------------------|------------------------|
| 15-7550 Income Maintenance Management .....        | <u>\$545,013,000</u>   |
| (From General Fund .....                           | <u>\$245,787,000</u> ) |
| (From Federal Funds .....                          | <u>299,226,000</u> )   |
| Total Appropriation, State and Federal Funds ..... | <u>\$545,013,000</u>   |
| (From General Fund .....                           | <u>\$245,787,000</u> ) |
| (From Federal Funds .....                          | <u>299,226,000</u> )   |

#### **Less:**

|                                                                            |                      |
|----------------------------------------------------------------------------|----------------------|
| Federal Funds .....                                                        | <u>\$299,226,000</u> |
| Total Deductions .....                                                     | <u>\$299,226,000</u> |
| Total Grants-in-Aid Appropriation,<br>Division of Family Development ..... | <u>\$245,787,000</u> |

#### **Grants-in-Aid:**

|                                                |               |
|------------------------------------------------|---------------|
| 15 DFD Homeless                                |               |
| Prevention Initiative .....                    | (\$4,000,000) |
| 15 Restricted Grants .....                     | (5,431,000)   |
| 15 Work First New Jersey -                     |               |
| Training Related Expenses ....                 | (12,905,000)  |
| 15 Work First New Jersey -                     |               |
| Work Activities .....                          | (73,230,000)  |
| 15 Work First New Jersey -                     |               |
| Community Housing for Teens ...                | (200,000)     |
| 15 Work First New Jersey -                     |               |
| Breaking the Cycle .....                       | (8,554,000)   |
| 15 Work First New Jersey -                     |               |
| Child Care .....                               | (242,650,000) |
| 15 TANF Abbott Expansion ....                  | (104,400,000) |
| 15 Kinship Care Initiatives .....              | (6,250,000)   |
| 15 Housing Diversion/<br>Subsidy Program ..... | (1,554,000)   |
| 15 Criminal Background<br>Evaluations .....    | (1,000,000)   |



|                                       |              |
|---------------------------------------|--------------|
| 15 Domestic Violence Prevention       |              |
| Training and Assessment . . . . .     | (450,000)    |
| 15 Pre-Early Childhood Education . .  | (1,530,000)  |
| 15 Mental Health Assessments . . . .  | (3,200,000)  |
| 15 Wage Supplement Program . . . .    | (2,880,000)  |
| 15 Kinship Care Guardianship and      |              |
| Subsidy . . . . .                     | (15,108,000) |
| 15 Pharmaceuticals for Working        |              |
| GA Clients . . . . .                  | (1,300,000)  |
| 15 School Based Youth Services . .    | (12,050,000) |
| 15 Family Friendly Centers . . . . .  | (2,000,000)  |
| 15 Minority Male Initiative . . . . . | (200,000)    |
| 15 Social Services for                |              |
| the Homeless . . . . .                | (10,947,000) |
| 15 Substance Abuse Initiatives . . .  | (35,174,000) |

**Less:**

**Federal Funds . . . . . 299,226,000**

In order to permit flexibility, amounts may be transferred between various items of appropriation within the Income Maintenance Management program classification, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

The unexpended balances as of June 30, 2004 in accounts where expenditures are required to comply with Maintenance of Effort requirements as specified in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L. 104-193 are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amounts appropriated for Work First New Jersey, amounts may be transferred to the various departments in accordance with Division of Family Development's agreements, subject to the approval of the Director of the Division of Budget and Accounting. Any unobligated balances remaining from funds transferred to the departments shall be transferred back to the Division of Family Development subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary, amounts may be transferred from the Division of Family Development to the Department of Labor to meet federal Welfare to Work grant requirements, subject to the approval of the Director of the Division of Budget and Accounting.

The Commissioner of Human Services shall provide the Director of the Division of Budget and Accounting, the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee, or the successor committees thereto, with quarterly reports, due within 60 days after the end of each quarter, containing written statistical and financial information on the Work First New Jersey program and any subsequent welfare reform program the State may undertake.

Of the amounts appropriated for the School Based Youth Services Program, there shall be available \$400,000 for the After School Reading Initiative, \$200,000

for the After School Start-Up Fund, \$400,000 for School Health Clinics, and \$530,000 for Positive Youth Development.  
 Of the amounts appropriated for TANF Abbott Expansion, such sums as are necessary may be transferred to the Department of Education, subject to the approval of the Director of the Division of Budget and Accounting.

#### STATE AID

|                                                    |                       |
|----------------------------------------------------|-----------------------|
| 15-7550 Income Maintenance Management .....        | \$723,365,000         |
| <i>(From General Fund .....</i>                    | <i>\$250,687,000)</i> |
| <i>(From Federal Funds .....</i>                   | <i>472,678,000)</i>   |
| Total Appropriation, State and Federal Funds ..... | <u>\$723,365,000</u>  |
| <i>(From General Fund .....</i>                    | <i>\$250,687,000)</i> |
| <i>(From Federal Funds .....</i>                   | <i>472,678,000)</i>   |

**Less:**

|                                            |                      |
|--------------------------------------------|----------------------|
| Federal Funds .....                        | \$472,678,000        |
| Total Deductions .....                     | <u>\$472,678,000</u> |
| Total State Aid Appropriation, Division of |                      |
| Family Development .....                   | <u>\$250,687,000</u> |

**State Aid:**

|                                  |               |
|----------------------------------|---------------|
| 15 Miscellaneous State Aid ..... | (\$4,276,000) |
| 15 County Administration         |               |
| Funding .....                    | (215,401,000) |
| 15 Work First New Jersey -       |               |
| Client Benefits .....            | (135,558,000) |
| 15 Earned Income Tax             |               |
| Credit Program .....             | (18,393,000)  |
| 15 Federal Energy Assistance     |               |
| Program .....                    | (35,711,000)  |
| 15 General Assistance Emergency  |               |
| Assistance Program .....         | (57,892,000)  |
| 15 Payments for Cost of General  |               |
| Assistance .....                 | (61,684,000)  |
| 15 Work First New Jersey -       |               |
| Emergency Assistance .....       | (73,310,000)  |
| 15 Payments for Supplemental     |               |
| Security Income .....            | (72,607,000)  |
| 15 State Supplemental Security   |               |
| Income Administrative Fee        |               |
| to SSA .....                     | (16,003,000)  |
| 15 General Assistance County     |               |
| Administration .....             | (23,805,000)  |
| 15 Food Stamp Administration -   |               |
| State .....                      | (8,600,000)   |
| 15 Fair Labor Standards Act-     |               |
| Minimum Wage Requirements        |               |
| (TANF) .....                     | (125,000)     |

**Less:**

**Federal Funds . . . . . 472,678,000**

The net State share of reimbursements and the net balances remaining after full payment of sums due the federal government of all funds recovered under R.S.44:7-14, P.L.1959, c.86 (C.44:10-1 et seq.), P.L.1950, c.166 (C.30:4B-1 et seq.) and P.L.1971, c.209 (C.44:13-1 et seq.), during the fiscal year ending June 30, 2004 are appropriated.

Receipts from State administered municipalities during the fiscal year ending June 30, 2004 are appropriated.

The sum hereinabove appropriated is available for payment of obligations applicable to prior fiscal years.

Any change by the Department of Human Services in the standards upon which or from which grants of categorical public assistance are determined, first shall be approved by the Director of the Division of Budget and Accounting.

In order to permit flexibility and ensure the timely payment of benefits to welfare recipients, amounts may be transferred between the various items of appropriation within the Income Maintenance Management program classification, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

Notwithstanding any law to the contrary, the Director of the Division of Budget and Accounting is authorized to withhold State Aid payments to municipalities to satisfy any obligations due and owing from audits of that municipality's General Assistance program.

The unexpended balances as of June 30, 2004 in accounts where expenditures are required to comply with Maintenance of Effort requirements as specified in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193 and in the Payments for Cost of General Assistance and General Assistance - Emergency Assistance Program accounts are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from counties for persons receiving Old Age Assistance, Disability Assistance and Assistance for the Blind under the Supplemental Security Income (SSI) program are appropriated for the purpose of providing State aid to the counties, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the provisions of section 3 of P.L.1973, c.256 (C.44:7-87), the Department of Human Services shall assess welfare boards at the beginning of each fiscal year in the same proportion that the counties currently participate in the federal categorical assistance programs, in order to obtain the amount of each county's share of the supplementary payments for eligible persons in this State, based upon the number of eligible persons in the county. Welfare boards shall pay the amount assessed.

There is appropriated an amount equal to the difference between actual revenue loss reflected in the Earned Income Tax Credit program and the amount anticipated as the revenue loss from the Earned Income Tax Credit to meet federal Maintenance of Effort requirements to allow the Department of Human

Services to comply with the Maintenance of Effort requirements as specified in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193, and as legislatively required by the Work First New Jersey program established pursuant to section 4 of P.L.1997, c.38 (C.44:10-58), subject to the approval of the Director of the Division of Budget and Accounting.

Additional funds as may be allocated by the federal government for New Jersey's Low Income Energy Assistance Block Grant Program (LIHEAP) are appropriated subject to the approval of the Director of the Division of Budget and Accounting. A pro-rata share of Low Income Energy Assistance Block Grant funds received by the Department of Human Services is to be allocated immediately upon receipt to the Departments of Community Affairs and Health and Senior Services to enable these departments to implement programs funded by this block grant.

#### **7555 Division of Addiction Services**

##### **DIRECT STATE SERVICES**

09-7555 Division of Addiction Services . . . . . \$462,000  
 Total Direct State Services Appropriation,  
 Division of Addiction Services . . . . . \$462,000

##### ***Direct State Services:***

##### **Personal Services:**

Salaries and Wages . . . . . (\$357,000)  
 Materials and Supplies . . . . . (24,000)  
 Services Other Than Personal . . . . . (65,000)  
 Maintenance and Fixed Charges . . . . . (16,000)

The Division of Addiction Services is authorized to bill a patient, a patient's estate, the person chargeable for a patient's support or the county of residence for institutional, residential and outpatient support of patients treated for alcoholism or drug abuse, or both. Receipts derived from billings or fees and unexpended balances, as of June 30, 2004, from these billings and fees are appropriated to the Department of Human Services, Division of Addiction Services for the support of the alcohol and drug abuse programs, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated from the Alcohol Education, Rehabilitation and Enforcement Fund such sums as may be necessary to carry out the provisions of P.L.1983, c.531 (C.26:2B-32 et al.).

There is transferred from the "Drug Enforcement and Demand Reduction Fund" \$350,000 to carry out the provisions of P.L.1995, c.318 (C.26:2B-36 et seq.) to establish an "Alcohol and Drug Abuse Program for the Deaf, Hard of Hearing and Disabled" in the Department of Human Services, subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated \$700,000 from the "Drug Enforcement and Demand Reduction Fund," established pursuant to N.J.S.2C:35-15, to the Department of Human Services for a grant to Partnership for a Drug-Free New Jersey.

**GRANTS-IN-AID**

09-7555 Division of Addiction Services ..... \$28,978,000  
 Total Grants-in-Aid Appropriation,  
 Division of Addiction Services ..... \$28,978,000

***Grants-in-Aid:***

09 Substance Abuse Treatment  
 for DYFS/ WorkFirst Mothers . (\$1,400,000)  
 09 Cost of Living Adjustment -  
 Addiction Services ..... (1,956,000)  
 09 Community Based Substance  
 Abuse Treatment and  
 Prevention ..... (22,200,000)  
 09 Mutual Agreement Parolee  
 Rehabilitation Project for  
 Substance Abusers ..... (695,000)  
 09 In-State Juvenile Residential  
 Treatment ..... (2,027,000)  
 09 Compulsive Gambling . . . . . (700,000)

The unexpended balance of appropriations, as of June 30, 2004, made to the Department of Human Services by section 20 of P.L.1989, c.51 for State-licensed or approved drug abuse prevention and treatment programs is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove for Community Based Substance Abuse Treatment and Prevention - State Share program, there is appropriated \$1,700,000 from the "Drug Enforcement and Demand Reduction Fund" for the same purpose.

Notwithstanding the provisions of any other law to the contrary, there is transferred \$1,000,000 to the Department of Human Services from the "Drug Enforcement and Demand Reduction Fund" for drug abuse services.

Notwithstanding the provisions of any law to the contrary, there is transferred \$500,000 to the Department of Human Services from the "Drug Enforcement and Demand Reduction Fund" for the Sub-Acute Residential Detoxification Program.

An amount, not to exceed \$600,000, collected by the Casino Control Commission is payable to the General Fund pursuant to section 145 of P.L.1977, c.110 (C.5:12-145).

In addition to the amount hereinabove for Compulsive Gambling, an amount not to exceed \$200,000 is appropriated from the annual assessment against permit holders to the Department of Human Services for prevention, education and treatment programs for compulsive gambling pursuant to the provisions of section 34 of P.L.2001, c.199 (C.5:5-159), subject to the approval of the Director of the Division of Budget and Accounting.

There is appropriated \$420,000 from the Alcohol Education, Rehabilitation and Enforcement Fund to fund the Local Alcoholism Authorities - Expansion account.

Notwithstanding the provisions of P.L.1983, c.531 (C.26:2B-32 et al.) or any other law to the contrary, the unexpended balance in the Alcohol Education, Rehabilitation and Enforcement Fund, as of June 30, 2004, is appropriated and shall be distributed to counties for the treatment of alcohol and drug abusers and for education purposes.

#### STATE AID

09-7555 Division of Addiction Services ..... \$12,000,000  
 Total State Aid Appropriation, Division of  
 Addiction Services ..... \$12,000,000

**State Aid:**

09 Essex County - Addiction  
 Services ..... (12,000,000)

#### 50 Economic Planning, Development and Security

##### 55 Social Services Programs

##### 7570 Division of Youth and Family Services

#### DIRECT STATE SERVICES

16-7570 Services to Children and Families ..... \$389,732,000  
*(From General Fund ..... \$214,579,000)*  
*(From Federal Funds ..... 173,173,000)*  
*(From All Other Funds ..... 1,980,000)*  
 99-7570 Administration and Support Services ..... 19,125,000  
*(From General Fund ..... 8,695,000)*  
*(From Federal Funds ..... 10,430,000)*  
 Total Appropriation, State, Federal  
 and All Other Funds ..... \$408,857,000  
*(From General Fund ..... \$223,274,000)*  
*(From Federal Funds ..... 183,603,000)*  
*(From All Other Fund ..... 1,980,000)*

**Less:**

*Federal Funds ..... \$183,603,000*  
*All Other Funds ..... 1,980,000*  
*Total Deductions ..... \$185,583,000*  
 Total Direct State Services Appropriation,  
 Division of Youth and Family Services ..... \$223,274,000

**Direct State Services:**

Personal Services:

Salaries and Wages ..... (\$184,928,000)  
 Materials and Supplies ..... (2,142,000)  
 Services Other Than Personal ..... (8,774,000)  
 Maintenance and Fixed Charges ..... (10,232,000)

Special Purpose:

16 Services to Children  
 and Families ..... (4,189,000)  
 16 New Jersey Safe Haven Infant  
 Protection Act ..... (500,000)

16 Child Welfare Reform . . . . . (187,222,000)  
 Additions, Improvements  
 and Equipment . . . . . (10,870,000)

**Less:**

**Federal Funds . . . . . 183,603,000**

**All Other Funds . . . . . 1,980,000**

Of the amount appropriated hereinabove for the Child Welfare Reform account, \$500,000 shall be allocated to the Court Appointed Special Advocate Program.

Of the amount appropriated hereinabove for the Services to Children and Families special purpose account, \$800,000 is transferred to the UMDNJ - School of Osteopathic Medicine Academic Center - Stratford, for the Center for Children's Support to support the development of a model comprehensive diagnostic and treatment program to address both the medical and mental health needs of children experiencing abuse. The model program will demonstrate mental health treatment services that utilize measurable evidence-based outcomes with known effectiveness. This comprehensive model will be designed to be replicated Statewide to directly benefit children and families throughout New Jersey.

Notwithstanding any other law to the contrary, amounts may be transferred from the Child Welfare Reform account to the applicable accounts in the Department of Human Services in accordance with the approved Child Welfare Reform Plan, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount appropriated hereinabove for Child Welfare Reform, an amount not to exceed \$15,800,000 shall be transferred to the Department of Law and Public Safety and the Office of the Public Defender in accordance with the approved Child Welfare Reform Plan, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount appropriated hereinabove for Child Welfare Reform, \$1,000,000 is allocated for the programs administered under the "New Jersey Homeless Youth Act," P.L.1999, c.224 (C.9:12A-2 et seq.), and the Division of Youth and Family Services shall prioritize the expenditure of this allocation to address transitional living services in the division's region that is experiencing the most severe over-capacity problem.

**GRANTS-IN-AID**

16-7570 Services to Children and Families . . . . . \$288,604,000

**(From General Fund . . . . . \$229,131,000)**

**(From Federal Funds . . . . . 56,219,000)**

**(From All Other Funds . . . . . 3,254,000)**

99-7570 Administrative and Support Services . . . . . 1,080,000

**(From Federal Funds . . . . . 1,080,000)**

Total Appropriation, State, Federal  
 and All Other Funds . . . . . \$289,684,000

**(From General Fund . . . . . \$229,131,000)**

**(From Federal Funds . . . . . 57,299,000)**

**(From All Other Funds . . . . . 3,254,000)**

**Less:****Federal Funds** ..... **\$57,299,000****All Other Funds** ..... **3,254,000****Total Deductions** ..... **\$60,553,000**

Total Grants-in-Aid Appropriation,

Division of Youth and Family Services ..... **\$229,131,000****Grants-in-Aid:**

16 Rutgers MSW Program ..... (\$950,000)

16 Group Homes ..... (13,678,000)

16 Treatment Homes ..... (2,087,000)

16 Public Awareness for Child  
Abuse Prevention Program ..... (277,000)

16 Other Residential Placements .. (19,636,000)

16 Residential Placements ..... (10,052,000)

16 Family Support Services ..... (49,334,000)

16 Child Abuse Prevention ..... (11,278,000)

16 Foster Care ..... (56,837,000)

16 Subsidized Adoption ..... (61,203,000)

16 Amanda Easel Project ..... (125,000)

16 Recruitment of Adoptive Parents . (654,000)

16 Domestic Violence Program ... (4,707,000)

16 Foster Care and  
Permanency Initiative ..... (7,777,000)16 County Human Services  
Advisory Board -Formula  
Funding ..... (7,833,000)

16 Children and Families Initiative . (1,304,000)

16 New Jersey Homeless Youth Act (1,485,000)

16 Wynona M. Lipman Child  
Advocacy Center, Essex County . (973,000)

16 Purchase of Social Services ... (25,360,000)

16 Restricted Grant ..... (13,054,000)

99 Children's Justice Act ..... (483,000)

99 National Center for Child Abuse  
and Neglect ..... (597,000)**Less:****Federal Funds** ..... **57,299,000****All Other Funds** ..... **3,254,000**

The sums hereinabove for the Residential Placement, Group Homes, Treatment Homes, Other Residential Placements, Foster Care, Subsidized Adoption, and Family Support Services accounts are available for the payment of obligations applicable to prior fiscal years.

Any change by the Department of Human Services in the rates paid for the foster care and adoption subsidy programs shall first be approved by the Director of the Division of Budget and Accounting.

Of the amount hereinabove appropriated for Foster Care and Subsidized Adoption, the Division of Youth and Family Services may expend up to \$225,000 for



recruitment of foster and adoptive families, provided however, that a plan for recruitment and training first shall be approved by the Director of the Division of Budget and Accounting.

Receipts in the Marriage License Fee Fund in excess of the amount anticipated are appropriated.

The Department of Human Services shall provide a list of the County Human Services Advisory Boards' contracts to the Director of the Division of Budget and Accounting on or before September 30, 2004. The listing shall segregate out the administrative costs of such contracts.

Funds recovered under P.L.1951, c.138 (C.30:4C-1 et seq.) during the fiscal year ending June 30, 2005, are appropriated.

Notwithstanding the provision of any law to the contrary, amounts that become available as a result of the return of persons from in-State and out-of-State residential placements to community programs within the State may be transferred from the Residential Placements account to the appropriate Services to Children and Families account, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts from counties for persons under the care and supervision of the Division of Youth and Family Services are appropriated for the purpose of providing State aid to the counties, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount hereinabove appropriated for the Domestic Violence Program, \$1,309,000 is payable out of the Marriage License Fee Fund. If receipts to that fund are less than anticipated, the appropriation shall be reduced by the amount of the shortfall.

#### ***50 Economic Planning, Development and Security***

##### ***55 Social Services Programs***

##### ***7580 Division of the Deaf and Hard of Hearing***

##### **DIRECT STATE SERVICES**

|                                                                                              |                  |
|----------------------------------------------------------------------------------------------|------------------|
| 23-7580 Services for the Deaf .....                                                          | <u>\$714,000</u> |
| Total Direct State Services Appropriation, Division of<br>the Deaf and Hard of Hearing ..... | <u>\$714,000</u> |

##### ***Direct State Services:***

##### **Personal Services:**

|                                     |             |
|-------------------------------------|-------------|
| Salaries and Wages .....            | (\$288,000) |
| Materials and Supplies .....        | (41,000)    |
| Services Other Than Personal .....  | (39,000)    |
| Maintenance and Fixed Charges ..... | (1,000)     |

##### **Special Purpose:**

|                                      |           |
|--------------------------------------|-----------|
| 23 Services to Deaf Clients .....    | (290,000) |
| 23 Communication Access Services ... | (55,000)  |

#### ***70 Government Direction, Management and Control***

##### ***76 Management and Administration***

##### ***7500 Division of Management and Budget***

##### **DIRECT STATE SERVICES**

|                                                                                       |                     |
|---------------------------------------------------------------------------------------|---------------------|
| 96-7500 Institutional Security Services .....                                         | \$5,211,000         |
| 99-7500 Administration and Support Services .....                                     | <u>6,190,000</u>    |
| Total Direct State Services Appropriation,<br>Division of Management and Budget ..... | <u>\$11,401,000</u> |

**Direct State Services:****Personal Services:**

|                                     |                |
|-------------------------------------|----------------|
| Salaries and Wages .....            | (\$18,254,000) |
| Materials and Supplies .....        | (221,000)      |
| Services Other Than Personal .....  | (6,482,000)    |
| Maintenance and Fixed Charges ..... | (772,000)      |

**Special Purpose:**

|                                                                                                |             |
|------------------------------------------------------------------------------------------------|-------------|
| 99 Clinical Services Scholarships ...                                                          | (150,000)   |
| 99 Affirmative Action and Equal<br>Employment Opportunity .....                                | (255,000)   |
| 99 Transfer to State Police for<br>Fingerprinting/Background Checks<br>of Job Applicants ..... | (2,360,000) |
| 99 State Office on Disability Services                                                         | (407,000)   |
| 99 Institutional Staff Background<br>Checks .....                                              | (2,100,000) |

**Less:**

|                                                          |                   |
|----------------------------------------------------------|-------------------|
| <i>Savings from Efficiencies</i> .....                   | <i>18,600,000</i> |
| <i>Savings from Reduced Use of<br/>Consultants</i> ..... | <i>1,000,000</i>  |

Notwithstanding the provision of any law to the contrary, the Department of Human Services is authorized to identify opportunities for increased recoveries to the General Fund and to the department. Such funds collected are appropriated, subject to the approval of the Director of the Division of Budget and Accounting in accordance with a plan approved by the Director of the Division of Budget and Accounting.

Revenues representing receipts to the General Fund from charges to residents' trust accounts for maintenance costs are appropriated for use as personal needs allowances for patients/residents who have no other source of funds for these purposes; except that the total amount herein for these allowances shall not exceed \$1,375,000 and that any increase in the maximum monthly allowance shall be approved by the Director of the Division of Budget and Accounting.

Upon promulgation of federal regulations modifying the Medicare inpatient hospital reimbursement system, there are appropriated such additional sums as are required to fund the purchase of a Health Care Billing System, subject to the approval of the Director of the Division of Budget and Accounting.

Funds made available from savings realized from reductions in use of consultants throughout the department may be reallocated in an amount not to exceed \$1,000,000 to the Division of Management and Budget in the department.

Funds made available from savings realized from efficiencies throughout the department may be reallocated, subject to the approval of the Director of the Division of Budget and Accounting, in an amount not to exceed \$18,600,000 to the Division of Management and Budget in the department.

**GRANTS-IN-AID**

99-7500 Administration and Support Services . . . . . \$65,412,000  
 Total Grants-in-Aid Appropriation, Division of  
 Management and Budget . . . . . \$65,412,000

**Grants-in-Aid:**

99 Office for Prevention of Mental  
 Retardation and Developmental  
 Disabilities . . . . . (\$690,000)  
 99 Social Services Emergency  
 Grants . . . . . (10,000,000)  
 99 Cost of Living Adjustment . . . (55,722,000)

**Less:**

***Savings from Contract Efficiencies . . 1,000,000***

Of the amount appropriated hereinabove for Cost of Living Adjustment, amounts may be transferred to other divisions within the Department of Human Services, subject to the approval of the Director of the Division of Budget and Accounting.

Funds made available from savings realized from contract efficiencies throughout the department may be reallocated in an amount not to exceed \$1,000,000 to the Division of Management and Budget in the department.

**CAPITAL CONSTRUCTION**

99-7500 Administration and Support Services . . . . . \$10,400,000  
 Total Capital Construction Appropriation,  
 Division of Management and Budget . . . . . \$10,400,000

**Capital Projects:**

99 Statewide Automated Child  
 Welfare Information System . (\$10,400,000)

Department of Human Services,  
 Total State Appropriation . . . . . \$4,766,839,000

Of the amount appropriated hereinabove for the Department of Human Services, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule included in the Governor's Budget Message dated February 24, 2004, first shall be charged to the State Lottery Fund.

Balances on hand as of June 30, 2004 of funds held for the benefit of patients in the several institutions, and such funds as may be received, are appropriated for the use of the patients.

Funds received from the sale of articles made in occupational therapy departments of the several institutions are appropriated for the purchase of additional material and other expenses incidental to such sale or manufacture.

Any change in program eligibility criteria and increases in the types of services or rates paid for services to or on behalf of clients for all programs under the purview of the Department of Human Services, not mandated by federal law, shall first be approved by the Director of the Division of Budget and Accounting.

Notwithstanding any other provision of law to the contrary, receipts from payments collected from clients receiving services from the department, and collected from their chargeable relatives, are appropriated to offset administrative and contract expenses related to the charging, collecting and accounting of payments from clients receiving services from the department and from their chargeable relatives pursuant to R.S.30:1-12, subject to the approval of the Director of the Division of Budget and Accounting.

Payment to vendors for their efforts in maximizing federal revenues is appropriated and shall be paid from the federal revenues received, subject to the approval of the Director of the Division of Budget and Accounting. The unexpended balance as of June 30, 2004 in this account is appropriated.

Unexpended State balances may be transferred among Department of Human Services accounts in order to comply with the State Maintenance of Effort requirements as specified in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193, and as legislatively required by the Work First New Jersey program established pursuant to section 4 of P.L.1997, c.38 (C.44:10-58), subject to the approval of the Director of the Division of Budget and Accounting. Notice of such transfers that would result in appropriations or expenditures exceeding the State's Maintenance of Effort requirement obligation shall be subject to the approval of the Joint Budget Oversight Committee. In addition, unobligated balances remaining from funds allocated to the Department of Labor for Work First New Jersey as of June 1 of each year are to be reverted to the Work First New Jersey-Client Benefits account in order to comply with the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," Pub.L.104-193, as required by section 4 of P.L.1997, c.38 (C.44:10-58).

Of the amounts hereinabove appropriated for Children's Behavioral Health Services, the Department of Human Services may transfer appropriations for children's services and related administration within and across all divisions within the Department of Human Services based on a plan approved by the Director of the Division of Budget and Accounting.

***Summary of Department of Human Services Appropriations  
(For Display Purposes Only)***

***Appropriations by Category:***

|                             |               |
|-----------------------------|---------------|
| Direct State Services ..... | \$777,308,000 |
| Grants-in-Aid .....         | 3,622,934,000 |
| State Aid .....             | 356,197,000   |
| Capital Construction .....  | 10,400,000    |

***Appropriations by Fund:***

|                           |                 |
|---------------------------|-----------------|
| General Fund .....        | \$4,648,102,000 |
| Casino Revenue Fund ..... | 118,737,000     |

**62 DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT**

***50 Economic Planning, Development and Security***

***51 Economic Planning and Development***

**DIRECT STATE SERVICES**

|                                                                                       |                  |
|---------------------------------------------------------------------------------------|------------------|
| 99-4565 Administration and Support Services .....                                     | <u>\$950,000</u> |
| Total Direct State Services Appropriation, Economic<br>Planning and Development ..... | <u>\$950,000</u> |

***Direct State Services:*****Personal Services:**

|                                     |             |
|-------------------------------------|-------------|
| Salaries and Wages .....            | (\$580,000) |
| Materials and Supplies .....        | (12,000)    |
| Services Other Than Personal .....  | (265,000)   |
| Maintenance and Fixed Charges ..... | (28,000)    |

**Special Purpose:**

|                                                                 |          |
|-----------------------------------------------------------------|----------|
| 99 Affirmative Action and Equal<br>Employment Opportunity ..... | (62,000) |
| Additions, Improvements and Equipment ...                       | (3,000)  |

Of the amount hereinabove for the Administration and Support Services program classification, \$265,000 is appropriated from the Unemployment Compensation Auxiliary Fund.

In addition to the amount hereinabove for Administration and Support Services, an amount not to exceed \$550,000 is appropriated from the Unemployment Compensation Auxiliary Fund, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amounts appropriated hereinabove for Administration and Support Services, there are appropriated from the New Jersey Redevelopment Investment Fund and the Economic Development Fund an amount of \$142,000 to provide for administrative costs incurred by the Department of Labor and Workforce Development for activities related to the New Jersey Redevelopment Authority and the New Jersey Economic Development Authority programs, as determined by the Director of the Division of Budget and Accounting.

Of the amounts hereinabove for Administration and Support Services, \$31,000 are payable out of the State Disability Benefits Fund, and in addition to the amounts hereinabove there are appropriated out of the State Disability Benefits Fund such additional sums as may be required to administer Administration and Support Services, subject to the approval of the Director of the Division of Budget and Accounting.

The amount necessary to provide administrative costs incurred by the Department of Labor and Workforce Development to meet the statutory requirements of the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) is appropriated from the Enterprise Zone Assistance Fund, subject to the approval of the Director of the Division of Budget and Accounting.

The amount necessary to provide employer rebate awards as a result of the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), are appropriated from the Enterprise Zone Assistance Fund, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.), the Department of Labor and Workforce Development, based upon the authorization of the Chief Executive

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Officer and Secretary of the New Jersey Commerce and Economic Growth Commission, shall make employer rebate awards.

Such sums as may be necessary to collect the contributions to the Health Care Subsidy Fund, pursuant to section 29 of the "Health Care Reform Act of 1992," P.L.1992, c.160 (C.43:21-7b), are appropriated from the Health Care Subsidy Fund, subject to the approval of the Director of the Division of Budget and Accounting.

### ***53 Economic Assistance and Security***

#### **DIRECT STATE SERVICES**

|                                                                                       |                     |
|---------------------------------------------------------------------------------------|---------------------|
| 03-4520 State Disability Insurance Plan . . . . .                                     | \$21,291,000        |
| 04-4520 Private Disability Insurance Plan . . . . .                                   | 4,114,000           |
| 05-4525 Workers' Compensation . . . . .                                               | 12,014,000          |
| 06-4530 Special Compensation . . . . .                                                | <u>1,670,000</u>    |
| Total Direct State Services Appropriation, Economic Assistance and Security . . . . . | <u>\$39,089,000</u> |

#### ***Direct State Services:***

##### **Personal Services:**

|                                         |                |
|-----------------------------------------|----------------|
| Salaries and Wages . . . . .            | (\$24,232,000) |
| Materials and Supplies . . . . .        | (257,000)      |
| Services Other Than Personal . . . . .  | (5,290,000)    |
| Maintenance and Fixed Charges . . . . . | (3,007,000)    |

##### **Special Purpose:**

|                                                                              |             |
|------------------------------------------------------------------------------|-------------|
| 03 Reimbursement to Unemployment Insurance for Joint Tax Functions . . . . . | (5,500,000) |
| 06 Special Compensation . . . . .                                            | (40,000)    |
| Additions, Improvements and Equipment . . . . .                              | (763,000)   |

The amounts hereinabove for the State Disability Insurance Plan and Private Disability Insurance Plan are payable out of the State Disability Benefits Fund and, in addition to the amounts hereinabove, there are appropriated out of the State Disability Benefits Fund such additional sums as may be required to pay disability benefits, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove appropriated for administrative costs associated with the State Disability Insurance Plan there is appropriated from the State Disability Benefits Fund an amount not to exceed \$6,350,000, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated for the Workers' Compensation program are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated for the Special Compensation Fund are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Special Compensation Fund shall be payable out of the Special Compensation Fund and, notwithstanding the \$12,500 limitation set forth in R.S.34:15-95, in addition to the amounts hereinabove, there are

appropriated out of the Special Compensation Fund such additional sums as may be required for costs of administration and beneficiary payments.

There is appropriated out of the balance in the Second Injury Fund an amount not to exceed \$1,000,000 to be deposited to the credit of the Uninsured Employer's Fund for the payment of benefits as determined in accordance with section 11 of P.L.1966, c.126 (C.34:15-120.2). Any amount so transferred shall be included in the next Uninsured Employer's Fund surcharge imposed in accordance with section 10 of P.L.1966, c.126 (C.34:15-120.1) and any amount so transferred shall be returned to the Second Injury Fund without interest and shall be included in net assets of the Second Injury Fund pursuant to paragraph (4) of subsection c. of R.S.34:15-94.

The funds appropriated for Second Injury Fund benefits are available for the payment of obligations applicable to prior fiscal years.

Amounts to administer the Uninsured Employer's Fund are appropriated from the Uninsured Employer's Fund, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amounts appropriated hereinabove, there are appropriated out of the State Disability Benefits Fund such additional sums as may be required to administer the Private Disability Insurance Plan.

From the funds made available to the State under section 903(d)(4) of the Social Security Act (42 U.S.C. s.1103 et seq.), as amended, the sum of \$32,500,000, or so much thereof as may be necessary, is to be used for the improvement of services to unemployment insurance claimants through the improvement and modernization of the benefit payment system and other technology improvements and to employment service clients through the continued development of one-stop offices throughout the State and other investments in technology and processes that will enhance job opportunities for clients.

#### ***54 Manpower and Employment Services***

##### **DIRECT STATE SERVICES**

|                                                                                      |                     |
|--------------------------------------------------------------------------------------|---------------------|
| 07-4535 Vocational Rehabilitation Services .....                                     | \$2,367,000         |
| 09-4545 Employment Services .....                                                    | 9,042,000           |
| 10-4545 Employment and Training Services .....                                       | 92,000              |
| 12-4550 Workplace Standards .....                                                    | 5,087,000           |
| 16-4555 Public Sector Labor Relations .....                                          | 3,139,000           |
| 17-4560 Private Sector Labor Relations .....                                         | <u>476,000</u>      |
| Total Direct State Services Appropriation, Manpower<br>and Employment Services ..... | <u>\$20,203,000</u> |

##### ***Direct State Services:***

###### **Personal Services:**

|                                     |                |
|-------------------------------------|----------------|
| Salaries and Wages .....            | (\$14,492,000) |
| Materials and Supplies .....        | (64,000)       |
| Services Other Than Personal .....  | (317,000)      |
| Maintenance and Fixed Charges ..... | (88,000)       |

###### **Special Purpose:**

|                           |             |
|---------------------------|-------------|
| 09 Workforce Development  |             |
| Partnership Program ..... | (1,909,000) |

- 09 Workforce Development Partnership - Counselors . . . . . (81,000)
  - 09 Workforce Literacy and Basic Skills Program . . . . . (2,000,000)
  - 10 Council on Gender Parity . . . . . (92,000)
  - 12 Worker and Community Right-to-Know . . . . . (42,000)
  - 12 Public Employees Occupational Safety . . . . . (420,000)
  - 12 Public Works Contractor Registration . . . . . (500,000)
  - 12 Mine Safety Program Expansion . . . . . (160,000)
  - 12 Safety Commission . . . . . (3,000)
  - Additions, Improvements and Equipment . . . . . (35,000)
- Notwithstanding the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), the cost of fact-finding shall be borne equally by the public employer and the exclusive employee representative.
- The amount hereinabove for the Vocational Rehabilitation Services program classification is available for the payment of obligations applicable to prior fiscal years.
- The amount hereinabove for the Vocational Rehabilitation Services program classification is appropriated from the Unemployment Compensation Auxiliary Fund.
- The amounts hereinabove for the Workforce Development Partnership Program shall be appropriated from receipts received pursuant to P.L.1992, c.44 (C.34:15D-12 et seq.), together with such additional sums as may be required to administer the Workforce Development Partnership Program, subject to the approval of the Director of the Division of Budget and Accounting.
- Notwithstanding the provisions of the "1992 New Jersey Employment and Workforce Development Act," P.L.1992, c.43 (C.34:15D-1 et seq.), such amounts as may be necessary are appropriated from the Workforce Development Partnership Fund to provide a State match to the federal Welfare-to-Work Grant program, subject to the approval of the Director of the Division of Budget and Accounting.
- The amounts hereinabove for the Workforce Literacy and Basic Skills Program shall be appropriated from receipts received pursuant to P.L.2001, c.152 (C.34:15D-21 et seq.), together with such additional sums as may be required to administer the Workforce Literacy Program, subject to the approval of the Director of the Division of Budget and Accounting.
- Notwithstanding the provisions of the "Supplemental Workforce Fund for Basic Skills" P.L.2001, c.152 (C.34:15D-21 et seq.), or any other law to the contrary, the unexpended balance in the Supplemental Workforce Fund for Basic Skills as of June 30, 2004 is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.



Receipts in excess of the amount anticipated for the Workplace Standards Program are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated for the Public Works Contractor Registration program are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance in the Public Works Contractor Registration Program as of June 30, 2004 is appropriated for the Public Contractor Registration Program.

Notwithstanding the provisions of the "Worker and Community Right To Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.), the amount hereinabove for the Worker and Community Right To Know Act account is payable out of the Worker and Community Right To Know Fund. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately. In addition to the amounts hereinabove, there are appropriated out of the Worker and Community Right To Know Fund such additional sums, not to exceed \$8,400, to administer the Right To Know Program, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated out of the Wage and Hour Trust Fund and the Prevailing Wage Act Trust Fund such sums as may be necessary for payments.

The amount hereinabove for the Private Sector Labor Relations program classification is appropriated from the Unemployment Compensation Auxiliary Fund.

From the appropriation provided hereinabove in support of office leases, and notwithstanding the provisions of N.J.S.A.52:18A-191.1 et seq, the State Treasurer in consultation with the Commissioner of Labor, is hereby authorized to enter into cost-sharing agreements with any authorized non-State partner that offers programs and activities supported primarily by federal funds from the United States Departments of Labor and Education in the State's one-stop centers, for the purpose of co-locating such partner in an office with the Department of Labor and Workforce Development providing rent costs shall be equitably shared in accordance with a cost allocation plan approved by the Commissioner of Labor and Workforce Development.

#### **GRANTS-IN-AID**

|                                                     |                     |
|-----------------------------------------------------|---------------------|
| 07-4535 Vocational Rehabilitation Services .....    | \$30,365,000        |
| <i>(From General Fund ..... \$27,925,000)</i>       |                     |
| <i>(From Casino Revenue Fund ..... 2,440,000)</i>   |                     |
| 09-4545 Employment Services .....                   | 4,000,000           |
| 10-4545 Employment and Training Services .....      | <u>11,238,000</u>   |
| Total Grants-in-Aid Appropriation, Manpower and     |                     |
| Employment Services .....                           | <u>\$45,603,000</u> |
| <i>(Total From General Fund ..... \$43,163,000)</i> |                     |
| <i>(Total From Casino Revenue Fund . 2,440,000)</i> |                     |

#### **Grants-in-Aid:**

|                        |               |
|------------------------|---------------|
| 07 Services to Clients |               |
| (State Share) .....    | (\$4,286,000) |

|                                                                              |              |
|------------------------------------------------------------------------------|--------------|
| 07 Sheltered Workshop -<br>Transportation (CRF) . . . . .                    | (2,440,000)  |
| 07 Sheltered Workshop -<br>Transportation . . . . .                          | (1,060,000)  |
| 07 Supported Employment<br>Services . . . . .                                | (2,550,000)  |
| 07 Sheltered Workshop Support . .                                            | (18,234,000) |
| 07 Sheltered Workshop<br>Employment Placement<br>Incentive Program . . . . . | (450,000)    |
| 07 Cost of Living Adjustment --<br>Sheltered Workshops . . . . .             | (546,000)    |
| 07 Services for Deaf Individuals . . . .                                     | (170,000)    |
| 07 Independent Living Centers . . . . .                                      | (625,000)    |
| 07 Training (State Share) . . . . .                                          | (4,000)      |
| 09 John J. Heldrich Center for<br>Workforce Development . . . . .            | (4,000,000)  |
| 10 New Jersey Youth Corps . . . . .                                          | (3,048,000)  |
| 10 WorkFirst New Jersey --<br>Work Activities . . . . .                      | (8,190,000)  |

The sum hereinabove for the Vocational Rehabilitation Services program classification is available for the payment of obligations applicable to prior fiscal years.

Of the amount hereinabove for the Vocational Rehabilitation Services program classification, an amount not to exceed \$14,422,000 is appropriated from the Unemployment Compensation Auxiliary Fund.

Amounts appropriated hereinabove for the Sheltered Workshop Employment Placement Incentive Program shall be available to support expenditures under the Sheltered Workshop Support Program, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove appropriated for the John J. Heldrich Center shall be reduced by the sum of funds received from the New Jersey Economic Development Authority. The funds shall be used to pay a portion of the costs associated with the acquisition, site preparation, design and construction of a Statewide workforce training center to be located in New Brunswick, New Jersey known as the Heldrich Center for Workforce Development at the Edward J. Bloustein School of Policy and Planning (the "Heldrich Center") and the infrastructure and site preparation costs associated with the redevelopment project. The authority's investment is subject to the terms and conditions set forth in an agreement between the authority and the New Brunswick Development Corporation. The agreement shall be subject to the approval of the State Treasurer who, upon such approval, shall report to the Joint Budget Oversight Committee on the terms and conditions of the agreement.

Notwithstanding any law to the contrary, in addition to the amounts hereinabove for the Work First New Jersey-Work Activities and Work First New Jersey-Training Related Expenses accounts, an amount not to exceed \$25,500,000 is appropriated from the New Jersey Workforce Development

Partnership Fund, section 9 of P.L.1992, c.43 (C.34:15D-9), subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law to the contrary, of the amounts hereinabove for Work First New Jersey-Work Activities and Work First New Jersey-Training Related Expenses, \$8,190,000 is appropriated from the New Jersey Workforce Development Partnership Fund, section 9 of P.L.1992, c.43 (C.34:15D-9), subject to the approval of the Director of the Division of Budget and Accounting.

Of the amounts hereinabove appropriated for Work First New Jersey - Work Activities, an amount not to exceed 3% shall be made available for administrative costs incurred by the Department of Labor and Workforce Development.

Notwithstanding any law to the contrary, of the amount hereinabove for New Jersey Youth Corps, \$1,850,000 is appropriated from the New Jersey Workforce Development Partnership Fund, section 9 of P.L.1992, c.43 (C.34:15D-9).

Of the amounts hereinabove appropriated for New Jersey Youth Corps, an amount not to exceed 10% from all funds shall be made available for administrative costs incurred by the Department of Labor and Workforce Development.

In addition to the amounts hereinabove appropriated to the Department of Labor and Workforce Development there are also appropriated such additional sums as necessary to carry out the WorkFirst New Jersey and Adult Education activities not to exceed \$1,000,000, subject to the approval of the Director of the Division of Budget and Accounting.

#### STATE AID

|                                         |             |
|-----------------------------------------|-------------|
| 10-4545 Employment Services .....       | \$1,624,000 |
| Total State Aid Appropriation, Manpower |             |
| and Employment Services .....           | \$1,624,000 |

***State Aid:***

|                                  |             |
|----------------------------------|-------------|
| 10 Vocational Education -        |             |
| Apprenticeship Coordination .... | (\$600,000) |
| 10 Adult Literacy .....          | (1,024,000) |

Of the amount hereinabove in the Adult Literacy account, such sums as are necessary may be transferred to the applicant State department.

|                                                |               |
|------------------------------------------------|---------------|
| Department of Labor and Workforce Development, |               |
| Total State Appropriation .....                | \$107,469,000 |

#### ***Summary of Department of Labor and Workforce Development Appropriations (For Display Purposes Only)***

***Appropriations by Category:***

|                             |              |
|-----------------------------|--------------|
| Direct State Services ..... | \$60,242,000 |
| Grants-in-Aid .....         | 45,603,000   |
| State Aid .....             | 1,624,000    |

***Appropriations by Fund:***

|                    |               |
|--------------------|---------------|
| General Fund ..... | \$105,029,000 |
|--------------------|---------------|

Casino Revenue Fund ..... 2,440,000

# **66 DEPARTMENT OF LAW AND PUBLIC SAFETY**

## ***10 Public Safety and Criminal Justice***

### ***12 Law Enforcement***

#### **DIRECT STATE SERVICES**

06-1200 State Police Operations ..... \$234,956,000  
 09-1020 Criminal Justice ..... 27,054,000  
 11-1050 State Medical Examiner ..... 600,000  
 30-1460 Gaming Enforcement ..... 37,699,000  
*(From Casino Control Fund .... \$37,699,000)*  
 99-1200 Administration and Support Services. .... 36,499,000  
 Total Direct State Services Appropriation,  
     Law Enforcement ..... \$336,808,000  
*(From General Fund ..... \$299,109,000)*  
*(From Casino Control Fund ..... 37,699,000)*

#### ***Direct State Services:***

##### **Personal Services:**

Salaries and Wages ..... (\$204,438,000)  
 Salaries and Wages (CCF) ..... (25,358,000)  
 Cash in Lieu of Maintenance ..... (21,625,000)  
 Cash in Lieu of Maintenance (CCF) .. (888,000)  
 Employee Benefits (CCF) ..... (5,144,000)  
*(From General Fund ..... 226,063,000)*  
*(From Casino Control Fund ..... 29,490,000)*  
 Materials and Supplies ..... (5,563,000)  
 Materials and Supplies (CCF) ..... (389,000)  
 Services Other Than Personal ..... (11,713,000)  
 Services Other Than Personal (CCF) ... (1,864,000)  
 Maintenance and Fixed Charges ..... (4,430,000)  
 Maintenance and Fixed Charges (CCF) . (2,440,000)

##### **Special Purpose:**

06 Nuclear Emergency  
     Response Program ..... (1,591,000)  
 06 Drunk Driver Fund Program ..... (962,000)  
 06 Noncriminal Record Checks .... (1,014,000)  
 03 Camden Initiative ..... (1,500,000)  
 06 Office of Emergency Management  
     Service Enhancement ..... (1,000,000)  
 06 Enhanced DNA Testing ..... (450,000)  
 06 Megan's Law DNA Testing ..... (200,000)  
 06 State Police DNA Laboratory  
     Enhancement ..... (1,800,000)  
 06 Urban Search and Rescue ..... (1,000,000)  
 06 Nuclear Facilities Security Detail (1,600,000)  
 06 Computer Aided Dispatch  
     Maintenance ..... (600,000)

|                                                                                                                                                                                                                                                                                                                                                                                                                                     |             |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| 06 State Police Forensic and<br>Communication Equipment/<br>Hamilton Facilities .....                                                                                                                                                                                                                                                                                                                                               | (4,375,000) |
| 06 State Police Operation<br>Dispatch Unit .....                                                                                                                                                                                                                                                                                                                                                                                    | (1,400,000) |
| 06 FY 05 State Police Recruit Class                                                                                                                                                                                                                                                                                                                                                                                                 | (2,500,000) |
| 06 Aviation Night Vision System ....                                                                                                                                                                                                                                                                                                                                                                                                | (100,000)   |
| 06 State Police Federal Monitor .....                                                                                                                                                                                                                                                                                                                                                                                               | (500,000)   |
| 09 Criminal Justice - Corruption<br>Prosecution Expansion .....                                                                                                                                                                                                                                                                                                                                                                     | (1,700,000) |
| 09 Division of Criminal Justice --<br>State Match .....                                                                                                                                                                                                                                                                                                                                                                             | (1,482,000) |
| 09 Human Relations Council .....                                                                                                                                                                                                                                                                                                                                                                                                    | (250,000)   |
| 09 Expenses of State Grand Jury ....                                                                                                                                                                                                                                                                                                                                                                                                | (356,000)   |
| 09 Medicaid Fraud Investigation --<br>State Match .....                                                                                                                                                                                                                                                                                                                                                                             | (500,000)   |
| 30 Gaming Enforcement (CCF) ...                                                                                                                                                                                                                                                                                                                                                                                                     | (1,185,000) |
| 99 State Police Recruit Training ...                                                                                                                                                                                                                                                                                                                                                                                                | (1,201,000) |
| 99 Consent Decree Vehicles .....                                                                                                                                                                                                                                                                                                                                                                                                    | (5,800,000) |
| 99 Telecommunications -<br>911 Call Takers .....                                                                                                                                                                                                                                                                                                                                                                                    | (1,950,000) |
| 99 FY 05 State Police<br>Recruit Training .....                                                                                                                                                                                                                                                                                                                                                                                     | (417,000)   |
| 99 Hamilton Headquarters/<br>TechPlex Maintenance .....                                                                                                                                                                                                                                                                                                                                                                             | (2,173,000) |
| 99 Affirmative Act and Equal<br>Employment Opportunity .....                                                                                                                                                                                                                                                                                                                                                                        | (193,000)   |
| 99 N.C.I.C. 2000 Project .....                                                                                                                                                                                                                                                                                                                                                                                                      | (2,000,000) |
| 99 State Police Cadet Pilot Program ..                                                                                                                                                                                                                                                                                                                                                                                              | (174,000)   |
| 99 State Police Technology<br>Enhancements .....                                                                                                                                                                                                                                                                                                                                                                                    | (600,000)   |
| 99 State Police Enhanced Systems<br>and Procedures .....                                                                                                                                                                                                                                                                                                                                                                            | (3,450,000) |
| Additions, Improvements<br>and Equipment .....                                                                                                                                                                                                                                                                                                                                                                                      | (8,502,000) |
| Additions, Improvements and<br>Equipment (CCF) .....                                                                                                                                                                                                                                                                                                                                                                                | (431,000)   |
| Notwithstanding the provisions of any law or regulation to the contrary, receipts<br>derived from the recovery of costs associated with the implementation of the<br>"Criminal Justice Act of 1970," P.L.1970, c.74 (C.52:17B-97 et seq.), are<br>appropriated for the purpose of offsetting the costs of the Division of Criminal<br>Justice, subject to the approval of the Director of the Division of Budget and<br>Accounting. |             |
| The unexpended balance as of June 30, 2004, in the Victim Witness Advocacy<br>Fund account, together with receipts derived pursuant to section 2 of P.L.1979,<br>c.396 (C.2C:43-3.1) is appropriated.                                                                                                                                                                                                                               |             |

- Notwithstanding the provisions of any law or regulation to the contrary, funds obtained through seizure, forfeiture, or abandonment pursuant to any federal or State statutory or common law and proceeds of the sale of any such confiscated property or goods, except for such funds as are dedicated pursuant to N.J.S.2C:64-6, are appropriated for law enforcement purposes designated by the Attorney General.
- The unexpended balance as of June 30, 2004, in the revolving fund established under the "New Jersey Antitrust Act," P.L.1970, c.73 (C.56:9-1 et seq.) is appropriated for the administration of the act and any expenditures therefrom shall be subject to the approval of the Director of the Division of Budget and Accounting.
- Such additional amounts as may be required to carry out the provisions of the "New Jersey Antitrust Act" P.L.1970, c.73 (C.56:9-1 et seq.) are appropriated from the General Fund; provided however, that any expenditures therefrom shall be subject to the approval of the Director of the Division of Budget and Accounting.
- Receipts in excess of the amount anticipated from license fees, audits, or both conducted to ensure compliance with the "Private Detective Act of 1939," P.L.1939, c.369 (C.45:19-8 et seq.), are appropriated to defray the cost of this activity.
- Notwithstanding the provisions of section 14 of P.L.1992, c.188 (C.33:1-4.1), that in addition to the amounts hereinabove, all fees and penalties collected by the Director of the Division of Alcoholic Beverage Control in excess of \$3,960,000 are appropriated for the purpose of offsetting additional operational costs of the Alcoholic Beverage Control Enforcement Bureau in the Division of State Police and the Division of Alcoholic Beverage Control, subject to the approval of the Director of the Division of Budget and Accounting.
- In addition to the amount hereinabove for State Police Operations, such amounts as may be required for the purpose of offsetting costs of the provision of State Police services are appropriated from indirect cost recoveries, subject to the approval of the Director of the Division of Budget and Accounting.
- All fees and receipts collected, pursuant to paragraph 7 of subsection 1. of N.J.S.2C:39-6, "The Retired Officer Handgun Permit Program," and the unexpended balance as of June 30, 2004, are appropriated to offset the costs of administering the application process, subject to the approval of the Director of the Division of Budget and Accounting.
- Receipts derived pursuant to the New Jersey Medical Service Helicopter Response Act under section 1 of P.L.1992, c.87 (C.39:3-8.2) are appropriated to the Division of State Police and the Department of Health and Senior Services to defray the operating costs of the program as authorized under P.L.1986, c.106 (C.26:2K-35 et seq.). The unexpended balance as of June 30, 2004, is appropriated to the special capital maintenance reserve account for capital replacement and major maintenance of helicopter equipment and any expenditures therefrom shall be subject to the approval of the Director of the Division of Budget and Accounting.
- The amount hereinabove for the Nuclear Emergency Response Program account is payable from receipts received pursuant to the assessment of electrical utility

companies under P.L.1981, c.302 (C.26:2D-37 et seq.). The unexpended balance as of June 30, 2004, in the Nuclear Emergency Response Program account is appropriated.

The unexpended balance as of June 30, 2004, in the Drunk Driver Fund Program account, together with any receipts in excess of the amount anticipated, is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Drunk Driver Fund Program is payable out of the Drunk Driving Enforcement Fund established pursuant to section 1 of P.L.1984, c.4 (C.39:4-50.8) designated for this purpose and any amount remaining therein. If receipts to the fund are less than anticipated, the appropriation shall be reduced proportionately.

The amount hereinabove for the Noncriminal Record Checks is payable out of the dedicated fund designated for this purpose. If receipts to the fund are less than anticipated, the appropriation shall be reduced proportionately.

Notwithstanding the provisions of section 3 of P.L.1985, c.69 (C.53:1-20.7), the unexpended balance as of June 30, 2004, in the Noncriminal Record Checks account, together with any receipts in excess of the amount anticipated are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in the "Commercial Vehicle Enforcement Fund" established pursuant to section 17 of P.L.1995, c.157 (C.39:8-75) are appropriated to offset all reasonable and necessary expenses of the Division of State Police and Motor Vehicle Commission in the performance of commercial truck safety and emission inspections, subject to the approval of the Director of the Division of Budget and Accounting.

All registration fees, tuition fees, training fees, and all other fees received for reimbursement for attendance at courses conducted by Division of State Police and Division of Criminal Justice personnel are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amounts hereinabove to the Divisions of State Police and Criminal Justice and the Office of the State Medical Examiner, there are appropriated to the respective State departments and agencies such sums as may be received or receivable from any instrumentality, municipality, or public authority for direct and indirect costs of all services furnished thereto, except as to such costs for which funds have been included in appropriations otherwise made to the respective State departments and agencies as the Director of the Division of Budget and Accounting shall determine; provided however, that payments from such instrumentalities, municipalities, or authorities for employer contributions to the State Police and Public Employees' Retirement Systems shall not be appropriated and shall be paid into the General Fund.

Notwithstanding the provisions of section 11 of P.L.1993, c.220 (C.2C:43-3.2), an amount not to exceed \$1,100,000 is appropriated from the Safe Neighborhoods Services Fund to provide Criminal Justice Statewide Law Enforcement federal grant match, subject to the approval of the Director of the Division of Budget and Accounting.

- In addition to the amounts hereinabove for the State Police-Enhanced DNA Testing account, there is appropriated an amount not to exceed \$450,000 to be offset by actual receipts pursuant to P.L.2000, c.118. Additional funding shall be based upon the review of monthly workload data, collection data, and spending plans, subject to the approval of the Director of the Division of Budget and Accounting.
- Receipts derived from the agency surcharge on vehicle rentals pursuant to section 54 of P.L.2002, c.34 (C.App.A:9-78), not to exceed \$1,900,000 for State Police salaries related to Statewide security services, are appropriated for those purposes and shall be deposited into a dedicated account, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.
- The unexpended balance as of June 30, 2004, in the State Police Recruit Training account is appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.
- Of the amount appropriated hereinabove for the Division of State Police, \$3,000,000 for State Police Vehicles, \$450,000 for Trooper Salaries for the FY 05 State Police Recruit Class, as well as the full amount appropriated for Nuclear Facilities Security Detail and FY 05 State Police Recruit Training are chargeable to receipts derived from the Wireless Communication and Cell Tower Assessment, pursuant to the passage of enabling legislation.
- There is appropriated, an amount up to \$25,000, from the General Fund, to pay for each award or each tip for information that prevents, frustrates, or favorably resolves acts of international or domestic terrorism against New Jersey persons or property, as well as tips related to the identification of illegal guns, drugs and gangs. Rewards may also be paid for information leading to the arrest or conviction of terrorists, gang members or both attempting, committing, conspiring to commit or aiding and abetting in the commission of such acts or to the identification or location of an individual who holds a key leadership position in a terrorist, gang organization or both subject to the approval of the Attorney General and the Director of the Division of Budget and Accounting.
- In addition to the amount hereinabove for Gaming Enforcement, there are appropriated from the Casino Control Fund such additional sums as may be required for gaming enforcement, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

|                                                       |                  |
|-------------------------------------------------------|------------------|
| 06-1200 State Police Operations .....                 | \$265,000        |
| 09-1020 Criminal Justice .....                        | <u>300,000</u>   |
| Total Grants-in-Aid Appropriation, Law Enforcement .. | <u>\$565,000</u> |

***Grants-in-Aid:***

|                                                   |             |
|---------------------------------------------------|-------------|
| 06 Nuclear Emergency<br>Response Program .....    | (\$265,000) |
| 09 Sex Offender Internet<br>Registry Grants ..... | (300,000)   |



The unexpended balances as of June 30, 2004, in the Division of Criminal Justice's Community Justice program is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

#### STATE AID

09-1020 Criminal Justice ..... \$11,090,000

Total State Aid Appropriation, Law Enforcement ... \$11,090,000

#### *State Aid:*

09 Trigger Lock County Program .... (\$90,000)

09 Statewide Local Domestic

Preparedness Equipment

Grant Program ..... (10,000,000)

09 Safe and Secure

Neighborhoods Programs ..... (1,000,000)

The unexpended balance as of June 30, 2004, in the Statewide Local Domestic Preparedness Equipment Grant Program is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

#### *13 Special Law Enforcement Activities*

#### DIRECT STATE SERVICES

03-1160 Office of Highway Traffic Safety ..... \$338,000

17-1420 Election Law Enforcement ..... 13,292,000

*(From General Fund ..... \$4,422,000)*

*(From Gubernatorial*

*Elections Fund ..... 8,870,000)*

20-1450 Review and Enforcement of Ethical Standards .... 661,000

21-1400 Regulation of Alcoholic Beverages ..... 1,189,000

25-1421 Election Management and Coordination ..... 2,177,000

Total Direct State Services Appropriation,

Special Law Enforcement Activities ..... \$17,657,000

*(From General Fund ..... \$8,787,000)*

*(From Gubernatorial*

*Elections Fund ..... 8,870,000)*

#### Personal Services:

Salaries and Wages ..... (\$4,332,000)

Materials and Supplies ..... (209,000)

Services Other Than Personal ..... (713,000)

Maintenance and Fixed Charges ..... (40,000)

#### Special Purpose:

03 Federal Highway Safety

Program -- State Match ..... (338,000)

17 Fair and Clean Elections ..... (1,500,000)

17 Election Law

Enforcement (GEF) ..... (8,870,000)

17 Per Diem Payment to Members

of Election Law Enforcement

Commission ..... (15,000)

25 Help America Vote Act . . . . . (1,200,000)

25 County Monitoring and Oversight (440,000)

There are appropriated from the Gubernatorial Elections Fund such sums as may be required for payments to persons qualifying for additional public funds; provided however, that should the amount available in the Gubernatorial Elections Fund be insufficient to support such an appropriation, there are appropriated from the General Fund to the Gubernatorial Elections Fund such sums as may be required.

Notwithstanding the provisions of any law or regulation to the contrary, from the amounts appropriated hereinabove to the Gubernatorial Elections Fund, there are appropriated up to \$600,000 for administrative purposes, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance in the Federal Highway Safety Program - State Match account, including the accounts of the several departments, as of June 30, 2004, is appropriated for such highway safety projects.

Notwithstanding the provisions of section 14 of P.L.1992, c.188 (C.33:1-4.1), in addition to the amounts hereinabove, all fees and penalties collected by the Director of Alcoholic Beverage Control in excess of \$3,960,000 are appropriated for the purpose of offsetting additional operational costs of the Alcoholic Beverage Control Enforcement Bureau in the Division of State Police and the Division of Alcoholic Beverage Control, subject to the approval of the Director of the Division of Budget and Accounting.

Registration fees, tuition fees, training fees, and other fees received for reimbursement for attendance at courses administered or conducted by the Division of Alcoholic Beverage Control are appropriated for program costs.

From the receipts derived from uncashed pari-mutuel winning tickets and the regulation, supervision, licensing, and enforcement of all New Jersey Racing Commission activities and functions, such sums as may be required are appropriated for the purpose of offsetting the costs of the administration and operation of the New Jersey Racing Commission, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from breakage monies and uncashed pari-mutuel winning tickets resulting from off-track and account wagering and any reimbursement assessment against permit holders or successors in interest to permit holders shall be distributed to the New Jersey Racing Commission in accordance with the provisions of the "Off Track and Account Wagering Act," P.L.2001, c.199 (C.5:5-127 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

All fees, fines, and penalties collected pursuant to P.L.1973, c.83 (C.19:44A-1 et al.) and section 11 of P.L.1991, c.244 (C.52:13C-23.1) are appropriated for the purpose of offsetting additional operational costs of the Election Law Enforcement Commission, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provision hereinabove, amounts received pursuant to P.L.1971, c.183 (C.52:13C-18 et seq.) are appropriated for the purpose of offsetting additional operational costs of the Election Law Enforcement

Commission, subject to the approval of the Director of the Division of Budget and Accounting.

Of the receipts derived from the regulation, supervision, and licensing of all State Athletic Control Board activities and functions, an amount is appropriated for the purpose of offsetting the costs of the administration and operation of the State Athletic Control Board, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from the examination of voting machines by Election Management and Coordination and the unexpended balance as of June 30, 2004, are appropriated for the costs of making such examinations.

The unexpended balances in the Help America Vote Act - State Match account as of June 30, 2004, are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

#### **STATE AID**

|                                                        |                    |
|--------------------------------------------------------|--------------------|
| 25-1421 Election Management and Coordination . . . . . | <u>\$3,730,000</u> |
| Total State Aid Appropriation, Special Law             |                    |
| Enforcement Activities . . . . .                       | <u>\$3,730,000</u> |
| <b>State Aid:</b>                                      |                    |
| 25 Extended Polling Place Hours . . . (\$3,730,000)    |                    |

#### **18 Juvenile Services**

##### **1500 Division of Juvenile Services**

#### **DIRECT STATE SERVICES**

|                                                       |                     |
|-------------------------------------------------------|---------------------|
| 34-1500 Juvenile Community Programs . . . . .         | \$22,691,000        |
| 40-1500 Aftercare Programs . . . . .                  | 4,865,000           |
| 99-1500 Administration and Support Services . . . . . | <u>5,764,000</u>    |
| Total Direct State Services Appropriation,            |                     |
| Division of Juvenile Services . . . . .               | <u>\$33,320,000</u> |

#### **Direct State Services:**

##### **Personal Services:**

|                                         |                |
|-----------------------------------------|----------------|
| Salaries and Wages . . . . .            | (\$26,361,000) |
| Materials and Supplies . . . . .        | (1,626,000)    |
| Services Other Than Personal . . . . .  | (2,571,000)    |
| Maintenance and Fixed Charges . . . . . | (954,000)      |

##### **Special Purpose:**

|                                                 |           |
|-------------------------------------------------|-----------|
| 34 Juvenile Justice Initiatives . . . . .       | (770,000) |
| 34 Social Services Block Grant --               |           |
| State Match . . . . .                           | (42,000)  |
| 34 Female Substance Abuse Program . . . . .     | (302,000) |
| 99 Juvenile Justice -- State                    |           |
| Matching Funds . . . . .                        | (406,000) |
| 99 Custody and Civilian                         |           |
| Staff Training . . . . .                        | (185,000) |
| Additions, Improvements and Equipment . . . . . | (103,000) |

**GRANTS-IN-AID**

|                                                                           |                     |
|---------------------------------------------------------------------------|---------------------|
| 34-1500 Juvenile Community Programs .....                                 | <u>\$18,743,000</u> |
| Total Grants-in-Aid Appropriation, Division of<br>Juvenile Services ..... | <u>\$18,743,000</u> |

**Grants-in-Aid:**

|                                                                                            |               |
|--------------------------------------------------------------------------------------------|---------------|
| 34 Alternatives to Juvenile<br>Incarceration Programs .....                                | (\$2,573,000) |
| 34 Crisis Intervention Program ....                                                        | (4,084,000)   |
| 34 State/Community<br>Partnership Grants .....                                             | (7,939,000)   |
| 34 State Incentive Program .....                                                           | (3,401,000)   |
| 34 Purchase of Services for<br>Juvenile Offenders .....                                    | (260,000)     |
| 34 Cost of Living Adjustment -<br>Alternative to Juvenile<br>Incarceration Programs .....  | (72,000)      |
| 34 Cost of Living Adjustment - Crisis<br>Intervention/State Community<br>Partnership ..... | (312,000)     |
| 34 Cost of Living Adjustment-State<br>Incentive Program .....                              | (102,000)     |

**1505 New Jersey Training School for Boys****DIRECT STATE SERVICES**

|                                                                                         |                     |
|-----------------------------------------------------------------------------------------|---------------------|
| 35-1505 Institutional Control and Supervision .....                                     | \$14,995,000        |
| 36-1505 Institutional Care and Treatment .....                                          | 4,207,000           |
| 99-1505 Administration and Support Services .....                                       | <u>4,085,000</u>    |
| Total Direct State Services Appropriation,<br>New Jersey Training School for Boys ..... | <u>\$23,287,000</u> |

**Direct State Services:****Personal Services:**

|                                     |                |
|-------------------------------------|----------------|
| Salaries and Wages .....            | (\$18,499,000) |
| Food in Lieu of Cash .....          | (89,000)       |
| Materials and Supplies .....        | (1,885,000)    |
| Services Other Than Personal .....  | (2,203,000)    |
| Maintenance and Fixed Charges ..... | (591,000)      |

**Special Purpose:**

|                                          |          |
|------------------------------------------|----------|
| 99 Administration and Support Services   | (2,000)  |
| Additions, Improvements and Equipment .. | (18,000) |

Receipts derived from the Eyeglass Program at the New Jersey Training School for Boys and any unexpended balance as of June 30, 2004, are appropriated for the operation of the program.

**1510 Juvenile Medium Security Center****DIRECT STATE SERVICES**

|                                                     |              |
|-----------------------------------------------------|--------------|
| 35-1510 Institutional Control and Supervision ..... | \$22,134,000 |
| 36-1510 Institutional Care and Treatment .....      | 3,859,000    |

|                                                     |                     |
|-----------------------------------------------------|---------------------|
| 99-1510 Administration and Support Services .....   | <u>2,546,000</u>    |
| Total Direct State Services Appropriation, Juvenile |                     |
| Medium Security Center .....                        | <u>\$28,539,000</u> |

***Direct State Services:*****Personal Services:**

|                                     |                |
|-------------------------------------|----------------|
| Salaries and Wages .....            | (\$14,031,000) |
| Food in Lieu of Cash .....          | (59,000)       |
| Materials and Supplies .....        | (782,000)      |
| Services Other Than Personal .....  | (2,118,000)    |
| Maintenance and Fixed Charges ..... | (199,000)      |

**Special Purpose:**

|                                          |             |
|------------------------------------------|-------------|
| 35 Juvenile Boot Camp .....              | (4,046,000) |
| 35 144 Bed Secure Facility .....         | (6,513,000) |
| 35 Mental Health Unit - State Match ...  | (66,000)    |
| 99 Johnstone Facility Maintenance ...    | (702,000)   |
| Additions, Improvements and Equipment .. | (23,000)    |

***19 Central Planning, Direction and Management*****DIRECT STATE SERVICES**

|                                                    |                     |
|----------------------------------------------------|---------------------|
| 88-1000 Central Library Services .....             | \$596,000           |
| 99-1000 Administration and Support Services .....  | <u>14,848,000</u>   |
| Total Direct State Services Appropriation, Central |                     |
| Planning, Direction and Management .....           | <u>\$15,444,000</u> |

***Direct State Services:*****Personal Services:**

|                                     |               |
|-------------------------------------|---------------|
| Salaries and Wages .....            | (\$8,284,000) |
| Materials and Supplies .....        | (162,000)     |
| Services Other Than Personal .....  | (166,000)     |
| Maintenance and Fixed Charges ..... | (88,000)      |

**Special Purpose:**

|                                          |             |
|------------------------------------------|-------------|
| 99 Fiscal Integrity Unit/Office          |             |
| of the Inspector General .....           | (4,100,000) |
| 99 Smart Growth Enforcement .....        | (250,000)   |
| 99 Affirmative Action and Equal          |             |
| Employment Opportunity .....             | (198,000)   |
| 99 Office of Counter-Terrorism ...       | (2,000,000) |
| 99 Criminal Sentencing Commission .      | (175,000)   |
| Additions, Improvements and Equipment .. | (21,000)    |

Notwithstanding the provisions of any law or regulation to the contrary, funds obtained through seizure, forfeiture, or abandonment pursuant to any federal or State statutory or common law and the proceeds of the sale of any such confiscated property or goods, except for such funds as are dedicated pursuant to N.J.S.2C:64-6, are appropriated for law enforcement purposes designated by the Attorney General; provided however, that receipts in excess of \$2,255,000 may only be used for non-recurring expenditures.

The Attorney General shall provide the Director of the Division of Budget and Accounting, the Senate Budget and Appropriations Committee and the

Assembly Appropriations Committee, or the successor committees thereto, with written reports on August 1, 2004, and February 1, 2005, of the use and disposition by State law enforcement agencies, including the offices of the county prosecutors, of any interest in property or money seized, or proceeds resulting from seized or forfeited property, and any interest or income earned thereon, arising from any State law enforcement agency involvement in a surveillance, investigation, arrest or prosecution involving offenses under N.J.S.2C:35-1 et seq. and N.J.S.2C:36-1 et seq. leading to such seizure or forfeiture. The reports shall specify for the preceding period of the fiscal year the type, approximate value, and disposition of the property seized and the amount of any proceeds received or expended, whether obtained directly or as contributive share, including but not limited to the use thereof for asset maintenance, forfeiture prosecution costs, costs of extinguishing any perfected security interest in seized property and the contributive share of property and proceeds of other participating local law enforcement agencies. The reports shall provide an itemized accounting of all proceeds expended and shall specify with particularity the nature and purpose of each such expenditure.

Penalties, fines, and other fees collected pursuant to N.J.S.2C:35-20 and deposited in the State Forensic Laboratory Fund, together with the unexpended balance as of June 30, 2004, are appropriated to defray additional laboratory related administration and operational expenses of the "Comprehensive Drug Reform Act of 1987," P.L.1987, c.106 (C.2C:35-1 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

Of the amounts hereinabove appropriated for the Unit of Fiscal Integrity in School Construction/Office of Government Integrity, there shall be credited against such amounts such monies as are received by the Unit of Fiscal Integrity/Office of Government Integrity pursuant to a Memorandum of Understanding between the Unit of Fiscal Integrity and the New Jersey Economic Development Authority for oversight services including employee benefit costs in connection with the school construction program.

Receipts derived from the agency surcharge on vehicle rentals pursuant to section 54 of P.L.2002, c.34 (C.App.A:9-78), not to exceed \$7,200,000, are appropriated for the Office of Counter-Terrorism and shall be deposited into a dedicated account, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

## ***70 Government Direction, Management and Control***

### ***74 General Government Services***

#### **DIRECT STATE SERVICES**

|                                     |                     |
|-------------------------------------|---------------------|
| 12-1010 Legal Services .....        | \$67,795,000        |
| 26-1010 Child Advocate Agency ..... | <u>2,500,000</u>    |
| Total All Operations .....          | <u>\$70,295,000</u> |

#### ***Less:***

|                                                    |                                   |
|----------------------------------------------------|-----------------------------------|
| <b><i>Legal Services .....</i></b>                 | <b><i>48,419,000</i></b>          |
| <b><i>Total Deductions .....</i></b>               | <b><i><u>\$48,419,000</u></i></b> |
| Total Direct State Services Appropriation, General |                                   |
| Government Services .....                          | <u>\$21,876,000</u>               |

***Direct State Services:******Personal Services:***

Salaries and Wages ..... (\$16,994,000)  
 Materials and Supplies ..... (89,000)  
 Services Other Than Personal ..... (601,000)  
 Maintenance and Fixed Charges ..... (262,000)

***Special Purpose:***

Legal Services ..... (48,419,000)  
 26 Child Welfare Unit ..... (1,430,000)  
 26 Child Advocate Agency ..... (2,500,000)

***Less:******Reimbursement From***

***Other Sources ..... 48,419,000***

In addition to the \$48,419,076 attributable to Reimbursements from Other Sources and the corresponding additional amount associated with employee fringe benefit costs, there are appropriated such sums as may be received or receivable from any State agency, instrumentality or public authority for direct or indirect costs of legal services furnished thereto and attributable to a change in, or the addition of, a client agency agreement, subject to the approval of the Director of the Division of Budget and Accounting.

The Director of the Division of Budget and Accounting is empowered to credit or transfer to the General Fund from any other department, branch, or non-State fund source, out of funds appropriated thereto, such funds as may be required to cover the costs of legal services attributable to that other department, branch, or non-State fund source as the Director of the Division of Budget and Accounting shall determine. Receipts in any non-State fund are appropriated for the purpose of such transfer.

Notwithstanding the provisions of any law or regulation to the contrary, revenues derived from penalties, cost recoveries, restitution or other recoveries to the State are appropriated to offset unbudgeted, extraordinary costs of legal, investigative, administrative, expert witnesses and other services incurred by the Division of Law related to litigation and acting on behalf of the State and State agencies. Such sums shall first be charged to any revenues derived from recoveries collected by the State but may also be provided from the General Fund, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balances as of June 30, 2004, in the Child Advocate Agency are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

***80 Special Government Services******82 Protection of Citizens' Rights*****DIRECT STATE SERVICES**

14-1310 Consumer Affairs ..... \$14,161,000  
 15-1320 Operation of State Professional Boards ..... 17,633,000  
***(From General Fund ..... \$17,541,000)***  
***(From Casino Revenue Fund ..... 92,000)***

|                                                                                    |                      |
|------------------------------------------------------------------------------------|----------------------|
| 16-1350 Protection of Civil Rights .....                                           | 5,215,000            |
| 19-1440 Victims of Crime Compensation Board .....                                  | <u>5,498,000</u>     |
| Total Direct State Services Appropriation,<br>Protection of Citizens' Rights ..... | <u>\$42,507,000</u>  |
| <b>(Total From General Fund .....</b>                                              | <b>\$42,415,000)</b> |
| <b>(Total From Casino Revenue Fund ...</b>                                         | <b>92,000)</b>       |

**Direct State Services:**

## Personal Services:

|                                          |                   |
|------------------------------------------|-------------------|
| Salaries and Wages .....                 | (\$9,647,000)     |
| Salaries and Wages (CRF) .....           | (66,000)          |
| Employee Benefits (CRF) .....            | (20,000)          |
| <b>(From General Fund .....</b>          | <b>9,647,000)</b> |
| <b>(From Casino Revenue Fund .....</b>   | <b>86,000)</b>    |
| Materials and Supplies .....             | (461,000)         |
| Services Other Than Personal .....       | (14,254,000)      |
| Services Other Than Personal (CRF) ..... | (6,000)           |
| Maintenance and Fixed Charges .....      | (1,742,000)       |

## Special Purpose:

|                                                               |             |
|---------------------------------------------------------------|-------------|
| 14 Consumer Affairs Legalized<br>Games of Chance .....        | (1,390,000) |
| 14 Securities Enforcement Fund ...                            | (6,994,000) |
| 14 Consumer Affairs Weights and<br>Measures Program .....     | (2,612,000) |
| 14 Consumer Affairs Charitable<br>Registrations Program ..... | (695,000)   |
| 15 Operation of State<br>Professional Boards .....            | (4,000)     |
| 15 Personal Care Attendants --<br>Background Checks .....     | (500,000)   |
| 16 Civil Rights Case<br>Tracking System .....                 | (100,000)   |
| 19 Claims -- Victims of Crime .....                           | (3,630,000) |
| 19 Victims of Crime Outreach .....                            | (150,000)   |

Additions, Improvements and Equipment ..(236,000)

Receipts derived from the assessment and recovery of costs, fines, and penalties as well as other receipts received pursuant to the consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), are appropriated for additional operational costs of the Division of Consumer Affairs, subject to the approval of the Director of the Division of Budget and Accounting.

All fees, penalties, and costs collected pursuant to P.L.1988, c.123 (C.56:12-29 et seq.) are appropriated for the purpose of offsetting costs associated with the handling and resolution of consumer automotive complaints.

In addition to the amount appropriated hereinabove for Consumer Affairs, receipts in excess of the amount anticipated, attributable to changes in fee structure or fee increases, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.



Fees and cost recoveries collected pursuant to P.L.1989, c.331 (C.34:8-43 et al.) are appropriated in an amount not to exceed additional expenses associated with mandated duties, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from penalties and the unexpended balance as of June 30, 2004, in the Consumer Fraud Education Fund program account pursuant to P.L.1999, c.129 (C.56:8-14.2 et seq.) are appropriated for the purpose of offsetting the cost of operating the program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated are appropriated to the Controlled Dangerous Substance Registration program for the purpose of offsetting the costs of the administration and operation of the program, subject to the approval of the Director of the Division of Budget and Accounting. If receipts are less than anticipated, the appropriation shall be reduced proportionately.

Receipts in excess of the amount anticipated derived pursuant to P.L.1954, c.7 (C.5:8-1 et seq.) from the operations of the Division of Consumer Affairs Legalized Games of Chance program and the unexpended balances as of June 30, 2004, are appropriated for the purpose of offsetting the operational costs of the program, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Securities Enforcement Fund account is payable from receipts from fees and penalties deposited in the Securities Enforcement Fund pursuant to section 15 of P.L.1985, c.405 (C.49:3-66.1). If receipts are less than anticipated, the appropriation shall be reduced proportionately.

Notwithstanding the provisions of section 15 of P.L.1985, c.405 (C.49:3-66.1) to the contrary, receipts in excess of the amount anticipated and the unexpended balances as of June 30, 2004, are appropriated to the Securities Enforcement Fund program account to offset the cost of operating this program and for use by the Department of Law and Public Safety, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated derived pursuant to R.S.51:1-1 et seq. from the operations of the Division of Consumer Affairs Office of Weights and Measures program and the unexpended balances as of June 30, 2004, are appropriated for the purposes of offsetting the operational costs of the program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated derived pursuant to P.L.1994 c.16 (C.45:17A-18 et seq.) from the operations of the Division of Consumer Affairs Charitable Registration and Investigation program and the unexpended balances as of June 30, 2004, are appropriated for the purpose of offsetting the operational costs of the program, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for each of the several State professional boards, advisory boards, and committees shall be provided from receipts of those entities, and any receipts in excess of the amounts specifically provided to each of the entities are appropriated. The unexpended balances as of June 30, 2004, are

appropriated subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from the sale of films, pamphlets, and other educational materials developed or produced by the Division on Civil Rights are appropriated to defray production costs.

Receipts derived from the provision of copies of transcripts and other materials related to officially docketed cases are appropriated.

Notwithstanding the provisions of section 2 of P.L.1983 c.412 (C.10:5-14.1a) any receipts derived from the assessment of fines, fees, and penalties pursuant to P.L.1945 c.169 (C.10:5-1 et seq.) are appropriated to the Division on Civil Rights for additional operational costs, subject to the approval of the Director of the Division of Budget and Accounting.

The sum hereinabove for Claims - Victims of Crime is available for payment of awards applicable to claims filed in prior fiscal years.

Receipts derived from assessments pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) and the unexpended balance as of June 30, 2004, in the Criminal Disposition and Revenue Collection Fund program account, are appropriated for the purpose of offsetting the costs of the design, development, implementation and operation of the Criminal Disposition and Revenue Collection program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from assessments under section 2 of P.L.1979, c.396 (C.2C:43-3.1) in excess of the amount anticipated and the unexpended balance as of June 30, 2004, are appropriated for payment of claims of victims of crime pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and additional Victims of Crime Compensation Board operational costs up to \$1,175,000, and \$356,000 for the board's Strategic IT Automation Initiative, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balances as of June 30, 2004, in the Office of Victim-Witness Assistance and in the Victim and Witness Advocacy Fund pursuant to section 2 of P.L.1979, c.396 (C.2C:43-3.1) are appropriated.

Receipts derived from licensing fees pursuant to subsection f. of N.J.S.2C:58-5 and registration fees pursuant to section 11 of P.L.1990, c.32 (C.2C:58-12) and the unexpended balance as of June 30, 2004, are appropriated for payment of claims for victims of crime pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and additional board operational costs, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove is appropriated from the Casino Revenue Fund.

Department of Law and Public Safety,

Total State Appropriation . . . . . \$553,566,000

Receipts derived from the provision of copies, the processing of credit cards and other materials related to compliance with section 6 of P.L.2001, c.404 (C.47:1A-5), are appropriated for the purpose of offsetting costs related to public access of government records.

***Summary of Department of Law and Public Safety Appropriations  
(For Display Purposes Only)***

***Appropriations by Category:***

|                             |               |
|-----------------------------|---------------|
| Direct State Services ..... | \$519,438,000 |
| Grants-in-Aid .....         | 19,308,000    |
| State Aid .....             | 14,820,000    |

***Appropriations by Fund:***

|                                    |               |
|------------------------------------|---------------|
| General Fund .....                 | \$506,905,000 |
| Casino Control Fund .....          | 37,699,000    |
| Casino Revenue Fund .....          | 92,000        |
| Gubernatorial Elections Fund ..... | 8,870,000     |

**67 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS**

***10 Public Safety and Criminal Justice***

***14 Military Services***

**DIRECT STATE SERVICES**

|                                                           |                     |
|-----------------------------------------------------------|---------------------|
| 40-3620 New Jersey National Guard Support Services ..     | \$12,728,000        |
| 60-3600 Joint Training Center Management and Operations . | 494,000             |
| 99-3600 Administration and Support Services .....         | <u>4,669,000</u>    |
| Total Direct State Services Appropriation,                |                     |
| Military Service .....                                    | <u>\$17,891,000</u> |

***Direct State Services:***

***Personal Services:***

|                                     |               |
|-------------------------------------|---------------|
| Salaries and Wages .....            | (\$7,383,000) |
| Materials and Supplies .....        | (1,257,000)   |
| Services Other Than Personal .....  | (602,000)     |
| Maintenance and Fixed Charges ..... | (1,053,000)   |

***Special Purpose:***

|                                           |             |
|-------------------------------------------|-------------|
| 40 Nuclear Facilities Security Detail     | (3,180,000) |
| 40 Weapons of Mass Destruction            |             |
| Program .....                             | (280,000)   |
| 40 Jersey City Armory .....               | (1,000,000) |
| 40 National Guard-State Active Duty .     | (500,000)   |
| 40 New Jersey National Guard              |             |
| Challenge Youth Program .....             | (920,000)   |
| 40 Joint Federal-State Operations         |             |
| and Maintenance Contracts                 |             |
| (State Share) .....                       | (1,302,000) |
| 99 Retention of U.S. Military             |             |
| Infrastructure in New Jersey .....        | (150,000)   |
| 99 Affirmative Action and Equal           |             |
| Employment Opportunity .....              | (5,000)     |
| 99 Nursing Initiative .....               | (250,000)   |
| Additions, Improvements and Equipment ... | (9,000)     |

The unexpended balance as of June 30, 2004, in the National Guard-State Active Duty account is appropriated for the same purpose.

The unexpended balance as of June 30, 2004, in the Joint Federal–State Operations and Maintenance Contracts (State share) account is appropriated for the same purpose.

Receipts derived from the rental and use of armories and the unexpended balance in the receipt account as of June 30, 2004, are appropriated for the operation and maintenance thereof, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove, funds received for Distance Learning Program usage are appropriated for the same purposes, subject to the approval of the Director of the Division of Budget and Accounting.

The amount appropriated hereinabove for Nuclear Facilities Security Detail is chargeable to receipts derived from the wireless communication/cell tower assessment, pursuant to the passage of enabling legislation.

#### **GRANTS-IN-AID**

40-3620 New Jersey National Guard Support Services . . . . . \$35,000

Total Grants-in-Aid Appropriation,

Military Services . . . . . \$35,000

#### ***Grants-in-Aid:***

40 Civil Air Patrol . . . . . (\$35,000)

#### **CAPITAL CONSTRUCTION**

99-3600 Administration and Support Services . . . . . \$2,627,000

Total Capital Construction Appropriation,

Military Services . . . . . \$2,627,000

#### ***Capital Projects:***

99 Renovations and Improvements,

Statewide . . . . . (\$627,000)

99 World War II Memorial . . . . . (2,000,000)

#### ***80 Special Government Services***

#### ***83 Services to Veterans***

#### ***3610 Veterans' Program Support***

#### **DIRECT STATE SERVICES**

50-3610 Veterans' Outreach and Assistance . . . . . \$3,383,000

51-3610 Veterans Haven . . . . . 494,000

70-3610 Burial Services . . . . . 1,910,000

Total Direct State Services Appropriation, Veterans'

Program Support . . . . . \$5,787,000

#### ***Direct State Services:***

Personal Services:

Salaries and Wages . . . . . (\$3,953,000)

Materials and Supplies . . . . . (416,000)

Services Other Than Personal . . . . . (193,000)

Maintenance and Fixed Charges . . . . . (93,000)

Special Purpose:

- 50 Vietnam Memorial and Education Center . . . . . (350,000)
  - 50 Veterans' State Benefits Bureau . . . (131,000)
  - 50 Korean War Memorial Maintenance Program . . . . . (90,000)
  - 50 Governor's Veterans' Services Council . . . . . (5,000)
  - 51 Veterans Haven . . . . . (94,000)
  - 70 Honor Guard Support Services . . . . (462,000)
- The unexpended balance as of June 30, 2004, in the Korean Veterans Memorial account is appropriated for the same purpose.
- Funds collected by and on behalf of the Korean Veterans Memorial Fund are hereby appropriated for the purposes of the fund.
- Funds received for Veterans' Transitional Housing from the federal Department of Veterans' Affairs and the individual residents, and the unexpended balance in the receipt account as of June 30, 2004, are appropriated for the same purpose.
- Funds received for plot interment allowances from the federal Department of Veterans' Affairs, burial fees collected, and the unexpended program balances as of June 30, 2004, are appropriated for perpetual care and maintenance of burial plots and grounds at the Brigadier General Doyle Veterans' Memorial Cemetery.
- Notwithstanding the provisions of any other law or regulation to the contrary, effective July 1, 2004, no State funds are appropriated to the Department of Military and Veterans' Affairs for the purpose of reforestation or "in lieu of" payments under the P.L.1993, c.106 (C.13:1L-14.1 et seq.) in conjunction with the current or future operation, maintenance and construction of the Brigadier General William C. Doyle Veterans' Memorial Cemetery in North Hanover Township, Burlington County, New Jersey.

#### **GRANTS-IN-AID**

- 50-3610 Veterans' Outreach and Assistance . . . . . \$1,009,000
- Total Grants-in-Aid Appropriation,
- Veterans' Program Support . . . . . \$1,009,000

#### ***Grants-in-Aid:***

- 50 Veterans' Tuition Credit Program . (\$38,000)
- 50 POW/MIA Tuition Assistance . . . . (11,000)
- 50 Vietnam Veterans' Tuition Aid . . . . (7,000)
- 50 Veterans Homeless Shelter - Burlington County . . . . . (35,000)
- 50 Veterans Transportation . . . . . (300,000)
- 50 Veterans' Orphan Fund - Education Grants . . . . . (5,000)
- 50 Blind Veterans' Allowances . . . . . (46,000)
- 50 Paraplegic and Hemiplegic Veterans' Allowance . . . . . (267,000)
- 50 Post Traumatic Stress Disorder . . . (300,000)

The sums provided hereinabove and the unexpended balances as of June 30, 2004 in the Veterans' Tuition Credit Program, POW/MIA Tuition Assistance, and the Vietnam Veterans' Tuition Aid accounts are appropriated and available for payment of liabilities applicable to prior fiscal years.

**3630 Menlo Park Veterans' Memorial Home**

**DIRECT STATE SERVICES**

20-3630 Domiciliary and Treatment Services ..... \$14,763,000  
 99-3630 Administration and Support Services ..... 5,209,000  
 Total Direct State Services Appropriation,  
 Menlo Park Veterans' Memorial Home ..... \$19,972,000

**Direct State Services:**

Personal Services:

Salaries and Wages ..... (\$15,824,000)  
 Materials and Supplies ..... (2,209,000)  
 Services Other Than Personal ..... (1,582,000)  
 Maintenance and Fixed Charges ..... (253,000)  
 Additions, Improvements and Equipment .. (104,000)

In addition to the amount appropriated hereinabove for Menlo Park Adult Day Care, such sums received from the federal Department of Veterans' Affairs, New Jersey Department of Health and Senior Services, and New Jersey Assistance for Community Care Giving are appropriated for the same purposes, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balances as of June 30, 2004 in the Menlo Park Veterans' Memorial Home accounts are appropriated for the same purpose.

**3640 Paramus Veterans' Memorial Home**

**DIRECT STATE SERVICES**

20-3640 Domiciliary and Treatment Services ..... \$14,385,000  
 99-3640 Administration and Support Services ..... 4,093,000  
 Total Direct State Services Appropriation, Paramus  
 Veterans' Memorial Home. .... \$18,478,000

**Direct State Services:**

Personal Services:

Salaries and Wages ..... (\$15,253,000)  
 Materials and Supplies ..... (1,625,000)  
 Services Other Than Personal ..... (1,375,000)  
 Maintenance and Fixed Charges ..... (184,000)  
 Additions, Improvements and Equipment .. (41,000)

**3650 Vineland Veterans' Memorial Home**

**DIRECT STATE SERVICES**

20-3650 Domiciliary and Treatment Services ..... \$14,635,000  
 99-3650 Administration and Support Services ..... 5,028,000  
 Total Direct State Services Appropriation,  
 Vineland Veterans' Memorial Home ..... \$19,663,000

***Direct State Services:*****Personal Services:**

|                                          |                |
|------------------------------------------|----------------|
| Salaries and Wages .....                 | (\$15,554,000) |
| Materials and Supplies .....             | (1,800,000)    |
| Services Other Than Personal .....       | (1,945,000)    |
| Maintenance and Fixed Charges .....      | (275,000)      |
| Additions, Improvements and Equipment .. | (89,000)       |

Department of Military and Veterans' Affairs,

Total State Appropriation ..... \$85,462,000

Balances on hand as of June 30, 2004, of funds held for the benefit of residents in the several veterans' homes, and such funds as may be received, are appropriated for the use of such residents.

Revenues representing receipts to the General Fund from charges to residents' trust accounts for maintenance costs are appropriated for use as personal needs allowances for patients/residents who have no other source of funds for such purposes; provided however, that the allowance shall not exceed \$50 per month for any eligible resident of an institution and provided further, that the total amount herein for such allowances shall not exceed \$100,000, and that any increase in the maximum monthly allowance shall be approved by the Director of the Division of Budget and Accounting.

Funds received from the sale of articles made in occupational therapy departments of the several veterans' homes are appropriated for the purchase of additional material and other expenses incidental to such sale or manufacture.

Forty percent of the receipts in excess of the amount anticipated derived from resident contributions and federal reimbursements, as of June 30, 2004, are appropriated for veterans' program initiatives, subject to the approval of the Director of the Division of Budget and Accounting of an itemized plan for the expenditure of these amounts, as shall be submitted by the Adjutant General.

Fees charged to residents for personal laundry services provided by the veterans' homes are appropriated to supplement the operational and maintenance costs of these laundry services.

Of the amount appropriated hereinabove for the Department of Military and Veterans' Affairs, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule included in the Governor's Budget Recommendation Document dated February 24, 2004, first shall be charged to the State Lottery Fund.

***Summary of Department of Military and Veterans' Affairs Appropriations  
(For Display Purposes Only)***

***Appropriations by Category:***

|                            |              |
|----------------------------|--------------|
| Direct State Services..... | \$81,791,000 |
| Grants-in-Aid .....        | 1,044,000    |
| Capital Construction ..... | 2,627,000    |

***Appropriations by Fund:***

|                    |              |
|--------------------|--------------|
| General Fund ..... | \$85,462,000 |
|--------------------|--------------|

**68 DEPARTMENT OF PERSONNEL**  
**70 Government Direction, Management and Control**  
**74 General Government Services**  
**DIRECT STATE SERVICES**

|                                                                                 |                     |
|---------------------------------------------------------------------------------|---------------------|
| 01-2710 Personnel Policy Development and<br>General Administration .....        | \$3,954,000         |
| 02-2720 State and Local Government Operations .....                             | 14,447,000          |
| 04-2740 Merit Services .....                                                    | 2,383,000           |
| 05-2750 Equal Employment Opportunity<br>and Affirmative Action .....            | 725,000             |
| 07-2770 Human Resource Development Institute .....                              | <u>3,939,000</u>    |
| Total Direct State Services Appropriation,<br>General Government Services ..... | <u>\$25,448,000</u> |

***Direct State Services:***

Personal Services:

|                                     |              |
|-------------------------------------|--------------|
| Merit System Board .....            | (\$56,000)   |
| Salaries and Wages .....            | (19,597,000) |
| Materials and Supplies .....        | (523,000)    |
| Services Other Than Personal .....  | (4,313,000)  |
| Maintenance and Fixed Charges ..... | (237,000)    |

Special Purpose:

|                                                                 |           |
|-----------------------------------------------------------------|-----------|
| 01 Affirmative Action and Equal<br>Employment Opportunity ..... | (93,000)  |
| 02 Microfilm Service Charges .....                              | (29,000)  |
| 02 Test Validation/Police Testing ...                           | (434,000) |
| 05 Americans with Disabilities Act ..                           | (60,000)  |
| Additions, Improvements and Equipment ..                        | (106,000) |

Receipts derived from fees charged to applicants for open competitive or promotional examinations and the unexpended fee balance as of June 30, 2004 not to exceed \$600,000 collected from firefighter examination receipts are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from training services and any unexpended balance as of June 30, 2004 are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived from Employee Advisory Services are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of N.J.S.11A:6-32, cash awards for suggestions shall be paid from the operating budget of the agency from savings generated by the suggestion, subject to the approval of the Director of the Division of Budget and Accounting.

Department of Personnel, Total State Appropriation . \$25,448,000

***Summary of Department of Personnel Appropriations***  
***(For Display Purposes Only)***

***Appropriations by Category:***



Direct State Services ..... \$25,448,000  
*Appropriations by Fund:*  
 General Fund ..... \$25,448,000

#### **74 DEPARTMENT OF STATE**

##### **30 Educational, Cultural and Intellectual Development**

##### **36 Higher Educational Services**

##### **DIRECT STATE SERVICES**

80-2400 Statewide Planning and Coordination  
     for Higher Education ..... \$957,000  
 81-2400 Educational Opportunity Fund Programs ..... 905,000  
 Total Direct State Services Appropriation,  
     Commission on Higher Education ..... \$1,862,000

##### ***Direct State Services:***

##### **Personal Services:**

    Salaries and Wages ..... (\$1,708,000)  
     Materials and Supplies ..... (16,000)  
     Services Other Than Personal ..... (118,000)  
     Maintenance and Fixed Charges ..... (20,000)

##### **GRANTS-IN-AID**

80-2400 Statewide Planning and Coordination  
     for Higher Education ..... \$6,540,000  
 81-2401 Educational Opportunity Fund Programs ..... 36,597,000  
 Total Grants-in-Aid Appropriation,  
     Higher Educational Services ..... \$43,137,000

##### ***Grants-in-Aid:***

    80 College Bound ..... (\$2,900,000)  
     80 New Jersey Transfer Initiative .... (780,000)  
     80 Support for Statewide Network ... (350,000)  
     80 Higher Education for Special  
         Needs Students ..... (1,100,000)  
     80 Program for the Education of  
         Language Minority Students ..... (600,000)  
     80 Nursing Camp Grants ..... (360,000)  
     80 Minority Faculty Advancement  
         Program ..... (450,000)  
     81 Opportunity Program Grants .. (23,410,000)  
     81 Supplementary Education  
         Program Grants ..... (12,385,000)  
     81 Martin Luther King Physician -  
         Dentist Scholarship Act of 1986 .. (602,000)  
     81 Ferguson Law Scholarships ..... (200,000)  
 An amount not to exceed 5% of the total of Higher Education for Special Needs  
 Students and the Program for the Education of Language Minority Students  
 accounts is available for transfer to Direct State Services for the administrative

expenses of these programs, as determined by the Director of the Division of Budget and Accounting.

An amount not to exceed \$60,000 of the College Bound account is available for transfer to Direct State Services for the administrative expenses of this program, as determined by the Director of the Division of Budget and Accounting.

The unexpended balances as of June 30, 2004 for the Minority Faculty Advancement Program are appropriated.

Refunds from prior years to the Educational Opportunity Fund Programs accounts are appropriated to those accounts.

From the amount appropriated hereinabove for Nursing Camp Grants the Commission on Higher Education shall allocate four grants equal to \$90,000 each, one of which shall be allocated to Monmouth University.

#### ***2405 Higher Education Student Assistance Authority***

##### **DIRECT STATE SERVICES**

45-2405 Student Assistance Programs ..... \$2,297,000

Total Direct State Services Appropriation, Higher

Educational Student Assistance Authority ..... \$2,297,000

##### ***Direct State Services:***

###### **Personal Services:**

Salaries and Wages ..... (\$1,478,000)

Materials and Supplies ..... (43,000)

Services Other Than Personal ..... (754,000)

Maintenance and Fixed Charges ..... (22,000)

At any time prior to the issuance and sale of bonds or other obligations by the Higher Education Student Assistance Authority, the State Treasurer is authorized to transfer from any available moneys in any fund of the Treasury of the State to the credit of any fund of the authority such sums as the State Treasurer deems necessary. Any sums so transferred shall be returned to the same fund of the Treasury of the State by the State Treasurer from the proceeds of the sale of the first issue of authority bonds or other authority obligations.

##### **GRANTS-IN-AID**

45-2405 Student Assistance Programs ..... \$239,989,000

Total Grants-in-Aid Appropriation, Higher

Educational Student Assistance Authority ..... \$239,989,000

##### ***Grants-in-Aid:***

###### **45 Veterinary Medicine**

Education Program ..... (\$1,337,000)

45 Tuition Aid Grants ..... (202,574,000)

###### **45 Part-Time Tuition Aid Grants**

for County Colleges ..... (4,200,000)

45 Survivor Tuition Benefits ..... (50,000)

###### **45 Coordinated Garden State**

Scholarship Programs ..... (7,562,000)

###### **45 Part-Time Tuition Aid Grants --**

EOF Students ..... (620,000)

|                                                                                     |              |
|-------------------------------------------------------------------------------------|--------------|
| 45 Miss New Jersey Educational<br>Scholarship Program . . . . .                     | (11,000)     |
| 45 Teaching Fellows Program . . . . .                                               | (155,000)    |
| 45 Outstanding Scholar<br>Recruitment Program . . . . .                             | (13,169,000) |
| 45 NJBEST Scholarship Program . . . . .                                             | (11,000)     |
| 45 New Jersey World Trade Center<br>Scholarship Program . . . . .                   | (250,000)    |
| 45 Dana Christmas Scholarship for<br>Heroism . . . . .                              | (50,000)     |
| 45 New Jersey STARS (Student<br>Tuition Assistance Reward<br>Scholarship) . . . . . | (10,000,000) |

The sums provided hereinabove and the unexpended balances as of June 30, 2004 in Student Assistance Programs shall be appropriated and available for payment of liabilities applicable to prior fiscal years.

Amounts from the unexpended balance as of June 30, 2004, including refunds recognized after July 31, 2004, in the Tuition Aid Grants account are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any law to the contrary, the Higher Education Student Assistance Authority shall provide to students enrolled in public institutions of higher education who are eligible for maximum awards under the Tuition Aid Grant program appropriated hereinabove an increase above the fiscal year 2004 award amount equal to the difference between the in-state undergraduate 2003-2004 tuition rate for the institution and the institution's in-state undergraduate 2001-2002 tuition rate with comparable increases provided to students eligible for maximum awards enrolled at independent institutions. All other award amounts provided under the Tuition Aid Grant program shall be based on the same parameters as used by the Higher Education Student Assistance Authority in fiscal year 2004. Reappropriated balances in the Tuition Aid Grants account shall be held as a contingency for unanticipated increases in the number of applicants qualifying for full-time Tuition Aid Grant awards, to fund shifts in the distribution of awards that result in an increase in total program costs, or to offset any shortfalls in the federal Leveraging Educational Assistance Partnership (LEAP) program.

In addition to the amount appropriated hereinabove for Tuition Aid Grants, there are appropriated such sums as are required to cover the costs of increases in the number of applicants qualifying for full-time Tuition Aid Grants awards or fund shifts in the distribution of awards that result in an increase in total program costs, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any law or regulation to the contrary, any institution of higher education which participates in the Student Unit Record Enrollment data system may participate in the Outstanding Scholar Recruitment Program.

The amount appropriated hereinabove for the Dana Christmas Scholarship for Heroism shall be awarded in accordance with policies and procedures

established by the Higher Education Student Assistance Authority. In general, recipients must have performed the act of heroism for which they are being recognized prior to reaching their twenty-second birthday, awards are for a one-time only scholarship of up to \$10,000, and awards must be used for educational expenses related to attendance at a postsecondary institution that participates in the federal student assistance programs authorized under Title IV of the "Higher Education Act of 1965," as amended (20 U.S.C. s.1070 et seq.).

The amount appropriated hereinabove for Part-Time Tuition Assistance Grants for County Colleges shall be used to provide funds for a pilot program of tuition aid grants for eligible, qualified part-time students enrolled at the county colleges established pursuant to N.J.S.18A:64A-1 et seq. The tuition aid grants shall be used to pay the tuition at a county college established pursuant to N.J.S.18A:64A-1 et seq. Within the limits of available appropriations as determined by the Higher Education Student Assistance Authority, part-time grant awards shall be pro-rated against the full-time grant award for the applicable institutional sector established pursuant to N.J.S.18A:71B-21 as follows: an eligible student enrolled with six to eight credits shall receive one-half of the value of a full-time award and an eligible student enrolled with nine to eleven credits shall receive three-quarters of a full-time award. Students shall apply first for all other forms of federal student assistance grants and scholarships; student eligibility for the tuition aid grant awards program for part-time enrollment at a community college shall in other respects be determined by the authority in accordance with the criteria established pursuant to N.J.S.18A:71B-20, other than the criterion for full-time enrollment.

From the amount appropriated hereinabove for the Teaching Fellows Program the authority shall establish a Teaching Fellows Program that shall provide direct loans to finance the undergraduate study of academically talented students who have leadership potential and who are interested in teaching in a public school in the State. The program shall also provide for the redemption of a portion of each eligible student's loan expenses for each year of full-time employment as a teacher in a subject area of critical need or in a high-needs district.

From the amounts appropriated hereinabove for the Outstanding Scholar Recruitment Program, so much thereof as is necessary shall be expended by the Higher Education Student Assistance Authority to perform a study of the outcomes of the Outstanding Scholar Recruitment Program and its effectiveness in increasing the enrollment and retention of high achieving New Jersey High School graduates at New Jersey colleges and universities. The authority shall prepare a written report specifying the results of the study, including any recommendations for expansion or discontinuation of the program. This report shall be provided to the Governor no later than September 1, 2004.

Amounts from the unexpended balance as of June 30, 2004, including refunds recognized after July 31, 2004, in the Part-Time Tuition Aid Grants for County Colleges account are appropriated, subject to the approval of the Director of the Division of Budget and Accounting. Reappropriated balances shall be held as a contingency for unanticipated increases in the number of applicants qualifying for Part-Time Tuition Aid Grants for County Colleges awards or to fund shifts in the distribution of awards that result in an increase in total program costs.

**2410 Rutgers, The State University**  
**GRANTS-IN-AID**

82-2410 Institutional Support ..... \$1,458,826,000  
 Subtotal General Operations ..... \$1,458,826,000

**Less:**

*General Services Income* ..... *\$397,188,000*  
*Auxiliary Funds Income* ..... *196,661,000*  
*Special Funds Income* ..... *425,561,000*  
*Employee Fringe Benefits* ..... *150,220,000*  
*Total Income Deductions* ..... *\$1,169,630,000*  
 Total Appropriation, Rutgers,  
 The State University ..... \$289,196,000

**Special Purpose:**

82 General Institutional  
 Operations ..... (\$1,457,909,000)  
 82 High Enrollment  
 Growth Adjustment ..... (743,000)  
 82 Teacher Preparation ..... (174,000)

**Less:**

*Income Deductions* ..... *1,169,630,000*

Of the sums hereinabove appropriated for Rutgers, The State University, there is \$180,000 for the Masters in Government Accounting Program, \$105,000 for the Tomato Technology Transfer Program, \$95,000 for the Haskin Shellfish Research Laboratory, \$200,000 for the Camden Law School Clinical Legal Programs for the Poor, \$200,000 for the Newark Law School Clinical Legal Programs for the Poor, \$740,000 for the Civic-Square Project - Debt Service, \$75,000 for the Walter Rand Institute for Public Affairs, \$700,000 for In Lieu of Taxes to New Brunswick, \$500,000 for capital projects or maintenance for Division of Intercollegiate Athletic facilities at Rutgers, New Brunswick, \$135,000 for E3CO, Inc. and \$515,000 for the New Jersey EcoComplex, Burlington County. These accounts shall be considered special purpose appropriations for accounting and reporting purposes.

Receipts in excess of the amount hereinabove for the Clinical Legal Programs for the Poor are appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

For the purpose of implementing the fiscal year 2005 appropriations act, the number of State-funded positions at Rutgers, The State University shall be 6,678.

From the amount appropriated hereinabove for Rutgers, The State University, \$90,000 is transferred to the Department of Agriculture for a grant to the New Jersey Museum of Agriculture.

The unexpended balances as of June 30, 2004, in the General Institutional Operations account of Rutgers, The State University, is appropriated and shall be transferred to the New Jersey Stem Cell Research Institute account in the Department of the Treasury, subject to the approval of the Director of the Division of Budget and Accounting.

**2415 Agricultural Experiment Station  
GRANTS-IN-AID**

82-2415 Institutional Support ..... \$81,397,000  
 Subtotal General Operations ..... \$81,397,000

**Less:**

**Special Funds Income** ..... **\$39,977,000**  
**Federal Research and Extension**  
**Funds Income** ..... **6,855,000**  
**Employee Fringe Benefits** ..... **8,407,000**  
**Total Income Deductions** ..... **\$55,239,000**  
 Total Appropriation, Agricultural  
 Experiment Station ..... \$26,158,000

**Special Purpose:**

82 General Institutional  
 Operations ..... (\$79,597,000)  
 82 Food Innovation Research and  
 Extension Center ..... (1,800,000)

**Less:**

**Income Deductions** ..... **55,239,000**

Of the sums hereinabove appropriated for the New Jersey Agricultural Experiment Station, there is \$900,000 for Strategic Initiatives Programs, \$250,000 for Blueberry and Cranberry Research, \$691,000 for the Snyder Farm Planning and Operation, and \$500,000 for Fruit Research. These accounts shall be considered special purpose appropriations for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2005 appropriations act, the number of State-funded positions at the Agricultural Experiment Station shall be 424.

For the purpose of implementing the fiscal year 2005 appropriations act, the fringe benefits for 126 positions, funded by the federal Hatch and Smith/Lever programs, are funded by the State.

**2420 University of Medicine and Dentistry of New Jersey  
GRANTS-IN-AID**

82-2420 Institutional Support ..... \$1,347,423,000  
 Subtotal General Operations ..... \$1,347,423,000

**Less:**

**Hospital Services Income** ..... **\$543,721,000**  
**Core Affiliates Income** ..... **9,175,000**  
**General Services Income** ..... **117,088,000**  
**Auxiliary Funds Income** ..... **6,182,000**  
**Special Funds Income** ..... **309,929,000**  
**Employee Fringe Benefits** ..... **161,486,000**  
**Total Income Deductions** ..... **\$1,147,581,000**  
 Total Appropriation, University of Medicine  
 and Dentistry of New Jersey ..... \$199,842,000

**Special Purpose:**

|                                                                                        |                   |
|----------------------------------------------------------------------------------------|-------------------|
| 82 General Institutional Operations . . . . .                                          | (\$1,340,223,000) |
| 82 Governor's Council for Medical Research and Treatment of Infantile Autism . . . . . | (500,000)         |
| 82 Cancer Institute of New Jersey and Ancillary Facilities . . . . .                   | (5,000,000)       |
| 82 Child Health Institute . . . . .                                                    | (1,700,000)       |

**Less:**

***Income Deductions . . . . . 1,147,581,000***

The University of Medicine and Dentistry of New Jersey is authorized to operate its continuing medical-dental education program as a revolving fund and the revenue collected therefrom, and any unexpended balance therein, is retained for such fund.

The unexpended balances as of June 30, 2004, in the accounts hereinabove are appropriated for the purposes of the University of Medicine and Dentistry of New Jersey.

In addition to the sums hereinabove appropriated to the University of Medicine and Dentistry of New Jersey, all revenues from lease agreements between the university and contracted organizations are appropriated.

From the amount hereinabove for the University of Medicine and Dentistry of New Jersey, the Director of the Division of Budget and Accounting may transfer such amounts as deemed necessary to the Division of Medical Assistance and Health Services to maximize federal Medicaid funds.

From the amount hereinabove for the University of Medicine and Dentistry of New Jersey, the Director of the Division of Budget and Accounting may transfer such amounts related to hospital employee fringe benefits costs equal to enhanced Medicaid inpatient hospital payments for a hospital that has been recognized as a nominal charge hospital for the three years prior to June 30, 2000.

Of the sums hereinabove appropriated for the University of Medicine and Dentistry of New Jersey, there is \$100,000 for the Inflammatory Bowel Disease Center, \$800,000 for Emergency Medical Service-Camden, \$975,000 for the Regional Health Education Center-Physical Plant, \$750,000 for the Violence Institute of NJ at UMDNJ, \$525,000 for the Regional Health Education Center-Educational Units, \$290,000 for the New Jersey Area Health Education Program, \$4,000,000 for Debt Service- Robert Wood Johnson Medical School, Camden, and \$2,700,000 for Debt Service-School of Osteopathic Medicine Academic Center, Stratford. These accounts shall be considered special purpose appropriations for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2005 appropriations act, the number of State-funded positions at the University of Medicine and Dentistry of New Jersey shall be 5,545.

**2430 New Jersey Institute of Technology  
GRANTS-IN-AID**

82-2430 Institutional Support . . . . . \$226,535,000  
 Subtotal General Operations . . . . . \$226,535,000

**Less:**

*General Services Income* . . . . . **\$76,132,000**  
*Auxiliary Funds Income* . . . . . **10,166,000**  
*Special Funds Income* . . . . . **68,620,000**  
*Employee Fringe Benefits* . . . . . **22,777,000**  
*Total Income Deductions* . . . . . **\$177,695,000**  
 Total Appropriation, New Jersey Institute  
 of Technology . . . . . \$48,840,000

Special Purpose:

82 General Institutional Operations . (\$226,385,000)  
 82 Smart Shunt Research . . . . . (150,000)

**Less:**

*Income Deductions* . . . . . **177,695,000**

For the purpose of implementing the fiscal year 2005 appropriations act, the number of State-funded positions at the New Jersey Institute of Technology shall be 805.

**2440 Thomas A. Edison State College  
GRANTS-IN-AID**

82-2440 Institutional Support . . . . . \$26,220,000  
 Subtotal General Operations . . . . . \$26,220,000

**Less:**

*Self Sustaining Income* . . . . . **5,265,000**  
*General Services Income* . . . . . **11,019,000**  
*Employee Fringe Benefits* . . . . . **3,986,000**  
*Total Income Deductions* . . . . . **\$20,270,000**  
 Total Appropriation, Thomas A.  
 Edison State College . . . . . \$5,950,000

Special Purpose:

82 General Institutional  
 Operations . . . . . (\$25,906,000)  
 82 The John S. Watson Institute  
 for Public Policy . . . . . (314,000)

**Less:**

*Income Deductions* . . . . . **20,270,000**

For the purpose of implementing the fiscal year 2005 appropriations act, the number of State-funded positions at Thomas A. Edison State College shall be 239.

**2445 Rowan University  
GRANTS-IN-AID**

82-2445 Institutional Support . . . . . \$147,455,000  
 Subtotal General Operations . . . . . \$147,455,000



**Less:**

|                                             |                      |
|---------------------------------------------|----------------------|
| <i>General Services Income</i> .....        | <i>\$64,326,000</i>  |
| <i>Auxiliary Funds Income</i> .....         | <i>22,567,000</i>    |
| <i>Special Funds Income</i> .....           | <i>4,000,000</i>     |
| <i>Employee Fringe Benefits</i> .....       | <i>19,701,000</i>    |
| <i>Total Income Deductions</i> .....        | <i>\$110,594,000</i> |
| Total Appropriation, Rowan University ..... | <u>\$36,861,000</u>  |

## Special Purpose:

|                                            |                 |
|--------------------------------------------|-----------------|
| 82 General Institutional Operations .....  | (\$146,597,000) |
| 82 High Enrollment Growth Adjustment ..... | (327,000)       |
| 82 Teacher Preparation .....               | (531,000)       |

**Less:**

*Income Deductions* ..... *110,594,000*

Of the sums hereinabove appropriated for Rowan University, there is \$500,000 for the School of Engineering and \$215,000 for the Camden Urban Center. These accounts shall be considered special purpose appropriations for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2005 appropriations act, the number of State-funded positions at Rowan University shall be 877.

**2450 New Jersey City University  
GRANTS-IN-AID**

|                                     |                      |
|-------------------------------------|----------------------|
| 82-2450 Institutional Support ..... | <u>\$104,704,000</u> |
| Subtotal General Operations .....   | <u>\$104,704,000</u> |

**Less:**

|                                                       |                     |
|-------------------------------------------------------|---------------------|
| <i>General Services Income</i> .....                  | <i>\$30,340,000</i> |
| <i>A.H. Moore Program Receipts</i> .....              | <i>4,390,000</i>    |
| <i>Auxiliary Funds Income</i> .....                   | <i>4,574,000</i>    |
| <i>Special Funds Income</i> .....                     | <i>17,483,000</i>   |
| <i>Employee Fringe Benefits</i> .....                 | <i>16,855,000</i>   |
| <i>Total Income Deductions</i> .....                  | <i>\$73,642,000</i> |
| Total Appropriation, New Jersey City University ..... | <u>\$31,062,000</u> |

## Special Purpose:

|                                            |                 |
|--------------------------------------------|-----------------|
| 82 General Institutional Operations .....  | (\$103,753,000) |
| 82 High Enrollment Growth Adjustment ..... | (620,000)       |
| 82 Teacher Preparation .....               | (331,000)       |

**Less:**

*Income Deductions* ..... *73,642,000*

Of the sums hereinabove appropriated for New Jersey City University, there is \$1,078,000 for the A. Harry Moore Laboratory School, and \$145,000 for Tidelands Athletic Fields. These accounts shall be considered special purpose appropriations for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2005 appropriations act, the number of State-funded positions at New Jersey City University shall be 784.

**2455 Kean University  
GRANTS-IN-AID**

82-2455 Institutional Support . . . . . \$162,751,000  
Subtotal General Operations . . . . . \$162,751,000

**Less:**

*General Services Income* . . . . . \$66,772,000  
*Auxiliary Funds Income* . . . . . 12,630,000  
*Special Funds Income* . . . . . 22,975,000  
*Employee Fringe Benefits* . . . . . 20,096,000  
*Total Income Deductions* . . . . . \$122,473,000  
Total Appropriation, Kean University . . . . . \$40,278,000

**Special Purpose:**

82 General Institutional  
Operations . . . . . (\$161,093,000)  
82 High Enrollment Growth  
Adjustment . . . . . (1,078,000)  
82 Teacher Preparation . . . . . (580,000)

**Less:**

*Income Deductions* . . . . . 122,473,000

Of the sums hereinabove appropriated for Kean University, there is \$180,000 for Emerging Needs/Academic Initiatives. This account shall be considered a special purpose appropriation for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2005 appropriations act, the number of State-funded positions at Kean University shall be 888.

**2460 William Paterson University of New Jersey  
GRANTS-IN-AID**

82-2460 Institutional Support . . . . . \$144,110,000  
Subtotal General Operations . . . . . \$144,110,000

**Less:**

*General Services Income* . . . . . \$45,182,000  
*Auxiliary Funds Income* . . . . . 24,327,000  
*Special Funds Income* . . . . . 14,191,000  
*Employee Fringe Benefits* . . . . . 20,811,000  
*Total Income Deductions* . . . . . \$104,511,000  
Total Appropriation, William Paterson  
University of New Jersey . . . . . \$39,599,000

**Special Purpose:**

82 General Institutional  
Operations . . . . . (\$142,924,000)  
82 High Enrollment Growth  
Adjustment . . . . . (1,039,000)  
82 Teacher Preparation . . . . . (147,000)

**Less:****Income Deductions . . . . . 104,511,000**

Of the sums hereinabove appropriated for William Paterson University of New Jersey, there is \$100,000 for the New Jersey Project and \$65,000 for Outcomes Assessment. These accounts shall be considered special purpose appropriations for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2005 appropriations act, the number of State-funded positions at William Paterson University of New Jersey shall be 947.

**2465 Montclair State University  
GRANTS-IN-AID**

|                                         |                      |
|-----------------------------------------|----------------------|
| 82-2465 Institutional Support . . . . . | <u>\$195,284,000</u> |
| Subtotal General Operations . . . . .   | <u>\$195,284,000</u> |

**Less:****General Services Income . . . . . \$89,375,000****Conservation School Receipts . . . . . 860,000****Auxiliary Funds Income . . . . . 26,570,000****Special Funds Income . . . . . 8,019,000****Employee Fringe Benefits . . . . . 25,177,000****Total Income Deductions . . . . . \$150,001,000**Total Appropriation, Montclair State University . . . . \$45,283,000

## Special Purpose:

|                                                   |                 |
|---------------------------------------------------|-----------------|
| 82 General Institutional<br>Operations . . . . .  | (\$193,095,000) |
| 82 High Enrollment Growth<br>Adjustment . . . . . | (1,854,000)     |
| 82 Teacher Preparation . . . . .                  | (335,000)       |

**Less:****Income Deductions . . . . . 150,001,000**

In addition to the sums hereinabove appropriated for Montclair State University, all revenues from lease agreements between Montclair State University and corporations operating satellite relay stations are appropriated.

Of the sums hereinabove appropriated for Montclair State University, there is \$1,050,000 for the New Jersey State School of Conservation. This account shall be considered a special purpose appropriation for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2005 appropriations act, the number of State-funded positions at Montclair State University shall be 1,102.

**2470 The College of New Jersey  
GRANTS-IN-AID**

|                                         |                      |
|-----------------------------------------|----------------------|
| 82-2470 Institutional Support . . . . . | <u>\$144,053,000</u> |
| Subtotal General Operations . . . . .   | <u>\$144,053,000</u> |

**Less:****General Services Income . . . . . \$46,471,000****Auxiliary Funds Income . . . . . 29,540,000**

|                                                |                      |
|------------------------------------------------|----------------------|
| <i>Special Funds Income</i> .....              | <i>12,987,000</i>    |
| <i>Employee Fringe Benefits</i> .....          | <i>19,270,000</i>    |
| <i>Total Income Deductions</i> .....           | <i>\$108,268,000</i> |
| Total Appropriation, The College of New Jersey | <u>\$35,785,000</u>  |
| Special Purpose:                               |                      |
| 82 General Institutional Operations .....      | (\$143,737,000)      |
| 82 High Enrollment Growth Adjustment .....     | (166,000)            |
| 82 Teacher Preparation .....                   | (150,000)            |
| <b>Less:</b>                                   |                      |
| <i>Income Deductions</i> .....                 | <i>108,268,000</i>   |

For the purpose of implementing the fiscal year 2005 appropriations act, the number of State-funded positions at The College of New Jersey shall be 823.

**2475 Ramapo College of New Jersey**  
**GRANTS-IN-AID**

|                                                         |                     |
|---------------------------------------------------------|---------------------|
| 82-2475 Institutional Support .....                     | <u>\$94,006,000</u> |
| Subtotal General Operations .....                       | <u>\$94,006,000</u> |
| <b>Less:</b>                                            |                     |
| <i>General Services Income</i> .....                    | <i>\$32,282,000</i> |
| <i>Auxiliary Funds Income</i> .....                     | <i>27,724,000</i>   |
| <i>Special Funds Income</i> .....                       | <i>3,623,000</i>    |
| <i>Employee Fringe Benefits</i> .....                   | <i>10,737,000</i>   |
| <i>Total Income Deductions</i> .....                    | <i>\$74,366,000</i> |
| Total Appropriation, Ramapo College of New Jersey ..... | <u>\$19,640,000</u> |
| Special Purpose:                                        |                     |
| 82 General Institutional Operations .....               | (\$93,345,000)      |
| 82 High Enrollment Growth Adjustment .....              | (661,000)           |
| <b>Less:</b>                                            |                     |
| <i>Income Deductions</i> .....                          | <i>74,366,000</i>   |

Of the sums hereinabove appropriated for Ramapo College of New Jersey, there is \$200,000 for the Governor William T. Cahill Recognition Programs. This account shall be considered a special purpose appropriation for accounting and reporting purposes.

For the purpose of implementing the fiscal year 2005 appropriations act, the number of State-funded positions at Ramapo College of New Jersey shall be 481.

**2480 The Richard Stockton College of New Jersey**  
**GRANTS-IN-AID**

|                                      |                     |
|--------------------------------------|---------------------|
| 82-2480 Institutional Support .....  | <u>\$92,319,000</u> |
| Subtotal General Operations .....    | <u>\$92,319,000</u> |
| <b>Less:</b>                         |                     |
| <i>General Services Income</i> ..... | <i>\$32,975,000</i> |

|                                                                          |                     |
|--------------------------------------------------------------------------|---------------------|
| <i>Auxiliary Funds Income</i> .....                                      | 18,951,000          |
| <i>Special Funds Income</i> .....                                        | 4,631,000           |
| <i>Employee Fringe Benefits</i> .....                                    | 11,967,000          |
| <i>Total Income Deductions</i> .....                                     | \$68,524,000        |
| Total Appropriation, The Richard Stockton<br>College of New Jersey ..... | <u>\$23,795,000</u> |

## Special Purpose:

|                                               |                |
|-----------------------------------------------|----------------|
| 82 General Institutional<br>Operations .....  | (\$91,569,000) |
| 82 High Enrollment Growth<br>Adjustment ..... | (512,000)      |
| 82 School of Tourism .....                    | (150,000)      |
| 82 Teacher Preparation .....                  | (88,000)       |

**Less:**

*Income Deductions* ..... 68,524,000

For the purpose of implementing the fiscal year 2005 appropriations act, the number of State-funded positions at The Richard Stockton College of New Jersey shall be 622.

***Higher Educational Services***

From the sums appropriated hereinabove for Higher Educational Services - Institutional Support in each of the State colleges and universities, there are allocated such sums as are required to provide the reimbursement to cover tuition costs of the National Guard members pursuant to subsection b. of section 21 of P.L.1999, c.46 (C.18A:62-24).

Public colleges and universities are authorized to provide a voluntary employee furlough program.

Notwithstanding the provisions of any other law to the contrary, any funds appropriated as Grants-in-Aid and payable to any senior public college or university which requests approval from the Educational Facilities Authority and the Director of the Division of Budget and Accounting may be pledged as a guarantee for payment of principal and interest on any bonds issued by the Educational Facilities Authority or by the college or university. Such funds, if so pledged, shall be made available by the State Treasurer upon receipt of written notification by the Educational Facilities Authority or the Director of the Division of Budget and Accounting that the college or university does not have sufficient funds available for prompt payment of principal and interest on such bonds, and shall be paid by the State Treasurer directly to the holders of such bonds at such time and in such amounts as specified by the bond indenture, notwithstanding that payment of such funds does not coincide with any date for payment otherwise fixed by law.

From the amounts appropriated hereinabove for General Institutional Operations in the senior public institutions, the State Treasurer is authorized to pay the final 1/24th of fiscal year 2004 General Institutional Operations grant payment to each senior public institution in July 2004.

Of the amount hereinabove for Higher Educational Services, such sums as the Director of the Division of Budget and Accounting shall determine from the

schedule included in the Governor's Budget Recommendation Document dated February 24, 2004, first shall be charged to the State Lottery Fund. Notwithstanding any provision of law to the contrary, the amount appropriated hereinabove for any Senior Public College or University shall be reduced by an amount equal to twice the revenue derived by that institution by that portion of the average undergraduate 2004-2005 tuition that exceeds an 8% growth above its average undergraduate 2003-2004 tuition.

### ***30 Educational, Cultural and Intellectual Development***

#### ***37 Cultural and Intellectual Development Services***

##### **DIRECT STATE SERVICES**

|                                                                                                    |                    |
|----------------------------------------------------------------------------------------------------|--------------------|
| 05-2530 Support of the Arts .....                                                                  | \$500,000          |
| 06-2535 Museum Services .....                                                                      | 2,530,000          |
| 07-2540 Development of Historical Resources .....                                                  | 500,000            |
| 10-2570 Public Broadcasting Services .....                                                         | <u>6,146,000</u>   |
| Total Direct State Services Appropriation, Cultural<br>and Intellectual Development Services ..... | <u>\$9,676,000</u> |

##### ***Direct State Services:***

###### **Personal Services:**

|                                     |               |
|-------------------------------------|---------------|
| Salaries and Wages .....            | (\$7,850,000) |
| Materials and Supplies .....        | (241,000)     |
| Services Other Than Personal .....  | (737,000)     |
| Maintenance and Fixed Charges ..... | (203,000)     |

###### **Special Purpose:**

|                                                                 |           |
|-----------------------------------------------------------------|-----------|
| 06 Maintenance of Old Barracks ....                             | (375,000) |
| 06 War Memorial Operations .....                                | (250,000) |
| 10 Affirmative Action and Equal<br>Employment Opportunity ..... | (20,000)  |

A sum, not to exceed \$225,000, is appropriated from the "Cultural Centers and Historic Preservation Fund," established pursuant to section 20 of P.L.1987, c.265, for costs attributable to planning and administering grants for the development of cultural centers, subject to the approval of the Director of the Division of Budget and Accounting.

##### **GRANTS-IN-AID**

|                                                                                            |                     |
|--------------------------------------------------------------------------------------------|---------------------|
| 05-2530 Support of the Arts .....                                                          | \$28,180,000        |
| 06-2535 Museum Services .....                                                              | 3,800,000           |
| 07-2540 Development of Historical Resources .....                                          | <u>4,642,000</u>    |
| Total Grants-in-Aid Appropriation, Cultural and<br>Intellectual Development Services ..... | <u>\$36,622,000</u> |

##### ***Grants-in-Aid:***

|                                      |               |
|--------------------------------------|---------------|
| 05 Newark Museum .....               | (\$5,000,000) |
| 05 Cultural Projects .....           | (22,680,000)  |
| 05 New Jersey Symphony Orchestra .   | (500,000)     |
| 06 War Memorial Operations .....     | (800,000)     |
| 06 Battleship New Jersey Museum .    | (3,000,000)   |
| 07 Grants in New Jersey History .... | (189,000)     |

07 Grants in Afro-American History . . . (13,000)

07 Ellis Island New Jersey

Foundation . . . . . (600,000)

07 New Jersey Historical

Commission - Agency Grants . . . (3,840,000)

Of the amount appropriated for Cultural Projects, Grants-In- Aid, an amount not to exceed \$75,000 may be used for administrative purposes, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount appropriated for Cultural Projects, Grants-In-Aid, an amount not to exceed \$125,000 may be used for the assessment and oversight of cultural projects, including administrative costs attendant to this function, in compliance with all pertinent State and federal laws and regulations including the Single Audit Act, subject to the approval of the Director of the Division of Budget and Accounting.

Of the amount hereinabove for Cultural Projects, the value of project grants awarded within each county shall total not less than \$50,000.

Of the amount hereinabove for Cultural Projects, funds may be used for the purpose of matching federal grants.

Notwithstanding the provisions of section 4 of P.L.1999, c.131 (C.18A:73-22.4), from the amount appropriated for New Jersey Historical Commission Research and Agency Grants, an amount not to exceed \$200,000 is appropriated for administrative costs, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provision of any other law to the contrary, of the amount appropriated for Cultural Projects, 25% shall be awarded to cultural groups or artists based in the eight southernmost counties (Cape May, Salem, Cumberland, Gloucester, Camden, Ocean, Atlantic, and Burlington). In the calculation of the allocation percentage, the first \$1,000,000 of any grants that may be awarded to the New Jersey Performing Arts Center or the South Jersey Performing Arts Center shall be disregarded.

From the amount appropriated for the Battleship New Jersey Museum, \$500,000 shall be paid to the Economic Development Authority on behalf of the Battleship New Jersey Museum and \$1,000,000 shall be allocated for capital and maintenance expenses of the Battleship New Jersey Museum.

#### **CAPITAL CONSTRUCTION**

10-2570 Public Broadcasting Services . . . . . \$1,000,000

Total Capital Construction Appropriation, Cultural

and Intellectual Development Services . . . . . \$1,000,000

#### ***Capital Projects:***

10 New Jersey Network:

Microwave Technology . . . . . (1,000,000)

#### ***2541 Division of State Library***

#### **DIRECT STATE SERVICES**

51-2541 Library Services . . . . . \$10,245,000

Total Direct State Services Appropriation,  
Division of State Library ..... \$10,245,000

***Direct State Services:*****Personal Services:**

Salaries and Wages ..... (\$3,107,000)  
Materials and Supplies ..... (418,000)  
Services Other Than Personal ..... (193,000)  
Maintenance and Fixed Charges ..... (27,000)

**Special Purpose:**

51 Virtual Library ..... (6,000,000)  
51 Supplies and Extended  
Services ..... (500,000)

**STATE AID**

51-2541 Library Services ..... \$16,827,000

Total State Aid Appropriation, Division of

State Library ..... \$16,827,000

***State Aid:***

51 Per Capita Library Aid . . . . . (\$8,665,000)  
51 Library Network ..... (4,777,000)  
51 Virtual Library Aid ..... (1,300,000)  
51 Public Library Project Fund .... (2,085,000)

***70 Government Direction, Management and Control******74 General Government Services******2505 Office of the Secretary of State*****DIRECT STATE SERVICES**

01-2505 Office of the Secretary of State ..... \$4,440,000

08-2545 Records Management ..... 2,086,000

Total Direct State Services Appropriation, Office of

the Secretary of State ..... \$6,526,000

***Direct State Services:*****Personal Services:**

Salaries and Wages ..... (\$3,775,000)  
Materials and Supplies ..... (124,000)  
Services Other Than Personal ..... (278,000)  
Maintenance and Fixed Charges ..... (38,000)

**Special Purpose:**

01 Affirmative Action and Equal  
Employment ..... (34,000)  
01 9-11 Memorial Commission ..... (50,000)  
01 Personal Responsibility Programs . (500,000)  
01 Armistad Commission ..... (300,000)  
01 Citizens Task Force on  
Constitutional Convention ..... (250,000)  
01 Martin Luther King, Jr.  
Commemorative Commission ... (168,000)



01 Office of Volunteerism . . . . . (259,000)  
 01 Cultural Trust - Administration . . . (250,000)  
 01 Additions, Improvements and  
     Equipment . . . . . (500,000)

In addition to the amount appropriated hereinabove for the Records Management program, such sums as are necessary, not to exceed \$3,000,000, are appropriated to coordinate and implement an effective record storage system for the State and local governments, subject to the Director of the Division of Budget and Accounting.

An amount not to exceed \$325,000 from the unexpended balances in the Office of the Secretary of State as of June 30, 2004 is appropriated for the Governor's Study Commission on Discrimination in State Employment Contracting, subject to the approval of the Director of the Division of Budget and Accounting.

From the amount appropriated hereinabove for the Amistad Commission, the commission shall expeditiously implement and perform its responsibilities and duties as provided in P.L.2002, c.75 (C.52:16A-86 et. seq.).

The amount appropriated hereinabove for the Records Management program is payable from receipts deposited in the New Jersey Public Records Preservation Account.

The Director of the Division of Budget and Accounting shall transfer from departmental accounts and credit to the Records Management program classification a sum up to \$409,000 for cost recoveries in the Division of Records.

The unexpended balance of the Amistad Commission as of June 30, 2004 is appropriated for the same purpose.

Notwithstanding the provision of any other law to the contrary, receipts deposited, not to exceed 40%, in the Department of the Treasury, the New Jersey Public Records Preservation Account shall be appropriated and allocated as grants to counties and municipalities for the management, storage, and preservation of public records, based on guidelines promulgated by the Division of Archives and Records Management and approved by the State Treasurer.

#### **GRANTS-IN-AID**

01-2505 Office of the Secretary of State . . . . . \$3,720,000

Total Grants-in-Aid Appropriation, Office of the

Secretary of State . . . . . \$3,720,000

#### ***Grants-in-Aid:***

01 Cultural Trust . . . . . (\$720,000)

01 Office of Faith Based Initiatives . . (3,000,000)

Department of State, Total State Appropriation . . \$1,214,190,000

Pursuant to the provisions of P.L.2003, c.114, the appropriations hereinabove for purposes of promoting cultural and tourism activities in this State are first charged to revenues derived from the hotel and motel occupancy fee.

***Summary of Department of State Appropriations  
(For Display Purposes Only)***

*Appropriations by Category:*

|                             |               |
|-----------------------------|---------------|
| Direct State Services ..... | \$30,606,000  |
| Grants-in-Aid .....         | 1,165,757,000 |
| State Aid .....             | 16,827,000    |
| Capital Construction .....  | 1,000,000     |

*Appropriations by Fund:*

|                    |                 |
|--------------------|-----------------|
| General Fund ..... | \$1,214,190,000 |
|--------------------|-----------------|

**78 DEPARTMENT OF TRANSPORTATION**

***10 Public Safety and Criminal Justice***

***11 Vehicular Safety***

Notwithstanding the provisions of the "Motor Vehicle Inspection Fund" established pursuant to subsection j. of R.S.39:8-2, balances in the fund are available for other Clean Air purposes, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in the "Commercial Vehicle Enforcement Fund" established pursuant to section 17 of P.L.1995, c.157 (C.39:8-75), are appropriated to offset all reasonable and necessary expenses of the Division of State Police and the Motor Vehicle Commission in the performance of commercial truck safety and emission inspections, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts derived pursuant to the New Jersey Medical Service Helicopter Response Program under section 1 of P.L.1992, c.87 (C.39:3-8.2) are appropriated to the Division of State Police and the Department of Health and Senior Services to defray the operating costs of the program as authorized under P.L.1986, c.106 (C.26:2K-35 et seq.). The unexpended balance as of June 30, 2004 is appropriated to the special capital maintenance reserve account for capital replacement and major maintenance of helicopter equipment, subject to the approval of the Director of the Division of Budget and Accounting.

***60 Transportation Programs***

***61 State and Local Highway Facilities***

**DIRECT STATE SERVICES**

|                                                                                        |                     |
|----------------------------------------------------------------------------------------|---------------------|
| 06-6100 Maintenance and Operations .....                                               | \$75,304,000        |
| 08-6120 Physical Plant and Support Services .....                                      | <u>7,194,000</u>    |
| Total Direct State Services Appropriation, State and<br>Local Highway Facilities ..... | <u>\$82,498,000</u> |

***Direct State Services:***

Personal Services:

|                                     |                |
|-------------------------------------|----------------|
| Salaries and Wages .....            | (\$50,778,000) |
| Materials and Supplies .....        | (12,414,000)   |
| Services Other Than Personal .....  | (3,032,000)    |
| Maintenance and Fixed Charges ..... | (15,063,000)   |

Special Purpose:

## Additions, Improvements

and Equipment . . . . . (1,211,000)

The unexpended balances as of June 30, 2004 in excess of \$1,000,000 in the accounts hereinabove are appropriated.

In addition to the amount appropriated hereinabove for Maintenance and Operations, such additional sums as may be required are appropriated for snow removal costs, not to exceed \$10,000,000, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any other law to the contrary, of the amounts appropriated hereinabove for the Department of Transportation from the General Fund, \$2,500,000 thereof shall be paid from funds received or receivable from the various transportation-oriented authorities pursuant to contracts between the authorities and the State as are determined to be eligible for such funding pursuant to such contracts, as shall be determined by the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated from the Logo Sign program fees, which include the Trailblazer Sign Program, the Variable Message Advertising Program, the Excess Parcel Advertising Program, and the Land Service Road Advertising Program, are appropriated for the purpose of administering the program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of the amount anticipated derived from highway application and permit fees pursuant to subsection (h) of section 5 of P.L.1966, c.301(C.27:1A-5) are appropriated for the purpose of administering the Access Permit Review program, subject to the approval of the Director of the Division of Budget and Accounting.

The department is permitted to transfer an amount approved by the Director of the Division of Budget and Accounting from funds previously appropriated for State highway projects from the "Transportation Rehabilitation and Improvement Fund of 1979," established pursuant to section 15 of P.L.1979, c.165, for planning, engineering, design, right-of-way acquisition, or other costs related to the construction of projects financed from that fund.

Of the amount hereinabove for Maintenance and Operations \$10,000,000 for winter operations is payable from the receipts of the New Tire Surcharge subject to the enactment of enabling legislation.

**CAPITAL CONSTRUCTION**

60-6200 Trust Fund Authority . . . . . \$805,000,000

Total Capital Construction Appropriation,

State and Local Highway Facilities . . . . . \$805,000,000

**Capital Projects:**

Transportation Trust

Fund Account . . . . . (\$805,000,000)

The sum provided hereinabove for the Transportation Trust Fund account shall first be provided from revenues received from motor fuel taxes, the petroleum products gross receipts tax, and the sales and use tax pursuant to Article VIII, Section II, paragraph 4 of the State Constitution, together with such additional

sums pursuant to P.L.1984, c.73 (C.27:1B-1 et al.) and R.S.54:39-27 as amended, as may be necessary to satisfy all fiscal year 2005 debt service, bond reserve requirements, and other fiscal obligations of the New Jersey Transportation Trust Fund Authority.

Receipts representing the State share from the rental or lease of property, and the unexpended balances as of June 30, 2004 of such receipts are appropriated for maintenance or improvement of transportation property, equipment and facilities.

Notwithstanding any other requirements of law, the department may expend necessary sums for improvements to streets and roads providing access to State facilities within the capital city without local participation.

Notwithstanding any other provision of law, the Department of Transportation may transfer Transportation Trust Fund monies to federal projects contracted in federal fiscal years 2002, 2003, 2004, and 2005 until such time as federal funds become available for the projects. These transfers shall be subject to the approval of the Director of the Division of Budget and Accounting and the Legislative Budget and Finance Officer. Subject to the receipt of federal funds, the Transportation Trust Fund shall be reimbursed for all the monies that were transferred to advance federally funded projects.

Notwithstanding the provisions of P.L.1984, c.73 (C.27:1B-1 et al.), there is appropriated the sum of \$686,000,000 from the revenues and other funds of the New Jersey Transportation Trust Fund Authority for the specific projects identified under the seven general program headings as follows:

| <u>Route</u> | <u>Section</u>  | <u>Description</u>             | <u>County</u> | <u>Amount</u> |
|--------------|-----------------|--------------------------------|---------------|---------------|
| CR518        | I. Construction | 69th Street Bridge             | Hudson        | (\$1,000,000) |
|              |                 | Access Management              | Various       | (250,000)     |
|              |                 | Access Permit Application      |               |               |
|              |                 | Review                         | Various       | (100,000)     |
|              |                 | Airport Safety Fund            | Various       | (7,000,000)   |
|              |                 | Bedens Brook Bridge            | Somerset      | (2,000,000)   |
|              |                 | Betterments, bridge            |               |               |
|              |                 | preservation                   | Various       | (10,000,000)  |
|              |                 | Betterments, roadway           |               |               |
|              |                 | preservation                   | Various       | (7,000,000)   |
|              |                 | Betterments, safety            | Various       | (4,000,000)   |
|              |                 | Bicycle projects, local system | Various       | (4,000,000)   |
|              |                 | Bridge, emergency repair       | Various       | (10,000,000)  |
|              |                 | Congestion Relief, Intelligent |               |               |
|              |                 | Transportation System          |               |               |
|              |                 | Improvements                   | Various       | (5,000,000)   |
|              |                 | Congestion Relief, Operation   |               |               |
|              |                 | Improvements (Fast Move        |               |               |
|              |                 | Program)                       | Various       | (9,000,000)   |
|              |                 | Construction inspection        | Various       | (3,000,000)   |
|              |                 | Culvert inspection program     | Various       | (600,000)     |
|              |                 | Dams, betterments              | Various       | (200,000)     |

|                    |                                                           |                                             |              |
|--------------------|-----------------------------------------------------------|---------------------------------------------|--------------|
| 40,42,<br>206, 676 | Drainage rehabilitation and maintenance, State            | Various                                     | (3,000,000)  |
|                    | Duck Island Landfill, Site Remediation                    | Mercer                                      | (100,000)    |
|                    | Electrical facilities                                     | Various                                     | (1,500,000)  |
|                    | Emergency response operations                             | Various                                     | (250,000)    |
|                    | Environmental Investigations                              | Various                                     | (2,000,000)  |
|                    | Equipment (Safety Related)                                | Various                                     | (3,000,000)  |
|                    | Equipment (Vehicles and Construction)                     | Various                                     | (4,000,000)  |
|                    | Freight program                                           | Various                                     | (10,000,000) |
|                    | Hackettstown remediation                                  | Morris                                      | (50,000)     |
|                    | Legal Costs for Right of Way Condemnation                 | Various                                     | (1,300,000)  |
|                    | Local aid for Centers of Place                            | Various                                     | (2,000,000)  |
|                    | Maritime transportation system                            | Various                                     | (3,000,000)  |
|                    | Newark circulation improvements                           | Essex                                       | (6,000,000)  |
|                    | Orphan bridge emergency repairs                           | Various                                     | (900,000)    |
|                    | Park and Ride/Transportation Demand Management Program    | Various                                     | (5,000,000)  |
|                    | Physical plant                                            | Various                                     | (5,000,000)  |
|                    | Program implementation costs                              | Various                                     | (76,000,000) |
|                    | Rail - Highway grade crossing program, State              | Various                                     | (1,000,000)  |
|                    | Region South Drainage Improvements                        | Burlington<br>Camden<br>Gloucester<br>Salem | (4,454,000)  |
|                    | Regional Action program                                   | Various                                     | (1,000,000)  |
|                    | Restriping program                                        | Various                                     | (3,000,000)  |
|                    | Resurfacing program                                       | Various                                     | (60,000,000) |
|                    | Safe Streets to Schools Program                           | Various                                     | (4,000,000)  |
|                    | Sign structure inspection                                 | Various                                     | (1,000,000)  |
|                    | Sign structure repair                                     | Various                                     | (1,000,000)  |
|                    | Signs Program, Statewide                                  | Various                                     | (1,000,000)  |
|                    | Smart Growth Initiatives                                  | Various                                     | (1,000,000)  |
|                    | Solid and Hazardous Waste Cleanup, Reduction and Disposal | Various                                     | (1,130,000)  |
|                    | State Police enforcement and safety services              | Various                                     | (2,500,000)  |
|                    | Traffic signal relamping                                  | Various                                     | (1,500,000)  |
|                    | Traffic signal replacement                                | Various                                     | (4,000,000)  |
|                    | Training and Technology Development                       | Various                                     | (750,000)    |
|                    | TRANSCOM Membership                                       | Various                                     | (425,000)    |

|         |     |                                                                          |            |              |
|---------|-----|--------------------------------------------------------------------------|------------|--------------|
|         |     | Transit Village Program                                                  | Various    | (1,000,000)  |
|         |     | Trenton revitalization improvements                                      | Mercer     | (2,000,000)  |
|         |     | Unanticipated design, right-of-way, and construction expenses            | Various    | (17,166,000) |
|         |     | Underground exploration for utility facilities                           | Various    | (100,000)    |
| CR 699  |     | United States Avenue NJT Bridge over Atlantic City Line                  | Camden     | (6,381,000)  |
|         |     | Utility reconnaissance and relocation                                    | Various    | (1,000,000)  |
| CR 514  |     | Woodbridge Center                                                        | Middlesex  | (4,000,000)  |
| 1       |     | Olden Avenue/Mulberry Street, Deck Rehabilitation                        | Mercer     | (1,711,000)  |
| 1&9     |     | Elizabeth River Bridge (4T)                                              | Union      | (34,675,000) |
| 1&9     |     | North Avenue, Intersection Improvements                                  | Union      | (5,900,000)  |
| 9       |     | CR524/Jackson Mills Road                                                 | Monmouth   | (3,332,000)  |
| 9       | 79  | Schanck Road/Rt. 79/Willowbrook Road                                     | Monmouth   | (10,500,000) |
| 21      |     | TSM 6, Contract 1 - Raymond Boulevard to I-280                           | Essex      | (2,000,000)  |
| 21      |     | TSM 6, Contract 2 - Lafayette Street to Raymond Boulevard                | Essex      | (500,000)    |
| 21      |     | TSM 6, Contract 3 - I-280 to Passaic Street                              | Essex      | (18,000,000) |
| 30      | 73  | Berlin Improvements                                                      | Camden     | (24,190,000) |
| 33 Bus. |     | Halls Mill Road/Kozloski Road                                            | Monmouth   | (11,470,000) |
| 44      |     | Mantua Creek Bridge                                                      | Gloucester | (3,915,000)  |
| 46      |     | Tributary to Delaware River                                              | Warren     | (1,600,000)  |
| 47      | 83  | Dennis Creek bridge replacement/Rt. 83 intersection improvements (4D 5E) | Cape May   | (4,148,000)  |
| 47      | 322 | High Street to Greentree Road (sites 2 & 7)                              | Gloucester | (7,384,000)  |
| 47      |     | Operational Improvements, Sharp Street to Sherman Avenue                 | Cumberland | (12,500,000) |
| 70      |     | Bisphams Mill Creek Bridge                                               | Burlington | (2,435,000)  |
| 130     |     | Kinkora Branch Bridges, removal                                          | Burlington | (5,889,000)  |
| 130     |     | Mae Brook Bridge, replacement                                            | Middlesex  | (980,000)    |
| 173     |     | Clinton, Bridge over South Branch of Raritan River to Lingert Avenue     | Hunterdon  | (2,034,000)  |
| 206     |     | Cat Swamp Mountain                                                       | Sussex     | (8,831,000)  |

## 2. Design

|         |                        |                                                                            |           |              |
|---------|------------------------|----------------------------------------------------------------------------|-----------|--------------|
|         |                        | Clifton Avenue/Nesbitt Street Bridges over Morristown Line                 | Essex     | (850,000)    |
|         |                        | Design, Emerging projects                                                  | Various   | (4,000,000)  |
|         |                        | Maple Avenue (Pennsauken)/Chapel Avenue Bridges over Atlantic City Line    | Camden    | (700,000)    |
|         |                        | Newark, NJT Morristown Line Bridges                                        | Essex     | (1,300,000)  |
|         |                        | Park Avenue Bridge over North Jersey Coast Line                            | Monmouth  | (850,000)    |
|         | CR512                  | Springfield Avenue Bridge over Morristown Line                             | Union     | (800,000)    |
|         | CR557                  | Tuckahoe Road NJT Bridge (AKA Jim Lee Crossing), Cape May Branch rail line | Atlantic  | (1,300,000)  |
| 1       |                        | North of Ryders Lane to south of Milltown Road (6V)                        | Middlesex | (1,800,000)  |
| 1&9     |                        | NYS&W RR Bridge (23)                                                       | Bergen    |              |
|         |                        |                                                                            | Hudson    | (2,600,000)  |
| 5       |                        | Bridges, Palisades Park                                                    | Bergen    | (1,800,000)  |
| 9       |                        | Lacey Road intersection improvements                                       | Ocean     | (1,000,000)  |
| 18 Ext. |                        | Hoes Lane Extension to I-287 (3A)                                          | Middlesex | (1,500,000)  |
| 22      |                        | Crab Brook Drainage                                                        | Somerset  | (700,000)    |
| 27      |                        | Wood Avenue                                                                | Middlesex | (1,500,000)  |
| 29      |                        | Main Street, Lambertville                                                  | Hunterdon | (1,500,000)  |
| 36      |                        | Long Branch Drainage                                                       | Monmouth  | (1,400,000)  |
| 40      |                        | Route 77 to Elmer Lake (4)                                                 | Salem     | (2,000,000)  |
| 46      | 159                    | Plymouth Street/Clinton Road (52)                                          | Essex     | (750,000)    |
| 46      |                        | Rockaway River, NJT Bridges (7L 8K)                                        | Morris    | (1,700,000)  |
| 168     |                        | Bellmawr Boro, Drainage Improvements                                       | Camden    | (500,000)    |
| 206     |                        | CSX Bridge replacement                                                     | Somerset  | (1,100,000)  |
| 206     |                        | Belle Mead-Griggstown Road to Old Somerville Road (14A 15A)                | Somerset  | (4,000,000)  |
| 280     |                        | Passaic River Bridge (AKA Stickel Bridge) rehabilitation                   | Essex     | (2,700,000)  |
| 3.      | Feasibility Assessment | Project development, preliminary engineering                               | Various   | (8,000,000)  |
| 4.      | Local Aid              | Local Aid, Discretionary                                                   | Various   | (10,000,000) |
|         |                        | Local County Aid, DVRPC                                                    | Various   | (13,087,000) |
|         |                        | Local County Aid, NJTPA                                                    | Various   | (46,474,000) |
|         |                        | Local County Aid, SJTPO                                                    | Various   | (7,939,000)  |

|         |                    |                                                       |           |              |
|---------|--------------------|-------------------------------------------------------|-----------|--------------|
|         |                    | Local Municipal Aid,<br>DVRPC                         | Various   | (11,540,000) |
|         |                    | Local Municipal Aid, NJTPA                            | Various   | (45,741,000) |
|         |                    | Local Municipal Aid, SJTPO                            | Various   | (5,219,000)  |
|         |                    | Local Municipal Aid,<br>Urban Aid                     | Various   | (5,000,000)  |
| 5.      | Planning           | Planning and Research, State                          | Various   | (1,500,000)  |
| 6.      | Preliminary Design | Maintenance management<br>system                      | Various   | (300,000)    |
| 7.      | Right of Way       | Advance acquisition of right-<br>of-way               | Various   | (2,500,000)  |
|         | CR512              | Springfield Avenue Bridge<br>over Morristown Line     | Union     | (675,000)    |
| 1&9     |                    | Haynes Avenue Bridges and<br>Operational Improvements | Essex     | (8,750,000)  |
| 5       |                    | Palisades Park Bridges                                | Bergen    | (1,800,000)  |
| 18 Ext. |                    | Hoes Lane Extension to<br>I-287 (3A)                  | Middlesex | (1,500,000)  |
| 27      |                    | South Plainfield Branch<br>(Lake Avenue Bridge)       | Middlesex | (300,000)    |
| 29      |                    | Main Street, Lambertville                             | Hunterdon | (325,000)    |
| 36      |                    | Long Branch Drainage                                  | Monmouth  | (200,000)    |
| 40      |                    | Route 77 to Elmer Lake (4)                            | Salem     | (200,000)    |
| 48      |                    | Game Creek Bridges                                    | Salem     | (150,000)    |
| 57      |                    | Corridor Scenic Preservation                          | Warren    | (5,000,000)  |
| 94      |                    | Hardyston/Vernon Township<br>Drainage                 | Sussex    | (200,000)    |
| 168     |                    | Bellmawr Boro, drainage<br>improvements               | Camden    | (500,000)    |
| 206     | CR513              | Main Street, Chester,<br>intersection improvements    | Morris    | (3,600,000)  |
| 440     |                    | High Street Connector                                 | Middlesex | (1,500,000)  |

Notwithstanding the provisions of subsection d. of section 21 of P.L.1984, c.73 (C.27:1B-21), in order to provide the department with flexibility in administering the appropriations identified, the Commissioner of Transportation may transfer funds among projects within the same general program heading subject to the approval of the Director of the Division of Budget and Accounting. The Commissioner of Transportation shall apply to the Director of the Division of Budget and Accounting for permission to transfer funds among projects within different program headings. If the Director of the Division of Budget and Accounting shall consent thereto, the request to transfer funds among projects within different program headings shall be transmitted to the Legislative Budget and Finance Officer for approval or disapproval then returned to the Director of the Division of Budget and Accounting. The Joint Budget Oversight Committee or its successor shall be empowered to review all transfers submitted to the Legislative Budget and



Finance Officer and may direct said Legislative Budget and Finance Officer to approve or disapprove any transfer.  
 Notwithstanding the provisions of P.L.1984, c.73 (C.27:1B-1 et al.), there is appropriated the sum of \$606,597,000 from the revenues and other funds of the New Jersey Transportation Trust Fund Authority for the specific projects identified as follows:

| NEW JERSEY TRANSIT CORPORATION |                |                                                          |                                |                |
|--------------------------------|----------------|----------------------------------------------------------|--------------------------------|----------------|
| <u>Route</u>                   | <u>Section</u> | <u>Description</u>                                       | <u>County</u>                  | <u>Amount</u>  |
|                                |                | ADA -- platforms/stations                                | Various                        | (\$15,240,000) |
|                                |                | ADA -- vans for paratransit services                     | Various                        | (2,000,000)    |
|                                |                | Amtrak Agreements                                        | Various                        | (65,520,000)   |
|                                |                | Bridge and tunnel rehabilitation                         | Various                        | (19,000,000)   |
|                                |                | Building capital leases                                  | Various                        | (9,295,000)    |
|                                |                | Bus passenger facilities/<br>Park and Ride               | Various                        | (2,500,000)    |
|                                |                | Bus support facilities and equipment                     | Various                        | (36,600,000)   |
|                                |                | Bus Vehicle and Facility Maintenance/Capital Maintenance | Various                        | (34,700,000)   |
|                                |                | Capital program implementation                           | Various                        | (18,000,000)   |
|                                |                | Claims support                                           | Various                        | (2,000,000)    |
|                                |                | Environmental compliance                                 | Various                        | (1,500,000)    |
|                                |                | Hudson - Bergen LRT System, MOS I                        | Hudson                         | (10,000,000)   |
|                                |                | Hudson - Bergen LRT System, MOS II                       | Hudson                         | (19,400,000)   |
|                                |                | Immediate action program                                 | Various                        | (30,920,000)   |
|                                |                | Locomotive overhaul                                      | Various                        | (3,800,000)    |
|                                |                | M&E Viaduct Improvements                                 | Various                        | (31,000,000)   |
|                                |                | Miscellaneous                                            | Various                        | (960,000)      |
|                                |                | Newark City Subway                                       | Essex                          | (6,010,000)    |
|                                |                | Other rail station/terminal improvements                 | Various                        | (44,600,000)   |
|                                |                | Physical plant                                           | Various                        | (250,000)      |
|                                |                | Rail capital maintenance                                 | Various                        | (49,170,000)   |
|                                |                | Rail fleet overhaul                                      | Various                        | (14,900,000)   |
|                                |                | Rail park and ride                                       | Various                        | (7,500,000)    |
|                                |                | Rail rolling stock procurement                           | Various                        | (6,500,000)    |
|                                |                | Rail support facilities and equipment                    | Various                        | (31,130,000)   |
|                                |                | Railroad associated capital maintenance                  | Various                        | (8,000,000)    |
|                                |                | River Line LRT                                           | Camden<br>Burlington<br>Mercer | (48,000,000)   |

|                                                          |         |              |
|----------------------------------------------------------|---------|--------------|
| Security Improvements                                    | Various | (1,000,000)  |
| Signals and communications/<br>electric traction systems | Various | (32,500,000) |
| Small/Special Services<br>Program                        | Various | (169,000)    |
| Study and development                                    | Various | (2,000,000)  |
| Technology improvements                                  | Various | (25,480,000) |
| Track program                                            | Various | (21,953,000) |
| Transit Rail Initiatives                                 | Various | (5,000,000)  |

Notwithstanding any other provisions of law, funds made available in prior years from the New Jersey State Transportation Trust Fund Authority for the specific projects and the specific amounts identified are deappropriated and made available to support NJ Transit's proposed \$606,597,000 FY 2005 capital project list:

| <b>Project:</b>                    | <b>Fiscal Year</b> | <b>Amount</b> |
|------------------------------------|--------------------|---------------|
| Advanced Public Transportation     | FY2000             | 380,000.00    |
| Advanced Public Transportation     | FY2001             | 600,000.00    |
| Atlantic City Facility             | FY1990             | 17,263.00     |
| Bombardier Lease                   | FY1992             | 21,021.00     |
| Bombardier Lease                   | FY1997             | 2,374.00      |
| Boonton Montclair FEIS             | FY1992             | 2,078.00      |
| Building Capital Leases            | FY1994             | 13,769.00     |
| Building Capital Leases            | FY1995             | 17,948.00     |
| Building Capital Leases            | FY1997             | 27,377.00     |
| Building Capital Leases            | FY1999             | 20,000.00     |
| Bus Acquisitions                   | FY2002             | 11,734,000.00 |
| Bus Maintenance Facilities         | FY2000             | 3,110,000.00  |
| Bus Maintenance Facilities         | FY2002             | 8,000,000.00  |
| Bus Maintenance Facilities         | FY2003             | 800,000.00    |
| Bus Maintenance Facilities         | FY2004             | 3,650,000.00  |
| Bus Support Facilities & Equipment | FY1992             | 2,264.00      |
| Bus Support Facilities & Equipment | FY1996             | 969,439.00    |
| Bus Support Facilities & Equipment | FY1998             | 1,443,511.00  |
| Bus Support Facilities & Equipment | FY2000             | 275,224.00    |
| Capital Program Implementation     | FY1991             | 15,744.00     |
| Capital Program Implementation     | FY2001             | 9,876.00      |
| Capital Program Implementation     | FY2002             | 334,920.00    |
| Claims Support                     | FY1997             | 217,947.00    |
| Claims Support                     | FY2001             | 1,434,022.00  |
| Claims Support                     | FY2002             | 2,000,000.00  |
| Clean Air                          | FY2001             | 161,395.00    |
| Communications & Revenue           | FY1995             | 33,731.00     |
| Eagle Bus Rehabilitation           | FY1998             | 88,437.00     |
| FY 88 Capital Program              | FY1988             | 98,157.75     |
| Hoboken Terminal\Yard- Long Slip   | FY2001             | 12,000,000.00 |
| Hoboken Terminal\Yard- Long Slip   | FY2002             | 3,500,000.00  |
| Hunter Connection                  | FY1992             | 19,900.00     |
| Hunter Connection                  | FY1997             | 50,585.00     |
| Hunter Connection                  | FY1998             | 1,322,324.00  |
| Kearny Connection                  | FY1992             | 18,737.00     |
| Kearny Connection                  | FY1995             | 123,704.00    |

|                                     |        |                        |
|-------------------------------------|--------|------------------------|
| Miscellaneous                       | FY2002 | 32,773.25              |
| Miscellaneous                       | FY2003 | 577,778.00             |
| Newark City Subway                  | FY1995 | 42,700.00              |
| Newark City Subway                  | FY2001 | 939,891.00             |
| Rail Associated Capital Maintenance | FY2002 | 3,600,000.00           |
| Rail Associated Capital Maintenance | FY2003 | 533,000.00             |
| Rail Fleet Overhaul                 | FY2002 | 3,000,000.00           |
| Rail Rolling Stock Procurement      | FY2002 | 25,270,000.00          |
| Rail Support Facilities             | FY1990 | 2,960.00               |
| Rail Support Facilities             | FY1995 | 4,137.00               |
| Rail Support Facilities             | FY2001 | 600,000.00             |
| S&C Electric Traction               | FY1995 | 83,859.00              |
| Subway Car Replacement              | FY2000 | 218,851.00             |
| Union Graw Interlocking             | FY1993 | 175,303.00             |
| Total                               |        | <u>\$87,597,000.00</u> |

From the amounts appropriated from the revenues and other funds of the New Jersey Transportation Trust Fund Authority for fiscal year 2005 transportation capital program, the Commissioner of Transportation shall allocate \$4,000,000 of the amount listed for the Private Carrier Equipment Program to NJ Transit's Private Carrier Capital Improvement Program (PCCIP). The amount provided herein shall be allocated to the private motorbus carriers consistent with the formula used to administer the PCCIP and shall be restricted to those carriers that currently qualify for participation in the PCCIP. These funds may be used for the procurement of any goods or services currently approved under NJ Transit's PCCIP, as well as: facility improvements, vehicle procurement, and capital maintenance that comports with subsection r. of section 3 of P.L.1984, c.73 (C.27:1B-3). Such maintenance and equipment procurements shall apply to vehicles owned by the private motorbus carriers and used in public transportation service, as well as to NJ Transit owned vehicles. Private motorbus carriers receiving an allocation of such funds shall be required to submit to NJ Transit a full accounting for all expenditures, demonstrating that the funds were used to increase or maintain the current level of public transportation service provided by the carrier or to improve revenue vehicle maintenance. Under no circumstances shall these funds be used to provide compensation of any office holder or owner or a private motorbus carrier.

The unexpended balances as of June 30, 2004 of appropriations from the New Jersey Transportation Trust Fund Authority are appropriated.

Notwithstanding the provisions of subsection d. of section 21 of P.L.1984, c.73 (C.27:1B-21), in order to provide the department with flexibility in administering the appropriations identified, the Commissioner may transfer funds among projects within the same general program heading subject to the approval of the Director of the Division of Budget and Accounting. The Commissioner shall apply to the Director of the Division of Budget and Accounting for permission to transfer funds among projects within different program headings. If the Director of the Division of Budget and Accounting shall consent thereto, the request to transfer funds among projects within different program headings shall be transmitted to the Legislative Budget and Finance Officer for approval or disapproval then returned to the Director of the

Division of Budget and Accounting. The Joint Budget Oversight Committee or its successor shall be empowered to review all transfers submitted to the Legislative Budget and Finance Officer and may direct said Legislative Budget and Finance Officer to approve or disapprove any transfer.

Notwithstanding any other provisions of law, the Commissioner of Transportation, upon approval of the Director of the Division of Budget and Accounting, may transfer funds made available from the New Jersey Transportation Trust Fund Authority for public transportation projects under the program headings "New Jersey Transit Corporation" to the line-item under that same program heading entitled "Federal Transit Administration Projects" for any federally funded public transportation project shown in this act or any previous appropriation acts until such time as federal funds become available for the projects. Subject to the receipt of federal funds, the Transportation Trust Fund shall be reimbursed for all the monies that were transferred to advance Federal Transit Administration projects. Any transfer of funds which returns funds from the line-item "Federal Transit Administration Projects" to the account of origin shall be deemed approved.

### **62 Public Transportation** **GRANTS-IN-AID**

|                                           |                        |
|-------------------------------------------|------------------------|
| 04-6050 Railroad and Bus Operations ..... | <u>\$1,342,200,000</u> |
| Total State, Federal and All Other        |                        |
| Funds Appropriation .....                 | <u>\$1,342,200,000</u> |

**Less:**

|                                          |                               |
|------------------------------------------|-------------------------------|
| <i>Farebox Revenue</i> .....             | <i>\$558,900,000</i>          |
| <i>Other Resources</i> .....             | <i>504,600,000</i>            |
| <i>Total Income Deductions</i> .....     | <u><i>\$1,063,500,000</i></u> |
| Total State Grants-in-Aid Appropriation, |                               |
| Public Transportation .....              | <u>\$278,700,000</u>          |

**Grants-in-Aid:**

Personal Services:

|                                    |                 |
|------------------------------------|-----------------|
| Salaries and Wages .....           | (\$805,200,000) |
| Materials and Supplies .....       | (195,900,000)   |
| Services Other Than Personal ..... | (85,200,000)    |

Special Purpose:

|                                  |               |
|----------------------------------|---------------|
| 04 Leases and Rentals .....      | (2,400,000)   |
| 04 Purchased Transportation .... | (151,400,000) |
| 04 Insurance and Claims .....    | (28,900,000)  |

|                           |              |
|---------------------------|--------------|
| 04 Tolls, Taxes and Other |              |
| Operating Expenses .....  | (73,200,000) |

**Less:**

|                                |                      |
|--------------------------------|----------------------|
| <i>Income Deductions</i> ..... | <i>1,063,500,000</i> |
|--------------------------------|----------------------|

### **STATE AID**

|                                           |                       |
|-------------------------------------------|-----------------------|
| 04-6050 Railroad and Bus Operations ..... | <u>\$25,287,000</u>   |
| (From Casino Revenue Fund ....            | <i>\$25,287,000</i> ) |

Total State Aid Appropriation,  
 Public Transportation ..... \$25,287,000  
**(Total From Casino**  
**Revenue Fund ..... \$25,287,000)**

**State Aid:**

04 Transportation Assistance  
 for Senior Citizens and Disabled  
 Residents (CRF) ..... (25,287,000)

The unexpended balance as of June 30, 2004, in this account is appropriated.  
 Counties which provide para-transit services for sheltered workshop clients may seek  
 reimbursement for such services pursuant to P.L.1987, c.455 (C.34:16-51 et seq.).

**64 Regulation and General Management****DIRECT STATE SERVICES**

05-6070 Access and Use Management ..... \$1,297,000  
 99-6000 Administration and Support Services ..... 4,112,000  
 Total Direct State Services Appropriation, Regulation  
 and General Management ..... \$5,409,000

**Direct State Services:****Personal Services:**

Salaries and Wages ..... (\$1,289,000)  
 Materials and Supplies ..... (288,000)  
 Services Other Than Personal ..... (1,986,000)  
 Maintenance and Fixed Charges ..... (70,000)

**Special Purpose:**

05 Airport Safety Fund  
 Administration ..... (965,000)  
 99 Office of Maritime Resources .... (350,000)  
 99 Affirmative Action and Equal  
 Employment Opportunity ..... (461,000)

The unexpended balance as of June 30, 2004 and the reimbursements in the  
 department's Stock Purchase Revolving Fund for the purchase of materials and  
 supplies required for the operation of the department are appropriated.

Receipts in excess of the amount anticipated derived from outdoor advertising  
 application and permit fees are appropriated for the purpose of administering  
 the Outdoor Advertising Permit and Regulation program, subject to the  
 approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2004 in the Airport Safety Fund account  
 together with any receipts in excess of the amount anticipated are appropriated.

Notwithstanding any other provision of law, the amount hereinabove for the Airport  
 Safety Fund is payable out of the "Airport Safety Fund" established pursuant  
 to section 4 of P.L.1983, c.264 (C.6:1-92) and is available for salary and  
 operational costs incurred by the Bureau of Aeronautics in the administration  
 of loans or grants; the acquisition of airports lands or rights in lands; the  
 operation or provision of any program or activity which promotes aviation  
 safety, promotes aviation education, or provides for the promotion of  
 aeronautics; and for those aviation purposes which the department is

empowered to undertake pursuant to the "New Jersey Airport Safety Act of 1983," P.L.1983, c.264 (C.6:1-89 et. seq.) or under Title 6 and Title 27 of the Revised Statutes. If receipts to that fund are less than anticipated, the appropriation shall be reduced proportionately.

Receipts derived from fees on placarded rail freight cars transporting hazardous materials in this State are appropriated to defray the expenses of the Placarded Rail Freight Car Transporting Hazardous Materials program, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

The unexpended balance as of June 30, 2004 in the Airport Safety Fund account together with any receipts in excess of the amount anticipated are appropriated.

Department of Transportation,  
Total State Appropriation ..... \$1,196,894,000

#### ***Summary of Department of Transportation Appropriations (For Display Purposes Only)***

##### ***Appropriations by Category:***

Direct State Services ..... \$87,907,000  
Grants-in-Aid ..... 278,700,000  
State Aid ..... 25,287,000  
Capital Construction ..... 805,000,000

##### ***Appropriations by Fund:***

General Fund ..... \$1,171,607,000  
Casino Revenue Fund ..... 25,287,000

### **82 DEPARTMENT OF THE TREASURY**

#### ***30 Educational, Cultural and Intellectual Development***

#### ***36 Higher Educational Services***

#### **GRANTS-IN-AID**

47-2155 Support to Independent Institutions . . . . . \$25,359,000

49-2155 Miscellaneous Higher Education Programs . . . . . 96,061,000

Total Grants-in-Aid Appropriation, Higher  
Educational Services ..... \$121,420,000

##### ***Grants-in-Aid:***

47 Aid to Independent Colleges  
and Universities ..... (\$23,962,000)  
47 Clinical Legal Programs for the  
Poor -- Seton Hall University  
(P.L.1996, c.52) ..... (200,000)  
47 Institute for Advanced Study --  
Discrete Mathematics and  
Computer Science Center ..... (80,000)  
47 Institute for Advanced Study --  
Park City Mathematics Institute . . . (80,000)

|    |                                                                                                  |              |
|----|--------------------------------------------------------------------------------------------------|--------------|
| 47 | Research Under Contract with the<br>Institute of Medical Research,<br>Camden .....               | (1,037,000)  |
| 49 | Higher Education Incentive<br>Endowment Fund .....                                               | (3,000,000)  |
| 49 | Garden State Savings<br>Bonds Incentive .....                                                    | (100,000)    |
| 49 | Higher Education Capital<br>Improvement Program --<br>Debt Service .....                         | (29,855,000) |
| 49 | Equipment Leasing Fund --<br>Debt Service .....                                                  | (18,449,000) |
| 49 | Higher Education Facilities<br>Trust Fund -- Debt Service ...                                    | (21,015,000) |
| 49 | Higher Education Technology<br>Bond -- Debt Service .....                                        | (6,463,000)  |
| 49 | Marine Sciences Consortium .....                                                                 | (426,000)    |
| 49 | Dormitory Safety Trust Fund --<br>Debt Service .....                                             | (9,053,000)  |
| 49 | Statewide Systemic Initiative to<br>Reform Mathematics and<br>Science Education .....            | (1,200,000)  |
| 49 | Stevens Institute of Technology -<br>New Jersey Community College<br>Strategic Partnership ..... | (1,000,000)  |
| 49 | New Jersey Stem Cell Research<br>Institute .....                                                 | (5,500,000)  |

For the purpose of implementing the "Independent College and University Assistance Act," P.L.1979, c.132 (C.18A:72B-15 et seq.), the number of full-time equivalent students (FTE) at the eight State Colleges is 54,757 for fiscal year 2004.

Receipts in excess of the amount hereinabove for Clinical Legal Programs for the Poor - Seton Hall are appropriated for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

The sums provided hereinabove for Research under Contract with the Institute of Medical Research, Camden (Coriell Institute) shall be expended on support for research activities, and the Institute shall submit an annual audited financial statement to the Department of the Treasury which shall include a schedule showing the use of these funds.

In addition to the amounts hereinabove appropriated for the Higher Education Capital Improvement Fund account, the unexpended balances as of June 30, 2004 are appropriated for the same purpose.

From the amount appropriated hereinabove for Aid to Independent Colleges and Universities, the State Treasurer is authorized to pay the final 1/24th of fiscal year 2004 Aid to Independent Colleges and Universities payments in July 2004 less any amounts appropriated to these colleges and universities in a supplemental appropriation for the fiscal year ending June 30, 2004.

In addition to the amount appropriated hereinabove, there is appropriated an amount not to exceed \$10,000,000, to pay for debt service on higher education facilities bonds as may be lawfully issued during this fiscal year subject to enabling legislation, subject to the approval of the Director of the Division of Budget and Accounting. The amount appropriated hereinabove for the New Jersey Stem Cell Research Institute shall be expended subject to the approval of the State Treasurer in consultation with the New Jersey Commission on Science and Technology.

#### STATE AID

48-2155 Aid to County Colleges ..... \$220,120,000

(From General Fund ..... \$192,075,000)

(From Property Tax Relief Fund .. 28,045,000)

Total State Aid Appropriation,

Higher Educational Services ..... \$220,120,000

(From General Fund ..... \$192,075,000)

(From Property Tax Relief Fund .. 28,045,000)

**Less:**

**Supplemental Workforce Fund-**

Basic Skills ..... \$8,000,000

Total Income Deductions ..... \$8,000,000

Total State Appropriation,

Higher Educational Services ..... \$212,120,000

(From General Fund ..... \$184,075,000)

(From Property Tax Relief Fund .. 28,045,000)

**State Aid:**

48 Operational Costs ..... (\$162,562,000)

48 Debt Service for Chapter 12

N.J.S.18A:64A-22 (PTRF) .... (28,045,000)

48 Employer Contributions --

Alternate Benefit Program .... (17,230,000)

48 Teachers' Pension and Annuity

Fund -- Post Retirement Medical . (1,195,000)

48 Post Retirement Medical Other

Than TPAF ..... (10,560,000)

48 Employer Contributions --

FICA for County College

Members of Teachers' Pension

and Annuity Fund ..... (450,000)

48 Debt Service on Pension

Obligation Bonds P.L.1997,

c.114 (C.34:1B-7.50 et seq.) ..... (78,000)

**Less:**

**Income Deductions ..... 8,000,000**

In addition to the amount hereinabove for operational costs, there is appropriated \$8,000,000 from the Supplemental Workforce Fund for Basic Skills for the same purpose.

Such additional sums as may be required for Employer Contributions - Alternate Benefit Program, Teachers' Pension and Annuity Fund - Post Retirement



- Medical and Post Retirement Medical Other Than TPAF are appropriated, as the Director of the Division of Budget and Accounting shall determine.
- In addition to the sum hereinabove appropriated for Debt Service on Pension Obligation Bonds to make payments under the State Treasurer's contracts authorized pursuant to section 6 of P.L.1997, c.114 (C.34:1B-7.50), there are appropriated such other sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts.
- Notwithstanding any provision of law to the contrary, in addition to the amount hereinabove appropriated for the Teachers' Pension and Annuity Fund - Post Retirement Medical, there is hereby appropriated an amount as determined by the State Treasurer to fund the pension cost contribution by the State to the Teachers' Pension and Annuity Fund, payment for which shall be credited against amounts on deposit in the Benefit Enhancement Fund established in N.J.S.18A:66-16.
- From the amount appropriated hereinabove for county college Operational Costs aid, the State Treasurer is authorized to pay the final 1/24th of fiscal year 2004 county college Operational Costs aid payments in July 2004 less any amounts appropriated to these colleges in a supplemental appropriation for the fiscal year ending June 30, 2004.
- Such sums as may be necessary for the payment of interest or principal or both, due from the issuance of any bonds authorized under the provisions of section 1 of P.L.1971, c.12 (C.18A:64A-22.1) are appropriated.

#### ***Higher Educational Services***

- Of the amount hereinabove for Higher Educational Services, such sums as the Director of the Division of Budget and Accounting shall determine from the schedule in the Governor's Budget Recommendation Document dated February 24, 2004, first shall be charged to the State Lottery Fund.

### ***50 Economic Planning, Development and Security***

#### ***51 Economic Planning and Development***

##### **DIRECT STATE SERVICES**

|                                            |                  |
|--------------------------------------------|------------------|
| 38-2049 Economic Development .....         | <u>\$452,000</u> |
| Total Direct State Services Appropriation, |                  |
| Economic Planning and Development .....    | <u>\$452,000</u> |

##### ***Direct State Services:***

##### **Personal Services:**

|                                          |             |
|------------------------------------------|-------------|
| Salaries and Wages .....                 | (\$377,000) |
| Materials and Supplies .....             | (15,000)    |
| Services Other Than Personal .....       | (35,000)    |
| Maintenance and Fixed Charges .....      | (15,000)    |
| Additions, Improvements and Equipment .. | (10,000)    |

##### **GRANTS-IN-AID**

|                                    |                  |
|------------------------------------|------------------|
| 38-2049 Economic Development. .... | <u>\$600,000</u> |
|------------------------------------|------------------|

Total Direct State Services Appropriation, Economic  
Planning and Development . . . . . \$600,000

***Grants-in-Aid:*****Grants:**

38 Hispanic Business Owners  
Outreach Program . . . . . (\$600,000)

Funds made available for the remediation of the discharges of hazardous substances pursuant to the amendments effective December 4, 2003, to Article VIII, Section II, paragraph 6 of the State Constitution, shall be allocated to the Brownfield Site Reimbursement Fund, established pursuant to P.L.1997, c.278, in an amount to be determined by the Director of the Division of Taxation, and subject to the approval of the Director of the Division of Budget and Accounting.

***2041 New Jersey Commerce and Economic Growth Commission*****GRANTS-IN-AID**

38-2041 Economic Development . . . . . \$20,351,000

Total Grants-in-Aid Appropriation, New Jersey  
Commerce and Economic Growth Commission . . \$20,351,000

***Grants-in-Aid:***

38 New Jersey Commerce  
and Economic Growth  
Commission . . . . . (\$19,829,000)

38 Prosperity New Jersey, Inc. . . . . (\$22,000)

Of the sum hereinabove appropriated for the New Jersey Commerce and Economic Growth Commission, there is no less than \$12,760,000 for Advertising and Promotion, from which \$50,000 shall be allocated to each of the six regional tourism councils for regional tourism promotion; \$2,853,000 for Business Retention, Expansion and Attraction of which \$700,000 is for New Jersey Small Business Development Centers; \$130,000 for the New Jersey Israel Commission; and \$1,850,000 for the Travel and Tourism Cooperative Marketing Program; except that any amount for the Cooperative Marketing Program is available for expenditure only to the extent that an amount equal to 25% of the State funds are expended from funds raised by the Commerce Commission, pursuant to subsection j. of section 9 of P.L.1977, c.225 (C.34:1A-53), through contributions from private tourism industry concerns and non-State public entities as determined by the Director of the Division of Budget and Accounting. These accounts shall be considered special purpose appropriations for accounting and reporting purposes.

Pursuant to the provisions of P.L.2003, c.114 (C.54:32-1 et seq.) the appropriations hereinabove for purposes of promoting tourism activities in this State are first charged to revenues derived from the hotel and motel occupancy fee.

Subject to the approval of the Director of the Division of Budget and Accounting, there is appropriated to the New Jersey Commerce and Economic Growth Commission from the General Fund such sums as may be necessary, as certified by the Commissioner and the Director of the Division of Taxation, to fund business relocation grants made under the "Business Relocation Assistance Act,"

the amount of which shall not exceed the new income tax revenues as defined in section 2 of P.L.1996, c.25 (C.34:1B-113). In addition to the report required pursuant to section 10 of P.L.1996, c.25 (C.34:1B-121), the Chief Executive Officer and Secretary of the Commission shall provide the Joint Budget Oversight Committee, on or before November 1, 2004, with a report of the grants funded in the prior fiscal year including, but not limited to, a summary of each grant agreement and the amount of each grant funded in that year.

There is appropriated from the Enterprise Zone Assistance Fund such sums as are necessary for administrative services provided by the New Jersey Commerce and Economic Growth Commission in accordance with the provisions of section 11 of P.L.1993, c.367 (C.52:27H-65.1), subject to the approval of the Director of the Division of Budget and Accounting.

The Chief Executive Officer and Secretary of the Commission shall report semi-annually on the expenditure of State funds and private contributions during the preceding six months for the Advertising and Promotion Program and the Travel and Tourism, Advertising and Promotion - Cooperative Marketing Program. The first semi-annual report covering the first six months of fiscal year 2005 shall be completed not later than January 31, 2005, the second semi-annual report covering the second six months of fiscal year 2005 shall be completed not later than July 31, 2005 and both reports shall be submitted to the Treasurer and the Joint Budget Oversight Committee.

**2042 New Jersey Commission on Science and Technology  
GRANTS-IN-AID**

|                                                |                    |
|------------------------------------------------|--------------------|
| 39-2042 New Jersey Commission on               |                    |
| Science and Technology . . . . .               | <u>\$8,800,000</u> |
| Total Grants-in-Aid Appropriation, New Jersey  |                    |
| Commission on Science and Technology . . . . . | <u>\$8,800,000</u> |

**Grants-in-Aid:**

|                                    |               |
|------------------------------------|---------------|
| 39 Science and                     |               |
| Technology Grants . . . . .        | (\$8,600,000) |
| 09 Conference Cost Share . . . . . | (200,000)     |

Of the amount appropriated hereinabove for Science and Technology Grants, an amount not to exceed \$550,000 is allocated for the administrative expenses of the New Jersey Commission on Science and Technology, subject to the approval of the Director of the Division of Budget and Accounting.

From the amount appropriated hereinabove for Science and Technology Grants, there is allocated \$1,600,000 for the Manufacturing Extension Program.

The unexpended balance as of June 30, 2004 in the New Jersey Commission on Science and Technology Grants-In-Aid account is appropriated for the same purpose.

**52 Economic Regulation  
DIRECT STATE SERVICES**

|                                                  |             |
|--------------------------------------------------|-------------|
| 53-2018 Ratepayer Advocacy . . . . .             | \$5,871,000 |
| 54-2008 Utility Regulation . . . . .             | 7,529,000   |
| 55-2004 Regulation of Cable Television . . . . . | 1,926,000   |

|                                                   |                     |
|---------------------------------------------------|---------------------|
| 88-2058 Energy Assistance Programs .....          | 1,591,000           |
| 97-2016 Regulatory Support Services .....         | 3,264,000           |
| 99-2003 Administration and Support Services ..... | <u>8,631,000</u>    |
| Total Direct State Services Appropriation,        |                     |
| Economic Regulation .....                         | <u>\$28,812,000</u> |

***Direct State Services:******Personal Services:***

|                                     |                |
|-------------------------------------|----------------|
| Salaries and Wages .....            | (\$24,029,000) |
| Materials and Supplies .....        | (486,000)      |
| Services Other Than Personal .....  | (3,106,000)    |
| Maintenance and Fixed Charges ..... | (905,000)      |

***Special Purpose:***

## Additions, Improvements

|                     |           |
|---------------------|-----------|
| and Equipment ..... | (286,000) |
|---------------------|-----------|

In addition to the sum hereinabove, such other sums as the Director of the Division of Budget and Accounting shall determine are appropriated on behalf of the Board of Public Utilities under P.L.1968, c.173 (C.48:2-59 et seq.) and P.L.1972, c.186 (C.48:5A-32 et seq.), or other applicable statutes with respect to assessment of public utilities or the cable television industry.

Receipts derived from fees are appropriated.

Fees received from the "Electric Facility Need Assessment Act," P.L.1983, c.115 (C.48:7-16 et seq.), are appropriated.

The unexpended balances as of June 30, 2004 are appropriated.

Receipts of the Division of Ratepayer Advocate in excess of those anticipated are appropriated for the Division of Ratepayer Advocate to defray the costs of this activity under section 16 of P.L.1994, c.58 (C.52:27E-63).

There are appropriated from interest earned by the Petroleum Overcharge Reimbursement Fund such sums as may be required for costs attributable to the administration of the fund, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of any other law, the balances from the Petroleum Overcharge Reimbursement Fund and the Secondary Stage Refunds and the monies required to be deposited in that fund from projects which have been completed or are no longer viable are reappropriated for new projects consistent with the court rulings which served as the basis for the original awards, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove for administration of the Board of Public Utilities, there are appropriated such sums as may be required for operation of the Board and assessed to the public utilities or the cable television industry, subject to the approval of the Director of Budget and Accounting.

The amounts appropriated hereinabove, not to exceed \$1,591,000, for the Energy Assistance Program account may be transferred to the Department of Health and Senior Services, Lifeline account to fund the costs associated with administering the Lifeline Credits and Tenants' Assistance Rebates Program and shall be applied in accordance with a Memorandum of Understanding between the President of the Board of Public Utilities and the Commissioner of

the Department of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting.  
 Receipts derived from fines, penalties and settlements, not to exceed \$3,000,000, are appropriated to supplement operating expenses of the Board of Public Utilities, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

88-2058 Energy Assistance Programs ..... \$70,840,000  
 Total Grants-in-Aid Appropriation,  
 Economic Regulation ..... \$70,840,000

#### ***Grants-in-Aid:***

88 Payments for Lifeline Credits . (\$34,669,000)  
 88 Tenants' Assistance  
     Rebate Program ..... (36,171,000)

Notwithstanding the provisions of P.L.1979, c.197 (C.48:2-29.15 et seq.), the provisions of P.L.1981, c.210 (C.48:2-29.30 et seq.) or any other law to the contrary, the benefits of the Lifeline Credits Program and the Tenants' Assistance Rebates Program may be distributed throughout the entire year from July through June, and are not limited to an October to March heating season; therefore, applications for Lifeline benefits and benefits from the Pharmaceutical Assistance to the Aged and Disabled program may be combined.

The amounts hereinabove for Payments for the Lifeline Credits Program and Tenants' Assistance Rebates Program are available for the payment of obligations applicable to prior fiscal years.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of Lifeline claims, amounts may be transferred from the various items of appropriation within the Energy Assistance Programs classification, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove, such sums as may be required for the payment of claims, credits, and rebates, are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

Any supplemental appropriation for the Payments for Lifeline Credits and the Tenants' Assistance Rebates Program may be recovered from the Universal Service Fund through transfer to the General Fund as State revenue, subject to the approval of the Director of the Division of Budget and Accounting.

All funds recovered under P.L.1968, c.413 (C.30:4D-1 et seq.) and P.L.1975, c.194 (C.30:4D-20 et seq.), during the fiscal year ending June 30, 2004, are appropriated for payments to providers in the same program class from which the recovery originated.

The amounts appropriated hereinabove, not to exceed \$70,840,000, for Payments for the Lifeline Credits and the Tenants' Assistance Rebates Program are available to the Department of Health and Senior Services to fund the payments associated with the Lifeline Credits and Tenants' Assistance programs and shall be applied in accordance with a Memorandum of Understanding between the President of the Board of Public Utilities and the Commissioner of the

Department of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting.

**70 Government Direction, Management and Control**

**72 Governmental Review and Oversight**

**DIRECT STATE SERVICES**

|                                                                                           |                     |
|-------------------------------------------------------------------------------------------|---------------------|
| 03-2015 Employee Relations and Collective Negotiations . .                                | \$555,000           |
| 07-2040 Office of Management and Budget . . . . .                                         | <u>19,527,000</u>   |
| Total Direct State Services Appropriation,<br>Governmental Review and Oversight . . . . . | <u>\$20,082,000</u> |

**Direct State Services:**

Personal Services:

|                                         |                |
|-----------------------------------------|----------------|
| Salaries and Wages . . . . .            | (\$13,292,000) |
| Materials and Supplies . . . . .        | (294,000)      |
| Services Other Than Personal . . . . .  | (5,275,000)    |
| Maintenance and Fixed Charges . . . . . | (122,000)      |

Special Purpose:

|                                 |             |
|---------------------------------|-------------|
| 07 Independent Audits . . . . . | (1,099,000) |
|---------------------------------|-------------|

Such sums as may be necessary for administrative expenses incurred in processing federal benefit payments are appropriated from such sums as may be received or receivable for this purpose.

In addition to the amounts hereinabove, there are appropriated such additional sums as may be necessary for an independent audit of the State's general fixed asset account group, management, performance, and operational audits, and the single audit.

There are appropriated, out of receipts derived from the investment of State funds, such sums as may be necessary for bank service charges, custodial costs, mortgage servicing fees and advertising bank balances under section 1 of P.L.1956, c.174 (C.52:18-16.1).

**73 Financial Administration**

**DIRECT STATE SERVICES**

|                                                                                  |                      |
|----------------------------------------------------------------------------------|----------------------|
| 15-2080 Taxation Services and Administration . . . . .                           | \$88,272,000         |
| 16-2090 Administration of State Lottery . . . . .                                | 21,491,000           |
| 17-2105 Administration of State Revenues . . . . .                               | 27,819,000           |
| 19-2120 Management of State Investments . . . . .                                | 6,620,000            |
| 25-2095 Administration of Casino Gambling . . . . .                              | 27,901,000           |
| (From Casino Control Fund . . . . .)                                             | <u>\$27,901,000</u>  |
| 50-2027 Commercial Recording . . . . .                                           | <u>4,703,000</u>     |
| Total Direct State Services Appropriation,<br>Financial Administration . . . . . | <u>\$176,806,000</u> |
| (From General Fund . . . . .)                                                    | <u>\$148,905,000</u> |
| (From Casino Control Fund . . . . .)                                             | <u>27,901,000</u>    |

**Direct State Services:**

Personal Services:

|                                               |             |
|-----------------------------------------------|-------------|
| Chairman and Commissioners<br>(CCF) . . . . . | (\$534,000) |
|-----------------------------------------------|-------------|

|                                                                                                                                                                                                                                                                                                                                                         |                      |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| Salaries and Wages .....                                                                                                                                                                                                                                                                                                                                | (96,195,000)         |
| Salaries and Wages (CCF) .....                                                                                                                                                                                                                                                                                                                          | (18,972,000)         |
| Employee Benefits (CCF) .....                                                                                                                                                                                                                                                                                                                           | (5,689,000)          |
| <b>(From General Fund .....</b>                                                                                                                                                                                                                                                                                                                         | <b>\$96,195,000)</b> |
| <b>(From Casino Control Fund .....</b>                                                                                                                                                                                                                                                                                                                  | <b>25,195,000)</b>   |
| Materials and Supplies .....                                                                                                                                                                                                                                                                                                                            | (5,183,000)          |
| Materials and Supplies (CCF) .....                                                                                                                                                                                                                                                                                                                      | (183,000)            |
| Services Other Than Personal .....                                                                                                                                                                                                                                                                                                                      | (43,793,000)         |
| Services Other Than Personal (CCF) .....                                                                                                                                                                                                                                                                                                                | (922,000)            |
| Maintenance and Fixed Charges .....                                                                                                                                                                                                                                                                                                                     | (1,660,000)          |
| Maintenance and Fixed Charges (CCF) ..                                                                                                                                                                                                                                                                                                                  | (1,205,000)          |
| Special Purpose:                                                                                                                                                                                                                                                                                                                                        |                      |
| 15 Property Assessment and<br>Management System (PAMS) ..                                                                                                                                                                                                                                                                                               | (1,175,000)          |
| 17 Wage Reporting/Temporary<br>Disability Insurance .....                                                                                                                                                                                                                                                                                               | (899,000)            |
| 25 Administration of Casino<br>Gambling (CCF) .....                                                                                                                                                                                                                                                                                                     | (105,000)            |
| Additions, Improvements and<br>Equipment (CCF) .....                                                                                                                                                                                                                                                                                                    | (291,000)            |
| So much of the receipts derived from the sale of confiscated equipment, materials and supplies under the "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.), as may be necessary for confiscation, storage, disposal and other related expenses thereof, are appropriated.                                                                        |                      |
| Notwithstanding the provision of any law to the contrary, there shall be no retroactive payment for refunds due under section 9 of P.L.1976, c.141 (C.58:10-23.11h) as amended pursuant to section 1 of P.L.1997, c.134 for the period from January 1, 1996, through June 26, 1997, appropriated from the Spill Compensation Fund.                      |                      |
| Such sums as may be necessary for the administration of the homestead property tax reimbursement established pursuant to P.L.1997, c.348 (C.54:4-8.67 et seq.) are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.                                                                                      |                      |
| Upon certification of the Director of the Division of Taxation, the State Treasurer shall pay, upon warrants of the Director of the Division of Budget and Accounting, such claims for refund as may be necessary under the provisions of Title 54 of the Revised Statutes, as amended and supplemented.                                                |                      |
| Notwithstanding any other law to the contrary, there are appropriated out of the receipts in the Solid Waste Services Tax Fund such sums as may be necessary for the cost of administration and collection of taxes pursuant to P.L.1985, c.38 (C.13:1E-136 et seq.), subject to the approval of the Director of the Division of Budget and Accounting. |                      |
| Such sums as are required for the acquisition of equipment essential to the modernization of processing tax returns, are appropriated from tax collections, subject to the approval of the Joint Budget Oversight Committee and the Director of the Division of Budget and Accounting.                                                                  |                      |

The amount necessary to provide administrative costs incurred by the Division of Taxation and the Division of Revenue to meet the statutory requirements of the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303 (C.52:27H-60 et seq.) is appropriated from the Enterprise Zone Assistance Fund, subject to the approval of the Director of the Division of Budget and Accounting.

Pursuant to the provisions of section 12 of P.L.1992, c.165 (C.40:54D-12) there are appropriated such sums as may be required to compensate the Department of the Treasury for costs incurred in administering the "Tourism Improvement and Development District Act," P.L.1992, c.165 (C.40:54D-1 et seq.).

In addition to the amounts appropriated hereinabove, such additional sums as may be necessary are appropriated to fund costs of the collecting and processing of debts, taxes and other fees and charges owed to the State, including but not limited to the services of auditors and attorneys and enhanced compliance programs, subject to the approval of the Director of the Division of Budget and Accounting. The Director of the Division of Budget and Accounting shall provide the Joint Budget Oversight Committee with written reports on the detailed appropriation and expenditure of sums appropriated pursuant to this provision.

Notwithstanding any provision of any other law to the contrary, there are available out of fees derived from the cost of collection imposed pursuant to section 8 of P.L.1987, c.76 (C.54:49-12.1) such sums as may be required for compliance and enforcement activities associated with the collection process as promulgated by the Taxpayers' Bill of Rights under P.L.1992, c.175.

Notwithstanding the provisions of section 4 of the "Lead Hazard Control Assistance Act," P.L.2003, c.311 (C.52:27D-437.4) such sums as are necessary are appropriated from the Lead Hazard Control Assistance Fund for the Department of Treasury's administrative costs, subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2004 in the Property Assessment Management System (PAMS) is appropriated for the same purpose.

There are appropriated, out of revenues derived from escheated property under the various escheat acts, such sums as may be necessary to administer such acts and such sums as may be required for refunds.

There are appropriated out of the State Lottery Fund such sums as may be necessary for costs required to implement the "State Lottery Law," P.L.1970, c.13 (C.5:9-1 et seq.) and for payment for commissions, prizes and expenses of developing and implementing games pursuant to section 7 of P.L.1970, c.13 (C.5:9-7).

In addition to the amounts hereinabove, State Lottery Fund receipts in excess of anticipated contributions to education and State institutions, and reimbursement of administrative expenditures, are appropriated, subject to the approval of the Director of the Division of Budget and Accounting and the Joint Budget Oversight Committee.

Notwithstanding the provisions of any other law to the contrary, there are appropriated out of receipts derived from communications fees such sums as may be necessary for telecommunications costs required in the administration of the State Lottery.



Notwithstanding the provisions of any other law to the contrary, there are appropriated out of receipts derived from the sale of advertising and/or promotional products by the State Lottery, such sums as may be necessary for advertising costs required in the administration of the State Lottery pursuant to P.L.1970, c.13 (C.5:9-1 et seq.).

There are appropriated such sums as are necessary to fund the hospitals' share of monies collected pursuant to the hospital care payment act, P.L.2003, c.112 (C.17B:30-41 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

The unexpended balances as of June 30, 2004 in the Revenue Management System account are appropriated.

The Director of the Division of Budget and Accounting is hereby authorized to transfer or credit such sums as are necessary between the Department of Labor and the Department of the Treasury for the administration of revenue collection and processing functions related to Unemployment Insurance, Temporary Disability Insurance, Workers Compensation, Special Compensation Programs, the Health Care Subsidy Fund, and the Workforce Development Partnership program.

The amounts hereinabove for the Wage Reporting/Temporary Disability Insurance program are payable out of the State Disability Benefits Fund, and in addition to the amounts hereinabove, there are appropriated out of the State Disability Benefits Fund such additional sums as may be required to administer revenue collection associated with the Temporary Disability Insurance program, subject to the approval of the Director of the Division of Budget and Accounting.

Receipts in excess of those anticipated from the over-the-counter surcharges are appropriated to meet the costs of the Division of Revenue's commercial recording function, subject to the approval of the Director of the Division of Budget and Accounting.

Funds necessary to defray the cost of collection to implement the provisions of P.L.1994, c.64 (C.17:29A-35 et seq.), as well as the cost of billing and collection of surcharges levied on drivers in accordance with the New Jersey Automobile Insurance Reform Act of 1982 - Merit Rating System Surcharge Program, P.L.1983, c.65 (C.17:29A-33 et al.) as amended, are appropriated from fees in lieu of actual cost of collection receipts and from surcharges derived, subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated, out of receipts derived from service fees billed to authorities for the handling of investment transactions, such sums as may be necessary to administer the Management of State Investments program.

There are appropriated, out of receipts derived from the investments of State funds, such sums as may be necessary for bank service charges, custodial costs, mortgage servicing fees and advertising bank balances under section 1 of P.L.1956, c.174 (C.52:18-16.1).

Notwithstanding the provisions of any law to the contrary, the expenses of administration for the various retirement systems and employee benefit programs administered by the Division of Pensions and Benefits and the Division of Investments shall be charged to the pension and health benefits

funds established by law to receive employer contributions or payments or to make benefit payments under the programs, as the case may be. In addition to the amounts hereinabove, there are appropriated such sums as may be necessary for administrative costs, which shall include bank service charges, investment services, and other such costs as are related to the management of the pension and health benefit programs as the Director of the Division of Budget and Accounting shall determine. In addition, revenue resulting from such charges to the various pensions and health benefit funds, payable on a schedule to be determined by the Director of the Division of Budget and Accounting, shall be credited to the General Fund as anticipated revenue.

In addition to the amount hereinabove for Administration of Casino Gambling, there are appropriated from the Casino Control Fund such additional sums as may be required for operation of the Casino Control Commission, subject to the approval of the Director of the Division of Budget and Accounting.

#### **74 General Government Services**

##### **DIRECT STATE SERVICES**

|         |                                                    |                     |
|---------|----------------------------------------------------|---------------------|
| 02-2069 | Garden State Preservation Trust .....              | \$468,000           |
| 09-2050 | Purchasing and Inventory Management .....          | 8,505,000           |
| 21-2140 | Pensions and Benefits .....                        | 31,635,000          |
| 26-2067 | Property Management and Construction --            |                     |
|         | Property Management Services .....                 | 13,338,000          |
| 37-2051 | Risk Management .....                              | <u>1,807,000</u>    |
|         | Total Direct State Services Appropriation, General |                     |
|         | Government Services .....                          | <u>\$55,753,000</u> |

##### **Direct State Services:**

###### **Personal Services:**

|  |                                     |                |
|--|-------------------------------------|----------------|
|  | Salaries and Wages .....            | (\$35,031,000) |
|  | Materials and Supplies .....        | (816,000)      |
|  | Services Other Than Personal .....  | (16,724,000)   |
|  | Maintenance and Fixed Charges ..... | (1,899,000)    |

###### **Special Purpose:**

|    |                                          |           |
|----|------------------------------------------|-----------|
| 02 | Garden State Preservation Trust ..       | (468,000) |
| 09 | Fleet Renewal Management                 |           |
|    | Program .....                            | (560,000) |
| 21 | State Pension System Audit .....         | (180,000) |
|    | Additions, Improvements and Equipment .. | (75,000)  |

The Director of the Division of Budget and Accounting is empowered to transfer or credit to any central data processing center any appropriation made to any department which had been appropriated or allocated to such department for its share of costs of such data processing center including the replacement of data processing equipment and the purchase of additional data processing equipment.

There are appropriated, out of receipts derived from service fees billed to political subdivisions for the operating costs of the cooperative purchasing program, such sums as may be necessary to administer and operate the Purchase Bureau program.

- There are appropriated, out of receipts derived from service fees billed to authorities for the handling of insurance procurement and risk management services, such sums as may be necessary to administer the Risk Management program.
- Notwithstanding the provisions of any other law to the contrary, there are appropriated, out of the receipts derived from third party subrogation, such sums as may be necessary for the administrative expenses of the Risk Management program.
- Notwithstanding the provisions of section 15 of article 6 of P.L.1944, c.112 (C.52:27B-67), revenues in excess of the anticipation derived from the sale of surplus state vehicles are available for the replacement of Central Motor Pool temporary assignment vehicles, subject to the approval of the Director of the Division of Budget and Accounting.
- Notwithstanding the provisions of any other law to the contrary, there are appropriated, out of receipts derived from service fees billed to the various State departments for the purpose of travel services, such sums as may be necessary for the administrative expenses of the State Central Motor Pool program.
- The Director of the Division of Budget and Accounting is empowered to transfer or credit to the Capitol Post Office revolving fund any appropriation made to any department for postage costs appropriated or allocated to such departments for their share of costs of the Capitol Post Office.
- The Director of the Division of Budget and Accounting is empowered to transfer or credit to the Print Shop revolving fund any appropriation made to any department for printing costs appropriated or allocated to such departments for their share of costs of the Print Shop and the Office of Printing Control.
- The unexpended balances in the State cafeteria accounts as of June 30, 2004, and receipts obtained from cafeteria operations, are appropriated for the improvement and extension of cafeteria services and facilities pursuant to section 2 of P.L.1951, c.312 (C.52:18A-19.6).
- The Director of the Division of Budget and Accounting is empowered to transfer or credit to the Property Management and Construction program classification, from appropriations for construction and improvements, a sufficient sum to pay for the cost of architectural work, superintendence and other expert services in connection with such work.
- From the receipts derived from the sale of real property, such sums are appropriated for the costs incurred in order to preserve and maintain the property's value and condition and for costs incurred in the selling of the real property, including appraisal, survey, advertising, maintenance, security and other costs related to the preservation and disposal, subject to the approval of the Director of the Division of Budget and Accounting.
- Notwithstanding any law to the contrary, there are appropriated out of receipts derived from the pre-qualification service fees billed to contractors, architects, engineers, and professionals sufficient sums for expenses related to the administration of pre-qualification activities undertaken by the Division of Property Management and Construction.
- The unexpended balances in excess of \$300,000 in the Management of the Department of Environmental Protection Properties account as of June 30, 2004 are appropriated for the same purpose.

Receipts derived from the leasing of State surplus real property are appropriated for the maintenance of leased property subject to the approval of the Director of the Division of Budget and Accounting, provided that a sum not to exceed \$100,000 shall be available for the administrative expenses of the program.

There are appropriated such additional sums as may be necessary for the purchase of expert witness services related to the State's defense against inverse condemnation claims related to the Department of Environmental Protection's Land Use Regulation program.

Receipts from employee maintenance charges in excess of \$300,000 are appropriated for maintenance of employee housing and associated relocation costs; provided, however, that a sum not to exceed \$25,000 shall be available for management of the program, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

There are appropriated out of receipts derived from lease proceeds billed to the occupants of the James J. Howard Marine Science Laboratory, such sums as may be required to operate and maintain the facility and for the payment of interest and/or principal due from the issuance of bonds for this facility.

Notwithstanding any other law to the contrary, an amount not to exceed \$468,000 is transferred from the Garden State Farmland Preservation Trust Fund, the Garden State Green Acres Preservation Trust Fund and the Garden State Historic Preservation Trust Fund to the General Fund in an allocation to be determined by the Garden State Preservation Trust and approved by the Director of the Division of Budget and Accounting and such amount is appropriated to the Garden State Preservation Trust.

Notwithstanding any other law to the contrary, the Departments of the Treasury, Community Affairs, Environmental Protection, and Agriculture will provide such administrative services as are necessary to operate the Garden State Preservation Trust.

In addition to the amounts hereinabove, there are appropriated such additional sums as may be necessary for independent audits of the State's pension systems, provided that such appropriations shall be reimbursed to the General Fund from the resources available to the various pension funds.

Notwithstanding the provisions of any law to the contrary, administrative expenses for the various retirement systems and employee benefit programs administered by the Division of Pensions and Benefits and the Division of Investments shall be reimbursed by the pension and health benefits funds established by law to receive employer contributions or payments or to make benefit payments under the programs, as the case may be. In addition to the amounts hereinabove, there are appropriated such sums as may be necessary to reimburse the General Fund for such sums as may be reasonably necessary for administrative costs, which shall include bank service charges, investment services, and any other such costs as are related to the management of the pension and health benefit programs, as the Director of the Division of Budget and Accounting shall determine. In addition, revenue resulting from such charges to the various pensions and health benefit funds, payable on a schedule to be determined by the Director of the Division of Budget and Accounting, shall be credited to the General Fund as anticipated revenue.

There are appropriated sufficient sums as may be required for the expenses of the Pensions and Health Benefits Commission, provided that such appropriation shall be reimbursed to the General Fund from the resources available to the various pensions and health benefits funds.

In addition to the amounts hereinabove, there is appropriated an amount, not to exceed \$12,000,000, for the re-engineering of the pension and health benefits computer systems as referenced in the Division of Pensions and Benefits organizational study, provided that such appropriations shall be reimbursed to the General Fund from the resources available to the various pension funds.

The unexpended balance in the Re-engineering of the Pension and Health Benefits Computer Systems account as of June 30, 2004 is appropriated for the same purpose.

Notwithstanding the provisions of any law to the contrary, there are appropriated from the Capital City Redevelopment Loan and Grant Fund such sums as may be required to provide for expenses, programs, and strategies which will enhance the vitality of the capitol district as a place to live, visit, work and conduct business, subject to the approval of the Director of the Division of Budget and Accounting.

### **CAPITAL CONSTRUCTION**

Receipts derived from the agency surcharge on vehicle rentals pursuant to section 54 of P.L.2002, c.34 (C.App.A:9-78), not to exceed \$7,182,000 for the Office of Information Technology Availability and Recovery Site (OARS), are appropriated and shall be deposited into a dedicated account, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

### ***2026 Office of Administrative Law***

#### **DIRECT STATE SERVICES**

|                                                      |                     |
|------------------------------------------------------|---------------------|
| 45-2026 Adjudication of Administration Appeals ..... | <u>\$8,492,000</u>  |
| <i>(From General Fund .....</i>                      | <i>\$5,260,000)</i> |
| <i>(From All Other Funds .....</i>                   | <i>3,232,000)</i>   |
| Total Direct State Services Appropriation,           |                     |
| State and All Other Funds .....                      | <u>\$8,492,000</u>  |

***Less:***

|                              |                  |
|------------------------------|------------------|
| <i>All Other Funds .....</i> | <i>3,232,000</i> |
|------------------------------|------------------|

|                                                                  |                    |
|------------------------------------------------------------------|--------------------|
| Total State Appropriation, Office of<br>Administrative Law ..... | <u>\$5,260,000</u> |
|------------------------------------------------------------------|--------------------|

***Direct State Services:***

**Personal Services:**

|                                     |               |
|-------------------------------------|---------------|
| Salaries and Wages .....            | (\$7,619,000) |
| Employee Benefits .....             | (147,000)     |
| Materials and Supplies .....        | (65,000)      |
| Services Other Than Personal .....  | (620,000)     |
| Maintenance and Fixed Charges ..... | (35,000)      |

**Special Purpose:**

45 Affirmative Action and Equal  
Employment Opportunity . . . . . (6,000)

**Less:**

**All Other Funds . . . . . 3,232,000**

In addition to the amount hereinabove, such sums as may be received or receivable from any department or non-State fund source for administrative hearing costs or rule-making costs by the Office of Administrative Law and the unexpended balance as of June 30, 2004 of such sums are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

The Director of the Division of Budget and Accounting is empowered to transfer or credit to the Office of Administrative Law any appropriation made to any department for administrative hearing costs which had been appropriated or allocated to such department for its share of such costs.

Receipts derived from the annual license fee, payable to the Office of Administrative Law, and the unexpended balance as of June 30, 2004 of such receipts are appropriated.

Receipts derived from the royalties, payable to the Office of Administrative Law, and the unexpended balance as of June 30, 2004 of such receipts are appropriated.

**75 State Subsidies and Financial Aid****GRANTS-IN-AID**

33-2078 Homestead Rebates . . . . . \$1,756,711,000

**(From Property Tax**

**Relief Fund . . . . . \$1,756,711,000)**

Total Grants-in-Aid Appropriation,

State Subsidies and Financial Aid . . . . . \$1,756,711,000

**(From Property Tax**

**Relief Fund . . . . . \$1,756,711,000)**

**Grants-in-Aid:**

33 Homestead Property Tax

Rebates for Homeowners

(PTRF) . . . . . (\$1,501,311,000)

33 Homestead Property Tax

Rebates for Tenants (PTRF) . . (188,000,000)

33 Senior and Disabled Citizens'

Property Tax Freeze (PTRF) . . . (67,400,000)

In addition to the amount hereinabove, there are appropriated from the Property Tax Relief Fund such additional sums as may be required for payments to homeowners and tenants qualifying for homestead property tax rebates.

In addition to the amount hereinabove, there are appropriated from the Property Tax Relief Fund such additional sums as may be required for payments of property tax credits to homeowners and tenants pursuant to the "Property Tax Deduction Act," P.L.1996, c.60 (C.54A:3A-15 et seq.).

Notwithstanding the provisions of P.L.1997, c.348 (C.54:4-8.67 et seq.), the amount hereinabove for the Homestead Property Tax Reimbursement (Senior and

Disabled Citizens' Property Tax Freeze), and any additional sum which may be required for this purpose, is appropriated from the Property Tax Relief Fund. From the amount appropriated hereinabove for the Homestead Property Tax Rebates for Homeowners and Homestead Property Tax Rebates for Tenants programs, there are appropriated such sums as may be necessary for the administration of those programs, subject to the approval of the Director of the Division of Budget and Accounting.

#### STATE AID

|                   |                                                                           |                      |
|-------------------|---------------------------------------------------------------------------|----------------------|
| 28-2078           | County Boards of Taxation                                                 | \$1,481,000          |
| 29-2078           | Locally Provided Services                                                 | 75,970,000           |
| 34-2078           | Reimbursement of Senior/Disabled Citizens' and Veterans' Tax Deductions   | 109,000,000          |
|                   | <i>(From Property Tax Relief Fund . 109,000,000)</i>                      |                      |
| 35-2078           | Consolidated Police and Firemen's Pension Fund                            | <u>68,714,000</u>    |
|                   | <i>(Total From General Fund . . . . . 41,425,000)</i>                     |                      |
|                   | <i>(Total From Property Tax Relief Fund . . . . . 27,289,000)</i>         |                      |
|                   | Total State Aid Appropriation, State Subsidies and Financial Aid          | <u>\$255,165,000</u> |
|                   | <i>(Total From General Fund . . . . . \$118,876,000)</i>                  |                      |
|                   | <i>(Total From Property Tax Relief Fund . . . . . 136,289,000)</i>        |                      |
| <b>State Aid:</b> |                                                                           |                      |
| 28                | County Tax Board Members                                                  | .. (\$1,481,000)     |
| 29                | South Jersey Port Corporation Debt Service Reserve Fund                   | .... (4,200,000)     |
| 29                | South Jersey Port Corporation Property Tax Reserve Fund                   | .... (2,442,000)     |
| 29                | Solid Waste Management - County Environmental Investment Debt Service Aid | .. (57,328,000)      |
| 29                | Highlands Protection Fund - Incentive Planning Aid                        | ..... (2,650,000)    |
| 29                | Highlands Protection Fund - Regional Master Plan Compliance Aid           | ..... (1,750,000)    |
| 29                | Highlands Protection Fund - Watershed Moratorium Offset Aid               | ..... (2,200,000)    |
| 29                | Highlands Protection Fund - Highlands Property Tax Stabilization Aid      | ..... (3,600,000)    |
| 29                | Highlands Protection Fund - Pinelands Property Tax Stabilization Aid      | ..... (1,800,000)    |

|    |                                                                                                           |              |
|----|-----------------------------------------------------------------------------------------------------------|--------------|
| 34 | Reimbursement to<br>Municipalities -- Senior and<br>Disabled Citizens' Tax<br>Deductions (PTRF) . . . . . | (23,000,000) |
| 34 | State Reimbursement for<br>Veterans' Property Tax<br>Deductions (PTRF) . . . . .                          | (86,000,000) |
| 35 | State Contribution to<br>Consolidated Police and<br>Firemen's Pension Fund . . . . .                      | (7,046,000)  |
| 35 | Debt Service on Pension<br>Obligation Bonds (PTRF) . . . . .                                              | (7,869,000)  |
| 35 | Police and Firemen's<br>Retirement System - Post<br>Retirement Medical (PTRF) . . .                       | (19,420,000) |
| 35 | Police and Firemen's<br>Retirement System . . . . .                                                       | (19,864,000) |
| 35 | Police and Firemen's Retirement<br>System (P.L.1979, c.109) . . . . .                                     | (14,515,000) |

The Director of the Division of Budget and Accounting shall reduce amounts provided to any municipality from the appropriations hereinabove by the difference, if any, between pension contribution savings, and the amount of Consolidated Municipal Property Tax Relief Aid payable to such municipality.

There are appropriated such additional sums as may be certified to the Governor by the South Jersey Port Corporation as necessary to meet the requirements of the "South Jersey Port Corporation Debt Service Reserve Fund" under section 14 of P.L.1968, c.60 (C.12:11A-14), the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

The State Treasurer may pay the amount hereinabove for the South Jersey Port Corporation Property Tax Reserve Fund directly to the city of Camden, any provision of law to the contrary notwithstanding and in the absence of an approved agreement between the corporation and the city pursuant to section 20 of P.L.1968, c.60 (C.12:11A-20), upon notification from the Commissioner of the Department of Community Affairs that the payment is anticipated as revenue in any city budget adopted by the city with the approval of the Chief Operating Officer and the Director of Local Government Services in the Department of Community Affairs.

Such additional sums as may be necessary are appropriated to subsidize county and county authority debt service payments for environmental investments incurred pursuant to the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) and the "Solid Waste Utility Control Act," P.L.1970, c.40 (C.48:13A-1 et seq.) as determined by the State Treasurer based upon the need for such financial assistance after taking into account all financial resources available or attainable to pay such debt service. Such sums shall be subject to the approval of the Director of the Division of Budget and Accounting and shall be provided upon such terms and conditions as the State Treasurer may determine. The unexpended balance as of June 30, 2004 in the Solid Waste Management -



County Environmental Investment Debt Service Aid account is appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of the "Corporation Business Tax Act (1945)," P.L.1945, c.162 (C.54:10A-1 et seq.), the sum apportioned to the several counties of the State shall not be distributed and shall be anticipated as revenue for general State purposes.

Notwithstanding the provisions of P.L.1945, c.162 (C.54:10A-1 et seq.), the amounts collected from banking corporations pursuant to the "Corporation Business Tax Act (1945)" shall not be distributed to the counties and municipalities and shall be anticipated as revenue for general State purposes.

The unexpended balance as of June 30, 2004 from the taxes collected pursuant to P.L.1940, c.4 (C.54:30A-16 et seq.) and P.L.1940, c.5 (C.54:30A-49 et seq.) shall lapse.

There is appropriated from the Energy Tax Receipts Property Tax Relief Fund the sum of \$787,739,000 and an amount not to exceed \$18,808,000 which is transferred from the Consolidated Municipal Property Tax Relief Aid (PTRF) account to the fund and shall be allocated to municipalities in accordance with the provisions of subsection b. of section 2 of P.L.1997, c.167 (C.52:27D-439). Each municipality that receives an allocation from the amount so transferred shall have its allocation from the Consolidated Municipal Property Tax Relief Aid program reduced by the same amount. Of the amount herein appropriated from the Energy Tax Receipts Property Tax Relief Fund, an amount equal to \$25,000,000 shall be allocated to municipalities proportionately based on population, except that Newark and Jersey City shall each receive \$390,000 of the \$25,000,000 and Paterson shall receive \$375,000 of the \$25,000,000.

Notwithstanding the provisions of paragraph (1) of subsection c. of section 2 of P.L. 1997, c.167 (C.52:27D-439) to the contrary, the amount hereinabove for Energy Tax Receipts Property Tax Relief Fund payments shall be distributed on the following schedule: on or before August 1, 45% of the total amount due; September 1, 30% of the total amount due; October 1, 15% of the total amount due; November 1, 5% of the total amount due; and December 1, 5% of the total amount due.

There is appropriated from taxes collected from certain insurance companies, pursuant to the insurance tax act, so much as may be required for payments to counties pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.).

There is appropriated an amount not to exceed \$1,500,000 for expenses associated with municipal economic recovery efforts as determined by the chair of the Economic Recovery Board for Camden, subject to the approval of the Director of the Division of Budget and Accounting.

The amounts hereinabove for Highlands Protection Fund appropriations are payable from the receipts of the portion of the realty transfer fee directed to be credited to the Highlands Protection Fund. Further, the Department of the Treasury may transfer funds as necessary between the Highlands Protection Fund - Incentive Planning Aid account and the Highlands Protection Fund - Regional Master Plan Compliance Aid account, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount hereinabove, there is appropriated from the Property Tax Relief Fund such additional sums as may be required for State reimbursement to municipalities for senior and disabled citizens' and veterans' property tax deductions.

In addition to the sum hereinabove appropriated for Debt Service on Pension Obligation Bonds to make payments under the State Treasurer's contracts authorized pursuant to section 6 of P.L.1997, c.114 (C.34:1B-7.50), there are appropriated such other sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts.

Such additional sums as may be required for Police and Firemen's Retirement System - Post Retirement Medical are appropriated, as the Director of the Division of Budget and Accounting shall determine.

### ***76 Management and Administration***

#### **DIRECT STATE SERVICES**

|                                                       |                     |
|-------------------------------------------------------|---------------------|
| 98-2006 Contract Compliance and Equal                 |                     |
| Employment Opportunity in Public Contracts . . . . .  | \$1,613,000         |
| 99-2000 Administration and Support Services . . . . . | <u>10,473,000</u>   |
| Total Direct State Services Appropriation,            |                     |
| Management and Administration . . . . .               | <u>\$12,086,000</u> |

#### ***Direct State Services:***

##### **Personal Services:**

|                                         |               |
|-----------------------------------------|---------------|
| Salaries and Wages . . . . .            | (\$9,745,000) |
| Materials and Supplies . . . . .        | (93,000)      |
| Services Other Than Personal . . . . .  | (2,160,000)   |
| Maintenance and Fixed Charges . . . . . | (65,000)      |

##### **Special Purpose:**

|                            |          |
|----------------------------|----------|
| 99 Federal Liaison Office, |          |
| Washington, D.C. . . . .   | (23,000) |

There are appropriated from the investment earnings of general obligation bond proceeds, such sums as may be necessary for the payment of debt service administrative costs.

There is appropriated from revenue estimated to be received as a fee in connection with the issuance of debt an amount not to exceed \$700,000 to provide funds for public finance activities.

There are appropriated from revenue to be received from investment earnings of State funds, from fees in connection with the cost of debt issuance and from service fees billed to State authorities, such sums as may be required for public finance activities.

Pursuant to the provisions of P.L.1999, c.12 (C.54A:9-25.12 et seq.) deposits made to the "Drug Abuse Education Fund" and the unexpended balance as of June 30, 2004 of such deposits are appropriated for collection or administration costs of the Department of the Treasury and for transfer to the Department of Education such sums as are necessary for Project DARE (Drug Abuse Resistance Education), subject to the approval of the Director of the Division of Budget and Accounting.

An amount equivalent to the amount due to be paid in fiscal year 2005 to the State by the Port Authority of New York and New Jersey pursuant to the regional economic development agreement dated January 1, 1990 among the States of New York and New Jersey and the Port Authority of New York and New Jersey is appropriated to the Economic Recovery Fund established pursuant to section 3 of P.L.1992, c.16 (C.34:1B-7.12) for the purposes of P.L.1992, c.16 (C.34:1B-7.10 et seq.).

Notwithstanding the provisions of any law to the contrary, there are appropriated from the "Drug Enforcement and Demand Reduction Fund" such sums as may be required to provide for the administrative expenses of the Governor's Council on Alcoholism and Drug Abuse and for programs and grants to other agencies, subject to the approval of the Director of the Division of Budget and Accounting.

Fees collected on behalf of the Contract Compliance and Equal Employment Opportunity in Public Contracts program and the unexpended balance as of June 30, 2004 of such fees are appropriated for program costs, subject to allotment by the Director of the Division of Budget and Accounting.

There are appropriated such additional sums as may be required to pay for the operating expenses of the Casino Revenue Fund Advisory Commission, subject to the approval of the Director of the Division of Budget and Accounting.

#### **GRANTS-IN-AID**

99-2000 Administration and Support Services . . . . . \$7,000,000

Total Grants-in-Aid Appropriation, Management  
and Administration . . . . . \$7,000,000

#### ***Grants-in-Aid:***

99 Cultural Projects . . . . . (\$4,000,000)

99 New Jersey Competitiveness  
Fund . . . . . (3,000,000)

#### ***80 Special Government Services***

#### ***82 Protection of Citizens' Rights***

#### **DIRECT STATE SERVICES**

06-2024 Appellate Services to Indigents . . . . . \$7,957,000

57-2021 Trial Services to Indigents and  
Special Programs . . . . . 71,009,000

58-2022 Mental Health Screening Services . . . . . 3,222,000

61-2023 Dispute Settlement . . . . . 343,000

99-2025 Administration and Support Services . . . . . 2,287,000

Total Direct State Services Appropriation,  
Protection of Citizens' Rights . . . . . \$84,818,000

#### ***Direct State Services:***

#### **Personal Services:**

Salaries and Wages . . . . . (\$54,621,000)

Materials and Supplies . . . . . (850,000)

Services Other Than Personal . . . . . (21,449,000)

Maintenance and Fixed Charges . . . . . (503,000)

**Special Purpose:**

- 57 Continuous Representation --
    - Title 9 to Title 30 . . . . . (4,601,000)
  - 57 Public Defender Pilot Program . . . (184,000)
  - 57 Law Guardian - Kinship
    - Guardianship . . . . . (1,720,000)
  - 58 Representation of Civilly
    - Committed Sexual Offenders . . . . (602,000)
  - 99 Affirmative Action and Equal
    - Employment Opportunity . . . . . (64,000)
  - Additions, Improvements and Equipment . . (224,000)
- Sums provided for legal and investigative services are available for payment of obligations applicable to prior fiscal years.
- In addition to the amount hereinabove for the operation of the Public Defender's office there are appropriated additional sums as may be required for Trial and Appellate services to indigents, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.
- Notwithstanding any other provision of law, no State funds are appropriated to fund the expenses associated with the legal representation of persons before the State Parole Board or the Parole Bureau.
- Lawsuit settlements and legal costs awarded by any court to the Office of the Public Defender are appropriated for the expenses associated with the representation of indigent clients.
- The funds appropriated to the Office of the Public Defender are available for expenses associated with the defense of pool attorneys hired by the Public Defender for the representation of indigent clients.
- The unexpended balances as of June 30, 2004 are appropriated subject to the approval of the Director of the Division of Budget and Accounting.

**GRANTS-IN-AID**

- 57-2021 Trial Services to Indigents
  - and Special Programs . . . . . \$16,400,000
- Total Grants-in-Aid Appropriation, Protection of
  - Citizens' Rights . . . . . \$16,400,000

**Grants-in-Aid:**

- 57 State Legal Services Office . . . . (\$8,400,000)
  - 57 Legal Services of New Jersey --
    - Legal Assistance in Civil Matters
      - (P.L.1996, c.52) . . . . . (8,000,000)
- Receipts in excess of the amount hereinabove for Legal Services of New Jersey - Legal Assistance in Civil Matters, P.L.1996, c.52, are appropriated for the same purposes, subject to the approval of the Director of the Division of Budget and Accounting.

Department of the Treasury,  
 Total State Appropriation . . . . . \$2,853,476,000

**Summary of Department of The Treasury Appropriations  
(For Display Purposes Only)**

*Appropriations by Category:*

|                             |               |
|-----------------------------|---------------|
| Direct State Services ..... | \$384,069,000 |
| Grants-in-Aid .....         | 2,002,122,000 |
| State Aid .....             | 467,285,000   |

*Appropriations by Fund:*

|                                |               |
|--------------------------------|---------------|
| General Fund .....             | \$904,530,000 |
| Property Tax Relief Fund ..... | 1,921,045,000 |
| Casino Control Fund .....      | 27,901,000    |

**90 MISCELLANEOUS COMMISSIONS**

**40 Community Development and Environmental Management**

**43 Science and Technical Programs**

**9130 Interstate Environmental Commission**

**DIRECT STATE SERVICES**

|                                                                                         |                  |
|-----------------------------------------------------------------------------------------|------------------|
| 03-9130 Interstate Environmental Commission .....                                       | <u>\$383,000</u> |
| Total Direct State Services Appropriation, Interstate<br>Environmental Commission ..... | <u>\$383,000</u> |

**Direct State Services:**

Special Purpose:

|                                    |             |
|------------------------------------|-------------|
| 03 Expenses of the Commission .... | (\$383,000) |
|------------------------------------|-------------|

**9140 Delaware River Basin Commission**

**DIRECT STATE SERVICES**

|                                                                                     |                  |
|-------------------------------------------------------------------------------------|------------------|
| 02-9140 Delaware River Basin Commission .....                                       | <u>\$857,000</u> |
| Total Direct State Services Appropriation, Delaware<br>River Basin Commission ..... | <u>\$857,000</u> |

**Direct State Services:**

Special Purpose:

|                                   |             |
|-----------------------------------|-------------|
| 02 Expenses of the Commission ... | (\$857,000) |
|-----------------------------------|-------------|

**70 Government Direction, Management and Control**

**72 Government Review and Oversight**

**9148 Council on Local Mandates**

**DIRECT STATE SERVICES**

|                                                                               |                  |
|-------------------------------------------------------------------------------|------------------|
| 92-9148 Council on Local Mandates .....                                       | <u>\$150,000</u> |
| Total Direct State Services Appropriation,<br>Council on Local Mandates ..... | <u>\$150,000</u> |

**Direct State Services:**

Special Purpose:

|                                   |             |
|-----------------------------------|-------------|
| 92 Council on Local Mandates .... | (\$150,000) |
|-----------------------------------|-------------|

The unexpended balance as of June 30, 2004 in this account is appropriated.

Miscellaneous Commissions,

|                                 |                    |
|---------------------------------|--------------------|
| Total State Appropriation. .... | <u>\$1,390,000</u> |
|---------------------------------|--------------------|

***Summary of Miscellaneous Commissions Appropriations  
(For Display Purposes Only)***

*Appropriations by Category:*

Direct State Services ..... \$1,390,000

*Appropriations by Fund:*

General Fund ..... \$1,390,000

**94 INTER-DEPARTMENTAL ACCOUNTS**

**70 Government Direction, Management and Control**

**74 General Government Services**

**DIRECT STATE SERVICES**

01-9400 Property Rentals ..... \$148,432,000

02-9400 Insurance and Other Services ..... 80,411,000

06-9400 Utilities and Other Services ..... 29,085,000

Total Direct State Services Appropriation,

General Government Services ..... \$257,928,000

***Direct State Services:***

Property Rentals:

Existing and Anticipated Leases (\$160,242,000)

Economic Development Authority . (17,491,000)

Other Debt Service Leases and

Tax Payments . . . . . (16,586,000)

***Less:***

***Direct Charges and Charges to***

***Non-State Fund Sources*** ..... **49,677,000**

Additions, Improvements and

Equipment ..... (3,790,000)

Insurance and Other Services:

Property Insurance ..... (3,636,000)

Casualty Insurance ..... (2,030,000)

Special Insurance Policies ..... (220,000)

Tort Claims Liability Fund .... (11,000,000)

Workers' Compensation Fund . (41,900,000)

UMDNJ Self-Insurance

Reserve Fund ..... (18,000,000)

Vehicle Claims Liability Fund .. (2,000,000)

Self-Insurance Deductible Fund . (1,500,000)

Self-Insurance Fund-Foster Parents (125,000)

Utilities and Other Services:

Fuel and Utilities ..... (23,382,000)

Household and Security ..... (5,703,000)

The Director of the Division of Budget and Accounting is empowered to allocate to any State agency occupying space in any State-owned building equitable charges for the rental of such space to include, but not be limited to, the costs of operation and maintenance thereof, and the amounts so charged shall be credited to the General Fund; and, to the extent that such charges exceed the amounts appropriated for such purposes to any agency financed from any fund

- other than the General Fund, the required additional appropriation shall be made out of such other fund.
- Receipts derived from direct charges and charges to non-State fund sources are appropriated for the rental of property, including the costs of operation and maintenance of such properties.
- Notwithstanding any other provision of law, and except for leases negotiated by the Division of Property Management and Construction and subject to the approval or disapproval by the State Leasing and Space Utilization Committee pursuant to P.L.1992, c.130 (C.52:18A-191.1 et seq.), and except as hereinafter provided, no lease for the rental of any office or building shall be executed without the prior written consent of the State Treasurer, the Director of the Division of Budget and Accounting, the President of the Senate and the Speaker of the General Assembly.
- To the extent that sums appropriated for property rental payments are insufficient, there are appropriated such additional sums, not to exceed \$3,000,000 as may be required to pay property rental obligations, subject to the approval of the Director of the Division of Budget and Accounting.
- An amount not to exceed \$2,500,000 shall be appropriated for the costs of security, maintenance, utilities and other operating expenses related to the Marlboro Psychiatric Hospital and North Princeton Developmental Center closure initiatives, subject to the approval of the Director of the Division of Budget and Accounting.
- There are appropriated such additional sums as may be required to pay debt service costs for the Greystone Park Psychiatric Hospital Project, subject to the approval of the Director of the Division of Budget and Accounting.
- The unexpended balance as of June 30, 2004 in the Master Lease Program Fund is appropriated for the same purpose.
- In order to permit flexibility, amounts may be transferred between various items of appropriation within the Insurance and Other Services program classification, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.
- There are appropriated such additional sums as may be required to pay tort claims under N.J.S.59:12-1, as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine.
- The funds appropriated to the Tort Claims Liability Fund are available for the payment of claims of a tortious nature, as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine.
- The funds appropriated to the Tort Claims Liability Fund are available for the payment of direct costs of legal, administrative and medical services related to the investigation, mitigation and litigation of tort claims under N.J.S.59:12-1, and claims of a tortious nature, as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine.
- The funds appropriated to the Tort Claims Liability Fund are available for the indemnification of pool attorneys engaged by the Public Defender for the defense of indigents.

The funds appropriated to the Tort Claims Liability Fund are available for the indemnification of designated pathologists engaged by the State Medical Examiner.

Notwithstanding any other law to the contrary, claims paid from the Tort Claims Liability Fund on behalf of entities funded, in whole or in part, from non-State funds, may be reimbursed from such non-State fund sources as determined by the Director of the Division of Budget and Accounting.

There are appropriated such additional sums as may be required to pay claims not payable from the Tort Claims Liability Fund or payable under the New Jersey Contractual Liability Act, as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine. The funds appropriated are available for the payment of direct costs of legal, administrative and medical services related to the investigation, mitigation and litigation of claims not payable from the Tort Claims Liability Fund or payable under the New Jersey Contractual Liability Act, as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine. Notwithstanding any other law to the contrary, claims or costs paid from the monies appropriated under this paragraph on behalf of entities funded, in whole or in part from non-State funds, may be reimbursed from such non-State funds sources as determined by the Director of the Division of Budget and Accounting. Appropriations under this paragraph shall not be available to pay punitive damages and shall not be deemed a waiver of any immunity by the State.

To the extent that sums appropriated to pay Workers' Compensation claims under R.S.34:15-1 et seq., are insufficient, there are appropriated such additional sums as may be required to pay Workers' Compensation claims, subject to the approval of the Director of the Division of Budget and Accounting.

The amount appropriated hereinabove for the Workers' Compensation Self-Insurance Fund under R.S.34:15-1 et seq. is available for the payment of direct costs of legal, investigative, administrative and medical services related to the investigation, mitigation, litigation and administration of claims against the fund, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding any other law to the contrary, benefits provided to community work experience participants shall be borne by the Work First New Jersey program funded through the Department of Human Services and any costs related to administration, mitigation, litigation and investigation of claims will be reimbursed to the Bureau of Risk Management by the Work First New Jersey Program funded through the Department of Human Services, subject to the approval of the Director of the Division of Budget and Accounting.

Providing that expenditures during fiscal year 2005 on workers compensation claims attributable to the Departments of Human Services, Transportation, Corrections, and Law and Public Safety are less than the respective amounts expended by those departments for claims attributable for fiscal year 2004, the Director of the Division of Budget and Accounting is authorized to transfer all or a portion of that savings to those departments or the Bureau of Risk



- Management within the Department of the Treasury for the purpose of improving worker safety and reducing workers compensation costs.
- To the extent that sums appropriated to pay auto insurance claims are insufficient, there are appropriated such additional sums as may be required to pay auto insurance claims, subject to the approval of the Director of the Division of Budget and Accounting.
- The amount appropriated hereinabove for the Vehicle Claims Liability Fund is available for the payment of direct costs of legal, investigative and medical services related to the investigation, mitigation and litigation of claims against the fund.
- The unexpended balance as of June 30, 2004 in the Self-Insurance Deductible Fund is appropriated for the same purposes.
- The amount appropriated hereinabove for the Self-Insurance Fund - Foster Parents is available for the payment of direct costs of legal, investigative and medical services related to the investigation, mitigation and litigation of claims against the fund.
- The sums hereinabove are available for payment of obligations applicable to prior fiscal years.
- There are appropriated out of revenues received from utility companies such sums as may be required for implementation and administration of the Energy Conservation Initiatives Program, subject to the approval of the Director of the Division of Budget and Accounting.
- In addition to the sums hereinabove for Fuel and Utilities, the Director of the Division of Budget and Accounting shall transfer or credit to this account such sums that accrue from appropriations made to various spending agencies for Fuel and Utilities and Salaries and Wages, to reflect savings associated with electrical deregulation, fuel switch and other energy-conservation initiatives.
- Of the unexpended balances in the Petroleum Overcharge Reimbursement Fund available for "Green Power," such sums shall be transferred to the various departments and agencies participating in the State electricity contract, as applicable, to reimburse additional costs associated with "Green Power" sources, subject to the approval of the Director of the Division of Budget and Accounting.
- The unexpended balance as of June 30, 2004 in the Global Energy Statewide Account is appropriated for the same purpose.
- Notwithstanding any law to the contrary, the Division of Property Management and Construction is empowered to renegotiate lease terms, provided that such renegotiations result in cost savings to the State for State fiscal year 2005 and for the term of the lease. Any lease amendments made as a result of these renegotiations are subject to the review and approval of the State Leasing and Space Utilization Committee.
- Notwithstanding the provisions of any other law to the contrary, such additional sums as may be required to pay for the State's share of the Enhanced 911 surcharge, as the Director of the Division of Budget and Accounting shall determine, are appropriated to the Emergency Preparedness and 911 System Trust Fund account.

**GRANTS-IN-AID**

|                                              |                     |
|----------------------------------------------|---------------------|
| 09-9400 Aid to Independent Authorities ..... | <u>\$85,135,000</u> |
| Total Grants-in-Aid Appropriation, General   |                     |
| Government Services .....                    | <u>\$85,135,000</u> |

***Grants-in-Aid:***

|                                       |                |
|---------------------------------------|----------------|
| 09 Sports Complex .....               | (\$26,060,000) |
| 09 Atlantic City Projects .....       | (15,025,000)   |
| 09 Higher Education and               |                |
| Other Projects .....                  | (3,417,000)    |
| 09 Wildwood Convention Center ..      | (1,668,000)    |
| 09 Camden Aquarium Management         |                |
| Agreement .....                       | (1,500,000)    |
| 09 New Jersey Performing Arts         |                |
| Center, EDA .....                     | (5,555,000)    |
| 09 Business Employment Incentive      |                |
| Program, EDA-Debt Service ..          | (15,344,000)   |
| 09 Liberty Science Center - EDA ...   | (718,000)      |
| 09 Municipal Rehabilitation and       |                |
| Economic Recovery, EDA .....          | (8,948,000)    |
| 09 Camden Children's Garden .....     | (625,000)      |
| 09 Designated Industries Economic     |                |
| Growth & Development - EDA ..         | (5,885,000)    |
| 09 Battleship New Jersey Utilities .. | (390,000)      |

In addition to the amounts appropriated hereinabove for the Sports and Exposition Authority - Debt Service there are appropriated such additional sums as may be necessary, subject to the approval of the Director of the Division of Budget and Accounting.

The amount for the New Jersey Performing Arts Center, EDA account shall be used to pay the State's obligations pursuant to a lease with the New Jersey Economic Development Authority, for the lease of real property and infrastructure improvements and the Performing Arts Center structure constructed thereon purchased by the authority for the State in the city of Newark, for the purpose of constructing buildings to comprise a Performing Arts Center. Notwithstanding any other provision of law, the State Treasurer may enter into a lease with the New Jersey Economic Development Authority to lease the real property and improvements thereon purchased or caused to be constructed by the authority for the State in the city of Newark for the Performing Arts Center, subject to the prior written consent of the Director of the Division of Budget and Accounting, the President of the Senate and the Speaker of the General Assembly. Upon the final payment of the State's obligations pursuant to the lease for the real property and infrastructure improvements purchased by the authority, the title to the real property and improvements shall revert to the State. The State may sublease the land and facilities for the purpose of operating, maintaining or financing a Performing Arts Center in Newark. Any sublease for use of land and improvements acquired for the State by the New Jersey Economic Development Authority for the Performing Arts Center shall be subject to the prior written approval of the Director of the Division of Budget

and Accounting and the Joint Budget Oversight Committee, or its successor. There are appropriated such additional sums as may be necessary to pay debt service for the New Jersey Performing Arts Center.

The amount hereinabove appropriated for the Camden Aquarium L.L.C. shall be subject to the execution of an agreement between the State Treasurer and the operator of the Camden Aquarium to effectuate the development and expansion of the Aquarium. In addition to the amounts appropriated hereinabove for the Camden Aquarium L.L.C. there are appropriated such additional sums as may be necessary, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Camden Children's Garden shall be subject to the execution of an agreement between the State Treasurer and the operator of the Camden Children's Garden.

Fiscal year 2005 debt service payments attributable to the New Jersey Performing Arts Center, EDA program and to the Municipal Rehabilitation and Economic Recovery, EDA program shall paid by the New Jersey Economic Development Authority from resources available from unexpended balances. There are appropriated such additional sums as may be necessary to pay debt service and other costs for the Municipal Rehabilitation and Economic Recovery, EDA program, subject to the approval of the Director of the Division of Budget and Accounting.

The amount hereinabove for the Battleship New Jersey Utilities shall be used for the utility expenses of the Battleship New Jersey as shall be substantiated by the Home Port Alliance in a submission to the Director of the Division of Budget and Accounting, and shall not be expended without the approval of the director and the State Treasurer.

#### **CAPITAL CONSTRUCTION**

|                                             |                      |
|---------------------------------------------|----------------------|
| 08-9400 Capital Projects -- Statewide ..... | <u>\$184,549,000</u> |
| Total Capital Construction Appropriation,   |                      |
| General Government Services .....           | <u>\$184,549,000</u> |

#### ***Capital Projects:***

##### **Statewide Capital Projects**

##### **08 Americans with Disabilities**

##### **Act Compliance Projects --**

Statewide ..... (\$2,000,000)

##### **08 Hazardous Materials Removal**

Projects -- Statewide ..... (1,000,000)

##### **General State Projects**

08 Southwoods State Prison ..... (24,289,000)

08 State House Renovations ..... (15,860,000)

08 Hughes Justice Complex ..... (8,880,000)

08 Other State Projects ..... (21,586,000)

08 9/11 Memorial Design Costs ... (1,000,000)

##### **Counter-terrorism Projects**

08 State Police Multipurpose Building/Troop "C" Headquarters ... (6,097,000)

|                                                                  |              |
|------------------------------------------------------------------|--------------|
| 08 State Police Emergency<br>Operations Center .....             | (1,137,000)  |
| 08 Renovation Projects, Existing<br>and Anticipated Leases ..... | (2,700,000)  |
| 08 Enterprise Upgrades-Garden<br>State Network .....             | (2,000,000)  |
| 08 Garden State Preservation<br>Trust Fund Account .....         | (98,000,000) |

There are appropriated such additional sums as may be required to pay future debt service costs for projects undertaken by the New Jersey Building Authority, subject to the approval of the Director of the Division of Budget and Accounting.

Notwithstanding the provisions of P.L.1997, c.258 (C.30:4-177.53 et seq.) or the provisions of any other law or regulation to the contrary, the amounts hereinabove appropriated to the New Jersey Building Authority Debt Service General State Projects shall be payable in part from monies derived from the sale or conveyance of the former North Princeton Developmental Center, Montgomery, New Jersey, and the former Marlboro Psychiatric Hospital, Marlboro, New Jersey.

Prior to the unexpended balance as of June 30, 2004 in the Network Infrastructure Account intended for the development of the server farm initiative being expended, any participating department shall enter into a Memorandum of Understanding with the Chief Information Officer that no enterprise, data warehousing, application or database servers will be purchased by these departments but that they will participate in the implementation of the server farm.

Notwithstanding the provisions of any other law to the contrary, in order to provide flexibility in administering the amounts provided for Statewide Fire, Life Safety and Renovations Projects, such sums as may be necessary may be transferred to individual project line items within various departments, subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount appropriated hereinabove for the Garden State Preservation Trust Fund Account, interest earned and accumulated from July 1, 2004 to June 30, 2005 is appropriated.

Receipts derived from the agency surcharge on vehicle rentals pursuant to 54 of P.L.2002, c.34 (C.App.A:9-78), not to exceed \$3,000,000 for Statewide Security Projects related to Statewide security services, are appropriated for those purposes and shall be deposited into a dedicated account, the expenditure of which shall be subject to the approval of the Director of the Division of Budget and Accounting.

In addition to the amount appropriated hereinabove for Enterprise Upgrades-Garden State Network, \$175,000 from administrative savings from the Office of Information Technology (OIT) shall be allocated for this purpose. Spending of all funds shall be subject to the approval of the OIT oversight board and subject to the approval of Director of the Division of Budget and Accounting.

The unexpended balances as of June 30, 2004 of appropriations from the "1996 Economic Development Site Fund," established pursuant to section 20 of the "Port of New Jersey Revitalization, Dredging, Environmental Cleanup, Lake

Restoration, and Delaware Bay Area Economic Development Bond Act of 1996," P.L.1996, c.70 are appropriated.

**9410 Employee Benefits**  
**DIRECT STATE SERVICES**

|                                            |                        |
|--------------------------------------------|------------------------|
| 03-9410 Employee Benefits .....            | <u>\$1,328,738,000</u> |
| Total Direct State Services Appropriation, |                        |
| Employee Benefits .....                    | <u>\$1,328,738,000</u> |

**Direct State Services:**

Special Purpose:

|                                       |                 |
|---------------------------------------|-----------------|
| 03 Public Employees'                  |                 |
| Retirement System - Post              |                 |
| Retirement Medical .....              | (\$167,602,000) |
| 03 Police and Firemen's               |                 |
| Retirement System .....               | (26,708,000)    |
| 03 Police and Firemen's Retirement    |                 |
| System (P.L.1979, c.109) .....        | (2,180,000)     |
| 03 Alternate Benefits Program --      |                 |
| Employer Contributions .....          | (1,241,000)     |
| 03 State Police Retirement System ... | (188,000)       |
| 03 Judicial Retirement System ....    | (6,120,000)     |
| 03 Teachers' Pension and Annuity      |                 |
| Fund Post Retirement Medical -        |                 |
| State .....                           | (3,292,000)     |
| 03 Pension Adjustment Program ...     | (1,708,000)     |
| 03 Veterans Act Pensions .....        | (115,000)       |
| 03 P.E.R.S. Minimum Pension           |                 |
| Benefit Act -- Pre 1955               |                 |
| Retirees .....                        | (4,000)         |
| 03 Heath Act Pensions .....           | (5,000)         |
| 03 Debt Service on Pension            |                 |
| Obligation Bonds .....                | (59,324,000)    |
| 03 Volunteer Emergency                |                 |
| Survivor Benefit .....                | (105,000)       |
| 03 State Employees'                   |                 |
| Health Benefits .....                 | (504,445,000)   |
| 03 Other Pension Systems Post-        |                 |
| Retirement Medical .....              | (55,524,000)    |
| 03 State Employees' Prescription      |                 |
| Drug Program .....                    | (162,810,000)   |
| 03 State Employees' Dental            |                 |
| Program -- Shared Cost .....          | (16,111,000)    |
| 03 State Employee's Vision Care       |                 |
| Program .....                         | (1,000,000)     |
| 03 Social Security Tax -- State ..    | (314,719,000)   |
| 03 Temporary Disability               |                 |
| Insurance Liability .....             | (8,367,000)     |

03 Unemployment Insurance  
 Liability ..... (6,440,000)

**Less:**

***Reimbursements from***

***Agency Accounts ..... 9,270,000***

There is appropriated a sufficient amount in order that upon application to the Director of the Division of Budget and Accounting, an annuity of \$4,000 shall be paid to the widow or widower of any person, now deceased, who was elected and served as Governor of the State; provided such widow or widower was the spouse of such person for all or part of the period during which he or she served as Governor; and provided further, that this shall not apply to any widow or widower receiving a pension granted under R.S.43:8-2, and continued by R.S.43:7-1 et seq., R.S.43:8-1 et seq., and R.S.43:8-8 et seq.

Such additional sums as may be required for Social Security Tax - State may be allotted from the various departmental operating appropriations to this account, as the Director of the Division of Budget and Accounting shall determine.

Such additional sums as may be required for State Employees' Health Benefits may be allotted from the various departmental operating appropriations to this account, as the Director of the Division of Budget and Accounting shall determine.

Of the amounts hereinabove for the Pension Adjustment Program, such sums as are appropriated in advance for increased retirement benefits for local employee members of State-administered retirement systems shall be repaid to the General Treasury upon reimbursement from local public employers.

Such additional sums as may be required for Public Employees' Retirement System - Post Retirement Medical, Alternate Benefits Program - Employer Contributions, Teachers' Pension and Annuity Fund Post Retirement Medical - State, State Employees' Health Benefits, Other Pension System Post Retirement Medical, State Employees' Prescription Drug Program, State Employees' Dental Program - Shared Cost, State Employees' Vision Care Program, Social Security Tax - State, Temporary Disability Insurance Liability, and Unemployment Insurance Liability are appropriated, as the Director of the Division of Budget and Accounting shall determine.

Notwithstanding the provisions of the Pension Adjustment Act, P.L.1958, c.143 (C.43:3B-1 et seq.), pension adjustment benefits for members and beneficiaries of the Consolidated Police and Firemen's Pension Fund shall be paid by the fund. Employer appropriations for these benefits as required under the act shall be paid to the fund.

In addition to the sum hereinabove appropriated for Debt Service on Pension Obligation Bonds to make payments under the State Treasurer's contracts authorized pursuant to section 6 of P.L.1997, c.114 (C.34:1B-7.50), there are appropriated such other sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts.

The amounts hereinabove for Employee Benefits may be transferred to the Grants-In-Aid accounts for the same purposes.

The unexpended balance as of June 30, 2004 in the Debt Service on Pension Obligation Bonds account is appropriated for the same purpose.

No monies appropriated herein shall be used to provide additional health insurance coverage to a State or local elected official when that official receives health insurance coverage as a result of holding other public office or employment.

Notwithstanding any provision of law to the contrary, in addition to the amount hereinabove appropriated for the Public Employees' Retirement System - Post Retirement Medical, there is hereby appropriated an amount as determined by the State Treasurer to fund the pension cost contribution by the State to the Public Employees' Retirement System, payment for which shall be credited against amounts on deposit in the Benefit Enhancement Fund established in section 22 of P.L.1954, c.84 (C.43:15A-22).

Notwithstanding any provision of law to the contrary, in addition to the amount hereinabove appropriated for the Teachers' Pension and Annuity Fund - Post Retirement Medical, there is hereby appropriated an amount as determined by the State Treasurer to fund the pension cost contribution by the State to the Teachers' Pension and Annuity Fund, payment for which shall be credited against amounts on deposit in the Benefit Enhancement Fund created pursuant to N.J.S.18A:66-16.

The Director of the Division of Budget and Accounting shall transfer from departmental operating appropriations Statewide that are available for payments for services provided by the Office of Information Technology amounts not to exceed \$4,000,000 which are appropriated for the Employee Benefits program classification.

Notwithstanding the provisions of any other law to the contrary, amounts hereinabove appropriated for the State Health Benefits Program are subject to the condition that: (i) increases in co-payments for the prescription drug plan, the co-payment for office visits in the managed care plans, and the deductible for the Traditional Plan agreed to by bargaining units representing State employees and employees of State authorities, State commissions, State colleges and State universities shall be implemented by the State Health Benefits Commission as expeditiously as is administratively feasible; and (ii) the following co-payments shall be implemented by the State Health Benefits Commission as expeditiously as is administratively feasible for (a) employees paid through the State centralized payroll for whom there is no majority representative for collective negotiations purposes; and (b) employees of State authorities, State commissions, State colleges and State universities for whom there is no majority representative for collective negotiations purposes who receive health benefits through the State Health Benefits Program and such health benefits are funded in whole or in part by State appropriations: a \$10 co-payment for NJ PLUS and HMO primary care physician and specialist office visits; co-payments for the Employee Prescription Drug: Retail Pharmacy -\$3 generic and \$10 brand name for up to a 30-day supply, and Mail Order Pharmacy -\$5 generic and \$15 brand name for up to a 90 day supply; and a Traditional Plan deductible of \$250.

Notwithstanding the provisions of N.J.S.18A:66-18, amounts hereinabove appropriated for the Employee Benefits program classification are subject to the

condition that the rate for member contributions of State employees in the Teachers' Pension and Annuity Fund shall be 3% for the period of July 1, 2004 through December 31, 2004.

### **GRANTS-IN-AID**

|                                     |                      |
|-------------------------------------|----------------------|
| 03-9410 Employee Benefits . . . . . | <u>\$607,792,000</u> |
| Total Grants-in-Aid Appropriation,  |                      |
| Employee Benefits . . . . .         | <u>\$607,792,000</u> |

***Grants-in-Aid:***

**Special Purpose:**

|                                     |                |
|-------------------------------------|----------------|
| 03 Public Employees' Retirement     |                |
| System - Post Retirement            |                |
| Medical . . . . .                   | (\$24,393,000) |
| 03 Police and Firemen's             |                |
| Retirement System . . . . .         | (2,251,000)    |
| 03 Alternate Benefits Program --    |                |
| Employer Contributions . . . . .    | (114,890,000)  |
| 03 Teachers' Pension and            |                |
| Annuity Fund Post Retirement        |                |
| Medical - State . . . . .           | (6,553,000)    |
| 03 Debt Service on Pension          |                |
| Obligation Bonds . . . . .          | (3,423,000)    |
| 03 State Employees' Health          |                |
| Benefits . . . . .                  | (215,992,000)  |
| 03 Other Pension Systems Post-      |                |
| Retirement Medical . . . . .        | (15,661,000)   |
| 03 State Employees' Prescription    |                |
| Drug Program . . . . .              | (66,460,000)   |
| 03 State Employees' Dental          |                |
| Program -- Shared Cost . . . . .    | (6,229,000)    |
| 03 Social Security Tax -- State . . | (144,529,000)  |
| 03 Temporary Disability             |                |
| Insurance Liability . . . . .       | (3,796,000)    |
| 03 Unemployment                     |                |
| Insurance Liability . . . . .       | (3,615,000)    |

Such additional sums as may be required for Public Employees' Retirement System - Post Retirement Medical, Alternate Benefits Program - Employer Contributions, Teachers' Pension and Annuity Fund Post Retirement Medical - State, State Employees' Health Benefits, Other Pension System Post Retirement Medical, State Employees' Prescription Drug Program, State Employees' Dental Program - Shared Cost, Social Security Tax - State, Temporary Disability Insurance Liability, and Unemployment Insurance Liability are appropriated, as the Director of the Division of Budget and Accounting shall determine.

The amounts hereinabove for Employee Benefits may be transferred to the Direct State Services accounts for the same purposes.



In addition to the sum hereinabove appropriated to make payments under the State Treasurer's contracts authorized pursuant to section 6 of P.L.1997, c.114 (C.34:1B-7.50), there are appropriated such other sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts.

No monies appropriated herein shall be used to provide additional health insurance coverage to a State or local elected official when that official receives health insurance coverage as a result of holding other public office or employment.

Notwithstanding any provision of law to the contrary, in addition to the amount appropriated hereinabove for the Public Employees' Retirement System - Post Retirement Medical, an amount as determined by the State Treasurer, from amounts in the Benefit Enhancement Fund established in section 22 of P.L.1954, c.84 (C.43:15A-22), shall be applied to pay the pension contribution by the State for the Public Employees' Retirement System.

The unexpended balance as of June 30, 2004 in the Debt Service on Pension Obligation Bonds account is appropriated for the same purpose.

Notwithstanding any provision of law to the contrary, in addition to the amount hereinabove appropriated for the Teachers' Pension and Annuity Fund - Post Retirement Medical, there is hereby appropriated an amount as determined by the State Treasurer to fund the pension cost contribution by the State to the Teachers' Pension and Annuity Fund, payment for which shall be credited against amounts on deposit in the Benefit Enhancement Fund created pursuant to N.J.S.18A:66-16.

Notwithstanding the provisions of any other law to the contrary, amounts hereinabove appropriated for the State Health Benefits Program are subject to the condition that: (i) increases in co-payments for the prescription drug plan, the co-payment for office visits in the managed care plans, and the deductible for the Traditional Plan agreed to by bargaining units representing State employees and employees of State authorities, State commissions, State colleges and State universities shall be implemented by the State Health Benefits Commission as expeditiously as is administratively feasible; and (ii) the following increases shall be implemented by the State Health Benefits Commission as expeditiously as is administratively feasible for (a) employees paid through the State centralized payroll for whom there is no majority representative for collective negotiations purposes; and (b) employees of State authorities, State commissions, State colleges and State universities for whom there is no majority representative for collective negotiations purposes who receive health benefits through the State Health Benefits Program and such health benefits are funded in whole or in part by State appropriations: a \$10 co-payment for NJ PLUS and HMO primary care physician and specialist office visits; co-payments for the Employee Prescription Drug: Retail Pharmacy -\$3 generic and \$10 brand name for up to a 30-day supply, and Mail Order Pharmacy -\$5 generic and \$15 brand name for up to a 90 day supply; and a Traditional Plan deductible of \$250.

Notwithstanding the provisions of N.J.S.18A:66-18, amounts hereinabove appropriated for the Employee Benefits program classification are subject to the condition that the rate for member contributions of employees of State colleges

and universities in the Teachers' Pension and Annuity Fund shall be 3% for the period of July 1, 2004 through December 31, 2004.

**9420 Other Inter-Departmental Accounts**

**DIRECT STATE SERVICES**

|                                                  |                     |
|--------------------------------------------------|---------------------|
| 04-9420 Other Inter-Departmental Accounts .....  | <u>\$55,469,000</u> |
| Total Direct State Services Appropriation, Other |                     |
| Inter-Departmental Accounts .....                | <u>\$55,469,000</u> |

***Direct State Services:***

**Special Purpose:**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                |               |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| 04 To the Governor, for<br>allotment to the various<br>departments or agencies,<br>to meet any condition of<br>emergency or necessity;<br>provided however, that<br>a sum not in excess of \$5,000<br>shall be available for the expense<br>of officially receiving dignitaries<br>and for incidental expenses,<br>including lunches for non-<br>salaried board members and<br>others for whom official<br>reception shall be beneficial<br>to the State ..... | (\$1,750,000) |
| 04 Contingency Fund .....                                                                                                                                                                                                                                                                                                                                                                                                                                      | (1,250,000)   |
| 04 Interest on Short Term Notes ..                                                                                                                                                                                                                                                                                                                                                                                                                             | (22,300,000)  |
| 04 Debt Issuance - Special Purpose                                                                                                                                                                                                                                                                                                                                                                                                                             | (1,100,000)   |
| 04 Catastrophic Illness in Children<br>Relief Fund -- Employer<br>Contributions .....                                                                                                                                                                                                                                                                                                                                                                          | (125,000)     |
| 04 Interest on Interfund Borrowing .                                                                                                                                                                                                                                                                                                                                                                                                                           | (1,000,000)   |
| 04 Payment of Military<br>Leave Benefits .....                                                                                                                                                                                                                                                                                                                                                                                                                 | (350,000)     |
| 04 Statewide 911 Emergency<br>Telephone System .....                                                                                                                                                                                                                                                                                                                                                                                                           | (18,362,000)  |
| 04 Network Infrastructure .....                                                                                                                                                                                                                                                                                                                                                                                                                                | (6,800,000)   |
| 04 Garden State Network<br>Infrastructure .....                                                                                                                                                                                                                                                                                                                                                                                                                | (282,000)     |
| 04 Automated Document Factory ...                                                                                                                                                                                                                                                                                                                                                                                                                              | (450,000)     |
| 04 Automated Cartridge<br>System Upgrade .....                                                                                                                                                                                                                                                                                                                                                                                                                 | (300,000)     |
| 04 Accelerated Registration .....                                                                                                                                                                                                                                                                                                                                                                                                                              | (400,000)     |
| 04 Information Technology On-<br>Line State Portal .....                                                                                                                                                                                                                                                                                                                                                                                                       | (1,000,000)   |

Unless otherwise indicated, the above amounts may be allotted by the Director of the Division of Budget and Accounting to the various departments and agencies.

Notwithstanding the provisions of N.J.S.2A:153-1 et seq., there is allocated at the discretion of the Governor, an amount up to \$50,000, from the Special Purpose amount appropriated hereinabove to meet any condition of emergency or necessity, as a reward for the capture and return of Joanne Chesimard.

There are appropriated to the Emergency Services Fund such sums as are required to meet the costs of any emergency occasioned by aggression, civil disturbance, sabotage, disaster, or for flood expenses for State owned structures to comply with Federal Insurance Administration requirements, as recommended by the Emergency Services Council and approved by the Governor, and subject to the approval of the Director of the Division of Budget and Accounting. In the event that the Emergency Service Council is unable to convene due to any such emergency described above, there shall be appropriated to the Emergency Service Fund such sums as are required to meet the costs of any such emergency described above, and payments from the Fund shall be made by the State Treasurer upon approval of the Governor and the Director of the Division of Budget and Accounting.

The unexpended balance as of June 30, 2004 in the Governor's Contingency Fund is appropriated for the same purpose.

Such sums as may be necessary for payment of expenses incurred by issuing officials appointed under the several bond acts of the State are appropriated for the purposes and from the sources defined in those acts.

In addition to the sum hereinabove appropriated for Geographic Information System (GIS) Integration, there are appropriated such sums as may be received from federal, county, municipal governments or agencies and nonprofit organizations for orthoimagery and parcel data mapping.

Of the amount appropriated hereinabove for the Statewide 911 Emergency Telephone System, \$9,428,000 is chargeable to receipts derived from the Wireless Communication and Cell Tower Assessment, pursuant to the passage of enabling legislation.

The unexpended balance as of June 30, 2004 in Payment of Military Leave Benefits is appropriated for the same purpose.

#### **GRANTS-IN-AID**

04-9420 Other Inter-Departmental Accounts . . . . . \$114,198,000

Total Grants-in-Aid Appropriation, Other

Inter-Departmental Accounts . . . . . \$114,198,000

#### ***Grants-in-Aid:***

04 Property Tax Assistance and

Community Development

Grants . . . . . (\$88,000,000)

04 Cost of Living Increase for

Community Care Providers . . . (11,273,000)

04 Enhanced 911 County Grants . (14,925,000)

The amount appropriated hereinabove for the Enhanced 911 County Grants is chargeable to receipts derived from the Wireless Communication and Cell Tower Assessment, pursuant to the passage of enabling legislation. Grant awards and expenditures supported by the appropriation for Enhanced 911 County Grants shall be determined in accordance with grant criteria to be jointly developed by the 911 Commission and the Departments of the Treasury, Community Affairs, and the Attorney General's Office, the purpose of which shall be to create incentives for the regional consolidation of 911 call services and public safety answering points.

From the amount appropriated hereinabove for Property Tax Assistance and Community Development Grants, the State Treasurer shall provide State assistance to municipalities, school districts and counties for their local purposes as the State Treasurer shall determine, and for the payment of Grants-In-Aid awards to non-governmental entities for health, welfare, educational, or other purposes as the State Treasurer shall determine, subject to the approval of the Director of the Division of Budget and Accounting and review and approval by the Joint Budget Oversight Committee. The committee shall be provided periodically with a list of grantees approved by the director to review and shall approve the list or disapprove the list as provided within 10 working days or the list of grantees shall be deemed approved by the committee. No recipient of State assistance or a grant shall receive more than \$5,000,000 from this appropriation. The amount distributed to a municipality, school district or county from this appropriation may be expended by the recipient notwithstanding any law to the contrary.

From the amount appropriated hereinabove for Cost of Living Increase for Community Care Providers, there shall be allocated to those departments with line-item appropriations made within those departments for such Cost of Living Increases, such amounts as shall be in proportion to those departmental appropriations, as shall be determined by the Director of the Division of Budget and Accounting.

#### ***9430 Salary Increases and Other Benefits***

##### **DIRECT STATE SERVICES**

05-9430 Salary Increases and Other Benefits . . . . . \$137,280,000

Total Direct State Services Appropriation,

Salary Increases and Other Benefits . . . . . \$137,280,000

Special Purpose:

05 Salary Increases and

Other Benefits . . . . . (\$129,780,000)

05 Unused Accumulated Sick

Leave Benefits . . . . . (7,500,000)

The sums hereinabove appropriated to the various State departments, agencies or commissions for the cost of salaries, wages, or other benefits shall be allotted as the Director of the Division of Budget and Accounting shall determine.

Notwithstanding the provisions of any other law, including R.S.34:15-49 and section 1 of P.L.1981, c.353 (C.34:15-49.1), the State Treasurer, the Commissioner of Personnel, and the Director of the Division of Budget and

Accounting shall establish directives governing salary ranges and rates of pay, and salary increases including a 3.9% cost of living adjustment for public sector managers. The implementation of such directives shall be made effective at the first full pay period of Fiscal Year 2005 as determined by such directives, with timely notification of such directives to the Joint Budget Oversight Committee or its successor. Such directives shall not be considered an "administrative rule" or "rule" within the meaning of subsection (e) of section 2 of P.L.1968, c.410 (C.52:14B-2), but shall be considered exempt under paragraphs (1) and (2) of subsection (e) of section 2 of P.L.1968, c.410 (C.52:14B-2), and shall not be subject to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Nothing herein shall be construed as applicable to the Presidents of the State Colleges, Rutgers, The State University, the University of Medicine and Dentistry of New Jersey and the New Jersey Institute of Technology.

No salary range or rate of pay shall be increased or paid in any State department, agency, or commission without the approval of the Director of the Division of Budget and Accounting. Nothing herein shall be construed as applicable to unclassified personnel of the Legislative Branch or unclassified personnel of the Judicial Branch.

In addition to the amount hereinabove for Unused Accumulated Sick Leave Payments, there are appropriated such sums as may be necessary for payments of unused accumulated sick leave.

Any sums appropriated for Salary Increases and Other Benefits shall be made available for any person holding State office, position or employment whose compensation is paid directly or indirectly, in whole or in part, from State funds, including any person holding office, position or employment under the Palisades Interstate Park Commission.

The unexpended balance as of June 30, 2004 in the Salary Increases and Other Benefits Account is appropriated for the same purposes.

#### **GRANTS-IN-AID**

|                                                   |                     |
|---------------------------------------------------|---------------------|
| 04-9430 Salary Increases and Other Benefits ..... | <u>\$31,158,000</u> |
| Total Grants-in-Aid Appropriation, Salary         |                     |
| Increases and Other Benefits .....                | <u>\$31,158,000</u> |

#### ***Grants-in-Aid:***

|                         |                |
|-------------------------|----------------|
| 04 Salary Increases and |                |
| Other Benefits .....    | (\$31,158,000) |

|                                 |                        |
|---------------------------------|------------------------|
| Inter-Departmental Accounts,    |                        |
| Total State Appropriation ..... | <u>\$2,802,247,000</u> |

#### ***Summary of Inter-Departmental Accounts Appropriations (For Display Purposes Only)***

##### ***Appropriations by Category:***

|                             |                 |
|-----------------------------|-----------------|
| Direct State Services ..... | \$1,779,415,000 |
| Grants-in-Aid .....         | 838,283,000     |
| Capital Construction .....  | 184,549,000     |

##### ***Appropriations by Fund:***

General Fund . . . . . \$2,802,247,000

**THE JUDICIARY**  
**10 Public Safety and Criminal Justice**  
**15 Judicial Services**

**DIRECT STATE SERVICES**

|                                                                           |                      |
|---------------------------------------------------------------------------|----------------------|
| 01-9710 Supreme Court . . . . .                                           | \$5,426,000          |
| 02-9715 Superior Court -- Appellate Division . . . . .                    | 19,205,000           |
| 03-9720 Civil Courts . . . . .                                            | 90,374,000           |
| 04-9725 Criminal Courts . . . . .                                         | 105,654,000          |
| 05-9730 Family Courts . . . . .                                           | 91,839,000           |
| 06-9735 Municipal Courts . . . . .                                        | 1,050,000            |
| 07-9740 Probation Services . . . . .                                      | 110,876,000          |
| 08-9745 Court Reporting . . . . .                                         | 7,849,000            |
| 09-9750 Public Affairs and Education . . . . .                            | 2,618,000            |
| 10-9755 Information Services . . . . .                                    | 16,003,000           |
| 11-9760 Trial Court Services . . . . .                                    | 68,480,000           |
| 12-9765 Management and Administration . . . . .                           | <u>12,699,000</u>    |
| Total Direct State Services Appropriation,<br>Judicial Services . . . . . | <u>\$532,073,000</u> |

**Direct State Services:**

Personal Services:

|                                         |               |
|-----------------------------------------|---------------|
| Chief Justice . . . . .                 | (\$164,000)   |
| Associate Justices . . . . .            | (951,000)     |
| Judges . . . . .                        | (61,295,000)  |
| Salaries and Wages . . . . .            | (352,048,000) |
| Materials and Supplies . . . . .        | (7,755,000)   |
| Services Other Than Personal . . . . .  | (32,549,000)  |
| Maintenance and Fixed Charges . . . . . | (1,852,000)   |

Special Purpose:

|                                                                                  |              |
|----------------------------------------------------------------------------------|--------------|
| 01 Rules Development . . . . .                                                   | (200,000)    |
| 04 Drug Court Treatment/<br>Aftercare . . . . .                                  | (18,918,000) |
| 04 Drug Court Operations . . . . .                                               | (6,780,000)  |
| 04 Drug Court Judgeships . . . . .                                               | (1,498,000)  |
| 05 Child Placement Review<br>Advisory Council . . . . .                          | (82,000)     |
| 05 Kinship Legal Guardianship . . . . .                                          | (3,151,000)  |
| 05 Child Support and Paternity<br>Program Title IV-D<br>(Family Court) . . . . . | (7,866,000)  |
| 07 Intensive Supervision Program . . . . .                                       | (11,112,000) |
| 07 Juvenile Intensive Supervision<br>Program . . . . .                           | (2,169,000)  |
| 07 Child Support and Paternity<br>Program Title IV-D<br>(Probation) . . . . .    | (18,910,000) |

12 Affirmative Action and Equal  
 Employment Opportunity . . . . . (770,000)  
 Additions, Improvements  
 and Equipment . . . . . (4,003,000)  
 The unexpended balances as of June 30, 2004 in the Civil Arbitration Program are  
 appropriated subject to the approval of the Director of the Division of Budget  
 and Accounting.  
 Notwithstanding any law to the contrary, receipts derived from fees under the  
 Special Civil Part service of process via certified mailers are appropriated for  
 the same purpose, subject to the approval of the Director of the Division of  
 Budget and Accounting.  
 The amounts appropriated hereinabove in the Drug Courts Treatment and Aftercare  
 account shall be transferred to the Department of Health and Senior Services  
 or a successor agency to fund treatment, aftercare and administrative services  
 associated with the drug court program, subject to the approval of the Director  
 of the Division of Budget and Accounting.  
 Receipts derived from the increase in fees collected by the Judiciary pursuant to  
 P.L.2002, c.34 and related increases provided by operation of N.J.S.22A:2-5  
 and section 2 of P.L.1993, c.74 (C.22A:5-1) are appropriated from the Court  
 Technology Improvement Fund for the purpose of offsetting the costs of  
 development, establishment, operation and maintenance of the Judiciary  
 computerized court information systems, subject to the approval of the Director  
 of the Division of Budget and Accounting.  
 Receipts from charges to certain Special Purpose accounts listed hereinabove are  
 appropriated for services provided to these funds.  
 Receipts from charges to the Superior Court Trust Fund, NJ Lawyers Fund for  
 Client Protection, Disciplinary Oversight Committee, Board on Attorney  
 Certification, Bar Admission Financial Committee, Parents' Education Fund,  
 Automated Traffic System Fund, Municipal Court Administrator Certification,  
 Comprehensive Enforcement Program, and Courts Computerized Information  
 Systems Fund are appropriated for services provided to these funds.  
 The unexpended balances as of June 30, 2004 not to exceed \$3,000,000 in these  
 respective accounts are appropriated subject to the approval of the Director of  
 the Division of Budget and Accounting provided that \$1,000,000 is allocated  
 for Drug Court Operations.

The Judiciary, Total State Appropriation . . . . . \$532,073,000

***Summary of Judiciary Appropriations  
 (For Display Purposes Only)***

***Appropriations by Category:***

Direct State Services . . . . . \$532,073,000

***Appropriations by Fund:***

General Fund . . . . . \$532,073,000

**DEBT SERVICE**

**42 DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**40 Community Development and Environmental Management**

**46 Environmental Planning and Administration**

99-4800 Interest on Bonds ..... \$19,604,000  
 99-4800 Bond Redemption ..... 43,636,000

Total Debt Service Appropriation, Department of  
 Environmental Protection ..... \$63,240,000

**Special Purpose:****Interest:**

Water Conservation Bonds  
 (P.L.1969, c.127) ..... (\$199,000)

**State Recreation and Conservation****Land Acquisition and Development**

Bonds (P.L.1974, c.102) ..... (92,000)

Clean Waters Bonds (P.L.1976, c.92) . (42,000)

**Beaches and Harbors Bonds**

(P.L.1977, c.208) ..... (34,000)

**State Land Acquisition and****Development Bonds**

(P.L.1978, c.118) ..... (242,000)

**Natural Resources Bonds**

(P.L.1980, c.70) ..... (1,337,000)

**Hazardous Discharge Bonds**

(P.L.1981, c.275) ..... (201,000)

**1983 New Jersey Green Acres**

Bonds (P.L.1983, c.354) ..... (26,000)

**Shore Protection Bonds**

(P.L.1983, c.356) ..... (8,000)

**Resource Recovery and Solid Waste****Disposal Facility Bonds**

(P.L.1985, c.330) ..... (746,000)

**Hazardous Discharge Bonds**

(P.L.1986 c.113) ..... (1,551,000)

**1987 Green Acres, Cultural Centers****and Historic Preservation Bonds**

(P.L.1987, c.265) ..... (315,000)

**1989 New Jersey Open Space****Preservation Bonds**

(P.L.1989, c.183) ..... (1,999,000)

**Stormwater Management and Com-****combined Sewer Overflow Abatement**

Bonds (P.L.1989, c.181) ..... (446,000)

**Green Acres, Clean Water, Farmland****and Historic Preservation Bonds**

(P.L.1992, c.88) ..... (4,760,000)

**Green Acres, Farmland and Historic****Preservation and Blue Acres**

Bonds (P.L.1995, c.204) ..... (6,315,000)



|                                                                                                  |                     |
|--------------------------------------------------------------------------------------------------|---------------------|
| Port of New Jersey Revitalization,<br>Dredging Bonds (P.L.1996, c.70)                            | (1,291,000)         |
| Redemption:                                                                                      |                     |
| Water Conservation Bonds<br>(P.L.1969, c.127)                                                    | (674,000)           |
| State Recreation and Conservation<br>Land Acquisition and Development<br>Bonds (P.L.1974, c.102) | (734,000)           |
| Clean Waters Bonds (P.L.1976, c.92)                                                              | (169,000)           |
| Beaches and Harbors Bonds<br>(P.L.1977, c.208)                                                   | (300,000)           |
| State Land Acquisition and Develop-<br>ment Bonds (P.L.1978, c.118)                              | (606,000)           |
| Natural Resources Bonds<br>(P.L.1980, c.70)                                                      | (839,000)           |
| Hazardous Discharge Bonds<br>(P.L.1981, c.275)                                                   | (504,000)           |
| 1983 New Jersey Green Acres Bonds<br>(P.L.1983, c.354)                                           | (80,000)            |
| Shore Protection Bonds<br>(P.L.1983, c.356)                                                      | (45,000)            |
| Resource Recovery and Solid Waste<br>Disposal Facility Bonds<br>(P.L.1985, c.330)                | (1,925,000)         |
| Hazardous Discharge Bonds<br>(P.L.1986, c.113)                                                   | (6,418,000)         |
| 1987 Green Acres, Cultural Centers<br>and Historic Preservation Bonds<br>(P.L.1987, c.265)       | (420,000)           |
| 1989 New Jersey Open Space<br>Preservation Bonds<br>(P.L.1989, c.183)                            | (6,317,000)         |
| Stormwater Management and<br>Combined Sewer Overflow<br>Abatement Bonds<br>(P.L.1989, c.181)     | (430,000)           |
| Green Acres, Clean Water, Farmland<br>and Historic Preservation Bonds<br>(P.L.1992, c.88)        | (11,600,000)        |
| Green Acres, Farmland and Historic<br>Preservation and Blue Acres<br>Bonds (P.L.1995, c.204)     | (9,785,000)         |
| Port of New Jersey Revitalization,<br>Dredging Bonds<br>(P.L.1996, c.70)                         | (2,790,000)         |
| Total Debt Service Appropriation,<br>Department of Environmental Protection                      | <u>\$63,240,000</u> |

**82 DEPARTMENT OF THE TREASURY****70 Government Direction, Management and Control****76 Management and Administration**

99-2000 Interest on Bonds ..... \$154,784,000

99-2000 Bond Redemption ..... 223,509,000Total Debt Service Appropriation,  
Department of the Treasury ..... \$378,293,000**Special Purpose:****Interest:**Urban and Rural Centers Unsafe  
Buildings Demolition Bonds  
(P.L.1997, c.125) ..... (\$691,000)State Mortgage Assistance Bonds  
(P.L.1976, c.94) ..... (23,000)Institutions Construction Bonds  
(P.L.1976, c.93) ..... (68,000)Institutional Construction Bonds  
(P.L.1978, c.79) ..... (34,000)Transportation Rehabilitation and  
Improvement Bonds  
(P.L.1979, c.165) ..... (456,000)Energy Conservation Bonds  
(P.L.1980, c.68) ..... (50,000)Community Development Bonds  
(P.L.1981, c. 486) ..... (166,000)Human Services Facilities  
Construction Bonds  
(P.L.1984, c.157) ..... (36,000)Refunding Bonds (P.L.1985, c.74,  
as amended by P.L.1992,  
c.182) ..... (122,438,000)Jobs, Education and  
Competitiveness Bonds  
(P.L.1988, c.78) ..... (1,531,000)Public Purpose Buildings and  
Community-Based Facilities  
Construction Bonds  
(P.L.1989, c.184) ..... (942,000)1989 Bridge Rehabilitation and  
Improvement and Railroad Right-  
of-way Preservation Bonds  
(P.L.1989, c.180) ..... (1,273,000)Developmental Disabilities' Waiting  
List Reduction and Human  
Services Facilities Construction  
Bonds (P.L.1994, c.108) ..... (3,006,000)

|                                                                                                                                          |               |
|------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| Statewide Transportation and Local<br>Bridge Bond Act of 1999<br>(P.L.1999, c.181) . . . . .                                             | (14,973,000)  |
| Payments on Future Bond Sales . . .                                                                                                      | (16,069,000)  |
| Redemption:                                                                                                                              |               |
| Urban and Rural Centers Unsafe<br>Buildings Demolition Bonds<br>(P.L.1997, c.125) . . . . .                                              | (3,120,000)   |
| State Mortgage Assistance Bonds<br>(P.L.1976, c.94) . . . . .                                                                            | (200,000)     |
| Institutions Construction Bonds<br>(P.L.1976, c.93) . . . . .                                                                            | (600,000)     |
| Institutional Construction Bonds<br>(P.L.1978, c.79) . . . . .                                                                           | (300,000)     |
| Transportation Rehabilitation and<br>Improvement Bonds<br>(P.L.1979, c.165) . . . . .                                                    | (3,669,000)   |
| Energy Conservation Bonds<br>(P.L.1980, c.68) . . . . .                                                                                  | (200,000)     |
| Community Development Bonds<br>(P.L.1981, c.486) . . . . .                                                                               | (846,000)     |
| Human Services Facilities<br>Construction Bonds<br>(P.L.1984, c.157) . . . . .                                                           | (201,000)     |
| Refunding Bonds (P.L.1985, c.74,<br>as amended by<br>P.L.1992, c.182) . . . . .                                                          | (188,605,000) |
| Jobs, Education and Competitiveness<br>Bonds (P.L.1988, c.78) . . . . .                                                                  | (4,683,000)   |
| Public Purpose Buildings and<br>Community-Based Facilities<br>Construction Bonds<br>(P.L.1989, c.184) . . . . .                          | (1,050,000)   |
| 1989 Bridge Rehabilitation and<br>Improvement and Railroad Right-<br>of-way Preservation Bonds<br>(P.L.1989, c.180) . . . . .            | (2,855,000)   |
| Developmental Disabilities' Waiting<br>List Reduction and Human<br>Services Facilities Construction<br>Bonds (P.L.1994, c.108) . . . . . | (5,775,000)   |
| Statewide Transportation and Local<br>Bond Act of 1999<br>(P.L.1999, c.181) . . . . .                                                    | (11,405,000)  |
| Savings from Refunding and<br>Other initiatives . . . . .                                                                                | 6,972,000     |

Total Debt Service Appropriation,  
Department of The Treasury ..... \$378,293,000

Total Appropriation, Debt Service ..... \$441,533,000

Notwithstanding the provision of any law, rule or regulation to the contrary, such sums as may be needed for the payment of interest and/or principal due from the issuance of any bonds authorized under the several bond acts of the State are appropriated and shall first be charged to the earnings from the investments of such bond proceeds and/or repayments of loans from the applicable bond funds established under such bond acts, and monies are appropriated from such bond funds for the purpose of paying interest and/or principal on the bonds issued pursuant to such bond acts. Where required by law, such sums shall be used to fund a reserve for the payment of interest and/or principal on the bonds authorized under the bond act. Furthermore, where required by law, the amounts appropriated herein are allocated to the projects heretofore approved by the Legislature pursuant to those bond acts.

There are appropriated such sums as may be needed for the payment of debt service administrative costs.

Subsequent to the refunding of bonds in fiscal year 2005, the Director of the Division of Budget and Accounting is authorized to reallocate amounts appropriated hereinabove among the various debt service accounts to reflect the debt service savings of the refunding and to permit the proper debt service payments.

***Summary of Appropriations – All Departments  
(For Display Purposes Only)***

*Appropriations by Category:*

|                            |                 |
|----------------------------|-----------------|
| Direct State Service ..... | \$5,688,995,000 |
| Grants-in-Aid .....        | 9,883,349,000   |
| State Aid .....            | 10,892,855,000  |
| Capital Construction ..... | 1,120,529,000   |
| Debt Service .....         | 441,533,000     |

*Appropriations by Fund:*

|                                    |                  |
|------------------------------------|------------------|
| General Fund .....                 | \$18,622,911,000 |
| Property Tax Relief Fund .....     | \$8,855,000,000  |
| Casino Revenue Fund .....          | \$474,880,000    |
| Casino Control Fund .....          | \$65,600,000     |
| Gubernatorial Elections Fund ..... | \$8,870,000      |

Total Appropriation, All State Funds ..... \$28,027,261,000

**FEDERAL FUNDS**

**10 DEPARTMENT OF AGRICULTURE**

***40 Community Development and Environmental Management***

***49 Agricultural Resources, Planning, and Regulation***

01-3310 Animal Disease Control ..... \$18,000

|                                                                                |                      |
|--------------------------------------------------------------------------------|----------------------|
| 02-3320 Plant Pest and Disease Control .....                                   | 1,270,000            |
| 03-3330 Agriculture and Natural Resources .....                                | 25,000               |
| 04-3340 Food and Nutrition Services .....                                      | 248,329,000          |
| 06-3360 Marketing and Development Services .....                               | 399,000              |
| 08-3380 Farmland Preservation .....                                            | <u>6,000,000</u>     |
| Total Appropriation, Agricultural Resources,<br>Planning, and Regulation ..... | <u>\$256,041,000</u> |
| Personal Services:                                                             |                      |
| Salaries and Wages .....                                                       | (\$3,504,000)        |
| Employee Benefits .....                                                        | (932,000)            |
| Materials and Supplies .....                                                   | (654,000)            |
| Services Other Than Personal .....                                             | (1,265,000)          |
| Maintenance and Fixed Charges .....                                            | (210,000)            |
| Special Purpose:                                                               |                      |
| Biological Control of Garlic Mustard ...                                       | (10,000)             |
| Other Special Purpose .....                                                    | (153,000)            |
| State Aid and Grants:                                                          |                      |
| Farmland Preservation .....                                                    | (6,000,000)          |
| Team Nutrition Training .....                                                  | (170,000)            |
| Farm Risk Management<br>Education Program .....                                | (169,000)            |
| Child Nutrition - School Lunch ..                                              | (150,000,000)        |
| Child Nutrition - Special Milk .....                                           | (1,400,000)          |
| Child Nutrition - School Breakfast ..                                          | (30,000,000)         |
| Child Care Food .....                                                          | (48,000,000)         |
| Child Care Sponsor .....                                                       | (1,600,000)          |
| Cash in Lieu of Commodities .....                                              | (2,100,000)          |
| Child Nutrition Summer Programs ..                                             | (8,000,000)          |
| Summer Sponsor Administration ....                                             | (750,000)            |
| State Aid and Grants .....                                                     | (986,000)            |
| Additions, Improvements<br>and Equipment .....                                 | (138,000)            |
| Total Appropriation, Department of Agriculture ...                             | <u>\$256,041,000</u> |

## **22 DEPARTMENT OF COMMUNITY AFFAIRS**

### ***40 Community Development and Environmental Management***

#### ***41 Community Development Management***

|                                                                |                      |
|----------------------------------------------------------------|----------------------|
| 02-8020 Housing Services .....                                 | \$215,736,000        |
| 18-8017 Uniform Fire Code .....                                | <u>110,000</u>       |
| Total Appropriation, Community Development<br>Management ..... | <u>\$215,846,000</u> |
| Personal Services:                                             |                      |
| Salaries and Wages .....                                       | (\$12,147,000)       |
| Employee Benefits .....                                        | (3,540,000)          |
| Materials and Supplies .....                                   | (315,000)            |
| Services Other Than Personal .....                             | (1,120,000)          |

|                                           |               |
|-------------------------------------------|---------------|
| Maintenance and Fixed Charges . . . . .   | (1,266,000)   |
| Special Purpose:                          |               |
| Shelter Plus Care Program . . . . .       | (47,000)      |
| Moderate Rehabilitation                   |               |
| Housing Assistance . . . . .              | (92,000)      |
| Section 8 Housing                         |               |
| Voucher Program . . . . .                 | (1,165,000)   |
| Housing Opportunities for                 |               |
| Persons with AIDS . . . . .               | (15,000)      |
| Lead-Based Paint Abatement in Low         |               |
| and Moderate Income Housing . . . .       | (9,000)       |
| Small Cities Block Grant Program . . . .  | (24,000)      |
| National Affordable Housing -- HOME       |               |
| Investment Partnerships . . . . .         | (56,000)      |
| Other Special Purpose . . . . .           | (6,000)       |
| State Aid and Grants . . . . .            | (195,937,000) |
| Additions, Improvements and Equipment . . | (107,000)     |

***50 Economic Planning, Development and Security***

***55 Social Services Programs***

|                                                         |                     |
|---------------------------------------------------------|---------------------|
| 05-8050 Community Resources . . . . .                   | \$62,106,000        |
| 15-8051 Women's Programs . . . . .                      | <u>1,476,000</u>    |
| Total Appropriation, Social Services Programs . . . . . | <u>\$63,582,000</u> |
| Personal Services:                                      |                     |
| Salaries and Wages . . . . .                            | (\$2,105,000)       |
| Employee Benefits . . . . .                             | (576,000)           |
| Materials and Supplies . . . . .                        | (16,000)            |
| Services Other Than Personal . . . . .                  | (120,000)           |
| Maintenance and Fixed Charges . . . . .                 | (23,000)            |
| Special Purpose:                                        |                     |
| Other Special Purpose . . . . .                         | (227,000)           |
| State Aid and Grants                                    |                     |
| Rape Prevention and Education . . . .                   | (1,099,000)         |
| State Aid and Grants . . . . .                          | (59,341,000)        |
| Additions, Improvements and Equipment . .               | (75,000)            |

Total Appropriation, Department  
of Community Affairs . . . . . \$279,428,000

**26 DEPARTMENT OF CORRECTIONS**

***10 Public Safety and Criminal Justice***

***16 Detention and Rehabilitation***

|                                                    |           |
|----------------------------------------------------|-----------|
| 08-7040 Institutional Care and Treatment. . . . .  | \$116,000 |
| 08-7050 Institutional Care and Treatment . . . . . | 52,000    |
| 08-7060 Institutional Care and Treatment . . . . . | 83,000    |
| 08-7065 Institutional Care and Treatment . . . . . | 83,000    |
| 08-7070 Institutional Care and Treatment . . . . . | 80,000    |

|                                                       |                    |
|-------------------------------------------------------|--------------------|
| 08-7075 Institutional Care and Treatment .....        | 70,000             |
| 08-7080 Institutional Care and Treatment .....        | 351,000            |
| 08-7085 Institutional Care and Treatment .....        | 60,000             |
| 08-7090 Institutional Care and Treatment .....        | 125,000            |
| 08-7110 Institutional Care and Treatment .....        | 418,000            |
| 08-7120 Institutional Care and Treatment .....        | 162,000            |
| 08-7130 Institutional Care and Treatment .....        | 207,000            |
| 13-7025 Institutional Program Support .....           | <u>4,423,000</u>   |
| Total Appropriation, Detention and Rehabilitation ... | <u>\$6,230,000</u> |

## Personal Services:

|                              |               |
|------------------------------|---------------|
| Salaries and Wages .....     | (\$5,104,000) |
| Employee Benefits .....      | (365,000)     |
| Materials and Supplies ..... | (67,000)      |

## Special Purpose:

|                                     |           |
|-------------------------------------|-----------|
| Edna Mahan Visitation Program ..... | (7,000)   |
| Individuals with Disabilities       |           |
| Act -- Part B .....                 | (60,000)  |
| SSA Incentive Payments .....        | (50,000)  |
| Project In-Side .....               | (541,000) |
| Other Special Purpose .....         | (36,000)  |

**19 Central Planning, Direction and Management**

|                                                   |                  |
|---------------------------------------------------|------------------|
| 99-7000 Administration and Support Services ..... | <u>\$155,000</u> |
| Total Appropriation, Central Planning,            |                  |
| Direction and Management .....                    | <u>\$155,000</u> |
| Special Purpose .....                             | (\$118,000)      |
| State Aid and Grants .....                        | (37,000)         |

Total Appropriation, Department of Corrections ..... \$6,385,000

**34 DEPARTMENT OF EDUCATION****30 Educational, Cultural and Intellectual Development****31 Direct Educational Services and Assistance**

|                                                  |                      |
|--------------------------------------------------|----------------------|
| 05-5060 Bilingual Education .....                | \$15,863,000         |
| 05-5064 Bilingual Education .....                | 750,000              |
| 06-5060 Programs for Disadvantaged Youth .....   | 294,950,000          |
| 06-5063 Programs for Disadvantaged Youth .....   | 2,036,000            |
| 06-5064 Programs for Disadvantaged Youth .....   | 1,075,000            |
| 07-5060 Special Education .....                  | 295,949,000          |
| 07-5065 Special Education .....                  | <u>28,674,000</u>    |
| Total Appropriation, Direct Educational Services |                      |
| and Assistance .....                             | <u>\$639,297,000</u> |

## Personal Services:

|                                    |               |
|------------------------------------|---------------|
| Salaries and Wages .....           | (\$7,888,000) |
| Employee Benefits .....            | (2,248,000)   |
| Materials and Supplies .....       | (125,000)     |
| Services Other Than Personal ..... | (17,135,000)  |

**Special Purpose:**

|                                             |               |
|---------------------------------------------|---------------|
| Vocational Education - Basic Grants . . .   | (3,000)       |
| Refugee Children School                     |               |
| Impact Program . . . . .                    | (55,000)      |
| Language Acquisition State Grants . . .     | (128,000)     |
| Migrant Education - Administration/         |               |
| Discretionary . . . . .                     | (57,000)      |
| Title I - Reading First State Grant . . . . | (949,000)     |
| Reading First Discretionary Admin . . .     | (29,000)      |
| Bilingual and Compensatory Education --     |               |
| Homeless Children and Youth . . . .         | (29,000)      |
| Even Start Family Literacy Grant -          |               |
| Discretionary . . . . .                     | (142,000)     |
| Title I - Administration                    |               |
| Program Improvement . . . . .               | (307,000)     |
| State Improvement Grant,                    |               |
| Administration . . . . .                    | (592,000)     |
| IDEA Handicapped . . . . .                  | (485,000)     |
| IDEA Preschool Incentive Grant . . . . .    | (25,000)      |
| Pre-School Regional T.A. Project            |               |
| LRC Central . . . . .                       | (42,000)      |
| IDEA Part B Discretionary                   |               |
| Administration . . . . .                    | (2,296,000)   |
| State Aid and Grants . . . . .              | (606,762,000) |

***32 Operation and Support of Educational Institutions***

|                                                           |                  |
|-----------------------------------------------------------|------------------|
| 12-5011 Marie H. Katzenbach School for the Deaf . . . . . | <u>\$554,000</u> |
| Total Appropriation, Operation and Support                |                  |
| of Educational Institutions . . . . .                     | <u>\$554,000</u> |

**Personal Services:**

|                                        |             |
|----------------------------------------|-------------|
| Salaries and Wages . . . . .           | (\$315,000) |
| Employee Benefits . . . . .            | (93,000)    |
| Services Other Than Personal . . . . . | (10,000)    |

**Special Purpose:**

|                                |           |
|--------------------------------|-----------|
| IDEA (State Institutions),     |           |
| Handicapped . . . . .          | (20,000)  |
| State Aid and Grants . . . . . | (116,000) |

***33 Supplemental Education and Training Programs***

|                                                |                     |
|------------------------------------------------|---------------------|
| 20-5060 General Vocational Education . . . . . | \$22,430,000        |
| 20-5062 General Vocational Education . . . . . | <u>2,928,000</u>    |
| Total Appropriation, Supplemental Education    |                     |
| and Training Programs . . . . .                | <u>\$25,358,000</u> |

**Personal Services:**

|                                  |               |
|----------------------------------|---------------|
| Salaries and Wages . . . . .     | (\$1,920,000) |
| Employee Benefits . . . . .      | (595,000)     |
| Materials and Supplies . . . . . | (40,000)      |



Services Other Than Personal . . . . . (107,000)

Special Purpose:

Vocational Education -- Basic

Grants, Administration . . . . . (66,000)

Vocational Education -- Title II B

Leadership Activities . . . . . (200,000)

State Aid and Grants . . . . . (22,430,000)

**34 Educational Support Services**

29-5060 Educational Technology . . . . . \$13,390,000

30-5060 Educational Programs and Assessment . . . . . 76,955,000

30-5063 Educational Programs and Assessment . . . . . 20,766,000

31-5060 Grants Management . . . . . 3,159,000

33-5067 Service to Local Districts . . . . . 1,699,000

34-5068 Office of School Choice . . . . . 190,000

40-5060 Health, Safety and Community Services . . . . . 29,386,000

40-5064 Health, Safety and Community Services . . . . . 4,625,000

Total Appropriation, Educational Support Services . \$150,170,000

Personal Services:

Salaries and Wages . . . . . (\$5,020,000)

Employee Benefits . . . . . (1,506,000)

Materials and Supplies . . . . . (97,000)

Services Other Than Personal . . . . . (4,046,000)

Special Purpose:

State Assessments . . . . . (202,000)

Mathematics and Science

Partnerships Grants . . . . . 2,504,000)

Teacher Quality Enhancement - DA . . (100,000)

Teacher Quality Enhancement -

Administration . . . . . (800,000)

Vocational Education - Administration . (35,000)

Title V -- Innovative Program

Strategies . . . . . (44,000)

Title V - Innovative Program Strategy . (750,000)

Vocational Education - Leadership . . . (120,000)

Grants Management . . . . . (187,000)

IDEA Part B - Handicapped,

Administration . . . . . (363,000)

Pre-school Incentive Grant -

Administration . . . . . (280,000)

IDEA, Part B -- Child Study

Supervisors . . . . . (1,306,000)

School Choice . . . . . (10,000)

21st Century Schools . . . . . (555,000)

Vocational Education - Administration . . (4,000)

Title V - Innovative Program Strategies (47,000)

|                                          |               |
|------------------------------------------|---------------|
| AIDS Prevention Education .....          | (20,000)      |
| SDFSCA -- Governor's Portion --          |               |
| Program Expenses .....                   | (926,000)     |
| SDFSCA - Governor's Portion, Admin ..    | (6,000)       |
| Character Education Partnership .....    | (5,000)       |
| State Aid and Grants                     |               |
| Technology Literacy                      |               |
| Challenge Fund .....                     | (6,695,000)   |
| State Aid and Grants .....               | (124,520,000) |
| Additions, Improvements and Equipment .. | (22,000)      |

### ***35 Education Administration and Management***

|                                                   |                    |
|---------------------------------------------------|--------------------|
| 42-5120 School Finance .....                      | \$253,000          |
| 43-5092 Compliance and Auditing .....             | 337,000            |
| 99-5093 Administration and Support Services ..... | 79,000             |
| 99-5095 Administration and Support Services ..... | <u>5,362,000</u>   |
| Total Appropriation, Education Administration     |                    |
| and Management .....                              | <u>\$6,031,000</u> |
| Personal Services:                                |                    |
| Salaries and Wages .....                          | (\$3,455,000)      |
| Employee Benefits .....                           | (1,037,000)        |
| Materials and Supplies .....                      | (6,000)            |
| Services Other Than Personal .....                | (26,000)           |
| Special Purpose:                                  |                    |
| Vocational Education - State Admin. -             |                    |
| Compliance .....                                  | (9,000)            |
| IDEA Part B - Finance .....                       | (22,000)           |
| IASA Consolidated Administration ..               | (1,161,000)        |
| Other Special Purpose .....                       | (313,000)          |
| Additions, Improvements and Equipment ..          | (2,000)            |

Total Appropriation, Department of Education .... \$821,410,000

## **42 DEPARTMENT OF ENVIRONMENTAL PROTECTION**

### ***40 Community Development and Environmental Management***

#### ***42 Natural Resource Management***

|                                                         |                     |
|---------------------------------------------------------|---------------------|
| 11-4870 Forest Resource Management .....                | \$4,529,000         |
| 12-4875 Parks Management .....                          | 38,517,000          |
| 13-4880 Hunters' and Anglers' License Fund .....        | 12,452,000          |
| 14-4885 Shellfish and Marine Fisheries Management ..... | 3,985,000           |
| 20-4880 Wildlife Management .....                       | 1,330,000           |
| 21-4895 Natural Resources Engineering .....             | <u>290,000</u>      |
| Total Appropriation, Natural Resource Management.       | <u>\$61,103,000</u> |
| Personal Services:                                      |                     |
| Salaries and Wages .....                                | (\$4,261,000)       |
| Employee Benefits .....                                 | (1,099,000)         |
| Materials and Supplies .....                            | (1,056,000)         |

|                                              |             |
|----------------------------------------------|-------------|
| Services Other Than Personal . . . . .       | (3,993,000) |
| Maintenance and Fixed Charges . . . . .      | (301,000)   |
| Special Purpose:                             |             |
| Rural Community Fire                         |             |
| Protection Program . . . . .                 | (72,000)    |
| Forest Resource Management --                |             |
| Cooperative Forest Fire Control . . . . .    | (1,260,000) |
| Asian Longhorned Beetle Project . . . . .    | (100,000)   |
| Southern Pine Beetle . . . . .               | (100,000)   |
| Countrywide Wildfire Defense . . . . .       | (50,000)    |
| Nursery - Cm - 4 . . . . .                   | (100,000)   |
| Northeast Regional Biomass Program . . . . . | (15,000)    |
| Community Forestry Assessment . . . . .      | (100,000)   |
| Rural Forestry Assistance . . . . .          | (34,000)    |
| Firewise in the Pines . . . . .              | (37,000)    |
| Defensible Space . . . . .                   | (45,000)    |
| Economic Action Program . . . . .            | (50,000)    |
| Incentives Program . . . . .                 | (18,000)    |
| Forest Health Monitoring . . . . .           | (20,000)    |
| Regional Climate and Fire Damage             |             |
| Modeling - Pinelands . . . . .               | (100,000)   |
| Land and Water Conservation Grant . . . . .  | (5,000,000) |
| Pinelands Grant -- Acquisition . . . . .     | (6,000,000) |
| Historic Preservation Survey                 |             |
| and Planning . . . . .                       | (1,353,000) |
| Cape May Penninsula Project                  |             |
| (Sandritter Property). . . . .               | (193,000)   |
| Endangered Plant Species                     |             |
| Supplemental Funding . . . . .               | (6,000)     |
| Delaware Bay . . . . .                       | (1,000,000) |
| Cheesequake Marshland                        |             |
| Acquisition . . . . .                        | (1,000,000) |
| Sussex Branch Trail Improvements . . . . .   | (500,000)   |
| Seashore Line . . . . .                      | (500,000)   |
| Delaware and Raritan Canal East              |             |
| Side Path (ISTEA) . . . . .                  | (565,000)   |
| Forest Legacy . . . . .                      | (5,500,000) |
| National Recreational Trails . . . . .       | (277,000)   |
| National Coastal Wetlands                    |             |
| Conservation . . . . .                       | (1,000,000) |
| Sussex Branch Trail                          |             |
| Connector (ISTEA) . . . . .                  | (75,000)    |
| Cape May Point State Park                    |             |
| Bikeway (ISTEA) . . . . .                    | (200,000)   |
| Liberty State Park Ferry Slip                |             |
| Restoration (ISTEA) . . . . .                | (1,600,000) |

|                                              |             |
|----------------------------------------------|-------------|
| Paulinskill Valley Trail                     |             |
| Improvements (ISTEA) . . . . .               | (605,000)   |
| Delaware & Raritan Canal State Park          |             |
| Old Rose to Mulberry St. (ISTEA) . . . . .   | (900,000)   |
| Liberty State Park Train Sheds --            |             |
| Structural Report (ISTEA) . . . . .          | (500,000)   |
| Appalachian Trail Viewshed                   |             |
| Acquisition (ISTEA) . . . . .                | (500,000)   |
| Delaware and Raritan Canal State             |             |
| Park/Bordentown Outlet                       |             |
| (ISTEA) . . . . .                            | (1,250,000) |
| Appalachian Trail Improvement                |             |
| (ISTEA) . . . . .                            | (50,000)    |
| Archaeological & Historical/GIS              |             |
| Inventory (ISTEA) . . . . .                  | (1,500,000) |
| D&R Canal Rt. #1 Crossing                    |             |
| (ISTEA) . . . . .                            | (1,575,000) |
| State Wetlands Conservation Plan . . . . .   | (46,000)    |
| Hunters' and Anglers' License Fund . . . . . | (925,000)   |
| Hunter Safety Training . . . . .             | (169,000)   |
| Endangered Species . . . . .                 | (15,000)    |
| Hunter's & Anglers License Fund/N.J.         |             |
| Statewide Fisheries Development . . . . .    | (443,000)   |
| Boat Access (Fish and Wildlife) . . . . .    | (550,000)   |
| NJ Landowners Incentive . . . . .            | (757,000)   |
| Investigation and Management of              |             |
| NJ's Nongame Freshwater                      |             |
| Fisheries . . . . .                          | (99,000)    |
| Grassland Habitate Project . . . . .         | (150,000)   |
| Wildlife Management Area Planning . . . . .  | (102,000)   |
| Fish & Wildlife Input to Activities --       |             |
| Projects of Others . . . . .                 | (156,000)   |
| State Wildlife Grant Projects . . . . .      | (1,200,000) |
| Shortnose Sturgeon Research . . . . .        | (75,000)    |
| Telemetry Study of Red Knots and             |             |
| Atlantic Brant . . . . .                     | (15,000)    |
| NJ Fish, Wildlife and Anadromous             |             |
| Fishery Coordination . . . . .               | (66,000)    |
| Research In Freshwater Fisheries             |             |
| Management . . . . .                         | (92,000)    |
| Wildlife Education . . . . .                 | (134,000)   |
| Fish Culture and Stocking Project . . . . .  | (248,000)   |
| Aquatic Recreational Resource                |             |
| Awareness & Education Project . . . . .      | (62,000)    |
| Landscape Model For Rare                     |             |
| Species Protection . . . . .                 | (271,000)   |
| Wildlife Research and Management . . . . .   | (69,000)    |

|                                                                                    |             |
|------------------------------------------------------------------------------------|-------------|
| Fish and Wildlife Health .....                                                     | (140,000)   |
| Marine Fisheries Investigation and<br>Management .....                             | (298,000)   |
| New Jersey Commercial Blue Crab<br>Fishery Economic Assistance<br>Federation ..... | (12,000)    |
| Fisheries Management Council .....                                                 | (5,000)     |
| Atlantic Coastal Fisheries .....                                                   | (77,000)    |
| Inventory of New Jersey Surf<br>Clam Resource .....                                | (27,000)    |
| Artificial Reef Program-PSEG/NJPDES<br>Permit Fees .....                           | (97,000)    |
| Clean Vessels .....                                                                | (310,000)   |
| Marine Fisheries Law Enforcement ..                                                | (550,000)   |
| Atlantic Coastal Cooperative Program ..                                            | (62,000)    |
| NJFO Bog Turtle Cooperative<br>Agreement .....                                     | (39,000)    |
| Endangered and Nongame Species<br>Program State Wildlife Grants ....               | (400,000)   |
| Community Assistance Program .....                                                 | (66,000)    |
| National Dam Safety Program (FEMA) ..                                              | (14,000)    |
| Other Special Purpose .....                                                        | (1,234,000) |
| State Aid and Grants .....                                                         | (2,119,000) |
| Additions, Improvements and Equipment                                              | (5,549,000) |

#### ***43 Science and Technical Programs***

|                                                                                        |                     |
|----------------------------------------------------------------------------------------|---------------------|
| 05-4840 Water Supply .....                                                             | \$23,700,000        |
| 07-4850 Water Monitoring and Standards .....                                           | 4,250,000           |
| 15-4801 Land Use Regulation .....                                                      | 10,100,000          |
| 15-4890 Land Use Regulation .....                                                      | 1,750,000           |
| 18-4810 Science, Research and Technology .....                                         | 1,250,000           |
| 22-4861 New Jersey Geological Survey .....                                             | 350,000             |
| 90-4801 Watershed Management .....                                                     | <u>7,715,000</u>    |
| Total Appropriation, Science and Technical Programs                                    | <u>\$49,115,000</u> |
| Personal Services:                                                                     |                     |
| Salaries and Wages .....                                                               | (\$4,802,000)       |
| Employee Benefits .....                                                                | (1,119,000)         |
| Materials and Supplies .....                                                           | (64,000)            |
| Services Other Than Personal .....                                                     | (902,000)           |
| Maintenance and Fixed Charges .....                                                    | (50,000)            |
| Special Purpose:                                                                       |                     |
| Community and Public Water Supply<br>Supply Operators - Expense<br>Reimbursement ..... | (1,500,000)         |
| Safe Drinking Water Act .....                                                          | (337,000)           |
| Drinking Water State<br>Revolving Fund .....                                           | (20,000,000)        |

|                                                                  |             |
|------------------------------------------------------------------|-------------|
| Water Pollution Control Program . .                              | (1,142,000) |
| Clean Lakes Program . . . . .                                    | (500,000)   |
| Coastal Zone Management<br>Implementation . . . . .              | (1,970,000) |
| Coastal Estuarine Land Program . . .                             | (6,000,000) |
| State Wetlands Conservation Plan . . .                           | (250,000)   |
| Coastal Zone Management Grant --<br>Section 309 . . . . .        | (146,000)   |
| Coastal Zone Management Grant --<br>Section 6217 . . . . .       | (500,000)   |
| Coastal Zone Management -- 310 . . .                             | (821,000)   |
| Urban Community Air<br>Toxics Program . . . . .                  | (500,000)   |
| Multi-Media . . . . .                                            | (275,000)   |
| Offshore Beach Replenishment . . . . .                           | (90,000)    |
| National Geologic Mapping Program .                              | (50,000)    |
| Conashank Point . . . . .                                        | (215,000)   |
| Water Pollution Control . . . . .                                | (228,000)   |
| Coastal Wetlands Conservation<br>(Land Acquisition) . . . . .    | (1,000,000) |
| Water Monitoring and Planning . . . .                            | (453,000)   |
| Non-Point Source Implementation<br>(319H) Supplemental . . . . . | (332,000)   |
| Non-Point Source Implementation<br>(319H) . . . . .              | (207,000)   |
| Americorps . . . . .                                             | (300,000)   |
| Beach Monitoring and Notification . .                            | (300,000)   |
| Other Special Purpose . . . . .                                  | (806,000)   |
| State Aid and Grants . . . . .                                   | (4,223,000) |
| Additions, Improvements and Equipment .                          | (33,000)    |

#### ***44 Site Remediation***

|                                                                          |                     |
|--------------------------------------------------------------------------|---------------------|
| 19-4815 Publicly-Funded Site Remediation . . . . .                       | \$30,500,000        |
| 23-4815 Solid and Hazardous Waste Management . . . . .                   | 360,000             |
| 23-4910 Solid and Hazardous Waste Management . . . . .                   | 2,035,000           |
| 27-4815 Remediation Management and Response . . . . .                    | <u>10,055,000</u>   |
| Total Appropriation, Site Remediation . . . . .                          | <u>\$42,950,000</u> |
| Personal Services:                                                       |                     |
| Salaries and Wages . . . . .                                             | (\$2,880,000)       |
| Employee Benefits . . . . .                                              | (810,000)           |
| Materials and Supplies . . . . .                                         | (129,000)           |
| Services Other Than Personal . . . . .                                   | (632,000)           |
| Maintenance and Fixed Charges . . . . .                                  | (38,000)            |
| Special Purpose:                                                         |                     |
| Superfund Core Grant -- CPCA . . . . .                                   | (328,000)           |
| Environmental Monitoring for Public<br>Access and Community Tracking . . | (7,000)             |

|                                                                |              |
|----------------------------------------------------------------|--------------|
| Superfund Grants .....                                         | (30,000,000) |
| Hazardous Waste -- Resource<br>Conservation Recovery Act ..... | (284,000)    |
| Preliminary Assessments/<br>Site Inspections .....             | (2,017,000)  |
| Brownfields .....                                              | (3,954,000)  |
| Underground Storage Tanks .....                                | (807,000)    |
| Underground Storage Tanks .....                                | (59,000)     |
| Other Special Purpose .....                                    | (966,000)    |
| Additions, Improvements and Equipment ..                       | (39,000)     |

#### ***45 Environmental Regulation***

|                                                     |                     |
|-----------------------------------------------------|---------------------|
| 01-4820 Radiation Protection .....                  | \$500,000           |
| 02-4892 Air Pollution Control .....                 | 5,010,000           |
| 02-4892 Air Pollution Control .....                 | 1,007,000           |
| 09-4860 Public Wastewater Facilities .....          | 57,600,000          |
| 16-4891 Water Monitoring and Planning .....         | <u>710,000</u>      |
| Total Appropriation, Environmental Regulation . . . | <u>\$64,827,000</u> |

#### **Personal Services:**

|                                     |               |
|-------------------------------------|---------------|
| Salaries and Wages .....            | (\$3,181,000) |
| Employee Benefits .....             | (924,000)     |
| Materials and Supplies .....        | (110,000)     |
| Services Other Than Personal .....  | (322,000)     |
| Maintenance and Fixed Charges ..... | (59,000)      |

#### **Special Purpose:**

|                                                                            |              |
|----------------------------------------------------------------------------|--------------|
| Radon Program .....                                                        | (140,000)    |
| Air Pollution Maintenance Program                                          | (1,026,000)  |
| Particulate Monitoring Grant .....                                         | (714,000)    |
| Clean Water State Revolving Fund                                           | (57,600,000) |
| Publicly Owned Treatment<br>Works Diagnostic .....                         | (5,000)      |
| Underground Injection Control .....                                        | (13,000)     |
| National Pollutant Discharge<br>Elimination System<br>Implementation ..... | (150,000)    |
| Other Special Purpose .....                                                | (239,000)    |
| Additions, Improvements and Equipment ..                                   | (344,000)    |

#### ***46 Environmental Planning and Administration***

|                                                                         |                    |
|-------------------------------------------------------------------------|--------------------|
| 26-4805 Regulatory and Governmental Affairs .....                       | \$150,000          |
| 99-4800 Administration and Support Services .....                       | <u>3,250,000</u>   |
| Total Appropriation, Environmental Planning and<br>Administration . . . | <u>\$3,400,000</u> |

#### **Special Purpose:**

|                                            |             |
|--------------------------------------------|-------------|
| New Jersey Classroom<br>Reform Grant ..... | (\$150,000) |
|--------------------------------------------|-------------|

## National Information Exchange

|                                         |             |
|-----------------------------------------|-------------|
| Network .....                           | (2,300,000) |
| Environmental Justice .....             | (100,000)   |
| State/EPA Data Management Grant ..      | (750,000)   |
| National Spatial Data Infrastructure .. | (100,000)   |

**47 Compliance and Enforcement Policy**

|                                                    |                  |
|----------------------------------------------------|------------------|
| 02-4855 Air Pollution Control .....                | \$1,802,000      |
| 04-4835 Pesticide Control .....                    | 850,000          |
| 08-4855 Water Pollution Control .....              | 1,000,000        |
| 15-4855 Land Use Regulation .....                  | 600,000          |
| 23-4855 Solid and Hazardous Waste Management ..... | <u>1,886,000</u> |

## Total Appropriation, Compliance and

Enforcement Policy ..... \$6,138,000

## Personal Services:

|                                     |               |
|-------------------------------------|---------------|
| Salaries and Wages .....            | (\$2,399,000) |
| Employee Benefits .....             | (699,000)     |
| Materials and Supplies .....        | (27,000)      |
| Services Other Than Personal .....  | (159,000)     |
| Maintenance and Fixed Charges ..... | (39,000)      |

## Special Purpose:

|                                          |             |
|------------------------------------------|-------------|
| Air Pollution Maintenance Program ..     | (576,000)   |
| Pesticide Technology .....               | (110,000)   |
| Pesticide Control Consolidated .....     | (79,000)    |
| Southern New Jersey Drinking Water       |             |
| Sampling Project .....                   | (50,000)    |
| Pesticide Mosquito Control Project ...   | (50,000)    |
| Multi-Media Enforcement Grant ...        | (1,000,000) |
| Coastal Zone Management                  |             |
| Implementation .....                     | (64,000)    |
| Hazardous Waste -- Resource              |             |
| Conservation Recovery Act .....          | (339,000)   |
| Other Special Purpose .....              | (508,000)   |
| State Aid and Grants .....               | (10,000)    |
| Additions, Improvements and Equipment .. | (29,000)    |

## Total Appropriation, Department of

Environmental Protection ..... \$227,533,000**46 DEPARTMENT OF HEALTH AND SENIOR SERVICES****20 Physical and Mental Health****21 Health Services**

|                                |           |
|--------------------------------|-----------|
| 01-4215 Vital Statistics ..... | \$850,000 |
|--------------------------------|-----------|



|                                                 |                      |
|-------------------------------------------------|----------------------|
| 02-4220 Family Health Services .....            | 148,076,000          |
| 03-4230 Public Health Protection Services ..... | 70,408,000           |
| 08-4280 Laboratory Services .....               | 5,121,000            |
| 12-4245 AIDS Services .....                     | <u>94,531,000</u>    |
| Total Appropriation, Health Services .....      | <u>\$318,986,000</u> |

## Personal Services:

|                                     |                |
|-------------------------------------|----------------|
| Salaries and Wages .....            | (\$33,239,000) |
| Employee Benefits .....             | (9,586,000)    |
| Materials and Supplies .....        | (2,912,000)    |
| Services Other Than Personal .....  | (20,593,000)   |
| Maintenance and Fixed Charges ..... | (865,000)      |

## Special Purpose:

|                                                            |              |
|------------------------------------------------------------|--------------|
| Supplemental Food Program -<br>W.I.C. ....                 | (66,357,000) |
| W.I.C. Farmer's Market<br>Nutrition Program .....          | (1,901,000)  |
| Surveillance, Epidemiology and<br>End Results (SEER) ..... | (101,000)    |
| Toxic Substances Control Act .....                         | (39,000)     |
| Other Special Purpose .....                                | (4,493,000)  |

## State Aid and Grants:

|                                                    |               |
|----------------------------------------------------|---------------|
| National Cancer Prevention<br>and Control .....    | (3,395,000)   |
| Health Program for Indochinese<br>Refugees .....   | (114,000)     |
| Federal Lead Abatement Program .....               | (30,000)      |
| Immunization Project .....                         | (2,254,000)   |
| Research on Ecology of<br>Lyme Disease in US. .... | (300,000)     |
| Emergency Preparedness For<br>Bioterrorism .....   | (13,099,000)  |
| State Aid and Grants .....                         | (156,305,000) |
| Additions, Improvements<br>and Equipment .....     | (3,403,000)   |

**22 Health Planning and Evaluation**

|                                                              |                     |
|--------------------------------------------------------------|---------------------|
| 06-4260 Long Term Care Systems .....                         | \$15,672,000        |
| 07-4270 Health Care Systems Analysis .....                   | <u>72,439,000</u>   |
| Total Appropriation, Health Planning<br>and Evaluation ..... | <u>\$88,111,000</u> |

## Personal Services:

|                          |               |
|--------------------------|---------------|
| Salaries and Wages ..... | (\$6,833,000) |
| Employee Benefits .....  | (1,977,000)   |

Materials and Supplies ..... (71,000)  
 Services Other Than Personal ..... (813,000)  
 Maintenance and Fixed Charges ..... (625,000)  
 Special Purpose:  
     Long Term Care - Medicaid ..... (675,000)  
     Nurse Aide Certification Program .. (1,958,000)  
     Medicare/Medicaid Inspections of  
         Nursing Facilities ..... (405,000)  
     Other Special Purpose ..... (3,609,000)  
 State Aid and Grants  
     State Office of Rural Health ..... (150,000)  
 State Aid and Grants ..... (70,306,000)  
 Additions, Improvements and Equipment .. (689,000)

### ***25 Health Administration***

99-4210 Administration and Support Services ..... \$4,717,000  
 Total Appropriation, Health Administration ..... \$4,717,000  
 Personal Services:  
     Salaries and Wages ..... (\$1,254,000)  
     Employee Benefits ..... (399,000)  
 Materials and Supplies ..... (40,000)  
 Services Other Than Personal ..... (1,487,000)  
 Special Purpose:  
     Other Special Purpose ..... (357,000)  
 State Aid and Grants :  
     Preventative Health and Health  
         Services Block Grant ..... (52,000)  
     Minority AIDS Demo ..... (89,000)  
 State Aid and Grants ..... (915,000)  
 Additions, Improvements and Supplies ... (124,000)

### ***26 Senior Services***

22-4275 Medical Services for the Aged ..... \$924,800,000  
 24-4275 Pharmaceutical Assistance to the  
     Aged and Disabled ..... 90,994,000  
 55-4275 Programs for the Aged ..... 44,472,000  
 56-4275 Office of the Ombudsman ..... 800,000  
 57-4275 Office of the Public Guardian ..... 801,000  
 Total Appropriation, Health Administration .... \$1,061,867,000  
 Personal Services:  
     Salaries and Wages ..... (\$10,564,000)  
     Employee Benefits ..... (2,300,000)  
 Materials and Supplies ..... (188,000)  
 Services Other Than Personal ..... (2,196,000)  
 Maintenance and Fixed Charges ..... (352,000)

## Special Purpose:

|                                                                                         |                        |
|-----------------------------------------------------------------------------------------|------------------------|
| Administration of U.S. Department<br>of Health and Human Services<br>Programs . . . . . | (3,782,000)            |
| Community Choice/Acuity Audits . . .                                                    | (388,000)              |
| ADM DHSS Federal Programs -<br>SBUM . . . . .                                           | (1,120,000)            |
| Ombudsman for the Institutionalized<br>Elderly:<br>Medicaid Reimbursement . . . . .     | (250,000)              |
| Other Special Purpose . . . . .                                                         | (2,274,000)            |
| State Aid and Grants                                                                    |                        |
| Alternate Family Care . . . . .                                                         | (1,500,000)            |
| Assisted Living Residence . . . . .                                                     | (15,000,000)           |
| Comprehensive Personal<br>Care Home . . . . .                                           | (12,000,000)           |
| Assisted Living Program . . . . .                                                       | (2,000,000)            |
| Counseling on Health Insurance for<br>Medicare Enrollees . . . . .                      | (170,000)              |
| Social Services Block Grant -<br>Senior Services . . . . .                              | (2,422,000)            |
| NJ Ease for Caregivers - Building<br>Support Systems . . . . .                          | (124,000)              |
| State Aid and Grants . . . . .                                                          | (1,004,854,000)        |
| Additions, Improvements and Equipment .                                                 | (383,000)              |
| Total Appropriation, Department of Health and<br>Senior Services . . . . .              | <u>\$1,473,681,000</u> |

**54 DEPARTMENT OF HUMAN SERVICES*****20 Physical and Mental Health******23 Mental Health Services******7700 Division of Mental Health Services***

|                                                                      |                     |
|----------------------------------------------------------------------|---------------------|
| 08-7700 Community Services . . . . .                                 | \$15,262,000        |
| 99-7700 Administration and Support Services . . . . .                | <u>719,000</u>      |
| Total Appropriation, Division of<br>Mental Health Services . . . . . | <u>\$15,981,000</u> |
| Personal Services:                                                   |                     |
| Salaries and Wages . . . . .                                         | (\$500,000)         |
| Special Purpose:                                                     |                     |
| Fraud and Abuse Initiative . . . . .                                 | (719,000)           |
| State Aid and Grants . . . . .                                       | (14,762,000)        |

***24 Special Health Services******7540 Division of Medical Assistance and Health Services***

|                                                                    |              |
|--------------------------------------------------------------------|--------------|
| 21-7540 Health Services Administration<br>and Management . . . . . | \$59,844,000 |
|--------------------------------------------------------------------|--------------|

|                                                                               |                        |
|-------------------------------------------------------------------------------|------------------------|
| 22-7540 General Medical Services .....                                        | <u>2,130,645,000</u>   |
| Total Appropriation, Division of Medical Assistance and Health Services ..... | <u>\$2,190,489,000</u> |
| Personal Services:                                                            |                        |
| Salaries and Wages .....                                                      | (\$18,135,000)         |
| Materials and Supplies .....                                                  | (180,000)              |
| Services Other Than Personal .....                                            | (6,300,000)            |
| Maintenance and Fixed Charges .....                                           | (2,511,000)            |
| Special Purpose:                                                              |                        |
| Payments to Fiscal Agent .....                                                | (20,105,000)           |
| Professional Standards Review Organization -- Utilization Review .....        | (3,537,000)            |
| Drug Utilization Review Board -- Administrative Costs .....                   | (60,000)               |
| NJ KidCare A -- Administration ...                                            | (4,987,000)            |
| NJ KidCare B, C & D -- Administration .....                                   | (3,649,000)            |
| State Aid and Grants:                                                         |                        |
| Payments for Medical Assistance Recipients -- Personal Care ...               | (20,798,000)           |
| Managed Care Initiative .....                                                 | (534,360,000)          |
| Hospital Health Care Subsidy .....                                            | (30,655,000)           |
| Hospital Relief Offset Payment ...                                            | (70,845,000)           |
| Payments for Medical Assistance Recipients - Other Treatment Facilities ..... | (5,601,000)            |
| Payments for Medical Assistance Recipients - Inpatient Hospital .....         | (245,093,000)          |
| Payments for Medical Assistance Recipients - Prescription Drugs .....         | (441,119,000)          |
| Payments for Medical Assistance Recipients - Outpatient Hospital .....        | (167,345,000)          |
| Payments for Medical Assistance Recipients - Physician Services .....         | (31,860,000)           |
| Payments for Medical Assistance Recipients - Home Health Care .....           | (16,949,000)           |
| Payments for Medical Assistance Recipients - Medicare Premiums .....          | (87,581,000)           |
| Payments for Medical Assistance Recipients - Dental Services ...              | (11,176,000)           |

|                                         |               |
|-----------------------------------------|---------------|
| Payments for Medical Services           |               |
| Recipients - Psychiatric                |               |
| Hospital . . . . .                      | (12,732,000)  |
| Payments for Medical Services           |               |
| Recipients - Medical Supplies . .       | (15,819,000)  |
| Payments for Medical Services           |               |
| Recipients - Clinic Services . . .      | (55,098,000)  |
| Payments for Medical Services           |               |
| Recipients - Transportation             |               |
| Services . . . . .                      | (28,760,000)  |
| Payments for Medical Services           |               |
| Recipients - Other Services . . . .     | (4,451,000)   |
| Home Health Background                  |               |
| Checks -- Title XIX federal             |               |
| matching funds . . . . .                | (1,800,000)   |
| Eligibility Determination Services . .  | (4,557,000)   |
| Health Benefit Coordination             |               |
| Services . . . . .                      | (4,196,000)   |
| Children's Behavioral Health            |               |
| Services - Residential . . . . .        | (77,371,000)  |
| State Aid and Grants . . . . .          | (262,479,000) |
| Additions, Improvements and Equipment . | (380,000)     |

***27 Disability Services***

|                                                    |                      |
|----------------------------------------------------|----------------------|
| 27-7545 Division of Disability Services . . . . .  | <u>\$158,751,000</u> |
| Total Appropriation, Disability Services . . . . . | <u>\$158,751,000</u> |
| Personal Services:                                 |                      |
| Salaries and Wages . . . . .                       | (\$466,000)          |
| Materials and Supplies . . . . .                   | (4,000)              |
| Services Other Than Personal . . . . .             | (31,000)             |
| Maintenance and Fixed Charges . . . . .            | (9,000)              |
| State Aid and Grants . . . . .                     | (158,241,000)        |

***30 Educational, Cultural and Intellectual Development***

***32 Operation and Support of Educational Institutions***

|                                                              |               |
|--------------------------------------------------------------|---------------|
| 01-7601 Purchased Residential Care . . . . .                 | \$166,192,000 |
| 02-7601 Social Supervision and Consultation . . . . .        | 27,431,000    |
| 03-7601 Adult Activities . . . . .                           | 37,998,000    |
| 04-7601 Education and Day Training . . . . .                 | 1,953,000     |
| 05-7610 Residential Care and Habilitation Services . . . . . | 7,793,000     |
| 05-7620 Residential Care and Habilitation Services . . . . . | 25,360,000    |
| 05-7630 Residential Care and Habilitation Services . . . . . | 21,286,000    |
| 05-7640 Residential Care and Habilitation Services . . . . . | 22,598,000    |
| 05-7650 Residential Care and Habilitation Services . . . . . | 31,841,000    |
| 05-7660 Residential Care and Habilitation Services . . . . . | 26,165,000    |
| 05-7670 Residential Care and Habilitation Services . . . . . | 26,157,000    |
| 99-7600 Administration and Support Services . . . . .        | 6,501,000     |

|                                                                                 |                      |
|---------------------------------------------------------------------------------|----------------------|
| 99-7610 Administration and Support Services .....                               | 2,453,000            |
| 99-7620 Administration and Support Services .....                               | 2,021,000            |
| 99-7630 Administration and Support Services .....                               | 1,847,000            |
| 99-7640 Administration and Support Services .....                               | 3,648,000            |
| 99-7650 Administration and Support Services .....                               | 4,058,000            |
| 99-7660 Administration and Support Services .....                               | 1,476,000            |
| 99-7670 Administration and Support Services .....                               | <u>3,557,000</u>     |
| Total Appropriation, Operation and Support of<br>Educational Institutions ..... | <u>\$420,335,000</u> |
| Personal Services:                                                              |                      |
| Salaries and Wages .....                                                        | (\$211,760,000)      |
| Materials and Supplies .....                                                    | (34,000)             |
| Services Other Than Personal .....                                              | (1,384,000)          |
| Maintenance and Fixed Charges .....                                             | (2,000)              |
| Special Purpose                                                                 |                      |
| Developmental Center                                                            |                      |
| Enhancement .....                                                               | (2,340,000)          |
| State Aid and Grants                                                            |                      |
| Community Nursing Care                                                          |                      |
| Initiative - FY2002 .....                                                       | (435,000)            |
| Community Services Waiting List                                                 |                      |
| Reduction Initiative - FY2002 ...                                               | (9,050,000)          |
| Community Transition Initiative -                                               |                      |
| FY2002 .....                                                                    | (3,195,000)          |
| Home Assistance .....                                                           | (2,660,000)          |
| State Aid and Grants .....                                                      | (189,475,000)        |

### ***33 Supplemental Education and Training Programs***

|                                                                            |                     |
|----------------------------------------------------------------------------|---------------------|
| 11-7560 Services for the Blind and Visually Impaired ...                   | \$9,508,000         |
| 99-7560 Administration and Support Services .....                          | <u>2,208,000</u>    |
| Total Appropriation, Supplemental Education and<br>Training Programs ..... | <u>\$11,716,000</u> |
| Personal Services:                                                         |                     |
| Salaries and Wages .....                                                   | (\$4,400,000)       |
| Materials and Supplies .....                                               | (147,000)           |
| Services Other Than Personal .....                                         | (820,000)           |
| Maintenance and Fixed Charges .....                                        | (325,000)           |
| State Aid and Grants .....                                                 | (5,621,000)         |
| Additions, Improvements<br>and Equipment .....                             | (403,000)           |

### ***50 Economic Planning, Development and Security***

#### ***53 Economic Assistance and Security***

|                                                                |                      |
|----------------------------------------------------------------|----------------------|
| 15-7550 Income Maintenance Management .....                    | <u>\$843,562,000</u> |
| Total Appropriation, Economic Assistance<br>and Security ..... | <u>\$843,562,000</u> |

## Personal Services:

|                                     |                |
|-------------------------------------|----------------|
| Salaries and Wages .....            | (\$17,548,000) |
| Materials and Supplies .....        | (432,000)      |
| Services Other Than Personal .....  | (14,685,000)   |
| Maintenance and Fixed Charges ..... | (1,148,000)    |

## Special Purpose:

|                                                                                           |               |
|-------------------------------------------------------------------------------------------|---------------|
| Electronic Benefits Transfer,<br>Evaluation & Development,<br>Food Stamps .....           | (182,000)     |
| Work First New Jersey -- Electronic<br>Benefits Transfer -- Design &<br>Development ..... | (64,000)      |
| Work First New Jersey Technology<br>Investment -- Food Stamps ....                        | (4,148,000)   |
| EBT -- Operational Food Stamp<br>Match for CWA's .....                                    | (1,671,000)   |
| Work First New Jersey -- Benefits<br>Transfer Operational .....                           | (588,000)     |
| Work First New Jersey --<br>Technology Investments .....                                  | (9,514,000)   |
| Child Support Medical Notice ....                                                         | (1,409,000)   |
| Work First New Jersey --<br>Technology Investments --<br>Title XIX .....                  | (1,255,000)   |
| Hospital Paternity Program .....                                                          | (959,000)     |
| Work First New Jersey --<br>Technology Investment --<br>Title IV-D .....                  | (8,567,000)   |
| Work First New Jersey -- Child<br>Support -- Program Legislative<br>Initiatives .....     | (8,318,000)   |
| SSI Attorney Fees .....                                                                   | (1,000,000)   |
| Child Support Initiatives --<br>New Hires-- TANF .....                                    | (6,000)       |
| State Aid and Grants                                                                      |               |
| Faith Based Initiatives .....                                                             | (1,055,000)   |
| Criminal Background Evaluations ..                                                        | (1,000,000)   |
| Domestic Violence and Prevention<br>Training and Assessment .....                         | (450,000)     |
| Homeless Assistance .....                                                                 | (2,000,000)   |
| SBG CWA Administration<br>TANF Transfer .....                                             | (5,163,000)   |
| State Aid and Grants .....                                                                | (762,236,000) |
| Additions, Improvements and Equipment .                                                   | (164,000)     |

**55 Social Services Programs**

|                                  |              |
|----------------------------------|--------------|
| 09-7555 Addiction Services ..... | \$62,510,000 |
|----------------------------------|--------------|

|                                                            |                      |
|------------------------------------------------------------|----------------------|
| 16-7570 Services to Children and Families .....            | 230,233,000          |
| 99-7570 Administration and Support Services .....          | <u>11,510,000</u>    |
| Total Appropriation, Social Services Programs .....        | <u>\$304,253,000</u> |
| Personal Services:                                         |                      |
| Salaries and Wages .....                                   | (\$120,184,000)      |
| Employee Benefits .....                                    | (1,603,000)          |
| Materials and Supplies .....                               | (1,993,000)          |
| Services Other Than Personal .....                         | (10,046,000)         |
| Maintenance and Fixed Charges .....                        | (10,217,000)         |
| Special Purpose:                                           |                      |
| Child Welfare Reform Title IV-E ..                         | (19,602,000)         |
| Child Welfare Reform Title XIX ..                          | (17,808,000)         |
| Other Special Purpose .....                                | (907,000)            |
| State Aid and Grants:                                      |                      |
| Title II-B Family Preservation &<br>Support Services ..... | (620,000)            |
| Independent Services Living<br>Expansion .....             | (2,500,000)          |
| Substance Abuse Block Grants ...                           | (43,791,000)         |
| State Aid and Grants .....                                 | (64,230,000)         |
| Additions, Improvements and<br>Equipment .....             | (10,752,000)         |

**70 Government Direction, Management and Control**

**76 Management and Administration**

**7500 Division of Management and Budget**

|                                                                 |                     |
|-----------------------------------------------------------------|---------------------|
| 99-7500 Administration and Support Services .....               | <u>\$62,387,000</u> |
| Total Appropriation, Division of Management<br>and Budget ..... | <u>\$62,387,000</u> |
| Personal Services:                                              |                     |
| Salaries and Wages .....                                        | (\$175,000)         |
| Special Purpose:                                                |                     |
| Community Based Residential<br>Program Grant .....              | (1,000,000)         |
| DHS Adult Basic Education Program                               | (211,000)           |
| Federal Cost Recoveries .....                                   | (39,701,000)        |
| Child Support Enforcement Program .                             | (299,000)           |
| Title IV-B Child Welfare Services ...                           | (134,000)           |
| Title IV-E Foster Care .....                                    | (288,000)           |
| Low Income Energy Assistance<br>Block Grant .....               | (126,000)           |
| Title XIX, ICF/MR .....                                         | (8,243,000)         |
| Title XIX, Medical Assistance .....                             | (2,600,000)         |
| Refugee Resettlement Program .....                              | (18,000)            |
| Social Service Block Grant .....                                | (2,326,000)         |
| Vocational Rehabilitation Act --<br>Section 120 .....           | (100,000)           |



Food Stamp Program . . . . . (447,000)  
 Temporary Assistance to Needy  
 Families Block Grant . . . . . (604,000)  
 State Aid and Grants . . . . . (6,115,000)

Total Appropriation, Department of  
 Human Services . . . . . \$4,007,474,000

## **62 DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT**

### ***50 Economic Planning, Development and Security***

#### ***51 Economic Planning and Development***

18-4570 Planning and Analysis . . . . . \$9,307,000

Total Appropriation, Economic Planning  
 and Development . . . . . \$9,307,000

#### **Personal Services:**

Salaries and Wages . . . . . (\$5,503,000)  
 Employee Benefits . . . . . (1,606,000)  
 Materials and Supplies . . . . . (170,000)  
 Services Other Than Personal . . . . . (749,000)  
 Maintenance and Fixed Charges . . . . . (173,000)

#### **Special Purpose:**

Reports and Analysis-  
 Unemployment Insurance . . . . . (25,000)  
 ES 202 Covered Employment  
 and Wages . . . . . (86,000)  
 Current Employment Statistics . . . . . (78,000)  
 Local Area Unemployment Statistics . . (16,000)  
 Occupational Employment Statistics . . (71,000)  
 Labor Market Information-ES . . . . . (10,000)  
 ES Cost Reimbursable Grants - Alien  
 Labor Certification . . . . . (1,000)  
 Permanent Mass Layoff Plant Closings . (15,000)  
 Current Employment Statistics  
 Additional to Maintain Current Issue . (2,000)  
 ES 202 RELATED . . . . . (1,000)  
 Redesigned Occupational Safety and  
 Health (ROSH) . . . . . (26,000)  
 One Stop Labor Market Information . . (117,000)  
 OSHA Data Collection Survey . . . . . (10,000)  
 JTPA Title III LMI-PROS . . . . . (356,000)  
 Occupational Information  
 Coordinating Program . . . . . (15,000)  
 Other Special Purpose . . . . . (26,000)  
 State Aid and Grants  
 JTPA Title III CIDS . . . . . (62,000)  
 Additions, Improvements and Equipment . (189,000)

**53 Economic Assistance and Security**

|                                                                |                      |
|----------------------------------------------------------------|----------------------|
| 01-4510 Unemployment Insurance .....                           | \$138,500,000        |
| 02-4515 Disability Determination .....                         | <u>47,020,000</u>    |
| Total Appropriation, Economic Assistance<br>and Security ..... | <u>\$185,520,000</u> |
| Personal Services:                                             |                      |
| Salaries and Wages .....                                       | (\$81,777,000)       |
| Employee Benefits .....                                        | (23,260,000)         |
| Materials and Supplies .....                                   | (1,850,000)          |
| Services Other Than Personal .....                             | (17,483,000)         |
| Maintenance and Fixed Charges .....                            | (11,941,000)         |
| Special Purpose:                                               |                      |
| Unemployment Insurance .....                                   | (2,538,000)          |
| Temporary Extended UI<br>Compensation .....                    | (697,000)            |
| Reed Act Improvements .....                                    | (32,500,000)         |
| Employment Security Revenue .....                              | (666,000)            |
| Disability Determination Services ..                           | (3,450,000)          |
| State Aid and Grants .....                                     | (8,758,000)          |
| Additions, Improvements and Equipment ..                       | (600,000)            |

**54 Manpower and Employment Services**

|                                                                  |                      |
|------------------------------------------------------------------|----------------------|
| 07-4535 Vocational Rehabilitation Services .....                 | \$52,030,000         |
| 09-4545 Employment Services .....                                | 38,614,000           |
| 10-4545 Employment and Training Services .....                   | 28,129,000           |
| 12-4550 Workplace Standards .....                                | <u>3,977,000</u>     |
| Total Appropriation, Manpower and<br>Employment Services .....   | <u>\$222,750,000</u> |
| Personal Services:                                               |                      |
| Salaries and Wages .....                                         | (\$44,912,000)       |
| Employee Benefits .....                                          | (13,580,000)         |
| Materials and Supplies .....                                     | (1,114,000)          |
| Services Other Than Personal .....                               | (9,690,000)          |
| Maintenance and Fixed Charges .....                              | (7,661,000)          |
| Special Purpose:                                                 |                      |
| Vocational Rehabilitation<br>Act of 1973 .....                   | (1,800,000)          |
| Work Incentive Project Access .....                              | (1,000)              |
| Employment Services .....                                        | (1,500,000)          |
| Disabled Veterans' Outreach<br>Program .....                     | (268,000)            |
| Local Veterans' Employment<br>Representatives .....              | (255,000)            |
| Trade Adjustment Assistance Project ..                           | (10,000)             |
| Employment Services Grants -- Alien<br>Labor Certification ..... | (160,000)            |
| Work Opportunity Tax Credit .....                                | (81,000)             |

|                                                                                     |                          |
|-------------------------------------------------------------------------------------|--------------------------|
| Employment Services Cost                                                            |                          |
| Reimbursable Grants -- Migrant                                                      |                          |
| Housing . . . . .                                                                   | (5,000)                  |
| Agricultural Wage Surveys . . . . .                                                 | (7,000)                  |
| ES Reemployment Services . . . . .                                                  | (125,000)                |
| Workforce Investment Act . . . . .                                                  | (332,000)                |
| Employment Services Rapid                                                           |                          |
| Response Team . . . . .                                                             | (201,000)                |
| WIA Title IIID Discretionary Funding .                                              | (250,000)                |
| National Council on Aging - Senior                                                  |                          |
| Community Services Employment . .                                                   | (40,000)                 |
| Occupational Safety Health Act,                                                     |                          |
| On-Site Consultation . . . . .                                                      | (194,000)                |
| Other Special Purpose . . . . .                                                     | (2,067,000)              |
| State Aid and Grants:                                                               |                          |
| Technology Related Assistance                                                       |                          |
| Project . . . . .                                                                   | (700,000)                |
| State Aid and Grants . . . . .                                                      | (136,915,000)            |
| Additions, Improvements and Equipment .                                             | (882,000)                |
| <br>Total Appropriation, Department of Labor<br>and Workforce Development . . . . . | <br><u>\$417,577,000</u> |

**66 DEPARTMENT OF LAW AND PUBLIC SAFETY*****10 Public Safety and Criminal Justice******12 Law Enforcement***

|                                                |                      |
|------------------------------------------------|----------------------|
| 06-1200 State Police Operations . . . . .      | \$88,006,000         |
| 09-1020 Criminal Justice . . . . .             | <u>55,778,000</u>    |
| Total Appropriation, Law Enforcement . . . . . | <u>\$143,784,000</u> |
| Personal Services:                             |                      |
| Salaries and Wages . . . . .                   | (\$10,317,000)       |
| Food in Lieu of Cash . . . . .                 | (10,000)             |
| Cash in Lieu of Maintenance . . . . .          | (239,000)            |
| Employee Benefits . . . . .                    | (1,839,000)          |
| Special Purpose:                               |                      |
| Federal Highway Hazardous                      |                      |
| Materials Transportation . . . . .             | (202,000)            |
| Forensic DNA Laboratory . . . . .              | (1,000,000)          |
| Domestic Marijuana Eradication                 |                      |
| Suppression Program . . . . .                  | (200,000)            |
| D.W.I. Training . . . . .                      | (50,000)             |
| Flood Mitigation Assistance . . . . .          | (946,000)            |
| Breathalyser Training OHTS . . . . .           | (50,000)             |
| Forensic Crime Laboratory                      |                      |
| Improvement Program . . . . .                  | (2,000,000)          |
| State Police In-Car Camera                     |                      |
| Technology Grant . . . . .                     | (200,000)            |

|                                          |              |
|------------------------------------------|--------------|
| National Forensic Sciences               |              |
| Improvement Act Program . . . . .        | (110,000)    |
| Internet Crimes Against Children . . . . | (300,000)    |
| Cert Program . . . . .                   | (550,000)    |
| Convicted Offender In-                   |              |
| House (DNA) . . . . .                    | (1,500,000)  |
| Cops In Schools . . . . .                | (1,000,000)  |
| Domestic Preparedness Training . .       | (56,000,000) |
| Hazardous Materials Transportation . .   | (261,000)    |
| Protecting Our Urban Areas . . . . .     | (12,000,000) |
| NIEHS Worker Health Safety Training      | (43,000)     |
| Incident Command . . . . .               | (497,000)    |
| EMPG -- Non -Terrorism . . . . .         | (3,121,000)  |
| Pre-Disaster Mitigation Grant -          |              |
| FEMA . . . . .                           | (300,000)    |
| Casework DNA Backlog                     |              |
| Reduction Program . . . . .              | (1,300,000)  |
| Bulletproof Vest Partnership . . . . .   | (700,000)    |
| Justice Assistance Grant (JAG) . . .     | (17,000,000) |
| Community Prosecutors                    |              |
| Block Grant . . . . .                    | (1,000,000)  |
| New Jersey Anti-Money                    |              |
| Laundering Initiative . . . . .          | (750,000)    |
| State Aid and Grants . . . . .           | (29,239,000) |
| Additions, Improvements                  |              |
| and Equipment . . . . .                  | (1,060,000)  |

### ***13 Special Law Enforcement Activities***

|                                                        |                     |
|--------------------------------------------------------|---------------------|
| 03-1160 Office of Highway Traffic Safety . . . . .     | \$19,283,000        |
| 21-1400 Regulation of Alcoholic Beverages . . . . .    | 360,000             |
| 25-1421 Election Management and Coordination . . . . . | <u>43,000,000</u>   |
| Total Appropriation, Special Law                       |                     |
| Enforcement Activities . . . . .                       | <u>\$62,643,000</u> |
| Personal Services:                                     |                     |
| Salaries and Wages . . . . .                           | (\$1,548,000)       |
| Employee Benefits . . . . .                            | (257,000)           |
| Materials and Supplies . . . . .                       | (71,000)            |
| Services Other Than Personal . . . . .                 | (550,000)           |
| Maintenance and Fixed Charges . . . . .                | (13,000)            |
| Special Purpose:                                       |                     |
| FHWA Program Management . . . . .                      | (2,000)             |
| Pedestrian Safety Grant . . . . .                      | (96,000)            |
| Selective Enforcement Management . .                   | (26,000)            |
| Highway Safety Data                                    |                     |
| Improvement Grant . . . . .                            | (1,500,000)         |
| Section 163 Prevent Operations of                      |                     |
| Motor Vehicles . . . . .                               | (3,000,000)         |

|                                           |              |
|-------------------------------------------|--------------|
| Highway Safety -- Alcohol                 |              |
| Education and Public                      |              |
| Awareness Coordinator .....               | (76,000)     |
| Child Passenger Protection                |              |
| Education .....                           | (500,000)    |
| Innovative Seat Belt Use .....            | (1,500,000)  |
| Combating Underage Drinking .....         | (360,000)    |
| Help America Vote Act .....               | (43,000,000) |
| Other Special Purpose .....               | (37,000)     |
| State Aid and Grants                      |              |
| Pedestrian Safety Grant .....             | (282,000)    |
| Safety Incentive Grants .....             | (5,000,000)  |
| Innovative Seat Belt Use .....            | (1,000,000)  |
| State Aid and Grants .....                | (3,822,000)  |
| Additions, Improvements and Equipment ... | (3,000)      |

### ***18 Juvenile Services***

|                                                   |                     |
|---------------------------------------------------|---------------------|
| 34-1500 Juvenile Community Programs .....         | \$7,895,000         |
| 99-1500 Administration and Support Services ..... | <u>4,257,000</u>    |
| Total Appropriation, Juvenile Services .....      | <u>\$12,152,000</u> |
| Personal Services:                                |                     |
| Salaries and Wages .....                          | (\$2,788,000)       |
| Employee Benefits .....                           | (592,000)           |
| Special Purpose:                                  |                     |
| Juvenile Mentoring Programs -                     |                     |
| Juvenile Justice Initiative .....                 | (117,000)           |
| Juvenile Accountability Incentive                 |                     |
| Block Grant .....                                 | (5,271,000)         |
| Challenge Grant .....                             | (141,000)           |
| Title V Funding .....                             | (1,500,000)         |
| Other Special Purpose .....                       | (86,000)            |
| State Aid and Grants .....                        | (1,657,000)         |

### ***19 Central Planning, Direction and Management***

|                                                   |                    |
|---------------------------------------------------|--------------------|
| 99-1000 Administration and Support Services ..... | <u>\$7,244,000</u> |
| Total Appropriation, Central Planning, Direction  |                    |
| and Management .....                              | <u>\$7,244,000</u> |
| Personal Services:                                |                    |
| Salaries and Wages .....                          | (\$194,000)        |
| Special Purpose:                                  |                    |
| Public Safety Wireless Coordination               |                    |
| Council-Initiative .....                          | (50,000)           |
| Financial Investigations and                      |                    |
| Money Laundering                                  |                    |
| Initiative .....                                  | (5,000,000)        |
| National Criminal History                         |                    |
| Program-OAG .....                                 | (2,000,000)        |

**80 Special Government Services****82 Protection of Citizens' Rights**

16-1350 Protection of Civil Rights ..... \$600,000

19-1440 Victims of Crime Compensation Board ..... 7,000,000Total Appropriation, Protection of Citizens' Rights ... \$7,600,000

## Personal Services:

Salaries and Wages ..... (\$600,000)

State Aid and Grants ..... (7,000,000)

Total Appropriation, Department of

Law and Public Safety ..... \$233,423,000**67 DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS****10 Public Safety and Criminal Justice****14 Military Services**40-3620 New Jersey National Guard Support Services .. \$18,647,000Total Appropriation, Military Services ..... \$18,647,000

## Personal Services:

Salaries and Wages ..... (\$7,283,000)

Employee Benefits ..... (1,770,000)

Materials and Supplies ..... (5,689,000)

Services Other Than Personal ..... (1,600,000)

## Special Purpose:

DFAC AR Operations ..... (700,000)

ARNG Transportation ..... (125,000)

Federal VA Distance Learning

Program ..... (456,000)

McGuire AFB Environmental ..... (3,000)

Atlantic City Environmental ..... (9,000)

Armory Renovations and

Improvements ..... (1,000,000)

New Jersey National Guard Counter

Drug Program Interservice State .. (12,000)

**80 Special Government Services****83 Services to Veterans**

20-3630 Domiciliary and Treatment Services ..... \$1,725,000

20-3640 Domiciliary and Treatment Services ..... 2,017,000

20-3650 Domiciliary and Treatment Services ..... 776,000

50-3610 Veterans' Outreach and Assistance ..... 902,000

70-3610 Burial Services ..... 6,900,000Total Appropriation, Services to Veterans ..... \$12,320,000

## Personal Services:

Salaries and Wages ..... (\$360,000)

Employee Benefits ..... (108,000)

Materials and Supplies ..... (6,974,000)

## Special Purpose:

Medicare Part A Receipts for  
Resident Care and

Operational Costs ..... (4,518,000)  
Transitional Housing ..... (360,000)

Total Appropriation, Department of  
Military and Veterans' Affairs ..... \$30,967,000

**74 DEPARTMENT OF STATE*****30 Educational, Cultural and Intellectual Development******36 Higher Educational Services***

45-2405 Student Assistance Programs ..... \$23,960,000

80-2400 Statewide Planning and Coordination  
of Higher Education ..... 2,730,000

Total Appropriation, Higher Educational Services .. \$26,690,000

## Personal Services:

Salaries and Wages ..... (\$8,285,000)

Employee Benefits ..... (2,608,000)

Materials and Supplies ..... (440,000)

Services Other Than Personal ..... (6,955,000)

Maintenance and Fixed Charges ..... (921,000)

## Special Purpose:

Student Loan Administrative Cost

Deduction and Allowance ..... (266,000)

NJ GEAR UP ..... (10,000)

State Aid and Grants ..... (6,222,000)

Additions, Improvements and Equipment . (983,000)

***30 Educational, Cultural and Intellectual Development******37 Cultural and Intellectual Development Services***

05-2530 Support of the Arts ..... \$750,000

06-2535 Museum Services ..... 202,000

10-2570 Public Broadcasting Services ..... 625,000

Total Appropriation, Cultural and Intellectual  
Development Services ..... \$1,577,000

## Personal Services:

Salaries and Wages ..... (\$142,000)

Employee Benefits ..... (54,000)

## Special Purpose:

National Endowment for the Arts

Partnership ..... (62,000)

Delaware Water Gap National

Recreational Area ..... (76,000)

Institute of Museum Services --

General Support Grant ..... (50,000)

National Telecommunications

Information Agency ..... (625,000)

## State Aid and Grants:

National Endowment for the

Arts Partnership ..... (568,000)

**74 General Government Services**01-2505 Office of the Secretary of State ..... \$6,313,000Total Appropriation, General Government Services . . \$6,313,000

## Personal Services:

Salaries and Wages ..... (\$450,000)

Employee Benefits ..... (108,000)

Services Other Than Personal ..... (384,000)

## Special Purpose:

Homeland Security ..... (40,000)

Reading Partners . . . . . (6,000)

State Aid and Grants ..... (5,325,000)

Total Appropriation, Department of State ..... \$34,580,000**82 DEPARTMENT OF TRANSPORTATION****60 Transportation Programs****61 State and Local Highway Facilities**

02-6200 Transportation Systems

Improvements--Planning ..... \$26,195,000

10-6300 Interstate Program ..... 59,310,000

28-6300 Demonstration Program ..... 72,680,146

29-6300 Congestion Mitigation and Air Quality Program . 10,000,000

36-6300 National Highway System ..... 167,789,000

37-6300 Surface Transportation Program ..... 176,493,127

40-6300 Bridge Program ..... 159,612,000

50-6300 Minimum Guarantee ..... 56,600,000

55-6300 Ferry Program ..... 9,500,000

56-6300 Recreational Trails Program ..... 807,000

58-6300 Public Lands Highways ..... 2,000,000

57-6300 National Boating Infrastructure Grant Program ... 1,600,000

71-6200 Supportive Services Program ..... 500,000

Total Appropriation, State and Local

Highway Facilities ..... \$743,086,273

## Special Purpose:

Highway Planning and Research . (\$15,180,000)

Metropolitan Planning Funds ... (\$11,015,000)

| <u>Route</u>               | <u>Section</u> | <u>Description</u>                 | <u>County</u> | <u>Amount</u> |
|----------------------------|----------------|------------------------------------|---------------|---------------|
| Special Purpose:           |                |                                    |               |               |
| 10-6300 Interstate Program |                |                                    |               |               |
| 1.                         | Construction   | Interstate pavement preservation   | Various       | (\$3,000,000) |
|                            |                | Resurfacing, Interstate Fast Track | Various       | (1,000,000)   |
|                            |                | Program                            |               |               |



|                               |                     |                                                                         |                      |              |
|-------------------------------|---------------------|-------------------------------------------------------------------------|----------------------|--------------|
| 78                            | 6J, 6K              | Truck weigh stations (east and westbound)                               | Warren               | (12,100,000) |
| 78                            |                     | West Peddie Street                                                      | Essex                | (8,400,000)  |
| 80 95                         | E & J               | Palisades Avenue to I-95                                                | Bergen               | (5,340,000)  |
| 80                            | 20                  | Paterson Interchange Improvements                                       | Passaic              | (6,470,000)  |
| 195                           |                     | West of Richardson Road to Exit 8, Rehabilitation                       | Mercer<br>Monmouth   | (3,500,000)  |
| 295                           |                     | I-195 to Route 1, Rehabilitation                                        | Mercer               | (7,000,000)  |
| 676                           |                     | Martin Luther King Boulevard, Operational Improvements                  | Camden               | (7,300,000)  |
| 2.                            | Design              |                                                                         |                      |              |
| 78                            | CR655               | Diamond Hill Road Interchange                                           | Union                | (3,200,000)  |
| 3.                            | Preliminary Design  |                                                                         |                      |              |
| 295                           |                     | Tomlin Station Road to Route 45, Rehabilitation                         | Gloucester           | (2,000,000)  |
| Special Purpose               |                     |                                                                         |                      |              |
| 28-6300 Demonstration Program |                     |                                                                         |                      |              |
| 1.                            | Concept Development |                                                                         |                      |              |
| 17                            |                     | NYS&W Bridge                                                            | Bergen               | (100,000)    |
| 17                            |                     | Williams Avenue (CR40) to Garden State Parkway                          | Bergen               | (2,000,000)  |
| 130                           |                     | Corridor no. 3B, Airport Circle to Wood Street, Burlington City         | Burlington<br>Camden | (500,000)    |
| 2.                            | Construction        |                                                                         |                      |              |
|                               |                     | Baldwin Avenue, intersection improvements                               | Hudson               | (1,000,000)  |
|                               |                     | CARGOMATE                                                               | Essex<br>Union       | (750,000)    |
|                               |                     | Carteret Industrial Road                                                | Middlesex            | (2,079,004)  |
|                               |                     | Delaware River Tram                                                     | Camden               | (8,200,795)  |
|                               |                     | Freehold Roadway Improvements                                           | Monmouth             | (249,450)    |
|                               |                     | Garden State Parkway, interchange improvements                          | Cape May             | (5,125,498)  |
|                               |                     | Rosedale Road and Provinceline Road                                     | Mercer               | (249,450)    |
|                               |                     | Secaucus Connector                                                      | Hudson               | (3,587,847)  |
|                               |                     | TRANSCOM/Project Funding                                                | Various              | (2,500,000)  |
|                               |                     | Transportation and Community System Preservation Program                | Various              | (4,850,000)  |
|                               |                     | Union City Intermodal Facility, Bergenline Avenue                       | Hudson               | (2,050,199)  |
|                               |                     | West Broadway Bridge over Passaic River                                 | Passaic              | (347,725)    |
| 1&9                           | 35                  | Interchange, South of interchange to Tappan Street                      | Middlesex            | (1,400,000)  |
| 30                            | 130                 | Collingswood Circle (Phase A) Elimination, Comly Avenue to PATCO Bridge | Camden               | (2,278,475)  |
| 46                            | 62/                 | Union Boulevard, interchange improvements (12K 13E 1E)                  | Passaic              | (1,251,447)  |
| 70                            | CR 646              | Manasquan River Bridge (4)                                              | Monmouth<br>Ocean    | (2,800,000)  |

## 3. Design

|     |        |                                                                            |                        |                            |
|-----|--------|----------------------------------------------------------------------------|------------------------|----------------------------|
| 22  | CR 530 | South Pemberton Road<br>Chimney Rock Road interchange<br>improvements      | Burlington<br>Somerset | (1,500,000)<br>(2,000,000) |
| 52  |        | Causeway Replacement and<br>Somers Point Circle elimination,<br>Contract B | Atlantic<br>Cape May   | (1,250,000)                |
| 130 |        | Renaissance Boulevard to<br>Adams Lane (16)                                | Middlesex              | (800,000)                  |

## 4. Feasibility Assessment

|     |       |                                                  |                      |             |
|-----|-------|--------------------------------------------------|----------------------|-------------|
|     |       | Bergen Arches through Jersey City<br>Palisades   | Hudson               | (5,225,000) |
|     |       | Marine Ocean Terminal                            | Hudson               | (13,636)    |
|     |       | Paulsboro Brownfields Access                     | Gloucester           | (500,000)   |
| 9   | CR520 | Robertsville Road Intersection<br>Improvements   | Monmouth             | (500,000)   |
| 21  |       | Newark Waterfront Community<br>Access Study      | Essex                | (1,025,100) |
| 35  |       | Eatontown/Shrewsbury Operational<br>Improvements | Monmouth             | (574,459)   |
| 57  | CR519 | County Route 519 Intersection<br>Improvements    | Warren               | (1,300,000) |
| 72  |       | Manahawkin Bay Bridges                           | Ocean                | (500,000)   |
| 168 | 42    | DVRPC Route 168/42 Corridor<br>Study             | Camden<br>Gloucester | (250,000)   |

## 5. Preliminary Design

|     |    |                                                 |            |             |
|-----|----|-------------------------------------------------|------------|-------------|
|     |    | Halls Mill Road                                 | Monmouth   | (1,000,000) |
|     |    | Market Street/ Essex Street/<br>Rochelle Avenue | Bergen     | (500,000)   |
| 31  |    | Flemington Area Congestion<br>Mitigation        | Hunterdon  | (1,000,000) |
| 295 | 38 | Missing Moves, Mount Laurel                     | Burlington | (3,500,000) |

## 6. Right of Way

|      |    |                                               |          |             |
|------|----|-----------------------------------------------|----------|-------------|
| 1&9T |    | St. Paul's Avenue/Conrail Bridge (25)         | Hudson   | (2,000,000) |
| 17   |    | Essex Street Bridge (3)                       | Bergen   | (4,422,061) |
| 22   |    | Chimney Rock Road Interchange<br>Improvements | Somerset | (2,000,000) |
| 23   | 94 | Linwood Avenue to Walkill Avenue<br>(7D 8C)   | Sussex   | (500,000)   |
| 46   |    | Main Street, Lodi                             | Bergen   | (1,000,000) |

## Special Purpose:

29-6300 Congestion Mitigation and Air Quality Program

## 1. Construction

|  |  |                                                      |         |             |
|--|--|------------------------------------------------------|---------|-------------|
|  |  | Bicycle and pedestrian facilities/<br>accommodations | Various | (1,500,000) |
|  |  | Hutchinson Trail, Washington<br>Township             | Mercer  | (150,000)   |
|  |  | Local CMAQ Initiatives                               | Various | (2,770,000) |
|  |  | Ozon Action Program in NJ                            | Various | (40,000)    |
|  |  | TMA-DVRPC                                            | Various | (2,000,000) |
|  |  | TMA-NJTPA                                            | Various | (3,300,000) |

|                                        |              |                                                                    |            |                |
|----------------------------------------|--------------|--------------------------------------------------------------------|------------|----------------|
|                                        |              | TransitChek Mass Marketing Efforts -- NJ                           | Various    | (40,000)       |
| 2.                                     | Right of Way |                                                                    |            |                |
| 29                                     |              | Delaware River Pedestrian/Bike Path, Stacy Park to Assunpink Creek | Mercer     | (200,000)      |
| Special Purpose:                       |              |                                                                    |            |                |
| 36-6300 National Highway System        |              |                                                                    |            |                |
| 1.                                     | Construction |                                                                    |            |                |
| 1                                      |              | South of Pierson Avenue to North of Garden State Parkway (7L)      | Middlesex  | (\$12,017,000) |
| 1&9                                    | 35           | Interchange, South to Tappan Street                                | Middlesex  | (16,400,000)   |
| 1&9                                    |              | Production Way to East Lincoln Avenue (1K 3M)                      | Middlesex  |                |
| 1&9                                    |              | Secaucus Road to Broad Avenue (28)                                 | Union      | (8,300,000)    |
|                                        |              |                                                                    | Hudson     |                |
| 10                                     |              | East of Route 202                                                  | Bergen     | (14,200,000)   |
| 18                                     |              | Route 1 to Northeast Corridor Amtrak                               | Morris     | (1,338,000)    |
|                                        |              | Line north of Route 27 (2F 7E 11H)                                 | Middlesex  | (58,000,000)   |
| 30                                     | 130          | Collingswood Circle (Phase A)                                      |            |                |
|                                        |              | Elimination, Comly Avenue to PATCO Bridge                          | Camden     | (9,322,000)    |
| 46                                     | 80/23        | Route 23 & 80 Interchange                                          |            |                |
|                                        |              | Improvements (43)                                                  | Passaic    | (20,000,000)   |
| 206                                    |              | Old York Road/Rising Sun Road (39)                                 | Burlington | (8,408,000)    |
| 2.                                     | Design       |                                                                    |            |                |
| 9                                      |              | Bus Shoulder Use and Pedestrian Improvements                       | Middlesex  | (560,000)      |
| 10                                     | CR511        | Parsippany Road, Drainage                                          | Morris     | (300,000)      |
| 18                                     |              | Interchange of CRs 516/527                                         | Middlesex  | (2,000,000)    |
| 22                                     |              | Park Avenue/Bonnie Burn Road                                       | Somerset   | (1,800,000)    |
| 35                                     | 36           | Eatontown                                                          | Monmouth   | (1,250,000)    |
| 46                                     |              | Main Street, Netcong                                               | Morris     | (750,000)      |
| 70                                     | CR637        | Massachusetts Avenue, Intersection                                 |            |                |
|                                        |              | Improvements                                                       | Ocean      | (800,000)      |
| 73                                     | 70           | Marlton Circle Elimination (5)                                     | Burlington | (1,100,000)    |
| 206                                    |              | Jack's Run Drainage Improvements                                   | Burlington | (300,000)      |
| 3.                                     | Right of Way |                                                                    |            |                |
| 10                                     | CR 511       | Parsippany Road, Drainage                                          | Morris     | (100,000)      |
| 10                                     | 53           | Route 10/53 Interchange (2L 3J)                                    | Morris     | (500,000)      |
| 23                                     | 94           | Linwood Avenue to Walkill Avenue (7D 8C)                           | Sussex     | (1,800,000)    |
| 31                                     | 202          | Flemington Circle Elimination                                      | Hunterdon  | (7,000,000)    |
| 70                                     | CR 637       | Massachusetts Avenue, Intersection                                 |            |                |
|                                        |              | Improvements                                                       | Ocean      | (700,000)      |
| 202                                    |              | Case Boulevard, intersection                                       |            |                |
|                                        |              | improvements                                                       | Hunterdon  | (704,000)      |
| 206                                    |              | Arreton Road, drainage                                             |            |                |
|                                        |              | improvements                                                       | Mercer     | (115,000)      |
| 206                                    |              | Jack's Run Drainage                                                | Burlington | (25,000)       |
| Special Purpose:                       |              |                                                                    |            |                |
| 37-6300 Surface Transportation Program |              |                                                                    |            |                |
| 1.                                     | Construction |                                                                    |            |                |

|        |                                      |            |              |
|--------|--------------------------------------|------------|--------------|
|        | Accident reduction program           | Various    | (1,000,000)  |
| CR563, | Airport Circle Elimination           | Atlantic   | (2,040,000)  |
| 646    | Amwell Road Railroad Bridge          |            |              |
| CR 514 | over Conrail                         | Somerset   | (6,500,000)  |
| CR 601 | Avalon Boulevard over                |            |              |
|        | Avalon Canal                         | Cape May   | (1,775,000)  |
|        | Avenue P Bridge                      | Essex      | (1,000,000)  |
|        | Bridge painting                      | Various    | (11,500,000) |
|        | Bridge Safety Program                | Various    | (1,000,000)  |
|        | Burlington County Computerized       |            |              |
|        | Signal Control, Phase IV             | Burlington | (2,500,000)  |
|        | Camden County Road Striping          |            |              |
|        | Enhancement Program                  | Camden     | (900,000)    |
|        | Delaware River Heritage Trail        | Burlington |              |
|        |                                      | Mercer     | (400,000)    |
|        | Disadvantaged Business Enterprise    | Various    | (100,000)    |
|        | Drainage rehabilitation              | Various    | (1,000,000)  |
|        | Delaware Valley Regional Planning    |            |              |
|        | Commission - future projects         | Various    | (741,000)    |
| CR 614 | Easton Turnpike Bridge (D0907) over  |            |              |
|        | North Branch of Raritan River        | Somerset   | (6,000,000)  |
|        | Emergency Service Patrol             | Various    | (8,300,000)  |
|        | Fixed object safety treatment        | Various    | (250,000)    |
|        | GEOGIS Soil Boring Management        |            |              |
|        | System                               | Various    | (600,000)    |
|        | Gloucester County Bus Purchase       | Gloucester | (65,000)     |
|        | Gloucester County Resurfacing        | Gloucester | (400,000)    |
|        | Intersection improvement program     | Various    | (1,000,000)  |
|        | Jersey City, Milling and Resurfacing |            |              |
|        | of 6 streets                         | Hudson     | (1,150,000)  |
| CR 620 | King's Highway                       | Salem      | (600,000)    |
| CR 619 | Landis Avenue Resurfacing            | Cape May   | (500,000)    |
|        | Local Safety Program                 | Various    | (3,000,000)  |
| CR 555 | Main Road from G Street to           |            |              |
|        | Chestnut Avenue                      | Cumberland | (900,000)    |
|        | Median Cross-over Crash              |            |              |
|        | Prevention Program                   | Various    | (7,500,000)  |
|        | Mercer County Restriping Program     | Mercer     | (400,000)    |
|        | Motor Vehicle Crash Record           |            |              |
|        | Processing                           | Various    | (2,500,000)  |
|        | NJTPA, Future Projects               | Various    | (745,000)    |
|        | Old Dutch Road Bridge                | Somerset   | (850,000)    |
|        | Opie/River Road Bridge (C0607)       |            |              |
|        | over South Branch of Raritan River   | Somerset   | (2,000,000)  |
|        | Peapack Road Bridge                  | Somerset   | (1,300,000)  |
|        | Pre-apprenticeship training for      |            |              |
|        | minorities and females               | Various    | (500,000)    |
|        | Quality Assurance                    | Various    | (600,000)    |
|        | Rail-highway grade crossing program, |            |              |
|        | Cape May Seashore Lines              | Cape May   | (500,000)    |
|        | Rail-highway grade crossing          |            |              |
|        | program, Federal                     | Various    | (4,800,000)  |

|    |         |                                                                          |            |              |
|----|---------|--------------------------------------------------------------------------|------------|--------------|
|    |         | Restriping program                                                       | Various    | (4,500,000)  |
|    |         | Resurfacing program                                                      | Various    | (1,000,000)  |
|    |         | Safe Corridors Program                                                   | Various    | (4,000,000)  |
|    |         | Safety Management System                                                 | Various    | (5,400,000)  |
|    |         | Sanatorium Road over Spruce Run                                          | Hunterdon  | (2,331,000)  |
|    | CR 585  | Shore road, Northfield, Ocean Heights to Old Tilton                      | Atlantic   | (1,100,000)  |
|    |         | SJTPO, Future Projects                                                   | Various    | (82,000)     |
|    |         | Southeast and Southwest Boulevards, Elmer Street to Chestnut Avenue      | Cumberland | (376,000)    |
|    | CR 615S | Southwest Boulevard, Sherman Avenue to Chestnut Avenue                   | Cumberland | (750,000)    |
|    | 552     | State Police Safety Patrols                                              | Various    | (2,000,000)  |
|    |         | Traffic Operations Center (North)                                        | Various    | (4,100,000)  |
|    |         | Traffic Operations Center (South)                                        | Various    | (5,000,000)  |
|    |         | Traffic Signal Timing and Optimization                                   | Various    | (1,100,000)  |
|    |         | Transportation Enhancements                                              | Various    | (5,000,000)  |
|    | CR 557  | Tuckahoe Road, Section 6, Marsh Lake Branch to Route 40                  | Gloucester | (2,000,000)  |
|    |         | Utility reconnaissance and relocation                                    | Atlantic   | (1,000,000)  |
|    |         | West Broadway Bridge over Passaic River                                  | Passaic    | (3,000,000)  |
|    |         | Whistle Ban Demonstration Program                                        | Various    | (100,000)    |
|    |         | Woodfern Road Bridges (B0510 to B0512) over S. Branch of Raritan River   | Somerset   | (3,000,000)  |
| 36 |         | Flat Creek, Drainage                                                     | Monmouth   | (200,000)    |
| 44 |         | Fowler Lane, Drainage                                                    | Gloucester | (1,400,000)  |
| 46 | CR 614/ | Van Houten Avenue/                                                       |            |              |
|    | 623     | Grove Street Interchange (47)                                            | Passaic    | (13,180,127) |
| 73 |         | Median Closures, Fairview Avenue to Greentree Road                       | Burlington | (2,569,000)  |
| 3. | Design  |                                                                          |            |              |
|    |         | Amwell Road Bridge over Neshanic River                                   | Somerset   | (1,000,000)  |
|    | CR 615, | Bordentown Avenue/Ernst Road, Intersection Improvements                  | Middlesex  | (1,500,000)  |
|    | 6       |                                                                          |            |              |
|    | CR 623  | Brass Castle Road Bridge over Pohatcong Creek                            | Warren     | (165,000)    |
|    |         | Camden County Civic Center Access Study, Pennsauken                      | Camden     | (500,000)    |
|    |         | Monmouth County Bridges W7, W8, W9 over Glimmer Glass and Debbie's Creek | Monmouth   | (2,500,000)  |
|    | CR 658  | Salem-Hancocks Bridge Road                                               | Salem      | (175,000)    |
|    |         | Springfield Avenue Pedestrian Improvements, Summit                       | Union      | (250,000)    |
|    |         | Troy Road over Whippany River                                            | Morris     | (365,000)    |
| 9  |         | Northfield Sidewalk Replacement, Phase II                                | Atlantic   | (150,000)    |
| 9W |         | Improvements at I95/Rt 4                                                 | Bergen     | (600,000)    |
| 22 |         | Mullen Road, Drainage                                                    | Hunterdon  | (150,000)    |

|      |                                                                            |            |               |
|------|----------------------------------------------------------------------------|------------|---------------|
| 29   | West Amwell Twp, Drainage                                                  | Hunterdon  | (400,000)     |
| 46   | Franklin Road Pedestrian Improvements                                      | Morris     | (800,000)     |
| 47   | Chapel Heights Avenue/Holly Avenue (Site 3)                                | Gloucester | (900,000)     |
| 181  | Green Road, Drainage                                                       | Sussex     | (400,000)     |
| 202  | Somerset/Morris Drainage (3 locations)                                     | Somerset   | (700,000)     |
| 4.   | Planning                                                                   |            |               |
|      | Metropolitan Planning                                                      | Various    | (1,413,000)   |
|      | Regional GIS Support, DVRPC                                                | Various    | (256,000)     |
| 5.   | Preliminary Design                                                         |            |               |
|      | DVRPC Project Development (Local Scoping)                                  | Various    | (2,000,000)   |
|      | NJTPA Project Development                                                  | Various    | (2,000,000)   |
|      | Trenton Amtrak Bridges                                                     | Mercer     | (1,500,000)   |
| 6.   | Right of Way                                                               |            |               |
|      | CR 702                                                                     |            |               |
|      | Hazel Street Reconstruction                                                | Passaic    | (320,000)     |
| 9    | Northfield Sidewalk Replacement, Phase II                                  | Atlantic   | (100,000)     |
| 30   | Clementon at Gibbsboro Road                                                | Camden     | (2,400,000)   |
| 36   | Flat Creek Drainage                                                        | Monmouth   | (1,820,000)   |
| 46   | Main Street, Lodi                                                          | Bergen     | (10,000,000)  |
| 47   | Chapel Heights Avenue/Holly Avenue (site 3)                                | Gloucester | (1,400,000)   |
| 166  | Dover Twp, Highland Parkway to Old Freehold Road, operational improvements | Ocean      | (4,400,000)   |
| 181  | Green Road, Drainage                                                       | Sussex     | (25,000)      |
| 202  | Somerset/Morris Drainage (3 locations)                                     | Somerset   | (200,000)     |
|      | Morris                                                                     |            |               |
|      | Special Purpose:                                                           |            |               |
|      | 40-6300 Bridge Program                                                     |            |               |
| 1.   | Construction                                                               |            |               |
|      | Bridge Deck Preservation Program                                           | Various    | (\$9,300,000) |
|      | Bridge Inspection, Local Bridges                                           | Various    | (7,270,000)   |
|      | Bridge Inspection, State NBIS Bridges                                      | Various    | (14,660,000)  |
|      | Bridge Scour                                                               | Various    | (6,000,000)   |
|      | Buckshutem Road Bridge at Laurel Lake                                      | Cumberland | (1,000,000)   |
|      | Southard Street Bridge over Route 1 and Conrail                            | Mercer     | (6,247,000)   |
| 1&9T | St. Paul's Avenue/Conrail Bridge (25)                                      | Hudson     | (7,400,000)   |
| 35   | Victory Bridge over Raritan River (12T)                                    | Middlesex  | (25,000,000)  |
| 70   | Manasquan River Bridge (4)                                                 | Monmouth   | (9,200,000)   |
|      |                                                                            | Ocean      |               |
| 130  | Route 130, DVRPC Deck Replacements (Phase B)                               | Mercer     | (2,000,000)   |
| 139  | 12th Street & 14th Street Viaducts (Contract 2)                            | Burlington |               |
|      |                                                                            | Hudson     | (27,700,000)  |

|      |                           |                                                                       |                    |               |
|------|---------------------------|-----------------------------------------------------------------------|--------------------|---------------|
| 2.   | Design                    |                                                                       |                    |               |
|      | CR616                     | Hanover Street Bridge over Rancocas Creek                             | Burlington         | (300,000)     |
|      |                           | Salem Street Bridge over Morristown Line                              | Morris             | (500,000)     |
|      | CR684                     | Smithville Road Bridge over Rancocas Creek                            | Burlington         | (300,000)     |
| 3    |                           | Passaic River Crossing                                                | Bergen Passaic     | (7,500,000)   |
| 27   |                           | Conrail Port Reading Branch Bridge (6L)                               | Middlesex          | (700,000)     |
| 27   |                           | Six Mile Run Bridge (3E)                                              | Middlesex Somerset | (400,000)     |
| 33   |                           | Conrail Bridge Replacement                                            | Mercer             | (1,000,000)   |
| 35   |                           | Manasquan River Bridge Rehabilitation                                 | Monmouth Ocean     | (2,000,000)   |
| 49   |                           | Cohansey River Bridge                                                 | Cumberland         | (1,600,000)   |
| 50   |                           | Tuckahoe River Bridge (2E 3B)                                         | Cape May Atlantic  | (1,700,000)   |
| 52   |                           | Causeway Replacement and Somers Point Circle Elimination, Contract B  | Cape May Atlantic  | (2,150,000)   |
| 52   |                           | Causeway Replacement, Contract A                                      | Cape May           | (3,000,000)   |
| 94   |                           | Yard's Creek Bridge                                                   | Warren             | (450,000)     |
| 179  |                           | Alexauken Creek Bridge                                                | Hunterdon          | (400,000)     |
| 206  |                           | Crusers Brook Bridge (41)                                             | Somerset           | (750,000)     |
| 3.   | Preliminary Design        |                                                                       |                    |               |
|      |                           | Bridge management system                                              | Various            | (225,000)     |
| 4.   | Right of Way              |                                                                       |                    |               |
|      | CR538                     | Coles Mill Road Bridge over Scotland Run                              | Gloucester         | (50,000)      |
|      |                           | Newark, NJT Morristown Line Bridges                                   | Essex              | (250,000)     |
|      |                           | Sparta Stanhope Road Bridge (AKA Bridge K-07) over Lackawanna Cutoff  | Sussex             | (650,000)     |
|      | CR 607                    | Tomlin Station Road Bridges over Nehonsey Brook and White Sluice Race | Gloucester         | (300,000)     |
| 1&9T |                           | St. Paul's Avenue/Conrail Bridge (25)                                 | Hudson             | (9,600,000)   |
| 17   |                           | Essex Street Bridge (3)                                               | Bergen             | (2,500,000)   |
| 27   |                           | Conrail Port reading Branch Bridge (6L)                               | Middlesex          | (300,000)     |
| 49   |                           | Cohansey River Bridge                                                 | Cumberland         | (350,000)     |
| 52   |                           | Causeway Replacement and Somers Point Circle Elimination, Contract B  | Cape May Atlantic  | (6,000,000)   |
| 94   |                           | Yard's Creek Bridge                                                   | Warren             | (60,000)      |
| 206  |                           | Crusers Brook Bridge (41)                                             | Somerset           | (800,000)     |
|      | Special Purpose:          |                                                                       |                    |               |
|      | 50-6300 Minimum Guarantee |                                                                       |                    |               |
| 1.   | Construction              |                                                                       |                    |               |
|      |                           | State Police enforcement and Safety Services                          | Various            | (\$4,000,000) |

|    |                                           |                                                        |                    |                             |
|----|-------------------------------------------|--------------------------------------------------------|--------------------|-----------------------------|
|    |                                           | Statewide Incident Management Program                  | Various            | (1,200,000)                 |
| 46 | 62/<br>CR 646                             | Union Boulevard, Interchange Improvements (12K 13E 1E) | Passaic            | (9,000,000)                 |
| 2. | Design                                    | Emerging projects                                      | Various            | (1,000,000)                 |
| 3. | Feasibility Assessment                    | Project development, preliminary engineering           | Various            | (2,500,000)                 |
| 4. | Planning                                  | Traffic Monitoring Systems                             | Various            | (6,500,000)                 |
| 5. | Preliminary Design                        | Pavement Management System Preliminary Design          | Various<br>Various | (3,000,000)<br>(25,000,000) |
| 6. | Right of Way                              | Fox Meadow Road/Fellowship Road                        | Burlington         | (4,400,000)                 |
| 73 | Special Purpose:<br>55-6300 Ferry Program |                                                        |                    |                             |
| 1. | Construction                              | Elizabeth Ferry Project                                | Union              | (\$9,500,000)               |

In order to provide the department with the flexibility to administer appropriations of federal funds, the commissioner may use moneys from the federal programs identified hereinabove as Interstate Program, Demonstration Program, Congestion Mitigation and Air Quality Program, National Highway System, Surface Transportation Program, Bridge Program, Minimum Guarantee, Ferry Program, Recreational Trails, National Boating Infrastructure Grant Program, and Metropolitan Planning Funds to finance the cost of the construction, design, right-of-way, planning, and project development phases of work of any project listed under any federal program pursuant to the following transfer provisions. The Commissioner of Transportation may transfer federal funds among projects having the same phase of work, subject to the approval of the Director of the Division of Budget and Accounting. The commissioner shall apply to the Director of the Division of Budget and Accounting for permission to transfer federal funds among projects having different phases of work. If the Director of the Division of Budget and Accounting shall consent thereto, the request to transfer federal funds among projects having different phases of work shall be transmitted to the Legislative Budget and Finance Officer for approval or disapproval and returned to the Director of the Division of Budget and Accounting. The Joint Budget Oversight Committee or its successor shall be empowered to review all transfers submitted to the Legislative Budget and Finance Officer and may direct the Legislative Budget and Finance Officer to approve or disapprove any transfer.

**62 Public Transportation**

|         |                                               |                      |
|---------|-----------------------------------------------|----------------------|
| 29-6310 | Congestion Mitigation and Air Quality Program | \$75,000,000         |
| 96-6310 | Federal Transit Administration                | <u>443,518,000</u>   |
|         | Total Appropriation, Public Transportation    | <u>\$518,518,000</u> |



|                                                                                   |            |  |                |
|-----------------------------------------------------------------------------------|------------|--|----------------|
| Congestion Mitigation and Air Quality Program                                     |            |  |                |
| Newark Broad Street Station Rehabilitation                                        | Essex      |  | (\$13,190,000) |
| Operating Assistance Start-Up New Transit Services                                | Various    |  | (48,810,000)   |
| Rail Support Facilities and Equipment                                             | Various    |  | (13,000,000)   |
| Special Purpose:                                                                  |            |  |                |
| FEDERAL TRANSIT ADMINISTRATION:                                                   |            |  |                |
| Access to Region's Core (ARC)                                                     | Various    |  | (\$3,500,000)  |
| AMTRAK Agreements                                                                 | Various    |  | (1,980,000)    |
| Bus Acquisition Program                                                           | Various    |  | (54,500,000)   |
| Cumberland County Bus Program                                                     | Cumberland |  | (900,000)      |
| Hudson/Bergen LRT System                                                          |            |  |                |
| MOS II                                                                            | Hudson     |  | (100,000,000)  |
| Job Access and Reverse Commute Program                                            | Various    |  | (4,000,000)    |
| Newark Broad Street Rehabilitation                                                | Essex      |  | (21,930,000)   |
| Newark City Subway Downtown Extension                                             | Essex      |  | (1,340,000)    |
| Newark Penn Station                                                               | Essex      |  | (4,927,000)    |
| Other Rail Station/Terminal Improvements                                          | Various    |  | (8,645,000)    |
| Preventive maintenance- bus                                                       | Various    |  | (58,260,000)   |
| Preventive maintenance - rail                                                     | Various    |  | (91,130,000)   |
| Private Carrier Equipment Program                                                 | Various    |  | (38,300,000)   |
| Rail Park and Ride                                                                | Various    |  | (12,936,000)   |
| Rail rolling stock procurement                                                    | Various    |  | (23,800,000)   |
| Section 5310 Program: buses and vans for services to elderly and disabled persons | Various    |  | (3,060,000)    |
| Section 5311 Program: rural public transportation                                 | Various    |  | (3,790,000)    |
| Small/Special Services Program                                                    | Various    |  | (3,137,000)    |
| Technology Improvements                                                           | Various    |  | (750,000)      |
| Track Program                                                                     | Various    |  | (397,000)      |
| Transit enhancements                                                              | Various    |  | (1,756,000)    |
| Transit Rail Initiatives                                                          | Various    |  | (4,480,000)    |

***64 Regulation and General Management***

05-6070 Access and Use Management ..... \$17,308,000  
 Total Appropriation, Regulation and  
 General Management ..... \$17,308,000

Special Purpose:  
 Aviation Block Grant Program . . (\$10,000,000)  
 Motor Carrier Safety Assistance  
 Program ..... (7,308,000)

Total Appropriation, Department of  
 Transportation ..... \$1,278,912,273

**82 DEPARTMENT OF THE TREASURY**  
**50 Economic Planning, Development and Security**  
**52 Economic Regulation**

|         |                                                |                    |
|---------|------------------------------------------------|--------------------|
| 54-2007 | Utility Regulation .....                       | \$600,000          |
| 56-2014 | Energy Resource Management .....               | <u>3,587,000</u>   |
|         | Total Appropriation, Economic Regulation ..... | <u>\$4,187,000</u> |
|         | Personal Services:                             |                    |
|         | Salaries and Wages .....                       | (\$1,350,000)      |
|         | Employee Benefits .....                        | (475,000)          |
|         | Materials and Supplies .....                   | (51,000)           |
|         | Services Other Than Personal .....             | (1,009,000)        |
|         | Maintenance and Fixed Charges .....            | (110,000)          |
|         | Special Purpose:                               |                    |
|         | Division of Gas Expansion .....                | (600,000)          |
|         | Diamond Shamrock Administration ...            | (42,000)           |
|         | State Aid and Grants                           |                    |
|         | Future Industries .....                        | (500,000)          |
|         | Additions, Improvements and Equipment ..       | (50,000)           |

**80 Special Government Services**  
**82 Protection of Citizens' Rights**

|         |                                                         |                    |
|---------|---------------------------------------------------------|--------------------|
| 57-2048 | Trial Services to Indigents and Special Programs .      | \$1,228,000        |
| 58-2022 | Mental Health Screening Services .....                  | <u>223,000</u>     |
|         | Total Appropriation, Protection of Citizens' Rights ... | <u>\$1,451,000</u> |
|         | Personal Services:                                      |                    |
|         | Salaries and Wages .....                                | (\$67,000)         |
|         | Employee Benefits .....                                 | (15,000)           |
|         | Materials and Supplies .....                            | (1,000)            |
|         | Special Purpose:                                        |                    |
|         | State Legal Services Office .....                       | (7,000)            |
|         | Medicaid Reimbursement .....                            | (223,000)          |
|         | State Aid and Grants .....                              | (1,138,000)        |

Total Appropriation, Department of the Treasury .... \$5,638,000

**98 THE JUDICIARY**  
**10 Public Safety and Criminal Justice**  
**15 Judicial Services**

|         |                                              |                     |
|---------|----------------------------------------------|---------------------|
| 04-9725 | Criminal Courts .....                        | \$200,000           |
| 05-9430 | Family Courts .....                          | 20,585,000          |
| 05-9813 | Family Courts .....                          | 450,000             |
| 05-9843 | Family Courts .....                          | 199,000             |
| 05-9873 | Family Courts .....                          | 195,000             |
| 05-9903 | Family Courts .....                          | 450,000             |
| 07-9913 | Family Courts .....                          | 184,000             |
| 07-9740 | Probation Services .....                     | <u>56,295,000</u>   |
|         | Total Appropriation, Judicial Services ..... | <u>\$78,558,000</u> |

## Personal Services:

Senators Assemblymen Board

Members Comm Judges

Associate Judges ..... (\$145,000)

Salaries and Wages ..... (50,239,000)

Employee Benefits ..... (13,939,000)

Materials and Supplies ..... (1,054,000)

Services Other Than Personal ..... (2,668,000)

Maintenance and Other Fixed Charges ... (131,000)

## Special Purpose:

Drug Court - OJP - Direct ..... (200,000)

NJ State Court Improvement Grant .... (15,000)

State Access and Visitation Program . . (30,000)

Juvenile Drug Court Grant ..... (1,478,000)

NJ Child Support Early

Intervention Project ..... (100,000)

State Aid and Grants ..... (8,233,000)

Additions, Improvements and Equipment . (326,000)

Total Appropriation, Judiciary ..... \$78,558,000Total Appropriation, Federal Funds ..... \$9,151,607,273

Notwithstanding any State law to the contrary, no State agency shall accept or expend federal funds except as appropriated by the Legislature or otherwise provided in this act.

In addition to the federal funds appropriated in this act, there are appropriated the following federal funds, subject to the approval of the Director of the Division of Budget and Accounting: emergency disaster aid funds; pass-through grants to political subdivisions of the State over which the State is not permitted to exercise discretion in the use or distribution of the funds and for which no State matching funds are required; the first 25% of unanticipated grant awards, and up to 25% of increases in previously anticipated grant awards for which no State matching funds are required except, for the purpose of this section, federal funds received by one executive agency that are ultimately expended by another executive agency shall not be considered pass-through grants; federal financial aid funds for students attending post-secondary educational institutions in excess of the amount specifically appropriated, and any such grants intended to prevent threats to homeland security up to 100% of previously anticipated or unanticipated grant award amounts for which no State matching funds are required, provided however, that the Director of the Division of Budget and Accounting shall notify the Legislative Budget and Finance Officer of such grants; and all other grants of \$500,000 or less which have been awarded competitively.

For the purposes of federal funds appropriations, "political subdivisions of the State" means counties, municipalities, school districts, or agencies thereof, regional, county or municipal authorities, or districts other than interstate

authorities or districts; "discretion" refers to any action in which an agency may determine either the amount of funds to be allocated or the recipient of the allocation; and "grants" refers to one-time, or time limited awards, which are received pursuant to submission of a grant application in competition with other grant applications.

The unexpended balances of federal funds as of June 30, 2004 are continued for the same purposes. The Director of the Division of Budget and Accounting shall inform the Legislative Budget and Finance Officer by November 1, 2004 of any unexpended balances which are continued.

The appropriate executive agencies shall prepare and submit to the Senate Budget and Appropriations Committee and the Assembly Appropriations Committee, or their successors, by March 1, 2005, reports on proposed expenditures during fiscal year 2005 for the following federal programs: the alcohol, drug abuse and mental health block grant; the education block grant; the community services block grant; the jobs training partnership block grant; the low income energy assistance block grant; the maternal and child health block grant; the preventive health and health services block grant; the small cities block grant; the social services block grant; and the child care block grant. These reports shall account for all federal, State and local funds which are anticipated to be expended on block grant programs, shall provide an accounting of block grant expenditures during the prior fiscal year, and shall provide a detailed list of contracts awarded to provide services under the block grants.

Out of the appropriations herein, the Director of the Division of Budget and Accounting is empowered to approve payments to liquidate any unrecorded liabilities for materials delivered or services rendered in prior fiscal years, upon the written recommendations of any department head or the department head's designated representative. The Director of the Division of Budget and Accounting shall reject any recommendations for payment which the director deems improper.

The sum herein appropriated to the Department of Transportation for the Hudson - Bergen Light Rail Transit System is hereby appropriated, to the extent necessary, to pay the principal of and interest on the grant anticipation notes issued by the New Jersey Transit Corporation.

In order to permit flexibility in the handling of appropriations and ensure the timely payment of claims to providers of medical services, amounts may be transferred to and from the various items of appropriation within the General Medical Services program classification, and within the federal matching funding, in the Division of Medical Assistance and Health Services in the Department of Human Services, and within the Medical Services for the Aged program classification, and within the federal matching funding, in the Division of Senior Services in the Department of Health and Senior Services, subject to the approval of the Director of the Division of Budget and Accounting. Notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer.

Notwithstanding the provisions of any law, regulation or Executive Order to the contrary, any purchase by the State or by a State agency or local government unit of equipment, goods or services related to homeland security and domestic

preparedness, that is paid for or reimbursed by federal funds awarded by the U.S. Department of Homeland Security or other federal agency, appropriated in this fiscal year, may be made through the receipt of public bids or as an alternative to public bidding and subject to the provisions of this paragraph, through direct purchase without advertising for bids or rejecting bids already received but not awarded. The equipment, goods or services purchased by a local government unit shall be referred to in the grant agreement issued by the State administrative agency administering such funds and shall be authorized by resolution of the governing body of the local government unit entering into the grant agreement. Such resolution may, without subsequent action of the local governing body, simultaneously accept the grant from the State administrative agency, authorize the insertion of the revenue and offsetting appropriation in the budget of the local government unit, and authorize the contracting agent of the local government unit to procure the equipment, goods or services. A copy of such resolution shall be filed with the chief financial officer of the local government unit, the State Administrative agency and the Division of Local Government Services in the Department of Community Affairs. Purchases made without public bidding shall be from vendors that shall either (1) be holders of a current State contract for the equipment, goods or services sought, or (2) be participating in a federal procurement program established by a federal department or agency, or (3) have been approved by the State Treasurer in consultation with the New Jersey Domestic Security Preparedness Task Force. All homeland security purchases herein shall continue to be subject to all grant requirements and conditions approved by the State administrative agency. The Director of the Division of Purchase and Property may enter into or participate in purchasing agreements with one or more other states, or political subdivisions or compact agencies thereof, for the purchase of such equipment, goods or services, using monies appropriated under this act, to meet the domestic preparedness and homeland security needs of this State. Such purchasing agreement may provide for the sharing of costs and the methods of payments relating to such purchases.

Grand Total Appropriation, All Funds . . . . . \$37,178,868,273

2. There are appropriated, subject to allotment by the Director of the Division of Budget and Accounting and with the approval of the Legislative Budget and Finance Officer, private contributions, revolving funds and dedicated funds received, receivable or estimated to be received for the use of the State or its agencies in excess of those anticipated, unless otherwise provided herein, and the unexpended balances as of June 30, 2004 of such funds, subject to the approval of the Director of the Division of Budget and Accounting.

3. There are appropriated, subject to allotment by the Director of the Division of Budget and Accounting, the following: sums required to refund amounts credited to the State Treasury which do not represent State revenue; sums received representing insurance to cover losses by fire and other casualties and the unexpended balance as of June 30, 2004 of such sums; sums received by any State

department or agency from the sale of equipment, when such sums are received in lieu of trade-in value in the replacement of such equipment; and sums received in the State Treasury representing refunds of payments made from appropriations provided in this act.

4. There are appropriated, subject to allotment by the Director of the Division of Budget and Accounting, sums required to satisfy receivables previously established from which non-reimbursable costs and ineligible expenditures have been incurred.

5. There are appropriated, subject to allotment by the Director of the Division of Budget and Accounting, from federal or other non-State sources amounts not to exceed the cost of services necessary to document and support retroactive claims.

6. There are appropriated such sums as may be required to pay interest liabilities to the federal government as required by the Treasury/State agreement pursuant to the provisions of the Cash Management Improvement Act of 1990, Pub.L.101-453 (31 U.S.C. s.6501 et seq.), subject to the approval of the Director of the Division of Budget and Accounting.

7. There are appropriated, subject to the approval of the Director of the Division of Budget and Accounting, from interest earnings of the various bond funds such sums as may be necessary for the State to comply with the federal "Tax Reform Act of 1986," Pub.L.99-514 (26 U.S.C. s.1 et seq.), which requires issuers of tax-exempt debt obligations to rebate any arbitrage earnings to the federal government.

8. There are appropriated from the General Fund, subject to the approval of the Director of the Division of Budget and Accounting, such sums as are necessary to pay interest, at the average rate of earnings during the fiscal year from the State's general investments, to those bond funds that have borrowed money from the General Fund or other bond funds and that have insufficient resources to accrue and pay the interest expense on such borrowing.

9. In addition to the amounts appropriated hereinabove, such additional sums as may be necessary are appropriated to fund the costs of the collection of debts, taxes and other fees and charges owed to the State, including but not limited to the services of auditors and attorneys and enhanced compliance programs, subject to the approval of the Director of the Division of Budget and Accounting.

10. There is appropriated \$11,600,000 from the Legal Services Trust Fund established pursuant to section 6 of P.L.1996, c.52 (C.22A:2-51), for transfer to the General Fund as State revenue to fund the following programs: \$8,000,000 for Legal Services of New Jersey grant, \$3,000,000 for ten additional judgeships in the Judiciary, and \$600,000 for Clinical Legal Programs for the Poor at the Rutgers-Camden Law School, the Rutgers-Newark Law School and Seton Hall Law School.

11. The unexpended balances as of June 30, 2004 in the accounts of the several departments and agencies heretofore appropriated or established in the category of Additions, Improvements and Equipment are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

12. The unexpended balances as of June 30, 2004 in the Capital Construction accounts for all departments and agencies are appropriated.

13. Unless otherwise provided, balances remaining as of June 30, 2004 in accounts of appropriations enacted subsequent to April 1, 2004 are appropriated.

14. The unexpended balances as of June 30, 2004 in accounts that are funded by Interfund Transfers are appropriated, subject to the approval of the Director of the Division of Budget and Accounting.

15. Notwithstanding any other provisions in this act or the provisions of any other law to the contrary, no unexpended balances as of June 30, 2004 are appropriated without the approval of the Director of the Division of Budget and Accounting, except that the Legislative Branch of State government shall be exempt from this provision. The Director of the Division of Budget and Accounting shall notify the Legislative Budget and Finance Officer of those instances in which unexpended balances are not appropriated pursuant to this section.

16. The administrative costs of the Special Education Medicaid Initiative and the Early Periodic Screening, Diagnosis and Treatment (EPSDT) program, including the participation of a consultant, are appropriated and shall be paid from the revenue received, subject to the approval of the Director of the Division of Budget and Accounting.

17. The following transfer of appropriations rules are in effect for fiscal year 2005:

a. To permit flexibility in the handling of appropriations, any department or agency that receives an appropriation by law, may, subject to the provisions of this section, or unless otherwise provided in this act, apply to the Director of the Division of Budget and Accounting for permission to transfer funds from one item of appropriation to a different item of appropriation. For the purposes of this section, "item of appropriation" means the spending authority identified by an organization code, appropriation source, and program code, unique to the item. If the director consents to the transfer, the amount transferred shall be credited by the director to the designated item of appropriation and notice thereof shall be provided to the Legislative Budget and Finance Officer on the effective date of the approved transfer. However, the director, after consenting thereto, shall submit the following transfer requests to the Legislative Budget and Finance Officer for legislative approval or disapproval unless otherwise provided in this act:

(1) Requests for the transfer of State and other nonfederal funds, in amounts greater than \$300,000, to or from any item of appropriation;

(2) Requests for the transfer of State and other nonfederal funds, in amounts greater than \$50,000, to or from any Special Purpose account, as defined by major object 5, or Grant account, as defined by major object 6, within an item of appropriation, from or to a different item of appropriation;

(3) Requests for the transfer of State and other nonfederal funds, in amounts greater than \$50,000, to or from any Special Purpose or Grant account in which the identifying organization code, appropriation source, and program code, remain the same, provided that the transfer would effect a change in the legislative intent of the appropriations;

(4) Requests for the transfer of State funds, in amounts greater than \$50,000, between items of appropriation in different departments or between items of appropriation in different appropriation classifications herein entitled as Direct State Services, Grants-In-Aid, State Aid, Capital Construction and Debt Service;

(5) Requests for the transfer of federal funds, in amounts greater than \$300,000, from one item of appropriation to another item of appropriation, if the amount of the transfer to an item in combination with the amount of the appropriation to that item would result in an amount in excess of the appropriation authority for that item, as defined by the program class;

(6) Requests for such other transfers as are appropriate in order to ensure compliance with the legislative intent of this act.

b. The Joint Budget Oversight Committee or its successor may review all transfer requests submitted for legislative approval and may direct the Legislative Budget and Finance Officer to approve or disapprove any such transfer request. Transfers submitted for legislative approval pursuant to paragraph (4) of subsection a. of this section shall be made only if approved by the Legislative Budget and Finance Officer at the direction of the committee.

c. The Legislative Budget and Finance Officer shall approve or disapprove requests for the transfer of funds submitted for legislative approval within 10 working days of the physical receipt thereof and shall return them to the director. If any provision of this act or any supplement thereto requires the Legislative Budget and Finance Officer to approve or disapprove requests for the transfer of funds, the request shall be deemed to be approved by the Legislative Budget and Finance Officer if, within 20 working days of the physical receipt of the request, he has not disapproved the request and so notified the requesting officer. However, this time period shall not pertain to any transfer request under review by the Joint Budget Oversight Committee or its successor, provided notice of such review has been given to the director.

d. No amount appropriated for any capital improvement shall be used for any temporary purpose except extraordinary snow removal or extraordinary transportation maintenance subject to the approval of the Director of the Division of Budget and Accounting. However, an amount from any appropriation for an item of capital improvement may be transferred to any other item of capital improvement subject to the approval of the director, and, if in an amount greater than \$300,000, subject to the approval of the Legislative Budget and Finance Officer.

e. The provisions of subsections a. through d. of this section shall not apply to appropriations made to the Legislative or Judicial branches of State government.



To permit flexibility in the handling of these appropriations, amounts may be transferred to and from the various items of appropriation by the appropriate officer or designee with notification given to the director on the effective date thereof.

f. Notwithstanding any provisions of this section to the contrary, transfers to and from the Special Purpose appropriation to the Governor for emergency or necessity under the Other Inter-Departmental Accounts program classification and transfers from the appropriations to the various accounts in the category of Salary Increases and Other Benefits, both in the Inter-Departmental Accounts, shall not be subject to legislative approval or disapproval.

18. The Director of the Division of Budget and Accounting shall make such correction of the title, text or account number of an appropriation necessary to make such appropriation available in accordance with legislative intent. Such correction shall be by written ruling, reciting in appropriate detail the facts thereof, and reasons therefor, attested by the signature of the Director of the Division of Budget and Accounting and filed in the Division of Budget and Accounting of the Department of the Treasury as an official record thereof, and any action thereunder, including disbursement and the audit thereof, shall be legally binding and of full force and virtue. An official copy of each such written ruling shall be transmitted to the Legislative Budget and Finance Officer, upon the effective date of the ruling.

19. The Legislative Budget and Finance Officer with the cooperation and assistance of the Director of the Division of Budget and Accounting is authorized to adjust this appropriations bill to reflect any reorganizations which have been implemented since the presentation of the Governor's Budget Recommendation Document dated February 24, 2004.

20. None of the funds appropriated to the Executive Branch of State government for Information Processing, Development, Telecommunications, and Related Services and Equipment shall be available to pay for any of these services or equipment without the review of the Office of Information Technology, and compliance with statewide policies and standards and an approved department Information Technology Strategic Plan; authorization and approval by the Office of Information Technology is required for expenditure of amounts in excess of \$25,000, as shall be specified by Circular Letter.

21. If the sum provided in this act for a State aid payment pursuant to formula is insufficient to meet the full requirements of the formula, all recipients of State aid shall have their allocation proportionately reduced, subject to the approval of the Director of the Division of Budget and Accounting.

22. When the duties or responsibilities of any department or branch, except for the Legislature and any of its agencies, are transferred to any other department or branch, it shall be the duty of the Director of the Division of Budget and Accounting and the director is hereby empowered to transfer funds appropriated for the maintenance and operation of any such department or branch to such department or branch as shall be charged with the responsibility of administering the functions so

transferred. The Director of the Division of Budget and Accounting shall have the authority to create such new accounts as may be necessary to carry out the intent of the transfer. Information copies of such transfers shall be transmitted to the Legislative Budget and Finance Officer upon the effective date thereof. If such transfers may be required among appropriations made to the Legislature and its agencies, the Legislative Budget and Finance Officer, subject to the approval of the President of the Senate and the Speaker of the General Assembly, is hereby empowered and it shall be that officer's duty to effect such transactions hereinabove described and to notify the Director of the Division of Budget and Accounting upon the effective date thereof.

23. The Director of the Division of Budget and Accounting is empowered and it shall be the director's duty in the disbursement of funds for payment of expenses classified as salary increases and other benefits, employee benefits, debt service, rent, telephone, data processing, motor pool, insurance, travel, postage, lease payments on equipment purchases, additions, improvements and equipment, and compensation awards to credit or transfer to the Department of the Treasury, to an Inter-Departmental account, or to the General Fund, as applicable, from any other department, branch or non-State fund source out of funds appropriated or credited thereto, such sums as may be required to cover the costs of such payment attributable to such other department, branch or non-State fund source, or to reimburse the Department of the Treasury, an Inter-Departmental account, or the General Fund for reductions made representing statewide savings in the above expense classifications, as the director shall determine. Receipts in any non-State funds are appropriated for the purpose of such transfer.

24. The Governor is empowered to direct the State Treasurer to transfer from any State department to any other State department such sums as may be necessary for the cost of any emergency occasioned by aggression, civil disturbance, sabotage, disaster, or for flood loss expenses for State owned structures to comply with Federal Insurance Administration requirements.

25. Upon request of any department receiving non-State funds, the Director of the Division of Budget and Accounting is empowered to transfer such funds from that department to other departments as may be charged with the responsibility for the expenditure thereof.

26. The Director of the Division of Budget and Accounting is empowered to transfer or credit appropriations to any State agency for services provided, or to be provided, by that agency to any other agency or department; provided further, however, that funds have been appropriated or allocated to such agency or department for the purpose of purchasing these services.

27. Notwithstanding any law to the contrary, should appropriations in the Property Tax Relief Fund exceed available revenues, the Director of the Division of Budget and Accounting is authorized to transfer General Fund unreserved, undesignated fund balances into the Property Tax Relief Fund, providing

unreserved, undesignated fund balances are available from the General Fund, as determined by the Director of the Division of Budget and Accounting.

28. Notwithstanding any law to the contrary, should appropriations in the Casino Revenue Fund exceed available revenues, the Director of the Division of Budget and Accounting is authorized to transfer General Fund unreserved, undesignated fund balances into the Casino Revenue Fund, providing unreserved, undesignated fund balances are available from the General Fund, as determined by the Director of the Division of Budget and Accounting.

29. No funds shall be expended by any State department in the Executive Branch in connection with a contract for the production of films, videotapes, video conferences, video-assisted training or multi-media projects that include video images unless the New Jersey Public Broadcasting Authority (PBA) has the opportunity to match any successful bid as part of any formal or informal contract award process. This is not a requirement to award a contract to PBA since the decision to award a contract may also be based on non-cost considerations.

30. Notwithstanding the provisions of P.L.1954, c.48 (C.52:34-6 et seq.), sums appropriated for services for the various State departments and agencies may be expended for the purchase of contract services from the New Jersey Marine Sciences Consortium as if it were a State government agency pursuant to subsection (a) of section 5 of P.L.1954, c.48 (C.52:34-10).

31. Out of the appropriations herein, the Director of the Division of Budget and Accounting is empowered to approve payments to liquidate any unrecorded liabilities for materials delivered or services rendered in prior fiscal years, upon the written recommendation of any department head, or the department head's designated representative. The Director of the Division of Budget and Accounting shall reject any recommendations for payment which the director deems improper.

32. Whenever any county, municipality, school district or a political subdivision thereof withholds funds from a State agency, or causes a State agency to make payment on behalf of a county, municipality, school district or a political subdivision thereof, then the Director of the Division of Budget and Accounting may withhold State aid payments and transfer the same as payment for such funds, as the Director of the Division of Budget and Accounting shall determine.

33. The Director of the Division of Budget and Accounting is empowered to establish revolving and dedicated funds as required. Notice of the establishment of such funds shall be transmitted to the Legislative Budget and Finance Officer, upon the effective date thereof.

34. The Director of the Division of Budget and Accounting may, upon application therefor, allot from appropriations made to any official, department, commission or board, a sum to establish a petty cash fund for the payment of expenses under rules and regulations established by the director. Allotments thus

made by the Director of the Division of Budget and Accounting shall be paid to such person as shall be designated as the custodian thereof by the official, department, commission or board making a request therefor, and the money thus allotted shall be disbursed by such custodian who shall require a receipt therefor from all persons obtaining money from the fund. The director shall make regulations governing disbursement from petty cash funds.

35. From appropriations to the various departments of State government, the Director of the Division of Budget and Accounting is empowered to transfer sums sufficient to pay any obligation due and owing in any other department or agency.

36. Notwithstanding the provision of any other law, the State Treasurer may transfer from any fund in the State Treasurer's custody, deposited with the State Treasurer pursuant to law, sufficient sums to enable payments from any appropriation made herein for any obligations due and owing. Any such transfer shall be restored out of the taxes or other revenue received in the Treasury in support of this act. Except for transfers from the several funds established pursuant to statutes that provide for interest earnings to accrue to those funds, all such transfers shall be without interest. If the statute provides for interest earnings, it shall be calculated at the average rate of earnings during the fiscal year from the State's general investments.

37. Any qualifying State aid appropriation, or part thereof, made from the General Fund may be transferred and recorded as an appropriation from the Property Tax Relief Fund, as deemed necessary by the State Treasurer, in order that the Director of the Division of Budget and Accounting may warrant the necessary payments; provided however, that the available unreserved, undesignated fund balance in the Property Tax Relief Fund, as determined by the State Treasurer, is sufficient to support the expenditure.

38. Notwithstanding any other provisions of this act, the State Treasurer, upon warrant of the Director of the Division of Budget and Accounting, shall pay any claim not exceeding \$4,000 out of any appropriations made to the several departments, provided such claim is recommended for payment by the head of such department. The Legislative Budget and Finance Officer shall be notified of the amount and description of any such claim at the time such payment is made. Any claimant who has presented a claim not exceeding \$4,000, which has been denied or not recommended by the head of such department, shall be precluded from presenting said claim to the Legislature for consideration.

39. Unless otherwise provided, federal grant and project receipts representing reimbursement for agency and central support services, indirect and administrative costs, as determined by the Director of the Division of Budget and Accounting, shall be transmitted to the Department of the Treasury for credit to the General Fund; provided however, that a portion of the indirect and administrative cost recoveries received which are in excess of the amount anticipated may be reclassified into a dedicated account and returned to State departments and agencies, as determined by

the Director of the Division of Budget and Accounting, who shall notify the Legislative Budget and Finance Officer of the amount of such funds returned, the departments or agencies receiving such funds and the purpose for which such funds will be used, within 10 working days of any such transaction. Such receipts shall be forwarded to the Director of the Division of Budget and Accounting upon completion of the project or at the end of the fiscal year, whichever occurs earlier.

40. Notwithstanding any other law to the contrary, each local school district that participates in the Special Education Medicaid Initiative (SEMI) shall receive a percentage of the federal revenue realized for current year claims. The percentage share shall be 15% of the first \$28,000,000 of federal reimbursements realized for claims submitted to the State by June 30. After federal reimbursements are realized in excess of \$28,000,000, local school districts shall receive 50% of their pro rata share of federal revenues realized in excess of \$28,000,000.

41. Notwithstanding any other law to the contrary, each local school district that participates in the Early Periodic Screening, Diagnosis and Treatment (EPSDT) initiative shall receive a percentage of the federal revenue realized for current year claims. The percentage share shall be 15% of federal reimbursements for claims submitted to the State by June 30.

42. Notwithstanding the provisions of P.L. 1943, c. 188 (C.52:14-17.1 et seq.), the rate of reimbursement for mileage allowed for employees traveling by personal automobile on official business shall be \$.31 per mile.

43. State agencies shall prepare and submit a copy of their agency or departmental budget requests for Fiscal Year 2006 by October 1, 2004 to the Director of the Division of Budget and Accounting and a copy of their spending plans involving all State, federal and other non-State funds to the Director of the Division of Budget and Accounting and the Legislative Budget and Finance Officer by November 1, 2004, and updated spending plans on February 1, and May 1, 2005. The spending plans shall account for any changes in departmental spending which differ from this appropriations act and all supplements to this act. The spending plans shall be submitted on forms specified by the Director of the Division of Budget and Accounting.

44. The Director of the Division of Budget and Accounting shall provide the Legislative Budget and Finance Officer with copies of all BB-4s, Application for Non-State funds, and accompanying project proposals or grant applications, which require a State match and that may commit or require State support after the grant's expiration.

45. In order to provide effective cash flow management for revenues and expenditures of the General Fund and the Property Tax Relief Fund in the implementation of the fiscal year 2005 annual appropriations act, there are appropriated from the General Fund such sums as may be required to pay the principal of and interest on tax and revenue anticipation notes including notes in the

form of commercial paper (hereinafter collectively referred to as short-term notes), together with any costs or obligations relating to the issuance thereof or contracts related thereto, according to the terms set forth herein. Provided further that, to the extent that short-term notes are issued for cash flow management purposes in connection with the Property Tax Relief Fund, there are appropriated from the Property Tax Relief Fund such sums as may be required to pay the principal of those short-term notes.

46. The State Treasurer is authorized to issue short-term notes, which notes shall not constitute a general obligation of the State or a debt or a liability within the meaning of the State Constitution, and the State Treasurer is authorized to pay any costs or obligations relating to the issuance of such short-term notes or contracts relating thereto. Such short-term notes shall be issued in such amounts and at such times as the State Treasurer shall deem necessary for the above stated purposes and for the payment of related costs, and on such terms and conditions, sold in such manner and at such prices, bearing interest at such fixed or variable rate or rates, renewable at such time or times, and entitled to such security, and using such paying agents as shall be determined by the State Treasurer. The State Treasurer is authorized to enter into such contracts and to take such other actions, all as determined by the State Treasurer to be appropriate to carry out the above cash flow management purposes. The State Treasurer shall give consideration to New Jersey-based vendors in entering into such contracts. Whenever the State Treasurer issues such short-term notes, the State Treasurer shall report on each such issuance to the Chairman of the Senate Budget and Appropriations Committee and the Chairman of the Assembly Appropriations Committee.

47. The Tobacco Settlement Fund, created and established in the Department of the Treasury as a separate non-lapsing fund pursuant to section 53 of P.L.1999, c.138, is reestablished and continued. The unexpended balances in the Tobacco Settlement Fund as of June 30, 2004 are appropriated. The Tobacco Settlement Fund shall be the repository for payments made by the tobacco manufacturers pursuant to the settlement agreement entered into by the tobacco manufacturers and the State on November 23, 1998 that resolved the State's pending claims against the tobacco industry and all other moneys, including interest earnings on balances in the fund, credited or transferred thereto from any other fund or source pursuant to law. Balances in the Tobacco Settlement Fund shall be deposited in such depositories as the State Treasurer may select. Amounts transferred from the Tobacco Settlement Fund to the General Fund as anticipated revenue shall be excluded when calculating deposits to the Surplus Revenue Fund pursuant to P.L.1990, c.44 (C.52:9H-14 et seq.).

48. Notwithstanding any other provision of law, funds derived from the sale or conveyance of any lands and buildings or proceeds from the sale of all fill material held by a department are appropriated for demolition, acquisition of land, rehabilitation or improvement of existing facilities and construction of new facilities subject to the approval of the Director of the Division of Budget and Accounting.

49. With respect to appropriations provided to various departments for services provided by the Office of Information Technology, any change by the Office of Information Technology to their rate structure that would affect the rates charged to the various State agencies for Office of Information Technology services shall first be approved by the Director of the Division of Budget and Accounting.

50. Notwithstanding the provisions of section 29 of P.L.1983, c.303 (C.52:27H-88), or any other law to the contrary, interest earned in fiscal 2005 on balances in the Enterprise Zone Assistance Fund, shall be credited to the General Fund.

51. Notwithstanding any other law to the contrary, funds may be transferred from the State Disability Benefits Fund to the General Fund during the fiscal year ending June 30, 2005, which transfer amount shall be based upon the actual receipt of revenue in the State Disability Benefits Fund as shall be determined by the State Treasurer in consultation with the Commissioner of Labor, subject to the approval of the Director of the Division of Budget and Accounting.

52. There is appropriated \$600,000 from the Casino Simulcasting Fund for transfer to the Casino Revenue Fund.

53. In all cases in which language authorizes the appropriation of additional receipts not to exceed a specific amount, and the specific amount is insufficient to cover the amount due for fringe benefits and indirect costs, there are appropriated from receipts such additional amounts as are required to fully cover the amount due for fringe benefits and indirect costs, subject to the approval of the Director of the Division of Budget and Accounting.

54. There are appropriated, out of receipts derived from any structured financing transaction, such sums as may be necessary to satisfy any obligation incurred in connection with any structured financing agreement, subject to the approval of the Director of the Division of Budget and Accounting. In addition, there are appropriated such sums as may be necessary to pay costs incurred in connection with any proposed structured financing transaction, subject to the approval of the Director of the Division of Budget and Accounting.

55. Notwithstanding the provisions of any departmental language or statute, no receipts in excess of those anticipated or appropriated as provided in the Departmental Revenue Statements (BB-103's) in the fiscal 2005 budget submission are available for expenditure until a comprehensive expenditure plan is submitted to and approved by the Director of the Division of Budget and Accounting.

56. Such sums as may be necessary are appropriated or transferred from existing appropriations for the purpose of promoting awareness to increase participation in programs that are administered by the State subject to the approval of the Director of the Division of Budget and Accounting.

57. There are appropriated such additional sums as may be required to pay the amount of any civil penalty imposed on a State officer, employee or custodian pursuant to section 12 of P.L.2001, c.404 (C.47:1A-11), as recommended by the Attorney General and as the Director of the Division of Budget and Accounting shall determine.

58. Receipts derived from the provision of copies and other materials related to compliance with P.L.2001, c.404, are appropriated for the purpose of offsetting agency and departmental expenses of complying with the public access law, subject to the approval of the Director of the Division of Budget and Accounting.

59. There is appropriated \$110,000,000 from the State Disability Benefits Fund for transfer to the General Fund as State revenue.

60. Notwithstanding any law to the contrary, there is appropriated from the Universal Service Fund \$72, 431,000 for transfer to the General Fund as State revenue.

61. Notwithstanding the provisions of section 32 of P.L.2002, c.40 (C.52:9H-38) to the contrary, revenues derived from the corporation business tax during fiscal year 2004 shall not be credited to the "Corporation Business Tax Excess Revenue Fund" but shall be available as undesignated funds in the General Fund except as are dedicated by Article VIII, Section II, paragraph 6 of the State Constitution.

62. Any qualifying State aid or Grants-In-Aid appropriation, or part thereof, made from the General Fund may be transferred and recorded as an appropriation from the Casino Revenue Fund, as deemed necessary by the State Treasurer, in order that the Director of the Division of Budget and Accounting may warrant the necessary payments; provided however, that the available unreserved, undesignated fund balance in the Casino Revenue Fund, as determined by the State Treasurer, is sufficient to support the expenditure.

63. Providing that the contributions made during fiscal year 2005 by the University of Medicine and Dentistry of New Jersey and its affiliates to the University of Medicine and Dentistry of New Jersey - Self Insurance Reserve Fund is equal to the amount established in a memorandum of agreement between the Department of the Treasury and the University, and if after such amount having been contributed, the receipts deposited within the University of Medicine and Dentistry of New Jersey's Self Insurance Reserve Fund are insufficient to pay claims expenditures, there is appropriated from the General Fund to the Self Insurance Reserve Fund such sums as may be necessary to pay the remaining claims, subject to the approval of the Director of the Division of Budget and Accounting.

64. In addition to any amounts hereinabove appropriated to pay debt service on bonds, notes and other obligations by the various independent authorities, payment of which is to be made by the State subject to appropriation pursuant to a contract



with the State Treasurer or pursuant to a lease with a State department, there is hereby appropriated such additional sums as the Director of the Division of Budget and Accounting shall determine are required to pay all amounts due from the State pursuant to such contracts or leases, as applicable.

65. All proceeds derived from the sale of real property shall be deposited in the General Fund, and notwithstanding any other law to the contrary there are appropriated from the proceeds of the sale of real property such sums as may be determined by the State Treasurer to the department which formerly owned or operated the asset for the purpose of capital improvements, purchase of equipment, or other program expenses, subject to the approval of the Director of the Division of Budget and Accounting.

66. Notwithstanding any other provisions of this act or the provisions of any other law to the contrary, an amount not to exceed \$3,000,000 as shall be determined by the Director of the Division of Budget and Accounting is transferred from the Lead Hazard Control Assistance Fund to the Catastrophic Illness in Children Relief Fund to reimburse the Catastrophic Illness in Children Relief Fund for the appropriations made from the fund in the "Lead Hazard Control Assistance Act, P.L.2003, c.311.

67. Monies appropriated pursuant to this act to counties, municipalities or school districts as State grants or State Aid may, in addition to the uses specifically provided under this act, be used for purposes of implementing best practices adopted by the New Jersey Domestic Security Preparedness Task Force.

68. Amounts appropriated throughout the departments for Statewide Livable Communities, Social Services Emergency Grants, Statewide Local Domestic Preparedness Equipment Grant Program, and Local Library Grants may be transferred among those accounts subject to the approval of the Director of the Division of Budget and Accounting. No grant from any of these accounts shall exceed \$200,000 except in the case of grants awarded to two or more cooperating recipients, in which case the maximum grant shall not exceed \$200,000 per recipient.

69. For nonprofit community care providers that provide at least 50% of the cost of employees' health benefits, 50% of the Cost of Living Increase shall be dedicated to salaries of employees who work for the nonprofit. The remaining 50% shall be available for the nonprofit to use as it determines. For nonprofit community care providers that provide less than 50% of the cost of employees' health benefits, 70% of the Cost of Living Increase shall be dedicated to salaries of employees who work for the nonprofit. The remaining 30% shall be available for the nonprofit to use as it determines. Departments with appropriations for cost of living increases for nonprofit community care providers may transfer funds available from other appropriations made to those departments, subject to the approval of the Director of the Division of Budget and Accounting, to provide an additional 1/2% cost of living increase to those providers which shall also be subject to other provisions of this section.

70. If any law requires annual State funding, and if the amount of the funding in this act is insufficient to meet the requirement, the statutory requirement shall be deemed to be suspended for this fiscal year to the extent that the funding is insufficient.

71. The Director of the Division of Budget and Accounting shall submit to the Joint Budget Oversight Committee on or before October 1, 2004 the allocation of the mobile telecommunications service and telephone exchange service fee revenue to support appropriations in this act that are eligible for funding from this source pursuant to P.L.2004, c.48 (C.52:17C-17 et seq.). This shall include appropriations identified throughout this act as being chargeable to receipts derived from the wireless communication and cell tower assessment.

72. There is appropriated \$5,000,000 from the Mutual Workers' Compensation Security Fund for transfer to the General Fund as State revenue, and there is appropriated from the General Fund such amounts not to exceed \$5,000,000 for deposit to the Mutual Workers' Compensation Security Fund, subject to the approval of the Director of the Division of Budget and Accounting, in order to maintain the Mutual Workers' Compensation Security Fund's annual assessment at its current level.

73. Such sums as may be required to initiate the implementation of information systems development or modification during the fiscal year ending June 30, 2005 to support fees, fines or other revenue enhancements, or to initiate cost savings or budget efficiencies that are to be implemented during the fiscal year ending June 30, 2006 and that are proposed in the Governor's Budget Recommendation Document for the fiscal year ending June 30, 2006, shall be transferred between appropriate accounts subject to the approval of the Director of the Division of Budget and Accounting.

74. To the extent that receipts collected pursuant to fee provisions in P.L.2004, c.89 do not total \$20,000,000, there is appropriated from the General Fund additional funds, which together with such receipts shall not exceed \$20,000,000, for costs associated with P.L.2004, c.89, of the Department of Community Affairs, the Department of Environmental Protection, the Department of Transportation, and the Office of Administrative Law, subject to the approval of the Director of the Division of Budget and Accounting.

75. This act shall take effect July 1, 2004.

Approved June 30, 2004.

## CHAPTER 72

AN ACT concerning pilotage, amending various parts of the statutory law and supplementing chapter 8 of Title 12 of the Revised Statutes.

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

**C.12:8-1.1 Findings, declarations relative to pilotage.**

1. The Legislature finds and declares:
  - a. The State of New Jersey has responsibility for port security in the Port of New York and New Jersey and, pursuant to federal law, has the right and responsibility to regulate maritime pilotage in the port.
  - b. In the aftermath of the terrorist attacks of September 11, 2001, increased emphasis has been required by both the federal and state governments on homeland security, with particular attention to the security of American ports.
  - c. Although efforts have been made to enhance the defense of the New York and New Jersey port area from terrorist attacks and to implement improved immigration and customs procedures, modernization and clarification of New Jersey's laws relating to those who pilot and dock foreign and domestic vessels have not yet occurred.
  - d. There is a need to provide for a system that will ensure the proper and consistent identification, training, selection, oversight and monitoring of both maritime pilots and docking pilots.
  - e. It is therefore in the public interest to modernize, clarify, revise and expand New Jersey's maritime pilotage laws, and to strengthen the New Jersey pilotage commission by expanding its powers and duties and clarifying that docking pilots are under its jurisdiction.
  - f. It is further in the public interest that the commission be charged with the concurrent responsibility to ensure the safe operation and navigation of vessels, to protect the environment and enhance the economic viability of the port.

**C.12:8-1.2 Definitions relative to pilotage.**

2. As used in chapter 8 of Title 12 of the Revised Statutes:

"Apprentice" means a person who is listed as a qualified apprentice with the commission pursuant to section 34 of P.L.2004, c.72 (C.12:8-50) or who is on the commission's books as an apprentice pursuant to R.S.12:8-10, R.S.12:8-11 or R.S.12:8-12.

"Bar of Sandy Hook" or "bar" means the built-up area under the waters between the northern most point of Sandy Hook extending generally north-

eastward to the south shore of Long Island caused by a deposit of sediment. The location of the bar is not static.

"Commission" means the New Jersey Maritime Pilot and Docking Pilot Commission established pursuant to R.S.12:8-1.

"Commissioners" means the commissioners of maritime and docking pilots appointed by the Governor pursuant to R.S.12:8-1.

"Docking pilot" means a person licensed by the commission and entered in the register maintained pursuant to section 36 of P.L.2004, c.72 (C.12:8-52).

"Independent Pilot Association" means any association of pilots or docking pilots, other than the United New York or New Jersey Sandy Hook Pilots' Benevolent Associations, whose members are qualified to pilot vessels in pilotage waters.

"Maritime pilot," "Licensed pilot" or "Sandy Hook pilot" means a person who is licensed by the commission to pilot regulated vessels pursuant to R.S.12:8-12 and who is a member of the United New Jersey Sandy Hook Pilots' Benevolent Association or the United New York Sandy Hook Pilots' Benevolent Association.

"Pilotage waters" means boundary waters of the states of New Jersey and New York, ports on those boundary waters, the Sandy Hook, Raritan, Upper and Lower Bays of the Port of New York and New Jersey; the rivers Raritan, Hackensack, Passaic and Shrewsbury, Newark Bay, Arthur Kill, Kill van Kull, the Bar at Sandy Hook and waters easterly of the Bar on which regulated vessels navigate when entering or departing the port of New York and New Jersey, ports south of Sandy Hook to Atlantic City and waters easterly of these ports which regulated vessels navigate when entering or departing these ports.

"Pilots' Association" or "association" means the United New Jersey Sandy Hook Pilots' Benevolent Association or the United New York Sandy Hook Pilots' Benevolent Association.

"President" means the president of the commission.

"Regulated vessel" means a vessel required by the laws of the states of New Jersey or New York to take a state licensed maritime pilot.

"Tugboat" means any vessel employed to assist the movement of a regulated vessel on pilotage waters.

3. R.S.12:8-1 is amended to read as follows:

**Appointment; term; qualifications; vacancies; name changed; transfer of Board in but not of DOT; redesignated commission.**

12:8-1. The Governor, by and with the advice and consent of the Senate, shall appoint six commissioners of maritime and docking pilots, hereinafter

in this chapter called "commissioners", who shall hold their offices, respectively, for three years and until a successor is appointed and qualified. No more than three of the commissioners shall be members of the same political party, and they shall be selected from among such persons as have been officers in our naval, Coast Guard or merchant service, or have been duly qualified as United States Merchant Marine Officers.

The Board of Commissioners of Pilotage of the State of New Jersey, together with its functions, powers and duties is continued as the New Jersey Maritime Pilot and Docking Pilot Commission (the "commission") but is transferred to the Department of Transportation. The commission shall be in, but not of, the Department of Transportation. This transfer shall be subject to the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14B-1 et seq.). Nothing in this section shall be construed as affecting the terms of office of the present commissioners of pilotage. The commission shall consist of the commissioners appointed pursuant to this section.

Each January, the commission shall elect from its membership a president, vice president, treasurer and secretary. The commission may employ an executive director and other employees on such terms and conditions as it deems appropriate, without regard to the provisions of Title 11A of the New Jersey Statutes.

The commissioners and officers and employees of the commission shall be enrolled in the Public Employees' Retirement System and shall be eligible to participate in the State Health Benefits Program established pursuant to the "New Jersey State Health Benefits Program Act," P.L.1961, c.49 (C.52:14-17.25 et seq.). The commissioners and officers and employees who may currently be members of the Public Employees' Retirement System shall continue in membership.

In case any commissioner shall die or resign, or otherwise become disqualified to act, the governor shall forthwith fill such vacancy in the same manner and for the same term as an original appointment.

A true copy of the minutes of every meeting of the commission shall be forthwith delivered by and under the certification of the secretary thereof to the Governor. No action taken at that meeting by the commission shall have force or effect until the earlier of 15 days, exclusive of Saturdays, Sundays and public holidays, after the copy of the minutes shall have been so delivered, or the approval thereof by the Governor. If, in the 15-day period, the Governor returns the copy of the minutes with veto of any action taken by the commission or any member thereof at that meeting, the action shall be null and of no effect. The minutes of any meeting at which the commission proposed or approves its operating or capital outlay budget shall include a copy of that budget. This paragraph shall not apply to any disciplinary proceedings or actions taken by the commission.

**C.12:8-1.3 References deemed changed to NJ Maritime Pilot and Docking Pilot Commission.**

4. On and after the effective date of P.L.2004, c.72 (C.12:8-1.1 et al.) any reference in any law, rule, regulation, order, contract or document to the "Board of Commissioners of Pilotage of the State of New Jersey" or the "board of New Jersey pilot commissioners" shall be deemed to mean or refer to the New Jersey Maritime Pilot and Docking Pilot Commission in but not of the Department of Transportation.

5. R.S.12:8-2 is amended to read as follows:

**Rules, orders, regulations.**

12:8-2. The commission may make and establish such rules, orders and regulations, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), not inconsistent with the constitutions or the laws of this state or of the United States, for the better government of the maritime pilots, docking pilots, and apprentices, as defined in section 2 of P.L.2004, c.72 (C.12:8-1.2), to ensure safe operation of vessels and safe navigation, and to ensure the most current and exacting levels of training and may provide for such fines and penalties for the violation of these rules, orders and regulations, as it shall deem proper. It may from time to time revoke or amend any such rule, order or regulation.

6. R.S.12:8-3 is amended to read as follows:

**Interest in pilotage business prohibited.**

12:8-3. No commissioner shall have any direct or indirect financial interest in the pilotage business.

7. R.S.12:8-4 is amended to read as follows:

**Compensation of commissioners; fees, certain, for expenses of commission.**

12:8-4. The commission shall from time to time establish the percentage of the fees received by maritime pilots for pilotage which is to be remitted to the commission for its services under this chapter. However, the percentage amount shall not be greater than three percent of the pilotage fees. The amount received by the commission shall be used to pay the commission's administrative expenses including, but not limited to, the compensation of the commissioners, their expenses, rent, utilities, employee salaries and benefits. Compensation of the commissioners shall be \$28,000 per annum. They shall not be entitled to receive the commissions on extra pilotage for boarding off-shore, or for fees received for what is called transportation or harbor pilotage or any percentage of the fees received by docking pilots.

8. R.S.12:8-5 is amended to read as follows:

**Annual report to Legislature, Governor, State Treasurer.**

12:8-5. The commission shall lay before the Legislature, the Governor and the State Treasurer annually:

- a. (Deleted by amendment, P.L.2004, c.72);
- b. A report of the activities of the commission within the last year;
- c. A statement of the number of licensed maritime pilots, docking pilots and the number of vessels taken in and out; and
- d. Such observations in relation to the system of pilotage as in its opinion may tend to the benefit of the cause of commerce and be of advantage to the general interest of the State.

The report shall also include: (1) The commission's receipts and disbursements or revenues and expenses during that year in accordance with the categories and classifications established by the commission for its own operating and capital outlay purposes and as may be requested by the State Treasurer;

- (2) Its assets and liabilities at the end of the year;
  - (3) A list of all contracts exceeding \$17,500 entered into during the year;
- and
- (4) A table of organization of the commission's employees.

9. R.S.12:8-6 is amended to read as follows:

**Authority to administer oaths; subpoena power.**

12:8-6. The president or in the absence of the president, any member of the commission may administer the oath of office to any newly appointed commissioner, deputy maritime pilot, full branch maritime pilot, docking pilot or apprentice and an oath to any person appearing before the commission. By majority vote of the authorized membership, the commission may cause the issuance of subpoena to compel the appearance of persons or the production of documents for use in accident investigations, incident investigations, licensure investigations and revocation proceedings.

10. R.S.12:8-7 is amended to read as follows:

**Order, judgment considered final agency action; judicial review.**

12:8-7. An order or judgment of the commission shall be considered final agency action for the purposes of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and shall be subject only to judicial review as provided in Rules of Court. Any and all proceedings, hearings or meetings of the commission shall be conducted in conformance with the "Open Public Meetings Act," P.L.1975, c.231 (C. 10:4-6 et seq.) including

disciplinary and license proceedings, complaints against pilots by users of pilotage services, rate disputes, and any other proceeding resulting in an opinion or order of the commission.

11. R.S.12:8-8 is amended to read as follows:

**Employment of maritime pilots; rotation system.**

12:8-8. Whenever the services of a maritime pilot are required to pilot a vessel in pilotage waters, the maritime pilots so to be employed shall be employed in rotation.

The commission shall approve any changes in the rotation system by regulation.

Nothing in this chapter shall be construed to authorize the commission to establish, affect, regulate or control any rotation system or method of assignment of docking pilots or to approve or disapprove any changes in the contractual relationships between docking pilots and shipping or tugboat companies.

12. R.S.12:8-9 is amended to read as follows:

**Licensing of maritime, docking pilots.**

12:8-9. No person shall be licensed as a maritime pilot or docking pilot of this State, except as hereinafter in this chapter provided.

13. Section 6 of P.L.1991, c.76 (C.12:8-9.1) is amended to read as follows:

**C.12:8-9.1 Pilotage requirements not extended.**

6. Nothing in this amendatory and supplementary act shall be construed to extend the requirement of pilotage to any type of vessel that is not required to be piloted pursuant to the laws of this State, and any rules or regulations established thereunder by the commission or that is otherwise exempted from the requirements of state pilotage regulations by statutes of the United States.

14. R.S. 12:8-10 is amended to read as follows:

**Pilot boats in Sandy Hook service; apprentices, control and direction of; docking boats.**

12:8-10. The pilot boats employed by or belonging in whole or in part to the United New Jersey Sandy Hook Pilots' Benevolent Association, or to the United New Jersey Sandy Hook Pilots' Association, shall be the only maritime pilot boats in the New Jersey Sandy Hook pilot service, or in any bays, rivers, harbors, or ports of the waters of this State or approaches to the waters of this State between Sandy Hook, in the county of Monmouth and



the city of Atlantic City, in the county of Atlantic. Apprentices shall be attached to the pilot boats of said association and the pilot boats may have more than one apprentice.

The apprentices shall be entered in the books of the commission in the name of and indentured to the association, and shall serve as apprentices under the laws of this State.

The association shall have the sole control of all apprentices, subject to the regulations of the commission, until they have served a term of at least four years and shall see that all apprentices entered in the commission's books are fully instructed in their duties in such manner as is necessary to fully qualify them in every respect to perform the duties of a maritime pilot.

Docking pilot boats may be employed by docking pilots for the performance of their duties as needed.

15. R.S. 12:8-11 is amended to read as follows:

**Apprentices, term of service, license as deputy maritime pilot after examination.**

12:8-11. Apprentices shall serve at least four years and for such longer periods of time as may be required by the commission. They shall be examined by the commission as directed by law and thereafter licensed as a deputy maritime pilot, at the discretion of the commission. The apprentices herein provided for shall be the only apprentices to be appointed or employed by the New Jersey Sandy Hook pilots.

16. R.S.12:8-12 is amended to read as follows:

**Licensing as Sandy Hook Pilot, requirements.**

12:8-12. Only a person who has successfully served an apprenticeship with the United New Jersey or New York Sandy Hook Pilots' Benevolent Associations and passed an examination approved by the commission shall be licensed as a deputy maritime pilot or maritime pilot of the State of New Jersey. A person so licensed is to be known as a Sandy Hook Pilot. No New Jersey licensed maritime pilot or deputy maritime pilot may be licensed by another state without the prior permission of the commission and under such terms and conditions as the commission may require.

17. R.S.12:8-13 is amended to read as follows:

**Acting as maritime, docking pilot during emergency.**

12:8-13. Upon a specific finding of an emergency, the commission may permit for such time as the emergency exists and at its discretion, any person to act as a maritime or docking pilot as hereinafter provided for, off the bar of Sandy Hook, or of the river Raritan, or of the harbor of Jersey City,

Newark or Perth Amboy, after having examined such person in the manner hereinafter mentioned and made such inquiries respecting such person and the person's qualifications as to the commission shall appear necessary and expedient.

18. R.S.12:8-14 is amended to read as follows:

**Examination for deputy maritime pilot license; eligibility.**

12:8-14. The commission, before granting to an applicant a license to serve as a deputy maritime pilot, shall require the applicant to pass a qualifying examination approved by the commission for such service, examining in particular, the applicant's knowledge of the tides, soundings, bearings and distances of the several shoals, rocks, bars and points of land, and such other matters deemed by the commission as relevant to the safe navigation of vessels in the navigation for which the applicant applies for a license. Only an applicant certified by the New Jersey or New York Sandy Hook Pilots' Benevolent Association as having successfully completed the apprenticeship shall be eligible to apply for a license to serve as a maritime deputy pilot.

The examination shall be prescribed, administered and graded under the supervision of the commission and may be conducted in the presence of one or more full maritime branch pilots of this State. The commission shall by regulation establish grades of maritime pilots. For each grade, the commission shall specify the draft and tonnage of vessels a maritime pilot in that grade is authorized to pilot and the time in grade required to advance to the next highest grade. Maritime pilots achieving the highest grade shall be full branch maritime pilots.

19. R.S.12:8-15 is amended to read as follows:

**Certificate of appointment as a maritime pilot.**

12:8-15. Certificate of appointment as a maritime pilot. The commission shall give to every person appointed by it as a deputy or full branch maritime pilot, a certificate of appointment or license signed by a majority of the commissioners. At the time the commission advances a maritime pilot in grade, the secretary shall endorse the certificate noting the advancement in grade.

20. R.S.12:8-16 is amended to read as follows:

**Oath taken by maritime pilot.**

12:8-16. Whenever a person is first licensed as a maritime pilot, the president of the commission, or in the absence of the president, any commissioner, shall administer to that person the following oath:

"I, A.B., do solemnly swear (or affirm), that I will well and faithfully, and according to the best of my skill and knowledge, execute and discharge the business and duty of a deputy or full branch maritime pilot for pilotage waters including, but not limited to, the bar, Jersey City, Newark, and Perth Amboy and harbor of Sandy Hook, and any bays, rivers, harbors, or ports of the waters of this State between Sandy Hook, in the county of Monmouth and the city of Atlantic City, in the county of Atlantic, and that I will at all times use my best endeavors to repair on board all ships and vessels that I shall see and conceive to be bound for, or coming into, or going out of the harbor and bodies of water aforesaid, unless I am well assured that some other licensed pilot is then on board the same; and I do further swear (or affirm), that I will, from time to time and at all times, make the best dispatch in my power to bring safely over the bar at Sandy Hook and into any bays, rivers, harbors, or ports of the waters of this State between Sandy Hook, in the county of Monmouth and the city of Atlantic City, in the county of Atlantic, every vessel committed to my care in coming in or going out; and that I will, from time to time and at all times, truly observe, follow and fulfill, to the best of my skill, ability, and knowledge, all such orders and directions as I shall or may receive from the New Jersey Maritime Pilot and Docking Pilot Commission, relative to all matters or things that may appertain to the duty of a pilot."

21. R.S.12 8-18 is amended to read as follows:

**New licenses; forfeiture.**

12:8-18. The commission may direct all maritime pilots to deliver up their former and take out new licenses whenever so required, but no maritime pilot shall be charged a fee for such a new license. Every maritime pilot not complying with these conditions shall forthwith forfeit his license and be disqualified to act as a maritime pilot for twelve months, and shall afterwards obtain no maritime pilot's license unless he be readmitted under the same formalities as one applying in the first instance.

22. R.S. 12:8-19 is amended to read as follows:

**Revocation, suspension of license; grounds.**

12:8-19. The commission may, upon majority vote of its authorized membership, revoke or suspend the license or route or reduce the grade of a maritime pilot or the license of a docking pilot who has willfully or negligently infringed on or violated this chapter or the regulations of the commission, or has failed to perform the duties in a manner expected of a prudent maritime pilot or docking pilot or the commission may set such other conditions as it deems appropriate for such infringement or violation. An order

or judgment of the commission shall be considered a final agency action for the purposes of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and shall be subject only to judicial review as provided in Rules of Court.

23. R.S.12:8-20 is amended to read as follows:

**Surrender of license.**

12:8-20. If a maritime pilot or a docking pilot has forfeited any license or is no longer entitled to the use of such license by virtue of sections 12:8-18 and 12:8-19 of this title, and of section 36 of P.L.2004, c.72 (C.12:8-52), the commission shall demand the surrender of the license. Upon a refusal to give up the license on demand, the commission shall notify those individuals and agencies as it shall deem appropriate and necessary, that such person has no longer a right to act as a maritime pilot or a docking pilot.

24. R.S.12:8-21 is amended to read as follows:

**Notice, hearing of revocation of license, suspension from acting as pilot, or reduction in grade.**

12:8-21. Before a maritime pilot or a docking pilot shall be deprived of a license, or suspended from acting thereunder, or reduced in grade, he shall be compelled to appear before the commission to show cause against his suspension or the revocation of his license or reduction in grade. The notice shall be delivered to such maritime pilot or docking pilot not less than fifteen days before the time specified in the notice for his appearance. If the maritime pilot or docking pilot neglects or refuses to appear before the commission at the time specified in the notice, or if the cause shown by him against his suspension, or the revocation of his license or reduction in grade shall appear insufficient to the commission, it may, upon a majority vote of the full membership of the commission, either revoke the license or suspend him from acting as a maritime pilot or a docking pilot or reduce him in grade; except that the president of the commission, or in the absence of the president, the president's designee, may immediately and temporarily, for a period not to exceed 30 days, suspend the license of any maritime pilot or docking pilot upon a determination that, because of the maritime pilot's or docking pilot's mental or physical health or use of alcohol or controlled dangerous substance, the pilot cannot safely perform the pilot's duties. An order or judgment of the commission shall be considered final agency action for the purposes of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and shall be subject only to judicial review as provided in the Rules of Court.

25. R.S.12:8-31 is amended to read as follows

**Pay of maritime pilot carried to sea.**

12:8-31. A maritime pilot who is carried to sea when a boat is attending to receive him shall receive at the rate of 500 dollars per day and his reasonable expenses during his absence.

26. R.S.12:8-35 is amended to read as follows:

**Vessels required to take maritime pilot; exceptions.**

12:8-35. Every United States vessel and every foreign vessel shall take a State-licensed maritime pilot when entering or leaving pilotage waters and shall take a licensed maritime pilot or docking pilot, as provided for herein, when otherwise underway in pilotage waters. This requirement shall not apply to:

- a. a vessel documented under the United States flag and operating in a coastwise trade; or
- b. a public vessel of the United States or a vessel otherwise exempt from state pilotage regulation by United States law; or
- c. a yacht of less than 200 feet in length.

If a regulated vessel underway on State pilotage waters fails to take a maritime pilot, the master, owner, agent or charterer shall pay the pilotage fees as if one had been employed and be subject to penalties under the commission's regulations.

27. R.S.12:8-39 is amended to read as follows:

**Master to give pilot draft of vessel; penalty, proceeding, judicial review.**

12:8-39. Every master of a vessel shall give an account to the maritime pilot and docking pilot, when boarding, of the deep drafts, air drafts and other information necessary to the safe navigation of the vessel. If the information is not provided or incorrect, the master shall be liable to a penalty of up to twenty-five thousand dollars which may be sued for by the commission and applied to the General Fund of the State. Any proceeding of the commission in this regard shall be conducted in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and any finding of the commission shall be considered final agency action for the purposes of such statute and shall be subject only to judicial review as provided in the Rules of Court.

28. R.S.12:8-40 is amended to read as follows:

**Maritime pilots to account for fees.**

12:8-40. The maritime pilots shall, once in each month, account to the commission for the fees received by them for pilotage. The commission may

require such additional financial information as it deems necessary to effectuate the purposes of this chapter, provided that such additional information, being proprietary, shall not be subject to public disclosure under P.L.1963, c.73 (C.47:1A-1 et seq.).

29. R.S.12:8-44 is amended to read as follows:

**Production of identity badge, card, documents.**

12:8-44. The commission shall from time to time issue each commissioner, employee, maritime pilot and docking pilot a badge signifying his office. The commission shall, on the anniversary date of each maritime pilot and docking pilot, issue an identity card bearing a picture of the recipient, along with the recipient's description and other pertinent identifying information as the commission deems necessary for the security in the port of New York and New Jersey.

Every maritime pilot and docking pilot, on offering his services to the master of a vessel, shall produce and show to the master his identity badge, identity card or such documents as the commission may require by regulation.

30. R.S.12:8-47 is amended to read as follows:

**Piloting without license, fourth degree crime; fine.**

12:8-47. Any person not holding a license as a maritime pilot or docking pilot under the laws of this State or of the state of New York, who shall pilot or offer to pilot a regulated vessel, on State pilotage waters, or any person on board a steam tug or towboat who shall tow a regulated vessel on pilotage waters not having a licensed pilot or docking pilot on board the tug or towboat or on board the vessel shall be guilty of a crime of the fourth degree, except that the fine may be up to \$50,000.

**C.12:8-8.1 Provision of vessels, aircraft for embarkation, disembarkation; inbound, outbound discharge.**

31. The maritime pilots shall provide vessels or aircraft to embark and disembark maritime pilots to and from vessels required to take a maritime pilot. The general location and type of vessels or aircraft shall be approved by the commission after consultation with the maritime pilots and Commissioners of Pilotage of the State of New York. Maritime pilots assigned to inbound vessels or vessels operating on the waters of this State or boundary waters of this State and the state of New York are not entitled to their discharge until the vessel has arrived at a safe anchorage or is secure in a berth. Maritime pilots assigned to outbound vessels are not entitled to their discharge until the vessel has been brought to a safe anchorage or has reached

the pilot station or a point substantially seaward of the sea buoys, or, upon their removal, of the entrance buoys, for Ambrose or Sandy Hook channels.

**C.12:8-24.1 Fees for maritime pilotage, use of pilotage rates.**

32. The fees for maritime pilotage for vessels not exempted from State pilotage by this chapter or any law of the United States shall be as follows:

a. For every vessel entering or departing or underway on the pilotage waters, but not including those south of Sandy Hook, the pilotage rates shall be the same as those charged by maritime pilots licensed by the state of New York; except that, unless otherwise ordered by the commission, a change in rates by New Jersey licensed pilots shall not be effective until thirty days after the effective date of a rate change by pilots licensed by the state of New York.

b. Pilotage rates for vessels entering or departing ports and underway on waters of ports south of Sandy Hook to, and including, Atlantic City shall be established by the commission.

c. Maritime pilotage rates for intermediate or intra-harbor movement of vessels shall be established by the commission after conferring with the New York Pilotage Commission.

d. Nothing in this section shall pertain to the rates charged by docking pilots.

**C.12:8-49 Qualification of docking pilot without apprenticeship; requirements.**

33. Unless the commission for good cause determines otherwise, a person shall qualify within 12 months of the effective date of P.L.2004, c.72 (C.12:8-1.1 et al.) as a docking pilot without fulfilling the apprentice docking pilot requirements of this chapter if the person:

a. Has been regularly engaged, other than as a member of a vessel's crew, for the purpose of docking and undocking and the movement of not fewer than one hundred seagoing vessels of not less than ten thousand registered gross tons on the waters of the port of New York and New Jersey during the two-year period immediately prior to the effective date of P.L.2004, c.72 (C.12:8-1.1 et al.);

b. Holds a current first class pilot's license issued by the United States Coast Guard or a first class pilot endorsement to a license issued by the United States Coast Guard authorizing the piloting of vessels of any tonnage, and endorsed for the routes in which the services of a docking pilot are permitted, and executes an authorization permitting the commission to obtain from the United States Coast Guard information pertaining to the applicant's Coast Guard license and records;

c. Holds a current unlimited radar observer's certificate required by the United States Coast Guard;

d. Has participated in and successfully completed a United States Department of Transportation, Department of Homeland Security, or their successors' drug screening and testing program mandated for mariners and executed an authorization permitting the commission to obtain from that organization information pertaining to the applicant's drug screening and testing;

e. Has been examined by a licensed physician in the manner prescribed by the United States Coast Guard no less than once each year and been declared by the examiner competent to perform the duties of a docking master;

f. Submits an application for review and approval by the commission within six months of the effective date of P.L.2004, c.72 (C.12:8-1.1 et al.), which approval shall not be unreasonably withheld; and

g. Pays any required annual fee established by the regulations of the commission, such fee not to exceed the reasonable cost of administration directly attributable to the licensing of docking pilots.

A docking pilot who meets the requirements of subsections a. through e. of this section and who submits the docking pilot's name and a summary of qualifications to the commission within 30 days of the effective date of P.L.2004, c.72 (C.12:8-1.1 et al.) may continue to perform the work of a licensed docking pilot until such time as the commission acts upon the application of that docking pilot. Prior to the issuance of a docking pilot license, such docking pilot shall be subject to all other provisions of this chapter, as if the license had been issued upon the effective date of P.L.2004, c.72 (C.12:8-1.1 et al.).

**C.12:8-50 Documentation for consideration as docking pilot apprentice.**

34. To be considered as a docking pilot apprentice, a person shall submit the following documentation to the commission:

a. A current first class pilot's license or a first class pilot endorsement to a license issued by the United States Coast Guard authorizing the piloting of vessels of any tonnage and endorsed for the waters for which service may be required and an authorization executed permitting the commission to obtain from the United States Coast Guard information pertaining to the applicant's Coast Guard license and records;

b. Evidence that the person holds a current unlimited radar observer's certificate required by the United States Coast Guard;

c. Evidence of participation in a United States Department of Transportation required drug screening and testing program;

d. Evidence of a current physical examination by a licensed physician in a manner prescribed by the United States Coast Guard and that the person



has been declared competent by the physician to perform the duties of a docking pilot;

e. Written documentation that the person has not less than ten years' experience in the maritime industry, including, but not limited to, credits at an approved United States maritime college; and deck experience, provided that the person shall have served not less than five years as a licensed mate or master in the towing industry and is endorsed by an independent pilot association providing docking pilot services on pilotage waters; and

f. Such additional documentation as the commission may require by regulation.

**C.12:8-51 Additional requirements for qualification as docking pilot.**

35. To qualify as a docking pilot a person shall, in addition to the requirements of section 34 of P.L.2004, c.72 (C.12:8-50), have:

a. Performed at least 25 dockings or undocking movements of vessels not less than 10,000 gross tons on pilotage waters assisted by a tugboat or tugboats on routes for which the applicant applies to be licensed as a docking pilot under the supervision of a docking pilot;

b. Observed not less than 200 dockings or undockings of seagoing vessels of not less than 10,000 registered tons on pilotage waters assisted by a tugboat or tugboats under the close supervision of a docking pilot;

c. Successfully completed a docking pilot apprentice program approved by the commission prior to application to the commission for licensing as a docking pilot; and

d. Submitted an application to the commission for review and approval.

Upon having the application declared complete and acceptable by the commission, and endorsed by an independent pilot association, the applicant's name shall be added to a list of qualified docking pilots. After considering the need for additional qualified docking pilots, the commission may, in its sole discretion, thereafter appoint successful applicants as docking pilots. To ensure recency, prior to issuing a license under this section, the commission may require the applicant to conduct additional dockings, undockings and intra-harbor movements under the supervision of a licensed docking pilot.

**C.12:8-52 Registration of docking pilots; fee.**

36. The commission shall enter on a register maintained by it the names and status of all persons who demonstrate to the satisfaction of the commission that they meet the requirements of section 33 or 35 of P.L.2004, c.72 (C.12:8-49 or C.12:8-51) and who submit to the commission an initial license fee not to exceed the reasonable cost of administration directly attributable to the licensing of docking pilots and an annual license fee thereafter not to exceed the reasonable cost of administration directly attrib-

utable to the licensing of docking pilots. The commission may refuse to license or may suspend or revoke the license of any person who does not comply with the requirements of section 33 of P.L.2004, c.72 (C.12:8-49), or other lawful requirements of the commission.

**C.12:8-53 Authority of docking pilots.**

37. a. A docking pilot is authorized upon the approval of the master of a vessel upon pilotage waters as defined in section 2 of P.L.2004, c.72 (C.12:8-1.2) to:

(1) Dock or undock vessels; direct the navigation of vessels within the harbor being moved from an anchorage to an anchorage or to a berth; direct the navigation of vessels within the harbor being moved from a berth to an anchorage or another berth; direct the navigation of vessels departing the port until relieved by a maritime pilot licensed by the commission or the Commissioners of Pilotage of the State of New York, at such locations where by custom and practice prior to the effective date of P.L.2004, c.72 (C.12:8-1.1 et al.) such relief took place, provided that the maritime pilot, docking pilot and the vessel's master concur that the relief can be accomplished without compromising the safe navigation of the vessel; and

(2) Direct the navigation of vessels entering the port upon relieving a maritime pilot licensed by this commission or the Commissioners of Pilotage of the State of New York for the purpose of docking such vessels at such points where by custom and practice prior to the effective date of P.L.2004, c.72 (C.12:8-1.1 et al.) such relief took place, provided that the relief can be accomplished without compromising the safe navigation of the vessel.

b. Nothing in the provisions authorizing the licensing of docking pilots is intended to authorize licensed docking pilots to pilot regulated vessels on pilotage waters as they enter or leave the Port of New York and New Jersey.

c. Nothing in the provisions of this section is intended to preclude licensed maritime pilots from docking or undocking vessels, conducting in harbor movements of vessels or piloting vessels on pilotage waters.

d. When the services of a tugboat are employed to dock or undock a vessel, a docking pilot shall be employed by the vessel if requested by the vessel owner or agent.

**C.12:8-17.1 Access to certain records of pilots.**

38. A docking pilot or maritime pilot licensed by the State of New Jersey or applying for a license is deemed to authorize the commission to obtain, from time to time, the National Drivers Registry records pertaining to the docking pilot or maritime pilot and from his employer or association records pertaining to the docking pilot's or maritime pilot's participation in a drug testing program and the results of drug or alcohol tests issued by a testing facility.

**C.12:8-35.1 Rights of owner, operator, master of vessel.**

39. Nothing in this chapter shall affect the right of the owner, operator or master of a regulated vessel to choose, select or engage an individual docking pilot or tugboat company, or be construed to permit the commission to exercise any control or authority over docking pilot rates, pensions, benefits or other compensation of docking pilots.

**Repealer.**

40. The following are repealed:

R.S.12:8-17; R.S.12:8-22; R.S.12:8-23; R.S.12:8-24; R.S.12:8-25; R.S.12:8-26; R.S.12:8-27; R.S.12:8-28; R.S.12:8-29; section 5 of P.L.1991, c.76 (C.12:8-29.1); R.S.12:8-30; R.S.12:8-32; R.S.12:8-33; R.S.12:8-34; R.S.12:8-41; R.S.12:8-42; R.S.12:8-43; R.S.12:8-45; R.S.12:8-46.

41. This act shall take effect on the 60th day after enactment, but the commission may take such anticipatory administrative action in advance as shall be necessary for implementation of this act.

Approved July 1, 2004.

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**CHAPTER 73**

AN ACT concerning school district budget caps and amending and supplementing parts of the statutory law.

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

1. Section 5 of P.L.1996, c.138 (C.18A:7F-5) is amended to read as follows:

**C.18A:7F-5 Notification of districts of aid payable; budget submissions.**

5. As used in this section, "cost of living" means the CPI as defined in section 3 of P.L.1996, c.138 (C.18A:7F-3).

a. Biennially, within 30 days following the approval of the Report on the Cost of Providing a Thorough and Efficient Education, the commissioner shall notify each district of the T&E amount, the T&E flexible amount, the T&E range, early childhood program amount, demonstrably effective program amount, instructional supplement amount, and categorical amounts per pupil for the subsequent two fiscal years.

Annually, within two days following the transmittal of the State budget message to the Legislature by the Governor pursuant to section 11 of

P.L.1944, c.112 (C.52:27B-20), the commissioner shall notify each district of the maximum amount of aid payable to the district in the succeeding school year pursuant to the provisions of this act, and shall notify each district of the district's T&E budget, maximum T&E budget, and minimum permissible T&E budget for the succeeding school year.

Beginning in the 1998-99 school year, unless otherwise specified within this act, aid amounts payable for the budget year shall be based on budget year pupil counts, which shall be projected by the commissioner using data from prior years. Adjustments for the actual pupil counts of the budget year shall be made to State aid amounts payable during the school year succeeding the budget year. Additional amounts payable shall be reflected as revenue and an account receivable for the budget year.

Notwithstanding any other provision of this act to the contrary, each district's State aid payable for the 1997-98 school year, with the exception of transportation and facilities aids pursuant to sections 25, 26, and 27 of this act, shall be based on simulations employing the various formulas and State aid amounts contained in this act using projections based on the October 1995 pupil counts, December 1995 special education census data and October 1995 equalized valuations. Transportation aid shall be calculated based on the provisions of this act using pupil data used for the 1996-97 school year and adjusted to reflect the total amount of State aid disbursed in the 1996-97 school year. The commissioner shall prepare a report dated December 19, 1996 reflecting the State aid amounts payable by category for each district and shall submit the report to the Legislature prior to the adoption of this act. The amounts contained in the commissioner's report shall be the final amounts payable and shall not be subsequently adjusted because of changes in pupil counts or equalized valuations. The projected pupil counts and equalized valuations used for the calculation of State aid shall also be used for the calculation of maximum T&E budget, minimum T&E budget, local share, required local share, and spending growth limitation. State aid notification of debt service aid pursuant to section 27 of this act shall include a statement that debt service aid shall be determined in the budget.

Any school district which enrolls students who reside on federal property which were not included in the calculation of core curriculum standards aid for 1997-98 shall have its core curriculum standards aid recalculated for these additional enrollments through the 1997-98 school year using the property value multiplier, income value multiplier, equalized valuation, and district income which were used in the original Statewide calculation of core curriculum standards aid. The additional aid resulting from the recalculations shall be divided by 20 and the product shall be added to each of the remaining core curriculum standards aid payments for the 1997-98 school year. Additionally, the core curriculum standards aid calculation and pay-

ment schedule for 1998-99 shall be adjusted for such enrollments arriving after the last school day prior to October 16, 1997.

b. Each district shall have a required local share. For Abbott districts, the required local share for the purpose of determining its estimated minimum equalized tax rate and supplemental core curriculum standards aid shall equal the district's local share calculated at the middle of the T&E range (T&E amount x WENR, where WENR is the district's weighted enrollment pursuant to section 13 of this act).

Notwithstanding the above provision, no Abbott district shall raise a general fund tax levy which is less than the prior year general fund tax levy unless the sum of the levy and the other components of the T&E program budget equals or exceeds its maximum T&E budget calculated pursuant to section 13 of this act.

For district factor group A districts, the required local share shall equal the district's local share calculated at its minimum T&E budget pursuant to section 13 of this act.

For all other districts, the required local share shall equal the lesser of the local share calculated at the district's minimum T&E budget pursuant to section 13 of this act, or the district's budgeted local share for the prebudget year.

In order to meet this requirement, each district shall raise a general fund tax levy which, when added to the general fund balance designated for the budget year, miscellaneous local general fund revenues estimated consistent with GAAP to be realized during the budget year, supplemental core curriculum standards aid calculated pursuant to section 17 of this act and stabilization aid and supplemental school tax reduction aid calculated pursuant to section 10 of this act, equals its required local share or, for Abbott districts, the amount required when the calculation of required local share would result in a general fund tax levy which is less than the general fund tax levy of the prebudget year. For 1997-98, the budgeted local share for the prebudget year shall be the district's general fund tax levy.

For the 1997-98 school year, any tax increase which would be required of an Abbott district or district factor group A district to meet its required local share, after consideration of supplemental core curriculum standards aid, stabilization aid, and supplemental school tax reduction aid shall be fully funded by the State and recorded as supplemental core curriculum standards aid. The commissioner, in consultation with the Commissioner of the Department of Community Affairs and the Director of the Division of Local Government Services in the Department of Community Affairs, shall examine the fiscal ability of the Abbott districts and the district factor group A districts eligible for supplemental core curriculum standards aid to absorb any reduction in such aid and shall make recommendations to the Legislature

and the Governor regarding the continuation of supplemental core curriculum standards aid to those districts. In making those recommendations, the commissioner shall consider the ratable base of the municipality or municipalities in which the district is located, the tax burden placed upon the local community due to other required municipal services, and the fiscal ability of the school district to raise its required local share. The commissioner shall not implement any of those recommendations until the recommendations are enacted into law.

No municipal governing body or bodies or board of school estimate, as appropriate, shall certify a general fund tax levy which does not meet the required local share provisions of this section.

c. Annually, on or before March 4, each district board of education shall adopt, and submit to the commissioner for approval, together with such supporting documentation as the commissioner may prescribe, a budget that provides no less than the minimum permissible T&E budget, plus categorical amounts required for a thorough and efficient education as established pursuant to the report, special revenue funds and debt service funds.

Notwithstanding any provision of this section to the contrary, for the 2005-2006 school year each district board of education shall submit a proposed budget in which the advertised per pupil administrative costs do not exceed the lower of the following:

(1) the district's advertised per pupil administrative costs for the 2004-2005 school year inflated by the cost of living or 2.5 percent, whichever is greater; or

(2) the per pupil administrative cost limits for the district's region as determined by the commissioner based on audited expenditures for the 2003-2004 school year.

The county superintendent of schools may disapprove the school district's 2005-2006 proposed budget if he determines that the district has not implemented all potential efficiencies in the administrative operations of the district. The county superintendent shall work with each school district in the county during the 2004-2005 school year to identify administrative inefficiencies in the operations of the district that might cause the superintendent to reject the district's proposed 2005-2006 school year budget.

For the 2006-2007 school year and each school year thereafter, each district board of education shall submit a proposed budget in which the advertised per pupil administrative costs do not exceed the lower of the following:

(1) the district's prior year per pupil administrative costs; except that the district may submit a request to the commissioner for approval to exceed the district's prior year per pupil administrative costs due to increases in enrollment, administrative positions necessary as a result of mandated programs,

administrative vacancies, nondiscretionary fixed costs, and such other items as defined in accordance with regulations adopted pursuant to section 7 of P.L.2004, c.73. In the event that the commissioner approves a district's request to exceed its prior year per pupil administrative costs, the increase authorized by the commissioner shall not exceed the cost of living or 2.5 percent, whichever is greater; or

(2) the prior year per pupil administrative cost limits for the district's region inflated by the cost of living or 2.5 percent, whichever is greater.

d. (1) A district proposing a budget which includes spending which exceeds the maximum T&E budget established pursuant to section 13 of this act shall submit, as appropriate, to the board of school estimate or to the voters of the district at the annual school budget election conducted pursuant to the provisions of P.L.1995, c.278 (C.19:60-1 et seq.), a general fund tax levy which when added to the other components of its net budget does not exceed the prebudget year net budget by more than the spending growth limitation calculated as follows: the sum of the cost of living or 2.5 percent, whichever is greater, multiplied by the prebudget year net budget, and adjustments for changes in enrollment, certain capital outlay expenditures, expenditures for pupil transportation services provided pursuant to N.J.S.18A:39-1.1, expenditures incurred in connection with the opening of a new school facility during the budget year, and special education costs per pupil in excess of \$40,000. The adjustment for special education costs shall equal any increase in the sum of per pupil amounts in excess of \$40,000 for the budget year less the sum of per pupil amounts in excess of \$40,000 for the prebudget year indexed by the cost of living or 2.5 percent, whichever is greater. The adjustment for enrollments shall equal the increase in unweighted resident enrollments between the prebudget year and budget year multiplied by the per pupil general fund tax levy amount for the prebudget year indexed by the cost of living or 2.5 percent, whichever is greater. The adjustment for capital outlay shall equal any increase between the capital outlay portion of the general fund budget for the budget year less any withdrawals from the capital reserve account and the capital outlay portion of the general fund budget for the prebudget year indexed by the cost of living or 2.5 percent, whichever is greater. Any district with a capital outlay adjustment to its spending growth limitation shall be restricted from transferring any funds from capital outlay accounts to current expense accounts. The adjustment for capital outlay shall not become part of the prebudget year net budget for purposes of calculating the spending growth limitation of the subsequent year. The adjustment for pupil transportation costs provided pursuant to N.J.S.18A:39-1.1 shall equal any increase between the cost of providing such pupil transportation services for the budget year and the cost of providing such pupil transportation services for the prebudget year in-

dexed by the cost of living or 2.5 percent, whichever is greater. The adjustment for the opening of a new school facility shall include costs associated with the new facility related to new teaching staff members, support staff, materials and equipment, custodial and maintenance expenditures, and such other required costs as determined by the commissioner.

(2) A district proposing a budget set at or below the minimum T&E budget established pursuant to section 13 of this act shall submit, as appropriate, to the board of school estimate or to the voters of the district at the annual school budget election conducted pursuant to the provisions of P.L.1995, c.278 (C.19:60-1 et seq.), a general fund tax levy which when added to the other components of the net T&E budget shall not exceed the prebudget year net T&E budget or in 1997-98 the prebudget year net budget by more than the spending growth limitation calculated as follows: the sum of the cost of living or 2.5 percent, whichever is greater, multiplied by the prebudget year net budget, and adjustments for changes in enrollment, certain capital outlay expenditures, expenditures for pupil transportation services provided pursuant to N.J.S.18A:39-1.1, expenditures incurred in connection with the opening of a new school facility during the budget year, and special education costs per pupil in excess of \$40,000. The enrollment adjustment shall equal the increase in weighted resident enrollment between the prebudget year and the budget year multiplied by the T&E amount less the T&E flexible amount. The adjustments for special education costs, pupil transportation services, and capital outlay expenditures shall be calculated pursuant to the provisions of paragraph (1) of this subsection. The adjustment for the opening of a new school facility shall include costs associated with the new facility related to new teaching staff members, support staff, materials and equipment, custodial and maintenance expenditures, and such other required costs as determined by the commissioner.

Notwithstanding the provisions of this paragraph, no district shall raise a net budget which is less than the local share required under the required local share provisions of this act plus the other components of its net budget.

(3) A district proposing a budget set at or below the maximum T&E budget, but including amounts in excess of the minimum T&E budget established pursuant to section 13 of this act, shall submit, as appropriate, to the board of school estimate or to the voters at the annual school budget election conducted pursuant to the provisions of P.L.1995, c.278 (C.19:60-1 et seq.), a general fund tax levy which when added to the other components of its net T&E budget does not exceed the prebudget year net T&E budget or in 1997-98 the prebudget year net budget by more than the spending growth limitation calculated as follows: the sum of the cost of living or 2.5 percent, whichever is greater, multiplied by the prebudget year net budget, and adjustments for changes in enrollment, certain capital outlay expendi-



tures, expenditures for pupil transportation services provided pursuant to N.J.S.18A:39-1.1, expenditures incurred in connection with the opening of a new school facility during the budget year, and special education costs per pupil in excess of \$40,000 per pupil. The enrollment adjustment shall equal the increase in the unweighted resident enrollment between the prebudget year and the budget year multiplied by the prebudget year T&E program budget per pupil indexed by the cost of living or 2.5 percent, whichever is greater. For the 1997-98 school year, the T&E program budget for the prebudget year shall equal the sum of the general fund tax levy, foundation aid, and transition aid. The adjustment for special education costs, pupil transportation services, and capital outlay expenditures shall be made pursuant to the provisions of paragraph (1) of this subsection. The adjustment for the opening of a new school facility shall include costs associated with the new facility related to new teaching staff members, support staff, materials and equipment, custodial and maintenance expenditures, and such other required costs as determined by the commissioner.

(4) Any debt service payment made by a school district during the budget year shall not be included in the calculation of the district's spending growth limitation.

(5) For the 1997-98 school year, a district's spending growth limitation shall be increased by the excess of county special services school district tuition over prebudget year county special services school district tuition indexed by the CPI or three percent, whichever is greater.

(6) For the purpose of determining a district's spending growth limitation for the 1997-98 school year, a district may apply to the commissioner to add all or a part of the district's original designated general fund balance for 1996-97 to the spending growth limitation if it can demonstrate through current accounting records and historical trend data that the fund balance will actually be spent in the budget year.

(7) (Deleted by amendment, P.L.2004, c.73).

(8) If an increase in tuition for the budget year charged to a sending district by the receiving district pursuant to the provisions of N.J.S.18A:38-19 would reduce the sending district's per pupil net budget amount below the prior year's per pupil net budget amount in order to comply with the district's spending growth limitation, the district may apply to the commissioner for an adjustment to that limitation.

(9) Any district may submit at the annual school budget election a separate proposal or proposals for additional funds, including interpretive statements, specifically identifying the program purposes for which the proposed funds shall be used, to the voters, who may, by voter approval, authorize the raising of an additional general fund tax levy for such purposes. In the case of a district with a board of school estimate, one proposal for the

additional spending shall be submitted to the board of school estimate. Any proposal or proposals submitted to the voters or the board of school estimate shall not: include any programs and services that were included in the district's prebudget year net budget unless the proposal is approved by the commissioner upon submission by the district of sufficient reason for an exemption to this requirement; or include any new programs and services necessary for students to achieve the thoroughness standards established pursuant to subsection a. of section 4 of P.L.1996, c.138 (C.18A:7F-4).

The county superintendent of schools may prohibit the submission of a separate proposal or proposals to the voters or board of school estimate if he determines that the district has not implemented all potential efficiencies in the administrative operations of the district, which efficiencies would eliminate the need for the raising of additional general fund tax levy.

Any proposal or proposals rejected by the voters shall be submitted to the municipal governing body or bodies for a determination as to the amount, if any, that should be expended notwithstanding voter rejection. The decision of the municipal governing body or bodies or board of school estimate, as appropriate, shall be final and no appeals shall be made to the commissioner.

(10) Notwithstanding any provision of law to the contrary, if a district proposes a budget which exceeds the maximum T&E budget, the following statement shall be published in the legal notice of public hearing on the budget pursuant to N.J.S.18A:22-28, posted at the public hearing held on the budget pursuant to N.J.S.18A:22-29, and printed on the sample ballot required pursuant to section 10 of P.L.1995, c.278 (C.19:60-10):

"Your school district has proposed programs and services in addition to the core curriculum content standards adopted by the State Board of Education. Information on this budget and the programs and services it provides is available from your local school district."

(11) Any reduction that may be required to be made to programs and services included in a district's prebudget year net budget in order for the district to limit the growth in its budget between the prebudget and budget years by its spending growth limitation as calculated pursuant to this subsection, shall only include reductions to excessive administration or programs and services that are inefficient or ineffective.

e. (1) Any general fund tax levy rejected by the voters for a proposed budget in excess of the maximum T&E budget shall be submitted to the governing body of each of the municipalities included within the district for determination of the amount that should be expended notwithstanding voter rejection. In the case of a district having a board of school estimate, the general fund tax levy shall be submitted to the board for determination of the amount that should be expended. If the governing body or bodies or board

of school estimate, as appropriate, reduce the district's proposed net budget, the district may appeal any of the reductions to the commissioner on the grounds that the reductions will negatively impact on the stability of the district given the need for long term planning and budgeting. In considering the appeal, the commissioner shall consider enrollment increases or decreases within the district; the history of voter approval or rejection of district budgets; the impact on the local levy; and whether the reductions will impact on the ability of the district to fulfill its contractual obligations. A district may not appeal any reductions on the grounds that the amount is necessary for a thorough and efficient education.

(2) Any general fund tax levy rejected by the voters for a proposed budget at or below the maximum T&E budget shall be submitted to the governing body of each of the municipalities included within the district for determination of the amount that should be expended notwithstanding voter rejection. In the case of a district having a board of school estimate, the general fund tax levy shall be submitted to the board for determination. Any reductions may be appealed to the commissioner on the grounds that the amount is necessary for a thorough and efficient education or that the reductions will negatively impact on the stability of the district given the need for long term planning and budgeting. In considering the appeal, the commissioner shall also consider the factors outlined in paragraph (1) of this subsection.

In the case of a school district in which the proposed budget is below, or after a reduction made by the municipal governing body or board of school estimate is below, the minimum T&E budget calculated pursuant to section 13 of this act, any reductions made by the municipal governing body or board of school estimate shall be automatically reviewed by the commissioner. In reviewing the budget, the commissioner shall also consider the factors outlined in paragraph (1) of this subsection. In addition, the municipal governing body or board of school estimate shall be required to demonstrate clearly to the commissioner that the proposed budget reductions shall not adversely affect the ability of the school district to provide a thorough and efficient education or the stability of the district given the need for long term planning and budgeting.

(3) In lieu of any budget reduction appeal provided for pursuant to paragraphs (1) and (2) of this subsection, the State board may establish pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an expedited budget review process based on a district's application to the commissioner for an order to restore a budget reduction.

(4) When the voters, municipal governing body or bodies, or the board of school estimate authorize the general fund tax levy, the district shall submit the resulting budget to the commissioner within 15 days of the action

of the voters or municipal governing body or bodies, whichever is later, or of the board of school estimate as the case may be.

f. Any district which is not an Abbott district but which was classified as a special needs district under the "Quality Education Act of 1990," P.L.1990, c.52 (C.18A:7D-1 et al.), may appeal any budget reduction made by the municipal governing body or board of school estimate, as appropriate, to the commissioner.

g. The commissioner shall annually review the budget of any district which was classified as a special needs district under the "Quality Education Act of 1990," P.L.1990, c.52 (C.18A:7D-1 et al.), to determine if any educationally meritorious program or service established through State resources provided as a result of that funding law is proposed to be reduced or eliminated. If the commissioner determines that the program or service is in jeopardy and that a reallocation of resources is possible without jeopardizing other educationally meritorious programs or services, he may require the school board to fund the program or service through a reallocation of resources.

2. Section 36 of P.L.2000, c.126 (C.18A:7F-5a) is amended to read as follows:

**C.18A:7F-5a Inclusion of certain amounts in future school district budget.**

36. a. Notwithstanding any provision of P.L.1996, c.138 (C.18A:7F-1 et seq.) to the contrary and except as otherwise provided pursuant to subsection b. of this section, any school district which increases its net budget between the prebudget and budget years in an amount less than that authorized pursuant to subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5), shall be permitted to include the amount of the difference between its actual net budget and its permitted net budget in either of the next two succeeding budget years; except that beginning with any difference in the 2004-2005 budget year and any difference in a subsequent budget year, only 50% of the difference may be included in either of the next two succeeding budget years.

b. For the 2005-2006 school year and thereafter, the county superintendent of schools may disapprove a school district's proposed budget which includes the amount of any difference authorized pursuant to subsection a. of this section if the county superintendent determines that the district has not implemented all potential efficiencies in the administrative operations of the district, which efficiencies would eliminate the need for the inclusion of the differential amount. The county superintendent shall work with each school district in the county during the 2004-2005 school year and each subsequent school year to identify administrative inefficiencies in the opera-

tions of the district that might cause the county superintendent to reject the district's proposed budget.

3. Section 7 of P.L.1996, c.138 (C.18A:7F-7) is amended to read as follows:

**C.18A:7F-7 Undesignated general fund balances, use, limits.**

7. a. For the 2004-2005 school year, an undesignated general fund balance in excess of 3% of the budgeted general fund for the prebudget year or \$100,000, whichever is greater, shall be appropriated by a school district based on surplus as anticipated pursuant to paragraph (2) of subsection a. of N.J.S.18A:22-8 and included in the budget prepared pursuant to section 5 of this act. In the event that the district's 2004-2005 budget is not approved by the voters of the district or the board of school estimate, the district may use the undesignated general fund balance which exceeds 3% to meet the reduction in tax levy certified by the municipal governing body or bodies or board of school estimate following review of the defeated budget. Any appropriation of the undesignated general fund balance made by board resolution following the April 2004 school budget election and prior to the effective date of P.L.2004, c.73 to the capital reserve account or maintenance reserve account or to increase spending for the 2003-2004 school year shall be null and void unless, upon written application to the commissioner, the district demonstrates that the appropriation was necessary for use in the 2003-2004 school year to meet the thoroughness standards established pursuant to subsection a. of section 4 of P.L.1996, c.138 (C.18A:7F-4) and no other line item account balances were available.

In the 2005-2006 school year and thereafter, an undesignated general fund balance in excess of 2% of the budgeted general fund for the prebudget year or \$100,000, whichever is greater, shall be appropriated by a school district for the purpose of the budget prepared pursuant to section 5 of this act.

The amount of any funds made available for appropriation as a result of the reduction in the percentage of authorized undesignated general fund balance pursuant to P.L.2004, c.73 shall be used to reduce the general fund tax levy required for the budget year.

In the case of a county vocational school district, if the amount of the budgeted general fund for the prebudget year is \$100 million or less, an undesignated general fund balance in excess of 6% of that amount or \$100,000, whichever is greater, shall be appropriated by the county vocational school district for the purpose of the budget prepared pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5). If the amount of the budgeted general fund for the prebudget year exceeds \$100 million, an undesignated

general fund balance in excess of 6% of the first \$100 million and in excess of 3% of the amount which exceeds \$100 million shall be appropriated by a county vocational school district for the purpose of the budget prepared pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5).

b. Notwithstanding the provisions of subsection a. of this section, if the district has a formal plan to expand, renovate or construct school facilities, join a distance learning network, or make a major replacement or acquisition of instructional equipment within the subsequent five years, the district may, with the approval of the commissioner, transfer the excess undesignated general fund balance to the capital reserve account established pursuant to N.J.S.18A:21-3 for that purpose.

c. If it is determined that the undesignated general fund balances at June 30 of any school year exceed those permitted under subsection a. of this section, the excess undesignated general fund balances shall be reserved and designated in the subsequent year's budget submitted to the commissioner pursuant to subsection c. of section 5 of this act.

d. The commissioner may withhold State aid in an amount not to exceed the excess undesignated general fund balances for failure to comply with subsection c. of this section.

e. Proceeds from the sale and lease-back of textbooks and non-consumable instructional materials shall not be included in the calculation of excess undesignated general fund balance during the budget year in which they are realized.

4. Section 13 of P.L.2000, c.72 (C.18A:7G-13) is amended to read as follows:

**C.18A:7G-13 Responsibilities of authority.**

13. a. The authority shall be responsible for the financing, planning, design, construction management, acquisition, construction, and completion of school facilities projects. Upon submission to the authority of a final project report, the authority shall undertake the acquisition, construction, and all other appropriate actions necessary to complete the project. When the final eligible costs of a school facilities project are less than or equal to \$500,000, the authority may, in its discretion, authorize a district to undertake the acquisition, construction and all other appropriate actions necessary to complete the project and enter into a grant agreement with the district for the payment of the State share.

b. The authority shall undertake the financing of school facilities projects pursuant to the provisions of this act. The authority may, in its discretion and upon consultation with the district, finance only the State share of the school facilities project or the State share and the local share of

the project. In the event that the authority finances only the State share of a project, the authority shall not commence acquisition or construction of the project until the authority receives the local share from the district.

c. In order to implement the arrangements established for school facilities projects which are to be constructed by the authority and financed pursuant to this section, a district shall enter into an agreement with the authority and the commissioner containing the terms and conditions determined by the parties to be necessary to effectuate the project.

d. Upon completion by the authority of a school facilities project, the district shall enter into an agreement with the authority to provide for the maintenance of the project by the district. In the event that the school facilities project is constructed by a district, upon the completion of the project, the district shall submit to the commissioner a plan to provide for the maintenance of the project by the district. Any agreement or plan shall contain, in addition to any other terms and provisions, a requirement for the establishment of a maintenance reserve fund consistent with the appropriation and withdrawal requirements for capital reserve accounts established pursuant to section 57 of P.L.2000, c.72 (C.18A:7G-31), the funding levels of which shall be as set forth in regulations adopted by the commissioner pursuant to section 26 of this act.

5. Section 57 of P.L.2000, c.72 (C.18A:7G-31) is amended to read as follows:

**C.18A:7G-31 Establishment of capital reserve account.**

57. a. Notwithstanding any provision of this act or any other law or regulation to the contrary, a board of education or a board of school estimate, as appropriate, may, through the adoption of a board resolution, establish a capital reserve account. The account shall be established and held in accordance with GAAP and shall be subject to annual audit. The funds in the capital reserve account shall be used to finance the district's long-range facilities plan required pursuant to subsection a. of section 4 of this act and the amount in the account shall not exceed the total amount of local funds required to implement the plan.

b. A board of education or a board of school estimate, as appropriate, may appropriate funds in the district's annual budget for the establishment of the capital reserve account pursuant to subsection a. of this section or to supplement the funds in the account as required to meet the needs of the long-range facilities plan.

c. A board of education may, by resolution of the board: transfer funds from the capital reserve account to the appropriate line item account for the funding of capital projects as contained in the district's long-range facilities

plan; and transfer funds from the capital reserve account to the debt service account for the purpose of offsetting principal and interest payments for bonded projects which are included in the district's long-range facilities plan.

6. Section 2 of P.L.1979, c.294 (C.18A:22-8.1) is amended to read as follows:

**C.18A:22-8.1 Transfer of funds, conditions.**

2. Except as otherwise provided pursuant to this section, whenever a school district desires to transfer amounts among line items and program categories, the transfers shall be by resolution of the board of education approved by a two-thirds affirmative vote of the authorized membership of the board; however, a board may, by resolution, designate the chief school administrator to approve such transfers as are necessary between meetings of the board. Transfers approved by the chief school administrator shall be reported to the board, ratified and duly recorded in the minutes at a subsequent meeting of the board, but not less than monthly. Transfers of surplus amounts or any other unbudgeted or underbudgeted revenue to line items and program categories shall require the approval of the Commissioner of Education and shall only be approved between April 1 and June 30 for line items and program categories necessary to achieve the thoroughness standards established pursuant to subsection a. of section 4 of P.L.1996, c.138 (C18A:7F-4); except that upon a two-thirds affirmative vote of the authorized membership of a board of education, the board may petition the commissioner for authority to transfer such revenue prior to April 1 due to an emergent circumstance and the commissioner may authorize the transfer if he determines that the transfer is necessary to meet such emergency. Transfers from any general fund appropriation account that, on a cumulative basis, exceed 10% of the amount of the account included in the school district's budget as certified for taxes shall require the approval of the commissioner. In a school district wherein the Commissioner of Education has directed a comprehensive compliance investigation pursuant to section 14 of P.L.1975, c.212 (C.18A:7A-14), the board of education shall obtain the written approval of the county superintendent of schools prior to implementing any board authorized transfer of funds.

7. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the commissioner may adopt, immediately upon filing with the Office of Administrative Law, such rules and regulations as the commissioner deems necessary to implement the provisions of P.L.2004, c.73 which shall be effective for a period not to exceed 12 months. Determinations made by the commissioner pursuant to P.L.2004, c.73 and the rules



and regulations adopted by the commissioner to implement that act shall be considered to be final agency action and appeal of that action shall be directly to the Appellate Division of the Superior Court. The regulations shall thereafter be amended, adopted or readopted by the State Board of Education in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

8. This act shall take effect upon the enactment into law of P.L.2004, c.40 (C.54A:9-29 et al.), P.L.2004, c.74 (C.40A:4-45.15c et al.), and P.L.2004, c.85.

Approved July 1, 2004.

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## CHAPTER 74

AN ACT concerning municipal and county budgets and amending and supplementing various parts of the statutory law.

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

1. Section 4 of P.L.1983, c.49 (C.40A:4-45.1a) is amended to read as follows:

**C.40A:4-45.1a "Cost-of-living adjustment" defined.**

4. As used in this amendatory and supplementary act, "cost-of-living adjustment" means the rate of annual percentage increase, rounded to the nearest half-percent, in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, computed and published quarterly by the United States Department of Commerce, Bureau of Economic Analysis, calculating the annual increase therein at the second and fourth quarter which occurred in the next preceding local fiscal year. Any reference to "index rate" means the "cost-of-living adjustment" defined in this section. The Director of the Division of Local Government Services shall promulgate bi-annually the cost-of-living adjustment to apply in the next following local fiscal year.

2. Section 2 of P.L.1976, c.68 (C.40A:4-45.2) is amended to read as follows:

**C.40A:4-45.2 Limitation on increase of appropriations.**

2. For local budget years beginning on or after July 1, 2004 municipalities and counties shall be prohibited from increasing their final appropria-

tions by more than 2.5% or the cost-of-living adjustment, whichever is less, over the previous year, except within the provisions set forth hereunder.

For the purpose of this section, in computing its final appropriations for the previous year, a municipality or county shall include, as part of its final appropriations:

- a. Amounts of revenue generated by an increase in its valuations based solely on applying the preceding year's local purposes tax rate of the municipality to the assessed value of new construction or improvements, or on applying the preceding year's county tax rate to the apportionment valuation of new construction or improvements, as may be appropriate;
- b. (Deleted by amendment, P.L.1990, c.89.)
- c. Amounts approved by referendum, pursuant to section 1 of P.L.1979, c.268 (C.40A:4-45.3a) and section 2 of P.L.1983, c.312 (C.40A:4-45.19);
- d. (Deleted by amendment, P.L.1990, c.89.)
- e. Expenditures for the assumption of any service or function of a local public utility, a local public authority, or a special purposes district, as approved by the Local Finance Board pursuant to section 3 of P.L.1983, c.49 (C.40A:4-45.13).

For the 1991 local budget year, the final appropriations from the prior year shall be the total appropriations for the 1990 budget year. In each local budget year in which any service, function, or portion thereof, is transferred to, or assumed by, the State or federal government from a municipal government, the municipality shall deduct from its final appropriations upon which its permissible expenditures are calculated the amount which the municipality expended for that service or function during the last full budget year, or portion thereof, throughout which the service or function so transferred was funded from appropriations in the municipal budget.

In each budget year subsequent to 1990, whenever any municipality shall have transferred to any local public utility, any local public authority or any special purposes district, during the immediately preceding budget year, or at any time during the current budget year prior to the final adoption of the budget, any service or function funded during the immediately preceding budget year, either partially or wholly, from appropriations in the municipal budget, the municipality shall deduct from its final appropriations upon which its permissible expenditures are calculated pursuant to this section the amount which the municipality expended for that service or function during the last full budget year throughout which the service or function so transferred was funded from appropriations in the municipal budget.

3. Section 3 of P.L.1976, c.68 (C.40A:4-45.3) is amended to read as follows:

**C.40A:4-45.3 Municipalities; budget limitation exceptions.**

3. In the preparation of its budget a municipality shall limit any increase in said budget to 2.5% or the cost-of-living adjustment, whichever is less, over the previous year's final appropriations subject to the following exceptions:

a. (Deleted by amendment, P.L.1990, c.89.)

b. Capital expenditures, including appropriations for current capital expenditures, whether in the capital improvement fund or as a component of a line item elsewhere in the budget, provided that any such current capital expenditure would be otherwise bondable under the requirements of N.J.S.40A:2-21 and 40A:2-22;

c. (1) An increase based upon emergency temporary appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent situation or event which immediately endangers the health, safety or property of the residents of the municipality, and over which the governing body had no control and for which it could not plan and emergency appropriations made pursuant to N.J.S.40A:4-46. Emergency temporary appropriations and emergency appropriations shall be approved by at least two-thirds of the governing body and by the Director of the Division of Local Government Services, and shall not exceed in the aggregate 3% of the previous year's final current operating appropriations.

(2) (Deleted by amendment, P.L.1990, c.89.)

The approval procedure in this subsection shall not apply to appropriations adopted for a purpose referred to in subsection d. or j. below;

d. All debt service, including that of a Type I school district;

e. Upon the approval of the Local Finance Board in the Division of Local Government Services, amounts required for funding a preceding year's deficit;

f. Amounts reserved for uncollected taxes;

g. (Deleted by amendment, P.L.1990, c.89.)

h. Expenditure of amounts derived from new or increased construction, housing, health or fire safety inspection or other service fees imposed by State law, rule or regulation or by local ordinance;

i. Any amount approved by any referendum;

j. Amounts required to be paid pursuant to (1) any contract with respect to use, service or provision of any project, facility or public improvement for water, sewerage, parking, senior citizen housing or any similar purpose, or payments on account of debt service therefor, between a municipality and any other municipality, county, school or other district, agency, authority, commission, instrumentality, public corporation, body corporate and politic or political subdivision of this State; (2) the provisions of article 9 of P.L.1968, c.404 (C.13:17-60 through 13:17-76) by a constituent municipality

to the intermunicipal account; (3) any lease of a facility owned by a county improvement authority when the lease payment represents the proportionate amount necessary to amortize the debt incurred by the authority in providing the facility which is leased, in whole or in part; and (4) any repayments under a loan agreement entered into in accordance with the provisions of section 5 of P.L.1992, c.89;

k. (Deleted by amendment, P.L.1987, c.74.)

l. Appropriations of federal, county, independent authority or State funds, or by grants from private parties or nonprofit organizations for a specific purpose, and amounts received or to be received from such sources in reimbursement for local expenditures. If a municipality provides matching funds in order to receive the federal, county, independent authority or State funds, or the grants from private parties or nonprofit organizations for a specific purpose, the amount of the match which is required by law or agreement to be provided by the municipality shall be excepted;

m. (Deleted by amendment, P.L.1987, c.74.)

n. (Deleted by amendment, P.L.1987, c.74.)

o. (Deleted by amendment, P.L.1990, c.89.)

p. (Deleted by amendment, P.L.1987, c.74.)

q. (Deleted by amendment, P.L.1990, c.89.)

r. Amounts expended to fund a free public library established pursuant to the provisions of R.S.40:54-1 through 40:54-29, inclusive;

s. (Deleted by amendment, P.L.1990, c.89.)

t. Amounts expended in preparing and implementing a housing element and fair share plan pursuant to the provisions of P.L.1985, c.222 (C.52:27D-301 et al.) and any amounts received by a municipality under a regional contribution agreement pursuant to section 12 of that act;

u. (Deleted by amendment, P.L.2004, c.74.)

v. (Deleted by amendment, P.L.1990, c.89.)

w. (Deleted by amendment, P.L.2004, c.74.)

x. Amounts expended to aid privately owned libraries and reading rooms, pursuant to R.S.40:54-35;

y. (Deleted by amendment, P.L.1990, c.89.)

z. (Deleted by amendment, P.L.1990, c.89.)

aa. Extraordinary expenses, approved by the Local Finance Board, required for the implementation of an interlocal services agreement;

bb. Any expenditure mandated as a result of a natural disaster, civil disturbance or other emergency that is specifically authorized pursuant to a declaration of an emergency by the President of the United States or by the Governor;

cc. Expenditures for the cost of services mandated by any order of court, by any federal or State statute, or by administrative rule, directive, order, or

other legally binding device issued by a State agency which has identified such cost as mandated expenditures on certification to the Local Finance Board by the State agency;

dd. Expenditures of amounts actually realized in the local budget year from the sale of municipal assets in extraordinary cases and with the permission of the Local Finance Board;

ee. Any local unit which is determined to be experiencing fiscal distress pursuant to the provisions of P.L.1987, c.75 (C.52:27D-118.24 et seq.), whether or not a local unit is an "eligible municipality" as defined in section 3 of P.L.1987, c.75 (C.52:27D-118.26), and which has available surplus pursuant to the spending limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et seq.), may appropriate and expend an amount of that surplus approved by the director and the Local Finance Board as an exception to the spending limitation. Any determination approving the appropriation and expenditure of surplus as an exception to the spending limitations shall be based upon:

1) the local unit's revenue needs for the current local budget year and its revenue raising capacity;

2) the intended actions of the governing body of the local unit to meet the local unit's revenue needs;

3) the intended actions of the governing body of the local unit to expand its revenue generating capacity for subsequent local budget years;

4) the local unit's ability to demonstrate the source and existence of sufficient surplus as would be prudent to appropriate as an exception to the spending limitations to meet the operating expenses for the local unit's current budget year; and

5) the impact of utilization of surplus upon succeeding budgets of the local unit;

ff. Newly authorized operating appropriations for the municipal court or violation's bureau when approved by the vicinage Presiding Judge of the Municipal Court after consultation with the mayor and governing body of the municipality;

gg. (Deleted by amendment, P.L.2004, c.74.)

hh. (Deleted by amendment, P.L.2004, c.74.)

ii. Subject to the approval of the Local Finance Board, expenditures related to the cost of conducting and implementing a total property tax levy sale pursuant to section 16 of P.L.1997, c.99 (C.54:5-113.5);

jj. Amounts expended for a length of service award program pursuant to P.L.1997, c.388 (C.40A:14-183 et al.);

kk. Amounts expended to provide municipal services or reimbursement amounts to multifamily dwellings for the collection and disposal of solid waste generated by the residents of the multifamily dwellings. This subsec-

tion shall cease to be operative at the end of the first local budget year in which the municipality has fully phased in its reimbursement amount expenses;

ll. Amounts expended by a municipality under an interlocal services agreement entered into pursuant to the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et seq.) entered into after the effective date of P.L.2000, c.126 (C.52:13H-21 et al.). The governing body of the municipality that will receive the service may choose to allow the amount of projected annual savings to be added to the amount of final appropriations upon which its permissible expenditures are calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2);

mm. Amounts expended under a joint contract pursuant to the "Consolidated Municipal Service Act," P.L.1952, c.72 (C.40:48B-1 et seq.) entered into after the effective date of P.L.2000, c.126 (C.52:13H-21 et al.). The governing body of each participating municipality may choose to allow the amount of projected annual savings to be added to the amount of final appropriations upon which its permissible expenditures are calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2);

nn. (Deleted by amendment, P.L.2004, c.74.)

oo. Amounts appropriated in the first three years after the effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for liability insurance, workers' compensation insurance and employee group insurance;

pp. Amounts appropriated in the first three years after the effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for costs of domestic security preparedness and responses to incidents and threats to domestic security.

In the first full year when an existing appropriation or expenditure that is subject to budget limitations is made an exception to budget limitations, a municipality shall deduct from its final appropriations upon which its permissible expenditures are calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2), the amount which the municipality expended for that purpose during the last full budget year, or portion thereof, in which the purpose so excepted was funded from appropriations in the municipal budget.

In the first full year when an existing appropriation or expenditure that is not subject to budget limitations is made subject to budget limitations, a municipality shall add to its final appropriations upon which its permissible expenditures are calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2), the amount which the municipality expended for that purpose during the last full budget year, or portion thereof, in which the purpose so excepted was funded from appropriations in the municipal budget.

4. Section 1 of P.L.1979, c.268 (C.40A:4-45.3a) is amended to read as follows:

**C.40A:4-45.3a Referendum; when held, applicability.**

1. The provisions of any other law to the contrary notwithstanding, any referendum conducted by a municipality pursuant to subsection I. of section 3 of P.L.1976, c.68 (C.40A:4-45.3), for the purpose of requesting approval for increasing the municipal budget by more than 2.5% over the previous year's final appropriations, shall be held on the last Tuesday in the month of February of the year in which the proposed increase is to take effect. The municipal budget proposing such increase shall be introduced and approved in the manner otherwise provided in N.J.S.40A:4-5 at least 20 days prior to the date on which such referendum is to be held, and shall be published in the manner otherwise provided in N.J.S.40A:4-6 at least 12 days prior to said referendum date. Notice shall be published pursuant to section 7 of P.L.1953, c.211 (C.19:57-7) on the next day following the introduction of the budget. This section shall apply only to municipalities that operate on the January 1 to December 31 fiscal year.

5. Section 1 of P.L.1983, c.69 (C.40A:4-45.3a1) is amended to read as follows:

**C.40A:4-45.3a1 Provision of polling places; election worker compensation.**

1. Notwithstanding the provisions of Title 19 of the Revised Statutes to the contrary, referenda conducted by any municipality pursuant to subsection I. of section 3 of P.L.1976, c.68 (C.40A:4-45.3), for the purpose of increasing the municipal budget by more than 2.5% over the previous year's final appropriations, may be conducted with respect to the provision of polling places and the compensation of election workers in the same manner as is provided for school elections under Title 19 of the Revised Statutes.

6. Section 2 of P.L.1981, c.64 (C.40A:4-45.3b) is amended to read as follows:

**C.40A:4-45.3b Proceeds of sale of municipal assets for immediately preceding year as exceptions.**

2. Notwithstanding any provisions of P.L.1976, c.68 (C.40A:4-45.1 et seq.) to the contrary, municipalities shall, in budget year 1981 and in all subsequent budget years in deriving their final appropriations for the prior year upon which the 2.5% annual increase permitted under section 2 of P.L.1976, c.68 (C.40A:4-45.2) is calculated, not be required to treat as exceptions to the prior year's final appropriations any appropriations of the proceeds of the sale of municipal assets which were contained in their budgets for the year 1980 or for any prior budget year. In all fiscal years

subsequent to budget year 1981, municipalities shall, in deriving their final appropriations for the immediately preceding budget year upon which the 2.5% annual increase is calculated, treat the amounts of the proceeds of the sale of municipal assets appropriated in their budgets for the immediately preceding year as exceptions to the final appropriations under section 3 of P.L.1976, c.68 (C.40A:4-45.3).

7. Section 4 of P.L.1976, c.68 (C.40A:4-45.4) is amended to read as follows:

**C.40A:4-45.4 Limitation on increase in county tax levies over previous year; exceptions.**

4. In the preparation of its budget, a county may not increase the county tax levy to be apportioned among its constituent municipalities in excess of 2.5% or the cost-of-living adjustment, whichever is less, of the previous year's county tax levy, subject to the following exceptions:

a. The amount of revenue generated by the increase in valuations within the county, based solely on applying the preceding year's county tax rate to the apportionment valuation of new construction or improvements within the county, and such increase shall be levied in direct proportion to said valuation;

b. Capital expenditures, including appropriations for current capital expenditures, whether in the capital improvement fund or as a component of a line item elsewhere in the budget, provided that any such current capital expenditures would be otherwise bondable under the requirements of N.J.S.40A:2-21 and 40A:2-22;

c. (1) An increase based upon emergency temporary appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent situation or event which immediately endangers the health, safety or property of the residents of the county, and over which the governing body had no control and for which it could not plan and emergency appropriations made pursuant to N.J.S.40A:4-46. Emergency temporary appropriations and emergency appropriations shall be approved by at least two-thirds of the governing body and by the Director of the Division of Local Government Services, and shall not exceed in the aggregate 3% of the previous year's final current operating appropriations.

(2) (Deleted by amendment, P.L.1990, c.89.)

The approval procedure in this subsection shall not apply to appropriations adopted for a purpose referred to in subsection d. or f. below;

d. All debt service;

e. (Deleted by amendment, P.L.1990, c.89.)

f. Amounts required to be paid pursuant to (1) any contract with respect to use, service or provision of any project, facility or public improvement for



water, sewerage, parking, senior citizen housing or any similar purpose, or payments on account of debt service therefor, between a county and any other county, municipality, school or other district, agency, authority, commission, instrumentality, public corporation, body corporate and politic or political subdivision of this State; and (2) any lease of a facility owned by a county improvement authority when the lease payment represents the proportionate amount necessary to amortize the debt incurred by the authority in providing the facility which is leased, in whole or in part;

g. That portion of the county tax levy which represents funding to participate in any federal or State aid program and amounts received or to be received from federal, State or other funds in reimbursement for local expenditures. If a county provides matching funds in order to receive the federal or State or other funds, only the amount of the match which is required by law or agreement to be provided by the county shall be excepted;

h. (Deleted by amendment, P.L.1987, c.74.)

i. (Deleted by amendment, P.L.1990, c.89.)

j. (Deleted by amendment, P.L.1990, c.89.)

k. (Deleted by amendment, P.L.1990, c.89.)

l. (Deleted by amendment, P.L.2004, c.74.)

m. (Deleted by amendment, P.L.1990, c.89.)

n. (Deleted by amendment, P.L.1990, c.89.)

o. (Deleted by amendment, P.L.1990, c.89.)

p. Extraordinary expenses, approved by the Local Finance Board, required for the implementation of an interlocal services agreement;

q. Any expenditure mandated as a result of a natural disaster, civil disturbance or other emergency that is specifically authorized pursuant to a declaration of an emergency by the President of the United States or by the Governor;

r. Expenditures for the cost of services mandated by any order of court, by any federal or State statute, or by administrative rule, directive, order, or other legally binding device issued by a State agency which has identified such cost as mandated expenditures on certification to the Local Finance Board by the State agency;

s. That portion of the county tax levy which represents funding to a county college in excess of the county tax levy required to fund the county college in local budget year 1992;

t. (Deleted by amendment, P.L.2004, c.74.)

u. Expenditures for the administration of general public assistance pursuant to P.L.1995, c.259 (C.40A:4-6.1 et al.);

v. Amounts in a separate line item of a county budget that are expended on tick-borne disease vector management activities undertaken pursuant to P.L.1997, c.52 (C.26:2P-7 et al.);

w. Amounts expended by a county under an interlocal services agreement entered into pursuant to the "Interlocal Services Act," P.L.1973, c.208 (C.40:8A-1 et seq.) entered into after the effective date of P.L.2000, c.126 (C.52:13H-21 et al.) or amounts expended under a joint contract pursuant to the "Consolidated Municipal Service Act," P.L.1952, c.72 (C.40:48B-1 et seq.) entered into after the effective date of P.L.2000, c.126 (C.52:13H-21 et al.);

x. Amounts appropriated in the first three years after the effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for liability insurance, workers' compensation insurance and employee group insurance;

y. Amounts appropriated in the first three years after the effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for costs of domestic security preparedness and responses to incidents and threats to domestic security.

In the first full year where an existing appropriation or expenditure that is subject to budget limitations is made an exception to budget limitations, a county shall deduct from its final appropriations upon which its permissible expenditures are calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2) the amount which the county expended for that purpose during the last full budget year, or portion thereof, in which the purpose so excepted was funded from appropriations in the county budget.

In the first full year where an existing appropriation or expenditure that is not subject to budget limitations is made subject to budget limitations, a county shall add to its final appropriations upon which its permissible expenditures are calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2) the amount which the county expended for that purpose during the last full budget year, or portion thereof, in which the purpose so excepted was funded from appropriations in the county budget.

8. Section 7 of P.L.1983, c.49 (C.40A:4-45.14) is amended to read as follows:

**C.40A:4-45.14 Permissible increase in appropriations.**

7. a. Notwithstanding the provisions of section 2, 3 or 4 of P.L.1976, c.68 (C.40A:4-45.2, 40A:4-45.3 or 40A:4-45.4) to the contrary, in any year for which the cost-of-living adjustment is equal to or less than 2.5%, a county may, by resolution approved by a majority vote of the full membership of the governing body, provide that in the local fiscal year to which the resolution applies, the tax levy of the county shall be increased by a percentage rate greater than the cost-of-living adjustment, but not to exceed 3.5% over the previous year's county tax levy.

b. Notwithstanding the provisions of section 2, 3 or 4 of P.L.1976, c.68 (C.40A:4-45.2, 40A:4-45.3 or 40A:4-45.4) to the contrary, in any year in

which the cost-of-living adjustment is equal to or less than 2.5% a municipality may, by ordinance approved by a majority vote of the full membership of the governing body, provide that in the local fiscal year to which the ordinance applies, the final appropriations of the municipality shall be increased by a percentage rate greater than the cost-of-living adjustment, but not to exceed 3.5% over the previous year's final appropriations.

c. The ordinance or resolution, as appropriate, shall be introduced after the beginning of the local fiscal year to which it applies and prior to the date provided by law for the introduction and approval of the annual budget of the municipality or county. The ordinance or resolution shall state the greater percentage rate to be adopted and the additional amount of increased final appropriations or tax levy which that greater percentage rate represents over that which the 2.5% rate or cost-of-living adjustment, as appropriate represents. The ordinance or resolution may, thereafter, be adopted, after publication and a public hearing separately afforded upon 10 days' notice duly published, by a majority vote of the authorized membership of the governing body. Any procedures provided in a form of local government for the exercise of veto powers by a mayor or county executive with respect to ordinances generally shall pertain. An ordinance or resolution so adopted shall, notwithstanding any other provision of law, take effect immediately upon adoption.

Upon adoption of the ordinance or resolution, the permissible final appropriations of the municipality, or permissible county tax levy of the county, shall be calculated for the year as provided in section 3 or 4 of P.L.1976, c.68 (C.40A:4-45.3 or 40A:4-45.4), except that the percentage rate so adopted shall be used. The final appropriations or county tax levy so calculated shall be used in the immediately following year for the purposes of section 2 of P.L.1976, c.68 (C.40A:4-45.2).

A copy of any ordinance or resolution introduced pursuant to this section shall be filed with the Director of the Division of Local Government Services within five days of introduction, and a copy of the ordinance or resolution adopted shall be filed with the director within five days of adoption.

In any year for which an ordinance is adopted by a municipality pursuant to this section, no referendum shall be held in that municipality pursuant to subsection i. of section 3 of P.L.1976, c.68 (C.40A:4-45.3); provided that a municipality may hold a special election if required by law pursuant to that subsection.

9. Section 1 of P.L.1994, c.100 (C.40A:4-45.15a) is amended to read as follows:

**C.40A:4-45.15a Municipality permitted certain final appropriations.**

1. a. (Deleted by amendment, P.L.2004, c.74.)
- b. Notwithstanding any provisions of P.L.1976, c.68 (C.40A:4-45.1 et seq.) to the contrary, a municipality, which, for any local budget year beginning on or after July 1, 2004 for which the cost-of-living adjustment is equal to or less than 2.5%, increases its final appropriations in an amount less than 3.5%, shall be permitted, after adoption of an ordinance by the governing body, to appropriate the difference between the amount of its actual final appropriations and the 3.5% percentage rate, as an exception to its final appropriations in either of the next two succeeding years. In the year immediately following the year in which the amount of difference is so appropriated, the amount of difference shall be added to the final appropriations of the preceding year for the purposes of section 2 of P.L.1976, c.68 (C.40A:4-45.2).

10. Section 2 of P.L.1994, c.100 (C.40A:4-45.15b) is amended to read as follows:

**C.40A:4-45.15b County permitted certain final appropriations, county tax levy.**

2. a. (Deleted by amendment, P.L.2004, c.74.)
- b. Notwithstanding any provisions of P.L.1976, c.68 (C.40A:4-45.1 et seq.) to the contrary, a county, which, for any local budget year beginning on or after January 1, 2005 for which the cost-of-living adjustment is equal to or less than 2.5%, increases its final appropriations or county tax levy in an amount less than 3.5%, shall be permitted, after adoption of a resolution by the governing body, to appropriate the difference between the amount of its actual final appropriations or county tax levy and the 3.5% percentage rate, as an exception to its final appropriations or county tax levy in either of the next two succeeding years. In the year immediately following the year in which the amount of difference is so appropriated, the amount of difference shall be added to the final appropriations or county tax levy of the preceding year for the purposes of section 2 of P.L.1976, c.68 (C.40A:4-45.2).

**C.40A:4-45.15c Amount of difference, certain; available for appropriation.**

11. Notwithstanding the provisions of sections 1 and 2 of P.L.1994, c.100 (C.40A:4-45.15a and C.40A:4-45.15b) to the contrary, the amount of difference remaining as of June 30, 2003 for appropriation in the next two succeeding local budget years shall remain in place and be available for appropriation by a county or municipality.

12. This act shall take effect upon the enactment into law of P.L.2004, c.40 (C.54A:9-29 et al.), P.L.2004, c.73 (C.18A:7F-5 et al.), and P.L.2004, c. 85.

Approved July 1, 2004.

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## CHAPTER 75

AN ACT concerning enterprise zones and amending P.L.1983, c.303 and P.L.1995, c.382.

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

1. Section 3 of P.L.1983, c.303 (C.52:27H-62) is amended to read as follows:

**C.52:27H-62 Definitions.**

3. As used in this act:

a. "Enterprise zone" or "zone" means an urban enterprise zone designated by the authority pursuant to this act;

b. "Authority" means the New Jersey Urban Enterprise Zone Authority created by this act;

c. "Qualified business" means any entity authorized to do business in the State of New Jersey which, at the time of designation as an enterprise zone or a UEZ-impacted business district, is engaged in the active conduct of a trade or business in that zone or district; or an entity which, after that designation but during the designation period, becomes newly engaged in the active conduct of a trade or business in that zone or district and has at least 25% of its full-time employees employed at a business location in the zone or district, meeting one or more of the following criteria:

(1) Residents within the zone, the district, within another zone or within a qualifying municipality; or

(2) Unemployed for at least six months prior to being hired and residing in New Jersey, and recipients of New Jersey public assistance programs for at least six months prior to being hired, or either of the aforesaid; or

(3) Determined to be low income individuals pursuant to the Workforce Investment Act of 1998, Pub.L.105-220 (29 U.S.C. s.2811);

d. "Qualifying municipality" means any municipality in which there was, in the last full calendar year immediately preceding the year in which application for enterprise zone designation is submitted pursuant to section

14 of P.L.1983, c.303 (C.52:27H-73), an annual average of at least 2,000 unemployed persons, and in which the municipal average annual unemployment rate for that year exceeded the State average annual unemployment rate; except that any municipality which qualifies for State aid pursuant to P.L.1978, c.14 (C.52:27D-178 et seq.) shall qualify if its municipal average annual unemployment rate for that year exceeded the State average annual unemployment rate. The annual average of unemployed persons and the average annual unemployment rates shall be estimated for the relevant calendar year by the Office of Labor Planning and Analysis of the State Department of Labor and Workforce Development. In addition to those municipalities that qualify pursuant to the criteria set forth above, that municipality accorded priority designation pursuant to subsection e. of section 7 of P.L.1983, c.303 (C.52:27H-66), those municipalities set forth in paragraph (7), paragraph (8) of section 3 of P.L.1995, c.382 (C.52:27H-66.1), and paragraph (9) of section 3 of P.L.1995, c.382 as amended by section 3 of P.L.2004, c.75 (C.52:27H-66.1), and the municipalities in which the three additional enterprise zones, including the joint enterprise zone, are to be designated pursuant to criteria according priority consideration for designation of the zones pursuant to section 12 of P.L.2001, c.347 (C.52:27H-66.7) shall be deemed qualifying municipalities;

e. "Public assistance" means income maintenance funds administered by the Department of Human Services or by a county welfare agency;

f. "Zone development corporation" means a nonprofit corporation or association created or designated by the governing body of a qualifying municipality to formulate and propose a preliminary zone development plan pursuant to section 9 of P.L.1983, c.303 (C.52:27H-68) and to prepare, monitor, administer and implement the zone development plan;

g. "Zone development plan" means a plan adopted by the governing body of a qualifying municipality for the development of an enterprise zone therein, and for the direction and coordination of activities of the municipality, zone businesses and community organizations within the enterprise zone toward the economic betterment of the residents of the zone and the municipality;

h. "Zone neighborhood association" means a corporation or association of persons who either are residents of, or have their principal place of employment in, a municipality in which an enterprise zone has been designated pursuant to this act; which is organized under the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes; and which has for its principal purpose the encouragement and support of community activities within, or on behalf of, the zone so as to (1) stimulate economic activity, (2) increase or preserve residential amenities, or (3) otherwise

encourage community cooperation in achieving the goals of the zone development plan;

- i. "Enterprise zone assistance fund" or "assistance fund" means the fund created by section 29 of P.L.1983, c.303 (C.52:27H-88); and
- j. "UEZ-impacted business district" or "district" means an economically-distressed business district classified by the authority as having been negatively impacted by two or more adjacent urban enterprise zones in which 50% less sales tax is collected pursuant to section 21 of P.L.1983, c.303 (C.52:27H-80).

2. Section 7 of P.L.1983, s.303 (C.52:27H-66) is amended to read as follows:

**C.52:27H-66 Designation of enterprise zones.**

7. The authority shall designate enterprise zones from among those areas of qualifying municipalities determined to be eligible pursuant to P.L.1983, s.303. No more than 32 enterprise zones shall be in effect at any one time. No more than one enterprise zone shall be designated in any one municipality. Except as otherwise provided by section 11 of P.L.2001, c.347 (C.52:27H-66.6), any designation granted shall be for a period of 20 years, beginning with the year in which a zone is eligible for an exemption to the extent of 50% of the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.), and shall not be renewed at the end of that period. In designating enterprise zones the authority shall seek to avoid excessive geographic concentration of zones in any particular region of the State. At least six of the 10 additional enterprise zones authorized pursuant to section 3 of P.L.1993, c.367 shall be located in counties in which enterprise zones have not previously been designated and shall be designated within 90 days of the date of the submittal of an application and zone development plan. The authority shall accept applications within 90 days of the effective date of P.L.1993, c.367. Notwithstanding the provisions of P.L.1983, c.303 (C.52:27H-60 et seq.) to the contrary, the six additional enterprise zones to be designated by the authority pursuant to the criteria for priority consideration in this section shall be entitled to an exemption to the extent of 50% of the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.). The following criteria shall be utilized in according priority consideration for designation of these zones by the authority:

- a. One zone shall be located in a county of the second class with a population greater than 595,000 and less than 675,000 according to the latest federal decennial census and shall be located in the qualifying municipality in that county with the highest annual average number of unemployed

persons and the highest average annual unemployment rate for the 1992 calendar year according to the estimate by the State Department of Labor and Workforce Development;

b. Two zones shall be located in a county of the second class with a population greater than 445,000 and less than 455,000 according to the latest federal decennial census, one of which shall be located in the qualifying municipality in that county with the highest annual average number of unemployed persons and the highest average annual unemployment rate for the 1992 calendar year according to the estimate by the State Department of Labor and Workforce Development, and one of which shall be located in the qualifying municipality in that county with the second highest annual average number of unemployed persons and the second highest average annual unemployment rate for the 1992 calendar year according to the estimate by the State Department of Labor and Workforce Development;

c. One zone shall be located in a county of the third class with a population greater than 84,000 and less than 92,000 according to the latest federal decennial census and shall be located in the qualifying municipality in that county with the highest annual average number of unemployed persons and the highest average annual unemployment rate for the 1992 calendar year according to the estimate by the State Department of Labor and Workforce Development;

d. One zone shall be located within two noncontiguous qualifying municipalities but comprised of not more than two noncontiguous areas each having a continuous border, if:

(1) both municipalities are located in the same county which shall be a county of the fifth class with a population greater than 500,000 and less than 555,000 according to the latest federal decennial census;

(2) the two municipalities submit a joint application and zone development plan; and

(3) each of the municipalities has a population greater than 16,000 and less than 30,000 and a population density of more than 5,000 persons per square mile, according to the latest federal decennial census; and

e. One zone shall be located within a municipality having a population greater than 38,000 and less than 46,000 according to the latest federal decennial census if the municipality is located within a county of the fifth class with a population greater than 340,000 and less than 440,000 according to the latest federal decennial census.

3. Section 3 of P.L.1995, c.382 (C.52:27H-66.1) is amended to read as follows:



**C.52:27H-66.1 Additional zones authorized.**

3. The additional seven zones authorized pursuant to P.L.1995, c.382 (C.52:27H-66.1 et al.), the additional zone authorized pursuant to P.L.2003, c.285, and the additional zone designated pursuant to P.L.2004, c.75, shall be designated within 90 days of the date of the submittal of an application and zone development plan. The authority shall accept applications within 90 days of the effective date of P.L.1995, c.382 (C.52:27H-66.1 et al.) or P.L.2003, c.285, as applicable, for those zones that fulfill the criteria set forth in this section. Notwithstanding the provisions of P.L.1983, c.303 (C.52:27H-60 et seq.) to the contrary, the nine additional enterprise zones to be designated by the authority pursuant to the criteria for priority consideration set forth in this section shall be entitled to an exemption to the extent of 50% of the tax imposed under the "Sales and Use Tax Act," P.L.1966, c.30 (C.54:32B-1 et seq.). The following criteria shall be utilized in according priority consideration for designation of the seven additional enterprise zones authorized pursuant to P.L.1995, c.382 (C.52:27H-66.1 et al.), the additional enterprise zone authorized pursuant to P.L.2003, c.285, and the additional zone designated pursuant to P.L.2004, c.75:

(1) One zone shall be located in a qualifying municipality with a population greater than 55,000 and less than 65,000 according to the latest federal decennial census in a county of the first class with a population density greater than 6,100 and less than 6,700 persons per square mile according to the latest federal decennial census provided that the qualifying municipality is contiguous to a municipality in which an enterprise zone is designated;

(2) One zone shall be located in a qualifying municipality with a population greater than 70,000 and less than 80,000 according to the latest federal decennial census;

(3) One zone shall be located in a qualifying municipality with a population greater than 38,000 and less than 39,500 according to the latest federal decennial census;

(4) One zone shall be located in a qualifying municipality with a population greater than 45,000 and less than 55,000 according to the latest federal decennial census;

(5) One zone shall be located in a qualifying municipality with a population greater than 21,000 and less than 22,000;

(6) One zone shall be located in a qualifying municipality with a population greater than 29,000 and less than 32,000 according to the latest federal decennial census;

(7) One zone shall be located within a qualifying municipality having a population greater than 7,000 and less than 9,000 according to the latest federal decennial census in a county of the first class with a population

greater than 550,000 and less than 560,000 according to the latest federal decennial census;

(8) An additional zone shall be located within a qualifying municipality with a population greater than 11,400 and less than 11,600 according to the latest federal decennial census in a county of the second class with a population greater than 500,000 and less than 520,000 according to the latest federal decennial census; and

(9) An additional zone shall be located within a qualifying municipality with a population greater than 48,000 and less than 49,000 according to the latest federal decennial census in a county of the second class with a population of greater than 750,000 according to the latest federal decennial census.

4. This act shall take effect immediately.

Approved July 1, 2004.

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## CHAPTER 76

AN ACT concerning pediatric rehabilitation hospitals and amending P.L.2001, c.393.

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

1. Section 2 of P.L.2001, c.393 (C.30:4D-7h) is amended to read as follows:

**C.30:4D-7h Reimbursement by State Medicaid program, rates; other costs.**

2. a. A pediatric rehabilitation hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) with 30 or fewer beds shall be reimbursed 100% of its Medicaid allowable reimbursable costs as defined by Medicare Principles of Reimbursement, subject to the "Tax Equity and Fiscal Responsibility Act of 1982" (TEFRA), Pub.L.97-248 as amended, and adjusted for occupancy, if applicable.

Any 2001, 2002 or 2003 Medicare cost reports that are not settled for Medicaid reimbursement on or before July 1, 2004 shall be prospectively settled, based on Medicaid allowable reimbursable costs as defined by Medicare Principles of Reimbursement, subject to TEFRA, and adjusted for occupancy, if applicable.

b. A pediatric rehabilitation hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) with more than 30 beds shall be reimbursed a prospective per diem rate by the State Medicaid program for Medicaid fee-for-service recipients.

The initial prospective per diem rate shall be based on the total allowable cost for Medicaid patients divided by the total Medicaid days from the calendar year 1999 Medicare/Medicaid cost report, and shall be considered the base year rate. If the hospital has been in operation less than two full years prior to fiscal year 1999, the prospective per diem rate will be set using its first finalized audited fiscal year 2000 Medicaid/Medicare cost report. The base year rate shall be updated each year by the economic factor specified in N.J.A.C.10:52-5.13.

The Commissioner of Human Services shall adopt regulations to permit a pediatric rehabilitation hospital to seek rate relief or to seek a new base year rate in the event the hospital has experienced an increase in its operating costs which would impact the existing per diem rate, net of capital costs, greater than 5%. The hospital shall furnish evidence of that increase in costs to the Division of Medical Assistance and Health Services in the Department of Human Services and request an adjustment to its prospective inpatient reimbursement rate.

c. A pediatric rehabilitation hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) shall be:

(1) reimbursed its outpatient costs based on applicable cost-based Medicare Principles of Reimbursement through the Medicare/Medicaid cost report, and shall not receive final reimbursement based on an outpatient prospective reimbursement methodology. If necessary, the Department of Human Services shall adopt regulations to specify an interim claims processing and payment methodology;

(2) entitled to a per diem adjustment to account for increases in its capital expenditures. Adjusted per diem payments shall begin upon project completion and facility operation. The adjustment shall be calculated based on the Medicaid share of the inpatient costs for any capital expenditures made on or after December 31, 2003. Utilizing data from the Medicare/Medicaid Cost Report, the Medicaid share shall be determined by dividing the combined total of Medicaid fee-for-service days and Medicaid managed care days by the total number of inpatient days; and the inpatient costs for capital expenditures shall be determined by dividing the hospital's inpatient costs by its total costs and multiplying that number by its total additional capital costs; and

(3) entitled to receive a per diem adjustment for its graduate medical education program, with the adjustment to be based on the Medicaid share of the costs incurred by the graduate medical education program. The Medicaid share shall be determined by dividing the Medicaid inpatient days by the total number of inpatient days and multiplying that number by the total amount of graduate medical education costs as reported on the Medicare/Medicaid cost report.

2. This act shall take effect immediately.

Approved July 1, 2004.

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## CHAPTER 77

AN ACT concerning use of the term "bank" and amending P.L.1948, c.67.

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

1. Section 18 of P.L.1948, c. 67 (C.17:9A-18) is amended to read as follows:

**C.17:9A-18 Names of banks, savings banks; use, certain, waiver.**

18. A. The name of every bank shall contain the word "bank" or "banking" or "trust," or a combination of the words "bank" or "banking" and "trust," except that no bank which is not qualified to exercise any of the powers specified in section 28 shall use the word "trust" as part of its name. Any bank which, immediately prior to the effective date of this act, lawfully used the word "savings" as part of its name, may continue the use thereof, but no other bank shall hereafter use such word as part of its name.

B. The name of every savings bank shall contain the words "savings bank" or "savings fund society" or "savings institution" or "institution for savings" or "bank for savings" or "bank." Any savings bank which, immediately prior to the effective date of this act, lawfully used the word "trust" as part of its name, may continue the use thereof, but no other savings bank shall hereafter use such word as part of its name.

C. No bank or savings bank shall assume a name identical with that of an existing banking institution, or so similar thereto that confusion may result therefrom; except that, if a bank or savings bank is organized to succeed another bank or savings bank pursuant to section 16, it may adopt the name of the bank or savings bank which it succeeds.

D. No person, other than a banking institution or bank holding company, shall use the words "bank" or "banker" or "banking" or "trust" or "savings" or any of them, as part of his or its name, or in any representations describing his or its powers, services or functions, except as otherwise permitted by law, provided, however, that the commissioner may waive the provisions of this subsection if the commissioner upon application determines that: (1) the applicant has used the requested name in at least one other state for at least six years and use of that name has not resulted in a pattern of confusion to consumers in that or any other state; (2) there is no risk of confusion to consumers in this State; (3) the services provided by an

applicant are not financial services; and (4) the applicant only does business with other commercial entities and not with consumers.

Upon receipt of an application for a waiver of the provisions of this subsection, the commissioner shall provide notice of that application to the New Jersey Bankers Association, the New Jersey League of Community Bankers, and any successor trade associations. Upon receipt of the notice from the commissioner, the trade associations or any member thereof shall have 30 days in which to provide written comments supporting or opposing the application to the commissioner. A violation of the provisions of this subsection shall be a misdemeanor, and the Superior Court shall have jurisdiction to enjoin such violation at the suit of the commissioner.

E. The provisions of subsection D of this section shall not apply to any corporation or association formed for the purpose of promoting the interests of banking institutions, the membership of which is comprised of banking institutions, their officers or other representatives; nor shall the said subsection apply to any partnership, association, or corporation, which, on the effective date of this act, lawfully used the words "bank," "banker," "banking," "trust," or "savings," or any of them, as part of its name.

F. The provisions of subsection D of this section shall not prevent the use of the word "savings" by a building and loan association or a savings and loan association, or by a corporation or association formed for the purpose of promoting the interests of building and loan associations or savings and loan associations, the membership of which is comprised of building and loan or savings and loan associations, their officers or other representatives.

G. The provisions of subsection D of this section shall not prevent the use of the word "trust" by a Real Estate Investment Trust as defined in 26 U.S.C. s.856.

2. This act shall take effect immediately.

Approved July 1, 2004.

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## CHAPTER 78

AN ACT concerning public acquisition and sales of real property by certain cities and supplementing P.L.1971, c.199 (C.40A:12-1 et seq.).

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

**C.40A:12-13.9 Public acquisition, sale of real property, municipality, certain; authority of mayor.**

1. Notwithstanding any provision of law to the contrary, in the case of a municipality with a population of 265,000 or greater, according to the latest federal decennial census, that has adopted a "Mayor-Council Plan" of government pursuant to the provisions of the "Optional Municipal Charter Law," P.L.1950, c.210 (C.40:69A-1 et seq.), no resolution pertaining to a transfer, exchange, lease, acquisition, or sale of real property shall be adopted by the municipal council unless first presented by the mayor. Nothing in P.L.1971, c.199 (C.40A:12-1 et seq.) shall be interpreted as altering the separation of powers that exists in municipalities with a population of 265,000 or greater, according to the latest federal decennial census, that have adopted a "Mayor-Council" plan of government pursuant to the provisions of the "Optional Municipal Charter Law," P.L.1950, c.210 (C.40:69A-1 et seq.), or assigning to the municipal council in such municipalities the entire and exclusive function, including all constituent elements, of transferring, exchanging, leasing, acquiring, and conveying real property. In municipalities with a population of 265,000 or greater, according to the latest federal decennial census, that have adopted a "Mayor-Council" plan of government pursuant to the provisions of the "Optional Municipal Charter Law," P.L.1950, c.210 (C.40:69A-1 et seq.), all administrative functions pertaining to the transfer, exchange, lease, acquisition, and conveyance of municipal property, including identifying the parcels to be transferred, exchanged, leased, acquired, or conveyed, identifying prospective sellers, purchasers or transferees and negotiating the terms and conditions of sale, shall be exercised by the mayor or his designee, subject to approval by the municipal council.

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

Approved July 2, 2004.

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**CHAPTER 79**

AN ACT concerning the examination of certain State tax records and files for study of discrimination in State employment and contracting and supplementing chapter 50 of Title 54 of the Revised Statutes.

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

**C.54:50-9.1 Report to aid study of past, present discrimination in State employment and contracting, tax information, certain.**

1. a. The Secretary of State, in overseeing the fulfillment of those duties assigned to the Governor's Study Commission on Discrimination in State Employment and Contracting, established by Executive Order No. 112 of 2000, may request that the Director of the Division of Taxation prepare a report which includes only that information which is necessary in order to allow for an assessment of the nature and scope of any past or present discrimination in State employment and contracting. This information shall be limited to the name of a taxpayer that is a vendor; the vendor's trade name; the vendor's address, county and municipality code, business code, size code indicating the number of employees, ownership code, standard industrial classification code, North American industry classification system code, business start date, business end date, and bond information; information on any subsidiaries of the vendor; and the income of the vendor. No additional tax information as it pertains to identifiable individuals, businesses or vendors shall be provided to the Secretary of State.

Upon receiving the request of the Secretary of State, the Director of the Division of Taxation shall forthwith prepare the report and forward it to the Secretary of State.

b. Upon receipt of the report, the Secretary of State shall make the report available to any consultant or agents and employees thereof who may be under contract with the commission in order to fulfill its responsibilities under the Executive Order. The consultant, and its agents and employees, shall be specifically subjected to the confidentiality provisions of R.S.54:50-8, including criminal penalties for unauthorized use and disclosure of information obtained from the report. Each such principal, agent and employee shall acknowledge by affidavit: receipt of a copy of the confidentiality provisions of the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.; an understanding of the obligation to maintain, and agreement to maintain, the confidentiality of taxpayer information; and an awareness that violation of the confidentiality provisions is punishable by law. The consultant shall furnish the director with the affidavit of each of its principals, agents and employees before gaining access to or examining the report.

c. In the event any portion of a study based on the information obtained pursuant to subsection a. of this section is challenged in the context of an administrative or judicial proceeding contesting the validity or accuracy of statistics, summaries or aggregates compiled from such information to create, update or expand a State study, and when it has been established that such information was actually used to create, update or expand the challenged State study, such information shall not be compelled through discovery or introduced into evidence without

a prior court order sealing the record, entered after in camera examination of the relevant information sought. When appropriate, information from the records and files in the director's custody that is not relevant to the issues in the administrative or judicial proceeding shall be redacted or excluded.

d. Upon its completion, copies of the report of the Governor's Study Commission on Discrimination in State Employment and Contracting shall be transmitted to the Senate President, the Speaker of the General Assembly, the Minority Leader of the Senate, the Minority Leader of the General Assembly, each member of the Senate State Government Committee or its successor, each member of the Assembly Commerce and Economic Development Committee or its successor and any other member of the State Senate or General Assembly with an interest in the commission's report.

2. This act shall take effect immediately and shall apply to any study begun prior to the effective date.

Approved July 2, 2004.

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## CHAPTER 80

AN ACT concerning operating a vessel while under the influence and amending P.L.1952, c.157 and P.L.1986, c.39.

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

1. Section 3 of P.L.1952, c.157 (C.12:7-46) is amended to read as follows:

**C.12:7-46 Penalties for operating vessel under the influence.**

3. a. No person shall operate a vessel on the waters of this State while under the influence of intoxicating liquor, a narcotic, hallucinogenic, or habit-producing drug or with a blood alcohol concentration of 0.08% or more by weight of alcohol. No person shall permit another who is under the influence of intoxicating liquor, a narcotic, hallucinogenic or habit-producing drug, or who has a blood alcohol concentration of 0.08% by weight of alcohol, to operate any vessel owned by the person or in his custody or control.

As used in this section, "vessel" means a power vessel as defined by section 2 of P.L.1995, c.401 (C.12:7-71) or a vessel which is 12 feet or greater in length.

A person who violates this section shall be subject to the following:

(1) For a first offense:

(i) if the person's blood alcohol concentration is 0.08% or higher but less than 0.10%, or the person operates a vessel while under the influence



of intoxicating liquor, or the person permits another person who is under the influence of intoxicating liquor to operate a vessel owned by him or in his custody or control or permits another person with a blood alcohol concentration of 0.08% or higher but less than 0.10% to operate a vessel, to a fine of not less than \$250 nor more than \$400; and to the revocation of the privilege to operate a vessel on the waters of this State for a period of one year from the date of conviction and to the forfeiting of the privilege to operate a motor vehicle over the highways of this State for a period of three months;

(ii) if the person's blood alcohol concentration is 0.10% or higher, or the person operates a vessel while under the influence of a narcotic, hallucinogenic or habit-producing drug, or the person permits another person who is under the influence of a narcotic, hallucinogenic or habit-producing drug to operate a vessel owned by him or in his custody or control, or permits another person with a blood alcohol concentration of 0.10% or more to operate a vessel, to a fine of not less than \$300 nor more than \$500; and to the revocation of the privilege to operate a vessel on the waters of this State for a period of one year from the date of conviction and to the forfeiting of the privilege to operate a motor vehicle over the highways of this State for a period of not less than seven months nor more than one year.

(2) For a second offense, to a fine of not less than \$500 nor more than \$1,000; to the performance of community service for a period of 30 days, in the form and on the terms as the court deems appropriate under the circumstances; and to imprisonment for a term of not less than 48 hours nor more than 90 days, which shall not be suspended or served on probation; and to the revocation of the privilege to operate a vessel on the waters of this State for a period of two years after the date of conviction and to the forfeiting of the privilege to operate a motor vehicle over the highways of this State for a period of two years.

(3) For a third or subsequent offense, to a fine of \$1,000; to imprisonment for a term of not less than 180 days, except that the court may lower this term for each day not exceeding 90 days during which the person performs community service, in the form and on the terms as the court deems appropriate under the circumstances; and to the revocation of the privilege to operate a vessel on the waters of this State for a period of 10 years from the date of conviction and to the forfeiting of the privilege to operate a motor vehicle over the highways of this State for a period of 10 years.

Upon conviction of a violation of this section, the court shall collect forthwith the New Jersey driver's license or licenses of the person so convicted and forward such license or licenses to the Chief Administrator of the New Jersey Motor Vehicle Commission. In the event that a person convicted under this section is the holder of any out-of-State motor vehicle driver's or vessel operator's license, the court shall not collect the license but

shall notify forthwith the Chief Administrator of the New Jersey Motor Vehicle Commission, who shall, in turn, notify appropriate officials in the licensing jurisdiction. The court shall, however, revoke the nonresident's driving privilege to operate a motor vehicle and the nonresident's privilege to operate a vessel in this State.

b. A person who has been convicted of a previous violation of this section need not be charged as a second or subsequent offender in the complaint made against him in order to render him liable to the punishment imposed by this section against a second or subsequent offender. If a second offense occurs more than 10 years after the first offense, the court shall treat a second conviction as a first offense for sentencing purposes and, if a third offense occurs more than 10 years after the second offense, the court shall treat a third conviction as a second offense for sentencing purposes.

c. If a court imposes a term of imprisonment under this section, the person may be sentenced to the county jail, to the workhouse of the county where the offense was committed, or to an inpatient rehabilitation program approved by the Chief Administrator of the New Jersey Motor Vehicle Commission and the Director of the Division of Alcoholism and Drug Abuse in the Department of Health and Senior Services.

d. In the case of any person who at the time of the imposition of sentence is less than 17 years of age, the period of the suspension of driving privileges authorized herein, including a suspension of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period as fixed by the court of not less than three months after the day the person reaches the age of 17 years. If the driving or vessel operating privilege of any person is under revocation, suspension, or postponement for a violation of any provision of this title or Title 39 of the Revised Statutes at the time of any conviction of any offense defined in this section, the revocation, suspension, or postponement period imposed herein shall commence as of the date of termination of the existing revocation, suspension or postponement. A second offense shall result in the suspension or postponement of the person's privilege to operate a motor vehicle for six months. A third or subsequent offense shall result in the suspension or postponement of the person's privilege to operate a motor vehicle for two years. The court before whom any person is convicted of or adjudicated delinquent for a violation shall collect forthwith the New Jersey driver's license or licenses of the person and forward such license or licenses to the Chief Administrator of the New Jersey Motor Vehicle Commission along with a report indicating the first and last day of the suspension or postponement period imposed by the court pursuant to this section. If the court is for any reason unable to collect the license or licenses of the person, the court shall cause a report of the conviction or adjudication of delinquency

to be filed with the chief administrator. That report shall include the complete name, address, date of birth, eye color, and sex of the person and shall indicate the first and last day of the suspension or postponement period imposed by the court pursuant to this section. The court shall inform the person orally and in writing that if the person is convicted of personally operating a motor vehicle or a vessel during the period of license suspension or postponement imposed pursuant to this section, the person shall, upon conviction, be subject to the penalties set forth in R.S.39:3-40 or section 14 of P.L.1995, c.401 (C.12:7-83), whichever is appropriate. A person shall be required to acknowledge receipt of the written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of R.S.39:3-40 or section 14 of P.L.1995, c.401 (C.12:7-83). If the person is the holder of a driver's or vessel operator's license from another jurisdiction, the court shall not collect the license but shall notify forthwith the chief administrator who shall notify the appropriate officials in the licensing jurisdiction. The court shall, however, in accordance with the provisions of this section, revoke the person's non-resident driving or vessel operating privilege, whichever is appropriate, in this State.

e. In addition to any other requirements provided by law, a person convicted under this section shall satisfy the screening, evaluation, referral program and fee requirements of the Division of Alcoholism's Intoxicated Driving Programs Unit. A fee of \$80 shall be payable to the Alcohol Education, Rehabilitation and Enforcement Fund established under section 3 of P.L.1983, c.531 (C.26:2B-32), by the convicted person in order to defray the costs of the screening, evaluation and referral by the Intoxicated Driving Programs Unit. Failure to satisfy this requirement shall result in the immediate forfeiture of the privilege to operate a vessel on the waters of this State or the continuation of revocation until the requirements are satisfied.

f. In addition to any other requirements provided by law, a person convicted under this section shall be required after conviction to complete a boat safety course from the list approved by the Superintendent of State Police pursuant to section 1 of P.L.1987, c.453 (C.12:7-60), which shall be completed prior to the restoration of the privilege to operate a vessel which may have been revoked or suspended for a violation of the provisions of this section. Failure to satisfy this requirement shall result in the immediate revocation of the privilege to operate a vessel on the waters of this State, or the continuation of revocation until the requirements of this subsection are satisfied.

2. Section 7 of P.L.1986, c.39 (C.12:7-55) is amended to read as follows:

**C.12:7-55 Implied consent.**

7. a. (1) A person who operates a power vessel or a vessel which is 12 feet or greater in length on the waters of this State shall be deemed to have given his consent to the taking of samples of his breath for the purpose of making chemical tests to determine the content of alcohol in his blood, except that the taking of samples shall be made in accordance with the provisions of P.L.1986, c.39 and at the request of a member of the State Police or a law enforcement officer who has reasonable grounds to believe that the person has been operating a vessel in violation of the provisions of section 3 of P.L.1952, c.157 (C.12:7-46).

(2) Whenever an operator has been involved in an accident resulting in death, bodily injury or property damage, an officer shall consider that fact along with all other facts and circumstances in determining under paragraph (1) of this subsection whether there are reasonable grounds to believe a person is operating a vessel in violation of the provisions of section 3 of P.L.1952, c.157 (C.12:7-46).

b. A record of the taking of the sample, disclosing the date and time thereof, as well as the result of any chemical test, shall be made and a copy shall be furnished or made available to the person so tested, upon his request.

c. In addition to the samples taken and tests made at the direction of a member of the State Police or a law enforcement officer, the person tested shall be permitted to have samples taken and chemical tests of his breath, urine or blood made by a person or physician of his own selection.

d. A member of the State Police or a law enforcement officer shall inform the person tested of his rights under subsections b. and c. of this section.

e. No chemical test, as provided in this section, or specimen necessary for a test, may be made or taken forcibly and against physical resistance thereto by the defendant. A member of the State Police or a law enforcement officer shall, however, inform the person arrested of the consequences of refusing to submit to the test, in accordance with section 9 of P.L.1986, c.39 (C.12:7-57). A standard statement, prepared by the Chief Administrator of the New Jersey Motor Vehicle Commission shall be read by a member of the State Police or a law enforcement officer to the person under arrest.

3. Section 8 of P.L.1986, c.39 (C.12:7-56) is amended to read as follows:

**C.12:7-56 Methods, techniques.**

8. Chemical analyses of the arrested person's breath, to be considered valid under the provisions of section 7 of P.L.1986, c.39 (C.12:7-55) shall have been performed according to methods approved by the Attorney General and by a person certified for this purpose by the Attorney General.

The Attorney General is authorized to approve satisfactory techniques or methods, to ascertain the qualifications and competence of individuals to conduct the analyses, and to make certifications of the individuals. Certifications shall be subject to termination or revocation at the discretion of the Attorney General. The Attorney General shall prescribe a form for reports of the chemical analysis of breath to be used by law enforcement officers and others acting in accordance with the provisions of section 7 of P.L.1986, c.39 (C.12:7-55). The forms shall be sequentially numbered. Each chief of police, in the case of forms distributed to law enforcement officers and others in his municipality, or the other officer, board, or official having charge or control of the law enforcement department, where there is no chief, and the Chief Administrator of the New Jersey Motor Vehicle Commission and the Superintendent of State Police, in the case of forms distributed to law enforcement officers and other personnel in their divisions, shall be responsible for the furnishing and proper disposition of the forms. Each responsible party shall prepare or have prepared records and reports relating to the forms and their disposition, in the manner and at such times as the Attorney General shall prescribe.

4. Section 9 of P.L.1986, c.39 (C.12:7-57) is amended to read as follows:

**C.12:7-57 Refusal to submit to chemical test; revocation of privileges, fines.**

9. a. A court shall revoke the privilege of a person to operate a power vessel or a vessel which is 12 feet or greater in length, if after being arrested for a violation of section 3 of P.L.1952, c.157 (C.12:7-46), the person refuses to submit to the chemical test provided for in section 7 of P.L.1986, c.39 (C.12:7-55) when requested to do so. The revocation shall be for one year unless the refusal was in connection with a second offense under section 3 of P.L.1952, c.157 (C.12:7-46), in which case the revocation period shall be for two years. If the refusal was in connection with a third or subsequent offense under section 3 of P.L.1952, c.157 (C.12:7-46), the revocation shall be for 10 years. The court also shall revoke the privilege of a person to operate a motor vehicle over the highways of this State for a period of: not less than seven months or more than one year for a first offense; two years for a second offense; and 10 years for a third or subsequent offense. The court shall also fine a person convicted under this section: not less than \$300 nor more than \$500 for a first offense; not less than \$500 or more than \$1,000 for a second offense; and \$1,000 for a third or subsequent offense.

b. The court shall determine by a preponderance of the evidence whether the arresting officer had probable cause to believe that the person had been operating or was in actual physical control of the vessel while under the influence of intoxicating liquor, or a narcotic, hallucinogenic or

habit-producing drug, whether the person was placed under arrest, and whether the person refused to submit to the test upon request of the officer. If these elements of the violation are not established, no conviction shall issue.

c. In addition to any other requirements provided by law, a person whose privilege to operate a vessel is revoked for refusing to submit to a chemical test shall satisfy the screening, evaluation, referral and program requirements of the Bureau of Alcohol Countermeasures in the Division of Alcoholism in the Department of Health and Senior Services. A fee of \$40 shall be payable to the Alcohol Education, Rehabilitation and Enforcement Fund established under section 3 of P.L.1983, c.531 (C.26:2B-32), by the convicted person in order to defray the costs of the screening, evaluation and referral by the Bureau of Alcohol Countermeasures and the cost of an education or rehabilitation program. Failure to satisfy this requirement shall result in the immediate revocation of the privilege to operate a vessel on the waters of this State or the continuation of revocation until the requirements are satisfied. The revocation for a first offense may be concurrent with or consecutive to a revocation imposed for a conviction under the provisions of section 3 of P.L.1952, c.157 (C.12:7-46) arising out of the same incident; the revocation for a second or subsequent offense shall be consecutive to a revocation imposed for a conviction under the provisions of section 3 of P.L.1952, c.157 (C.12:7-46).

d. In addition to any other requirements provided by law, a person convicted under this section shall be required after conviction to complete a boat safety course from the list approved by the Superintendent of State Police pursuant to section 1 of P.L.1987, c.453 (C.12:7-60), which shall be completed prior to the restoration of the privilege to operate a vessel which may have been revoked or suspended for a violation of the provisions of this section. Failure to satisfy this requirement shall result in the immediate revocation of the privilege to operate a vessel on the waters of this State, or the continuation of revocation until the requirements of this subsection are satisfied.

5. This act shall take effect immediately.

Approved July 2, 2004.

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## CHAPTER 81

AN ACT concerning enrollment in State children's health insurance programs and making an appropriation.

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

1. The Legislature finds and declares that:
  - a. An estimated 70,000 low-income children in New Jersey lack health insurance, despite the fact that they probably are eligible for publicly-funded health insurance programs such as NJ FamilyCare and Medicaid;
  - b. A lack of health care coverage frequently results in health problems that often interfere with a child's ability to learn;
  - c. Despite substantial outreach efforts by the NJ FamilyCare and Medicaid programs, many uninsured, eligible children are not enrolled in these programs;
  - d. Many of these uninsured, low-income children receive free or reduced-price lunches through the National School Lunch Program, and our State's schools are uniquely positioned to promote student enrollment in NJ FamilyCare and Medicaid because of their relationship of trust with children and their parents; and
  - e. Facilitating enrollment in NJ FamilyCare and Medicaid of uninsured, low-income students who are eligible for the school lunch program will enhance the ability of these uninsured children to succeed in the classroom.
2. There is established the "NJ Express Enrollment for Children's Health Care Coverage" pilot program.

The Commissioner of Education, in conjunction with the Commissioner of Human Services, shall establish the pilot program in eight school districts in the State, of which at least two each are in the northern, central and southern areas of the State, respectively, and at least four of which are Abbott districts.

3. a. The Commissioner of Human Services, in consultation with the Commissioner of Education, shall, within the limits of funds appropriated for this purpose, contract with the Rutgers Center for State Health Policy to:
  - (1) facilitate enrollment of children in NJ FamilyCare and Medicaid, through use of information obtained through the school lunch application process, as provided in this act;
  - (2) develop a form, which shall be attached to or included with the school lunch application form for the 2004-2005 school year in those school districts that are participating in the pilot program, that requests information concerning the health insurance status of the child who is the subject of the school lunch application and that provides an opportunity for the parent or guardian to give consent for information to be shared with the Department of Human Services for the purpose of determining eligibility for NJ FamilyCare and Medicaid. The center may consult with the Secretary of

Agriculture and the Commissioners of Education and Human Services in developing the form; and

(3) conduct an analysis of the effectiveness of the pilot program in identifying children who are eligible for NJ FamilyCare and Medicaid and in increasing enrollment of uninsured children in these programs.

b. The center shall:

(1) report its preliminary findings concerning the pilot program by January 2005 to the Departments of Human Services and Education and the Senate Health, Human Services and Senior Citizens and Assembly Family, Women and Children's Services Committees; and

(2) issue a final report by April 1, 2005 to the Departments of Human Services and Education and the Senate Health, Human Services and Senior Citizens and Assembly Family, Women and Children's Services Committees, which report shall include any recommendations the center deems appropriate.

c. The Departments of Education and Human Services shall provide such information about school lunch applicants and children enrolled in NJ FamilyCare and Medicaid as the center requires to carry out its responsibilities under this act.

4. The Commissioner of Education, in consultation with the Commissioner of Human Services, shall ensure that:

a. each participating school district includes in its cover letter to parents for the school lunch application for the 2004-2005 school year a request that the parent or guardian sign both the school lunch application and the health insurance status information inquiry;

b. upon receipt of the completed school lunch application and health insurance status information inquiry forms, each participating school district determines if a child is eligible for free or reduced price school lunch, and if the child is eligible, makes a notation on the health insurance status information inquiry form indicating the child's eligibility status for free or reduced price school lunch, respectively; and

c. each participating school district forwards the completed health insurance status information inquiry form that is returned by a parent or guardian to the Rutgers Center for State Health Policy.

5. a. The Rutgers Center for State Health Policy shall promptly notify the Department of Human Services about any child who qualifies for school lunch and whose parent or guardian has indicated that the child is not insured and has given consent to share information with the department for the purpose of determining eligibility for NJ FamilyCare and Medicaid.



b. Upon receipt of notification from the center, the Division of Medical Assistance and Health Services in the Department of Human Services shall deem a child who is eligible for school lunch as presumptively eligible for Medicaid or NJ FamilyCare, as applicable.

c. The division shall:

(1) promptly make reasonable efforts to contact the child's parent or guardian in order to complete the eligibility determination process and enroll the child in NJ FamilyCare or Medicaid; and

(2) accept the income and State residency information provided on the school lunch application and verified by the school district as proof of income and residency for the purposes of determining a child's eligibility for NJ FamilyCare or Medicaid.

6. The Commissioners of Education and Human Services, in consultation with the Secretary of Agriculture, shall report jointly to the Legislature and the Governor by May 1, 2005 on the pilot program. The report shall include, but not be limited to, a discussion of any administrative obstacles that were encountered in carrying out the program. The report shall also make recommendations as to whether the program should be expanded Statewide.

7. There is appropriated \$90,000 from the General Fund to the Department of Human Services for the purpose of contracting with the Rutgers Center for State Health Policy as provided in section 3 of this act.

Approved July 2, 2004.

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## CHAPTER 82

AN ACT concerning marine law enforcement powers of members of the Division of State Police, and amending P.L.1986, c.150 and R.S.53:2-1.

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

1. Section 5 of P.L.1986, c.150 (C.53:1-11.14) is amended to read as follows:

**C.53:1-11.14 Powers, duties of marine law enforcement officers.**

5. Marine law enforcement officers within the bureau:

a. Shall have the powers of police officers as the superintendent may prescribe;

b. Shall enforce the laws of this State on the waters of the State and the land areas contiguous thereto;

c. Shall perform related law enforcement duties throughout the State as the superintendent may prescribe;

d. Shall have the power to stop and board a vessel in the waters of the State to determine whether the vessel complies with State and federal boating safety laws and shall have the power to order a vessel that does not comply with these laws to return immediately to shore; and

e. Shall have the power, in accordance with applicable State and federal laws, rules and regulations, to take appropriate action as authorized by the United States Coast Guard to assist the United States Coast Guard in the enforcement of any safety and security zone established by the United States Coast Guard Captain of the Port for the Port of New York and New Jersey or the Port of Philadelphia.

Nothing in this section shall limit the law enforcement authority of a member of the State Police assigned to the bureau by the superintendent, unless the superintendent shall so prescribe.

2. R.S.53:2-1 is amended to read as follows:

**Powers, duties; cooperation with other authorities.**

53:2-1. The members of the State Police shall be subject to the call of the Governor. They shall be peace officers of the State, shall primarily be employed in furnishing adequate police protection to the inhabitants of rural sections, shall give first aid to the injured and succor the helpless, and shall have in general the same powers and authority as are conferred by law upon police officers and constables.

They shall have power to prevent crime, to pursue and apprehend offenders and to obtain legal evidence necessary to insure the conviction of such offenders in the courts. They shall have power to execute any lawful warrant or order of arrest issued against any person, and to make arrests without warrant for violations of the law committed in their presence, and for felonies committed the same as are or may be authorized by law for other peace officers.

They may co-operate with any other State department, or any State or local authority in detecting crime, apprehending criminals and preserving law and order; but the State Police shall not be used as a posse in any municipality except upon order of the Governor when requested by the governing body of such municipality; provided, however, that the Superintendent of State Police, or the person in charge thereof, shall, upon request made to him by the superintendent of elections of any county of this State, assign for use on any election day officers and troopers, not to exceed fifteen in number in

any one county, to aid such superintendents of elections in the enforcement of the election laws of this State.

They may act as inspectors of motor vehicles and as wardens in the protection of the forests, and the fish and game of the State. With respect to enforcement of the provisions of the "New Jersey Alcoholic Beverage Control Act," Title 33 of the Revised Statutes, they shall have all the powers conferred upon "officers" pursuant to that title. They shall have the authority to investigate any offenses or violations occurring on the waters of this State, as defined in section 1 of P.L.1986, c.150 (C.53:1-11.10), and to stop and board a vessel in the waters of the State to determine whether the vessel complies with State and federal boating safety laws and shall have the power to order a vessel that does not comply with these laws to return immediately to shore. They shall have the authority, in accordance with applicable State and federal laws, rules and regulations, to take appropriate action as authorized by the United States Coast Guard to assist the United States Coast Guard in the enforcement of any safety and security zone established by the United States Coast Guard Captain of the Port for the Port of New York and New Jersey or the Port of Philadelphia. They shall have the authority to perform all of the duties of members of the State Capitol Police Force as defined in section 2 of P.L.1977, c.135 (C.52:17B-9.2).

3. This act shall take effect immediately.

Approved July 2, 2004.

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## CHAPTER 83

AN ACT concerning the financing of New Jersey Motor Vehicle Commission facilities and amending and supplementing P.L.1994, c.57.

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

1. Section 4 of P.L.1994, c.57 (C.34:1B-21.4) is amended to read as follows:

**C.34:1B-21.4 Issuance of Market Transition Facility, Motor Vehicle Commission bonds, notes.**

4. a. The authority shall have the power to issue Market Transition Facility bonds or notes in an amount not to exceed \$ 750 million, pursuant to the provisions of this act, under the powers given to it by and pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.), for the purpose of providing funds for the payment of the current and anticipated liabilities and expenses of the facility, as such liabilities and expenses are certified by the commissioner.

Bonds issued for the purpose of refinancing previously issued bonds or notes shall not be included in the calculation of the dollar amount limitation and bonds issued for the purpose of refinancing previously issued bonds or notes shall be approved by the Joint Budget Oversight Committee prior to the refinancing. The bonds or notes shall be secured wholly or in part by the monies in the Market Transition Facility Revenue Fund. The authority may establish a debt service reserve fund, which may be augmented or replenished from time to time from funds in the Facility Revenue Fund. All Market Transition Facility bonds shall have a final maturity of not later than July 1, 2011.

b. The authority shall also have the power to issue New Jersey Motor Vehicle Commission bonds, notes or other obligations, pursuant to P.L. 1994, c.57 (C.34:1B-21.1 et seq.) and to the powers given to it by and pursuant to P.L. 1974, c.80 (C.34:1B-1 et seq.), for the purpose of providing funds for the payment of any and all capital costs of New Jersey Motor Vehicle Commission facilities, including, but not limited to, the acquisition, demolition, construction or maintenance of all or any part of a New Jersey Motor Vehicle Commission facility; any other personal property necessary for, or ancillary to, any New Jersey Motor Vehicle Commission facility, including fixtures, furnishings and equipment, including computer equipment and computer software; site acquisition, site development, acquisition of land or other real property interests necessary in the development of a New Jersey Motor Vehicle Commission facility; the services of design professionals, such as engineers and architects; construction management, legal services, financing and administrative costs and expenses incurred in connection with any such project; provided, however, that bonds, notes or other obligations shall not be issued in an amount exceeding \$160 million in the aggregate without the prior approval of the Joint Budget Oversight Committee. Bonds issued for the purpose of refinancing previously issued bonds, notes or other obligations shall not be included in the calculation of the dollar amount limitation. The bonds, notes or other obligations shall be secured wholly or in part by the monies in the Market Transition Facility Revenue Fund from and after such time as all Market Transition Facility bonds, notes and obligations issued pursuant to the section and the costs thereof are discharged and no longer outstanding. The authority may establish a debt service reserve fund, which may be augmented or replenished from time to time from monies in the Market Transition Facility Revenue Fund.

c. Of the aggregate amount of New Jersey Motor Vehicle Commission bonds, notes or other obligations authorized to be issued in subsection b. of this section, \$10,000,000 of the proceeds of those bonds, notes or other obligations shall be transferred by the New Jersey Motor Vehicle Commission to the Administrative Office of the Courts for improvements to the

Automated Traffic System, which improvements shall be deemed included in the purpose of providing for the payment of the costs of any and all capital costs of the commission facilities.

2. Section 5 of P.L.1994, c.57 (C.34:1B-21.5) is amended to read as follows:

**C.34:1B-21.5 Powers of authority.**

5. a. For the purpose of providing funds for payment of current and anticipated liabilities and expenses of the facility, the authority shall have the power to provide for the funding or refunding of any bonds or notes, incur indebtedness, borrow money and issue bonds or notes secured in whole or in part by the monies in the Facility Revenue Fund. The bonds or notes shall be payable from the monies in the Facility Revenue Fund. The bonds or notes shall be authorized by resolution, which shall stipulate the manner of execution and form of the bonds, whether the bonds are in one or more series, the date or dates of issue, time or times of maturity, which shall not exceed 30 years, the rate or rates of interest payable on the bonds, the denomination or denominations in which the bonds are issued, conversion or registration privileges, the sources and medium of payment and place or places of payment, and terms of redemption. The bonds may be sold at a public or private sale at a price or prices determined by the authority.

b. For the purpose of providing funds for payment of any and all capital costs of New Jersey Motor Vehicle Commission facilities, including, but not limited to the acquisition, demolition, construction or maintenance of all or any part of a New Jersey Motor Vehicle Commission facility; any other personal property necessary for, or ancillary to, any New Jersey Motor Vehicle Commission facility, including fixtures, furnishings and equipment, including computer equipment and computer software; site acquisition, site development, acquisition of land or other real property interests necessary in the development of a New Jersey Motor Vehicle Commission facility; the services of design professionals, such as engineers and architects; construction management, legal services, financing and administrative costs and expenses incurred in connection with any such project, the authority shall have the power to provide for the funding or refunding of any bonds or notes, incur indebtedness, borrow money and issue bonds or notes secured in whole or in part by the monies in the Facility Revenue Fund from and after such time as all Market Transition Facility bonds, notes and obligations issued pursuant to section 4 of P.L.1994, c.57 (C.34:1B-21.4) and the costs thereof are discharged and no longer outstanding. The bonds or notes shall be payable solely from the monies in the Facility Revenue Fund. The bonds and notes shall be authorized by resolution, which shall stipulate the manner of execution and form of the bonds, whether the bonds are in one or more

series, the date or dates of issue, time or times of maturity, which shall not exceed 30 years, the rate or rates of interest payable on the bonds, the denomination or denominations in which the bonds are issued, conversion or registration privileges, the sources and medium of payment and place or places of payment, and terms of redemption. The bonds may be sold at a public or private sale at a price or prices determined by the authority.

**C.34:1B-21.5a Applicability of P.L.2004, c.83 to prior bond proceeds.**

3. Notwithstanding any other provisions of law to the contrary, the provisions of section 4 of P.L.1994, c.57 (C.34:1B-21.4) and section 5 of P.L.1994, c.57 (C.34:1B-21.5), as amended by this act, shall also apply to the use of the proceeds of bonds issued prior to the effective date of this act.

4. This act shall take effect immediately.

Approved July 2, 2004.

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## CHAPTER 84

AN ACT concerning certain abusive lending practices and amending P.L.2003, c. 64.

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

1. Section 2 of P.L.2003, c.64 (C.46:10B-23) is amended to read as follows:

**C.46:10B-23 Findings, declarations relative to abusive lending practices.**

2. The Legislature finds and declares that:

a. Abusive mortgage lending has become an increasing problem in this State, exacerbating the loss of equity in homes and causing an increase in the number of foreclosures in recent years. One of the most common forms of abusive lending is the making of loans that are equity-based, rather than income-based. The financing of points and fees in these loans provides immediate income to the originator and encourages the repeated refinancing of home loans. The lender's ability to sell loans reduces the incentive to ensure that the homeowner can afford the payments of the loan. As long as there is sufficient equity in the home, an abusive lender benefits even if the borrower is unable to make the payments and is forced to refinance. In addition, the financing of high points and fees causes the loss of precious equity in each refinancing and often leads to foreclosure.

b. Abusive lending has threatened the viability of many communities and caused decreases in home ownership. While the marketplace appears to operate effectively for conventional mortgages, too many homeowners find themselves victims of overreaching lenders who provide loans with unnecessarily high costs and terms that are unnecessary to secure repayment of the loan.

c. As competition and self-regulation have not eliminated the abusive terms from loans secured by a consumer's home, the consumer protection provisions of this act are necessary to encourage lending at reasonable rates with reasonable terms.

d. Pursuant to this 2004 amendatory act, the "New Jersey Home Ownership Security Act of 2002," P.L.2003, c.64 (C.46:10B-22 et seq.) was amended to delete the covered home loan category and the provisions of subsection b. of section 4 of P.L.2003, c.64 (C.46:10B-25) which prohibited flipping a home loan. The deletions of the covered home loan category and of the prohibition on flipping shall create no presumption that any home loan that has been refinanced is not unconscionable, and the deletions of the covered home loan category and of the prohibition on flipping shall create no presumption that any home loan that is refinanced does not constitute an unlawful practice under P.L.1960, c.39 (C.56:8-1 et seq.).

2. Section 3 of P.L.2003, c.64 (C.46:10B-24) is amended to read as follows:

**C.46:10B-24 Definitions relative to abusive lending practices.**

3. As used in this act:

"Affiliate" means any company that controls, is controlled by, or is under the common control with any company, as set forth in 12 U.S.C. s.1841 et seq.

"Bona fide discount points" means loan discount points which are:

- (1) Knowingly paid by the borrower;
- (2) Paid for the express purpose of reducing, and which result in a reduction of, the interest rate or time-price differential applicable to the loan;
- (3) In fact reducing the interest rate or time-price differential applicable to the loan from an interest rate which does not exceed the conventional mortgage rate for a home loan secured by a first lien, by more than two percentage points, or for a home loan secured by a junior lien, by more than three and one half percentage points; and

(4) Recouped within the first five years of the scheduled loan payments. Loan discount points will be considered to be recouped within the first five years of the scheduled loan payments if the reduction in the interest rate that is achieved by the payment of the loan discount points reduces the interest

charged on the scheduled payments such that the borrower's dollar amount of savings in interest over the first five years is equal to or exceeds the dollar amount of loan discount points paid by the borrower.

"Borrower" means any natural person obligated to repay the loan, including a coborrower, cosigner, or guarantor.

"Commissioner" means the Commissioner of Banking and Insurance.

"Conventional mortgage rate" means the most recently published annual yield on conventional mortgages published by the Board of Governors of the Federal Reserve System, as published in Statistical Release H.15 or any publication that may supersede it, as of the applicable time set forth in 12 C.F.R. 226.32(a)(1)(I).

"Conventional prepayment penalty" means any prepayment penalty or fee that may be collected or charged in a home loan, and that is authorized by law other than by this act, provided the home loan (1) does not have an annual percentage rate that exceeds the conventional mortgage rate by more than two percentage points; and (2) does not permit any prepayment fees or penalties that exceed two percent of the amount prepaid.

"Creditor" means a person who extends consumer credit that is subject to a finance charge or is payable by written agreement in more than four installments, and to whom the obligation is payable at any time. Creditor shall also mean any person brokering a home loan, which shall include any person who directly or indirectly solicits, processes, places, or negotiates home loans for others or who closes home loans which may be in the person's own name with funds provided by others and which loans are thereafter assigned to the person providing the funding of such loans, provided that creditor shall not include a person who is an attorney providing legal services to the borrower or a person or entity holding an individual or organization insurance producer license in the line of title insurance or a title insurance company, as defined by subsection c. of section 1 of P.L.1975, c.106 (C.17:46B-1), or any officer, director or employee thereof, providing services in the closing of a home loan who is not also funding the home loan and is not an affiliate of the creditor or an assignee that is subject to the provisions of section 6 of this act.

"Department" means the Department of Banking and Insurance.

"High-cost home loan" means a home loan for which the principal amount of the loan does not exceed \$350,000, which amount shall be adjusted annually to include the last published increase of the housing component of the national Consumer Price Index, New York- Northeastern New Jersey Region, in which the terms of the loan meet or exceed one or more of the thresholds as defined in this section.



"Home loan" means an extension of credit primarily for personal, family or household purposes, including an open-end credit plan, other than a reverse mortgage transaction, in which the loan is secured by:

(1) A mortgage or deed of trust on real estate in this State upon which there is located or there is to be located a one to six family dwelling which is or will be occupied by a borrower as the borrower's principal dwelling; or

(2) A security interest in a manufactured home which is or will be occupied by a borrower as the borrower's principal dwelling.

"Manufactured home" means a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length or, when erected on site is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with a permanent foundation when erected on land secured in conjunction with the real property on which the manufactured home is located and connected to the required utilities and includes the plumbing, heating, air-conditioning and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the federal National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. s.5401 et seq. Such term does not include rental property or second homes or manufactured homes when not secured in conjunction with the real property on which the manufactured home is located.

"Points and fees" means:

(1) All items listed in 15 U.S.C. s.1605(a)(1) through (4), except interest or the time- price differential;

(2) All charges listed in 15 U.S.C. s.1605(e);

(3) All compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name in a table-funded transaction;

(4) The cost of all premiums financed by the creditor, directly or indirectly for any credit life, credit disability, credit unemployment or credit property insurance, or any other life or health insurance, or any payments financed by the creditor directly or indirectly for any debt cancellation or suspension agreement or contract, except that insurance premiums calculated and paid on a monthly basis shall not be considered financed by the creditor;

(5) The maximum prepayment fees and penalties that may be charged or collected under the terms of the loan documents;

(6) All prepayment fees or penalties that are incurred by the borrower if the loan refinances a previous loan made or currently held by the same

creditor or an affiliate of the creditor, except that this paragraph shall not apply to a loan which refinances a previous loan made by the same broker and funded by another creditor; and

(7) For open-end loans, the points and fees are calculated by adding the total points and fees known at or before closing, including the maximum prepayment penalties which may be charged or collected under the terms of the loan documents if prepayment penalties are authorized by law other than by this act, plus the minimum additional fees the borrower would be required to pay to draw down an amount equal to the total credit line.

"Points and fees" shall not include the following items: title insurance premiums and fees, charges and premiums paid to a person or entity holding an individual or organization insurance producer license in the line of title insurance or a title insurance company, as defined by subsection c. of section 1 of P.L. 1975, c. 106 (C.17:46B-1); taxes, filing fees, and recording and other charges and fees paid or to be paid to public officials for determining the existence of or for perfecting, releasing, or satisfying a security interest; and reasonable fees paid to a person other than a creditor or an affiliate of the creditor or to the mortgage broker or an affiliate of the mortgage broker for the following, provided that the conditions in 12 C.F.R. s.226.4(c)(7) are met: fees for tax payment services; fees for flood certification; fees for pest infestation and flood determinations; appraisal fees; fees for inspections performed prior to closing; fees for credit reports; fees for surveys; attorneys' fees; notary fees; escrow charges; and fire and flood insurance premiums, provided that the conditions in 12 C.F.R. s.226.4(d)(2) are met.

"Rate" means that annual percentage rate for the loan calculated at closing based on the points and fees set forth in this act and according to the provisions of 15 U.S.C. s.1601 et seq. and the regulations promulgated thereunder by the Federal Reserve Board.

"Threshold" means any one of the following two items, as defined:

(1) "Rate threshold" means the annual percentage rate of the loan at the time the loan is consummated such that the loan is considered a "mortgage" under section 152 of the federal "Home Ownership and Equity Protection Act of 1994," Pub.L. 103-325 (15 U.S.C. s.1602(aa)), and the regulations promulgated by the Federal Reserve Board, including 12 C.F.R. s.226.32, without regard to whether the loan transaction is or may be a "residential mortgage transaction," as defined in 12 C.F.R. s.226.2(a)(24).

(2) "Total points and fees threshold" means that the total points and fees payable by the borrower at or before the loan closing, excluding either a conventional prepayment penalty or up to two bona fide discount points, exceed:

(a) 4.5% of the total loan amount if the total loan amount is \$40,000 or more; or

(b) the lesser of 6% of the total loan amount or \$1,000, if the total loan amount is less than \$20,000, and 6% if the total loan amount is \$20,000 or more but less than \$40,000.

"Total loan amount" means the principal of the loan minus those points and fees as defined in this section that are included in the principal amount of the loan. For open-end loans, the total loan amount shall be calculated using the total line of credit allowed under the home loan.

3. Section 4 of P.L.2003, c.64 (C.46:10B-25) is amended to read as follows:

**C.46:10B-25 Creditors, prohibited practices relative to home loans.**

4. a. No creditor making a home loan shall finance, directly or indirectly, any credit life, credit disability, credit unemployment or credit property insurance, or any other life or health insurance, or any payments directly or indirectly for any debt cancellation or suspension agreement or contract, except that insurance premiums or debt cancellation or suspension fees calculated and paid on a monthly basis shall not be considered financed by the creditor.

b. (Deleted by amendment, P.L.2004, c.84).

c. No creditor shall recommend or encourage default on an existing loan or other debt prior to and in connection with the closing or planned closing of a home loan that refinances all or any portion of that existing loan or debt.

d. No creditor shall charge a late payment fee in relation to a home loan except according to the following rules:

(1) The late payment fee may not be in excess of 5% of the amount of the payment past due.

(2) The fee may only be assessed by a payment past due for 15 days or more.

(3) The fee may not be charged more than once with respect to a single late payment. If a late payment fee is deducted from a payment made on the loan, and such deduction causes a subsequent default on a subsequent payment, no late payment fee may be imposed for such default. If a late payment fee has been once imposed with respect to a particular late payment, no such fee shall be imposed with respect to any future payment which would have been timely and sufficient, but for the previous default.

(4) No fee shall be charged unless the creditor notifies the borrower within 45 days following the date the payment was due that a late payment fee has been imposed for a particular late payment. No late payment fee may be collected from any borrower if the borrower informs the creditor that

nonpayment of an installment is in dispute and presents proof of payment within 45 days of receipt of the creditor's notice of the late fee.

(5) The creditor shall treat each and every payment as posted on the same date as it was received by the creditor, servicer, creditor's agent, or at the address provided to the borrower by the creditor, servicer, or the creditor's agent for making payments.

e. No home loan shall contain a provision that permits the creditor, in its sole discretion, to accelerate the indebtedness. This provision does not prohibit acceleration of the loan in good faith due to the borrower's failure to abide by the material terms of the loan.

f. No creditor shall charge a fee for informing or transmitting to any person the balance due to pay off a home loan or to provide a release upon prepayment. Payoff balances shall be provided within seven business days after the request.

4. Section 6 of P.L.2003, c.64 (C.46:10B-27) is amended to read as follows:

**C.46:10B-27 Affirmative claims, defenses by borrower.**

6. a. Notwithstanding any other law to the contrary, if a home loan was made, arranged, or assigned by a person selling either a manufactured home, or home improvements to the dwelling of a borrower, or was made by or through a creditor to whom the borrower was referred by such seller, the borrower may assert all affirmative claims and any defenses that the borrower may have against the seller or home-improvement contractor limited to amounts required to reduce or extinguish the borrower's liability under the home loan, plus the total amount paid by the borrower in connection with the transaction, plus amounts required to recover costs, including reasonable attorney's fees against the creditor, any assignee or holder, in any capacity.

b. Notwithstanding any other provision of law, any person who purchases or is otherwise assigned a high-cost home loan shall be subject to all affirmative claims and any defenses with respect to the loan that the borrower could assert against the original creditor or broker of the loan; provided that this subsection shall not apply if the purchaser or assignee demonstrates, by a preponderance of the evidence, that a reasonable person exercising reasonable due diligence could not determine that the mortgage was a high-cost home loan. It shall be presumed that a purchaser or assignee has exercised such due diligence if the purchaser or assignee demonstrates by a preponderance of the evidence that it: (1) has in place at the time of the purchase or assignment of the loan, policies that expressly prohibit its purchase or acceptance of assignment of any high-cost home loan; (2) requires by contract that a seller or assignor of home loans to the purchaser or assignee represents and warrants to the purchaser or assignee that either

(a) it will not sell or assign any high-cost home loan to the purchaser or assignee or (b) that the seller or assignor is a beneficiary of a representation and warranty from a previous seller or assignor to that effect; and (3) exercises reasonable due diligence at the time of purchase or assignment of home loans or within a reasonable period of time thereafter intended by the purchaser or assignee to prevent the purchaser or assignee from purchasing or taking assignment of any high-cost home loan.

c. Notwithstanding any other law to the contrary, but limited to amounts required to reduce or extinguish the borrower's liability under the home loan plus amounts required to recover costs including reasonable attorney's fees, a borrower acting only in an individual capacity may assert against the creditor or any subsequent holder or assignee of the home loan:

(1) within six years of the closing of a high-cost home loan, a violation of this act in connection with the loan as an original action; and

(2) at any time during the term of a high-cost home loan after an action to collect on the home loan or foreclose on the collateral securing the home loan has been initiated or the debt arising from the home loan has been accelerated or the home loan has become 60 days in default, any defense, claim or counterclaim.

d. It is a violation of this act for any person, in bad faith, to attempt to avoid the application of this act by:

(1) Dividing any loan transaction into separate parts; or

(2) Any other such subterfuge, with the intent of evading the provisions of this act.

e. Nothing in this section shall be construed to limit the substantive rights, remedies or procedural rights, including, but not limited to, recoupment rights under the common law, available to a borrower against any creditor, assignee or holder under any other law. The limitations on assignee liability in subsection b. of this section shall not apply to the assignee liability in subsections a., c. and d. of this section.

5. Section 8 of P.L.2003, c.64 (C.46:10B-29) is amended to read as follows:

**C.46:10B-29 Violations, remedies, liability.**

8. a. (1) Any violation of this act constitutes an unlawful practice under P.L.1960, c.39 (C.56:8-1 et seq.). Any borrower may seek damages under the provisions of section 7 of P.L.1971, c.247 (C.56:8-19) or subparagraph (a) of paragraph (1) of subsection b. of this section, but not both.

(2) Notwithstanding any provision of P.L.2003, c.64 (C.46:10B-22 et seq.) or other law to the contrary, any borrower who asserts any defense, claim or counterclaim pursuant to subsection c. of section 6 of P.L.2003, c.64

(C.46:10B-27) may do so only in an individual capacity and may not assert that defense, claim or counterclaim in a class action.

b. Except as provided in subsection a. of this section and, where applicable, subject to any limitation on the amounts recoverable against a holder or assignee pursuant to section 6 of this act, in addition to the remedies available to a borrower under P.L.1960, c.39 (C.56:8-1 et seq.) and without limiting those remedies:

(1) Any person found by a preponderance of the evidence to have violated this act shall be liable to the borrower for the following:

(a) For material violations, statutory damages equal to the finance charges agreed to in the home loan agreement, plus up to 10% of the amount financed;

(b) Punitive damages, when the violation was malicious or reckless in appropriate circumstances as determined by the fact-finder; and

(c) Costs and reasonable attorneys' fees.

(2) A borrower may be granted injunctive, declaratory, and such other equitable relief as the court deems appropriate in an action to enforce compliance with this act.

(3) The remedies provided in this section are not intended to be the exclusive remedies available to a borrower, nor must the borrower exhaust any administrative remedies provided under this act or any other applicable law before proceeding under this section.

c. A creditor in a home loan who, when acting in good faith, fails to comply with the provisions of this act, will not be deemed to have violated this section if the creditor establishes that either:

(1) Within 45 days of the loan closing, the creditor has made appropriate restitution to the borrower, and appropriate adjustments are made to the loan; or

(2) Within 365 days of the loan closing and prior to receiving any notice from the borrower of the compliance failure, and the compliance failure was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid such errors, the borrower is notified of the compliance failure, appropriate restitution is made to the borrower, and appropriate adjustments are made to the loan.

Examples of bona fide errors include clerical, calculation, computer malfunction and programming, and printing errors. An error of legal judgment with respect to a person's obligations under this section is not a bona fide error.

d. The remedies provided in this section are cumulative.

6. Section 14 of P.L.2003, c.64 (C.46:10B-35) is amended to read as follows:

**C.46:10B-35 Regulations.**

14. The Commissioner of Banking and Insurance, in consultation and collaboration with the Director of the Division of Consumer Affairs in the Department of Law and Public Safety, shall promulgate regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the provisions of P.L.2003, c.64 (C.46:10B-22 et seq.).

7. This act shall take effect immediately.

Approved July 6, 2004.

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**CHAPTER 85**

AN ACT establishing a Property Tax Convention Task Force to study property tax relief and the need for a constitutional convention to review the property tax system and making an appropriation.

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

1. The Legislature finds and declares that:
  - for more than a decade, the problem of high property taxes has been among the most significant faced by the people of New Jersey;
  - property taxes are a primary funding source for local services, including public schools, public works and public safety departments and other institutions;
  - there is uniform agreement among governmental representatives that there is a need to lessen the dependence of local governments on property taxes, find alternative means to fund vital government services, and assist local governments in identifying and maximizing all potential fiscal efficiencies;
  - to that end, attempts have been made to mitigate the burden of property taxes on the people through rebate programs, freezes and other measures;
  - any such relief measures necessarily are limited by the fact that the current property tax system, as required by the State Constitution, is such that structural changes to it cannot be made without constitutional amendment;
  - it is imperative that the State undertake a comprehensive review of State and local funding responsibilities, including considering the elimination of unnecessary State mandates, the maximization of shared services, and the

adoption of spending reforms, while ensuring that a quality public education system and other public services are maintained at appropriate levels;

in our State, the people have reserved to themselves the right to alter or reform the State Constitution and therefore the people must ultimately decide how the property tax system should be structured through consideration of a constitutional change;

fundamental changes to the Constitution typically have been made through a constitutional convention, which is convened upon the approval of the voters;

due to the uniquely complex and controversial nature of this issue, long-debated questions on how such a convention should be organized and what issues should be addressed require careful consideration, and will be integral to the success of the convention; and

the immediate convening of a task force of experts for the purpose of making concrete recommendations by a date certain to determine how to bring about all possible property tax relief within the current system and how a constitutional convention to consider systemic change should be composed is imperative to ensure that the long-standing problem of property taxes is addressed in the most effective, efficient and fair way possible.

2. There is hereby established the Property Tax Convention Task Force.

a. The task force shall consist of 15 members: nine members appointed by the Governor; two members appointed by the Senate President, one of whom shall be a member of the Senate and one of whom shall be a member of the public; two members appointed by the Speaker of the General Assembly, one of whom shall be a member of the General Assembly and one of whom shall be a member of the public; one member appointed by the Minority Leader of the Senate who shall be a member of the Senate; and one member appointed by the Minority Leader of the General Assembly who shall be a member of the General Assembly. The members shall have substantial expertise and experience in State and local government matters, constitutional law, public finance or other related areas.

b. The Governor shall appoint the chair of the task force from among its members.

3. The duties of the task force shall be limited to the following:

a. Considering and developing recommendations regarding the process of conducting a constitutional convention designed to change the existing property tax system. Such recommendations shall include, but not be limited to, the recommended method for the selection of delegates to the convention, the appropriate scope of the convention's inquiry and the method for consideration of the convention's recommendations, and shall identify the specific



issues or questions that the convention should consider as well as the estimated costs of the convention.

b. Holding hearings throughout the State for the purpose of receiving input from members of the public on these issues.

c. Issuing a report by December 31, 2004 containing the task force's recommendations for legislative and programmatic changes and, if appropriate, a draft legislative proposal to implement the convening of such a convention.

4. The task force is authorized to call upon any department, office, division or agency of this State to supply it with data and other information or assistance that the task force deems necessary to discharge its duties under this act. Each department, office, division or agency of this State is hereby directed, to the extent not inconsistent with law, to cooperate fully with the task force and to furnish it with such information and assistance as is necessary to accomplish the purposes of this act.

5. The task force shall issue its report by December 31, 2004. The deadline for this report shall not be extended. The report shall be submitted to the Governor and the Legislature, who shall immediately review the task force's report upon its receipt. Each house of the Legislature shall consider the task force's report and legislative proposal or proposals regarding the convening of a constitutional convention within 60 days of receipt of the report.

6. There is hereby appropriated the amount of \$250,000 from the General Fund to the task force to effectuate the purposes of this act.

7. This act shall take effect upon enactment into law of P.L.2004, c.40 (C.54A:9-29 et al.), P.L.2004, c.73 (C.18A:7F-5 et al.) and P.L.2004, c.74 (C.40A:4-45.15c et al.).

Approved July 7, 2004.

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## CHAPTER 86

AN ACT concerning health benefits coverage for mammography and treatment of breast cancer, amending P.L.1991, c.279, and supplementing P.L.1992, c.161 (C.17B:27A-2 et seq.), P.L.1992, c.162 (C.17B:27A-17 et seq.) and P.L.1961, c.49 (C.52:14-17.25 et seq.).

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

1. Section 1 of P.L.1991, c.279 (C.17:48-6g) is amended to read as follows:

**C.17:48-6g Hospital service corporation contract, mammogram examination benefits.**

1. No group or individual hospital service corporation contract providing hospital or medical expense benefits shall be delivered, issued, executed or renewed in this State or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, unless the contract provides benefits to any subscriber or other person covered thereunder for expenses incurred in conducting: one baseline mammogram examination for women who are at least 35 but less than 40 years of age; a mammogram examination every year for women age 40 and over; and, in the case of a woman who is under 40 years of age and has a family history of breast cancer or other breast cancer risk factors, a mammogram examination at such age and intervals as deemed medically necessary by the woman's health care provider.

These benefits shall be provided to the same extent as for any other sickness under the contract.

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

2. Section 2 of P.L.1991, c.279 (C.17:48A-7f) is amended to read as follows:

**C.17:48A-7f Medical service corporation contract, mammogram examination benefits.**

2. No group or individual medical service corporation contract providing hospital or medical expense benefits shall be delivered, issued, executed or renewed in this State or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, unless the contract provides benefits to any subscriber or other person covered thereunder for expenses incurred in conducting: one baseline mammogram examination for women who are at least 35 but less than 40 years of age; a mammogram examination every year for women age 40 and over; and, in the case of a woman who is under 40 years of age and has a family history of breast cancer or other breast cancer risk factors, a mammogram examination at such age and intervals as deemed medically necessary by the woman's health care provider.

These benefits shall be provided to the same extent as for any other sickness under the contract.

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

3. Section 3 of P.L.1991, c.279 (C.17:48E-35.4) is amended to read as follows:

**C.17:48E-35.4 Health service corporation contract, mammogram examination benefits.**

3. No group or individual health service corporation contract providing hospital or medical expense benefits shall be delivered, issued, executed or renewed in this State or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, unless the contract provides benefits to any subscriber or other person covered thereunder for expenses incurred in conducting: one baseline mammogram examination for women who are at least 35 but less than 40 years of age; a mammogram examination every year for women age 40 and over; and, in the case of a woman who is under 40 years of age and has a family history of breast cancer or other breast cancer risk factors, a mammogram examination at such age and intervals as deemed medically necessary by the woman's health care provider.

These benefits shall be provided to the same extent as for any other sickness under the contract.

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

4. Section 4 of P.L.1991, c.279 (C.17B:26-2.1e) is amended to read as follows:

**C.17B:26-2.1e Individual health insurance policy, mammogram examination benefits.**

4. No individual health insurance policy providing hospital or medical expense benefits shall be delivered, issued, executed or renewed in this State or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, unless the policy provides benefits to any named insured or other person covered thereunder for expenses incurred in conducting: one baseline mammogram examination for women who are at least 35 but less than 40 years of age; a mammogram examination every year for women age 40 and over; and, in the case of a woman who is under 40 years of age and has a family history of breast cancer or other breast cancer risk factors, a mammogram examination at such age and intervals as deemed medically necessary by the woman's health care provider.

These benefits shall be provided to the same extent as for any other sickness under the policy.

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

5. Section 5 of P.L.1991, c.279 (C.17B:27-46.1f) is amended to read as follows:

**C.17B:27-46.1f Group health insurance policy, mammogram examination benefits.**

5. No group health insurance policy providing hospital or medical expense benefits shall be delivered, issued, executed or renewed in this State or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance, on or after the effective date of this act, unless the policy provides benefits to any named insured or other person covered thereunder for expenses incurred in conducting: one baseline mammogram examination for women who are at least 35 but less than 40 years of age; a mammogram examination every year for women age 40 and over; and, in the case of a woman who is under 40 years of age and has a family history of breast cancer or other breast cancer risk factors, a mammogram examination at such age and intervals as deemed medically necessary by the woman's health care provider.

These benefits shall be provided to the same extent as for any other sickness under the policy.

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

6. Section 6 of P.L.1991, c.279 (C.26:2J-4.4) is amended to read as follows:

**C.26:2J-4.4 Health maintenance organization, mammogram examination benefits.**

6. Notwithstanding any provision of law to the contrary, a certificate of authority to establish and operate a health maintenance organization in this State shall not be issued or continued by the Commissioner of Health and Senior Services on or after the effective date of this act unless the health maintenance organization provides health care services to any enrollee for the conduct of: one baseline mammogram examination for women who are at least 35 but less than 40 years of age; a mammogram examination every year for women age 40 and over; and, in the case of a woman who is under 40 years of age and has a family history of breast cancer or other breast cancer risk factors, a mammogram examination at such age and intervals as deemed medically necessary by the woman's health care provider.

These health care services shall be provided to the same extent as for any other sickness under the enrollee agreement.

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

**C.17B:27A-7.10 Individual health benefits plan, mammogram examination benefits.**

7. Every individual health benefits plan that is delivered, issued, executed or renewed in this State pursuant to P.L.1992, c.161 (C.17B:27A-2 et seq.) or approved for issuance or renewal in this State, on or after the effective date of this act, shall provide benefits to any woman covered thereunder for expenses incurred in conducting: one baseline mammogram examination for women who are at least 35 but less than 40 years of age; a mammogram examination every year for women age 40 and over; and, in the case of a woman who is under 40 years of age and has a family history of breast cancer or other breast cancer risk factors, a mammogram examination at such age and intervals as deemed medically necessary by the woman's health care provider.

The benefits shall be provided to the same extent as for any other medical condition under the health benefits plan.

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

**C.17B:27A-19.13 Small employer health benefits plan, mammogram examination benefits.**

8. Every small employer health benefits plan that is delivered, issued, executed or renewed in this State pursuant to P.L.1992, c.162 (C.17B:27A-17 et seq.) or approved for issuance or renewal in this State, on or after the effective date of this act, shall provide benefits to any woman covered thereunder for expenses incurred in conducting: one baseline mammogram examination for women who are at least 35 but less than 40 years of age; a mammogram examination every year for women age 40 and over; and, in the case of a woman who is under 40 years of age and has a family history of breast cancer or other breast cancer risk factors, a mammogram examination at such age and intervals as deemed medically necessary by the woman's health care provider.

The benefits shall be provided to the same extent as for any other medical condition under the health benefits plan.

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

**C.52:14-17.29i State Health Benefits Program, coverage for mammograms.**

9. The State Health Benefits Commission shall provide benefits to each person covered under the State Health Benefits Program for expenses incurred in conducting: one baseline mammogram examination for women who are at least 35 but less than 40 years of age; a mammogram examination every year for women age 40 and over; and, in the case of a woman who is

under 40 years of age and has a family history of breast cancer or other breast cancer risk factors, a mammogram examination at such age and intervals as deemed medically necessary by the woman's health care provider.

The benefits shall be provided to the same extent as for any other medical condition under the contract.

10. This act shall take effect on the 90th day after enactment and shall apply to all contracts and policies that are delivered, issued, executed or renewed or approved for issuance or renewal in this State on or after the effective date.

Approved July 7, 2004.

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## CHAPTER 87

AN ACT concerning the appropriation and transfer of available surplus funds from local authorities to municipalities and counties and supplementing chapter 5A 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:5A-12.1 Local authorities, certain, appropriation, transfer of surplus funds to local units.**

1. To the extent there is available an undesignated fund balance or unreserved retained earnings held by an authority that is subject to the provisions of the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.), excluding a fire district, a regional authority or a housing authority, an amount in that undesignated fund balance or unreserved retained earnings, not to exceed 5% of the annual costs of operation of the authority may be appropriated for use in the local budget of the municipality or county that created the authority unless otherwise restricted by bond covenants.

2. This act shall take effect immediately.

Approved July 9, 2004.

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## CHAPTER 88

AN ACT concerning elections and amending and supplementing various parts of the statutory law.

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

**C.19:61-1 Findings, declarations relative to elections.**

1. The Legislature finds and declares:
  - a. The "Help America Vote Act of 2002," Pub.L.107-252, was enacted by Congress and signed into law by President Bush on October 29, 2002.
  - b. The new federal law, based upon recommendations by several national study commissions including the National Commission on Federal Election Reform, resulted from a consensus that the nation's electoral system needs improvements to ensure that every eligible voter has the opportunity to vote, that every vote will be counted that should be counted, and that no legal vote will be canceled by a fraudulent vote.
  - c. Accordingly, the "Help America Vote Act of 2002" authorizes substantial amounts of federal aid to the states to fund the purchase of more reliable voting systems, and mandates changes in the conduct of federal elections in all states to ensure greater access to the polls by individuals with disabilities, to provide more information for individuals who wish to vote and better training of poll workers, and to reduce the possibility of fraud.
  - d. The "Help America Vote Act of 2002" also clearly defines the rights and privileges of those eligible individuals who seek to vote, including all overseas and military service voters, and seeks to prevent disenfranchisement due to mistaken determinations of ineligibility to vote, the use of outdated voting systems that are unreliable or insufficiently accessible for disabled voters, or unnecessary administrative obstacles.
  - e. The purpose of P.L.2004, c.88 (C.19:61-1 et al.) is to begin the process of implementing the changes in New Jersey's election law required by the "Help America Vote Act of 2002" to accomplish the purposes described above, providing a fair, deliberative and consensus-oriented process for enacting election reform required by the federal law, and ensure the timely fulfillment by this State of all requirements for eligibility to receive appropriated federal funds.

**C.19:61-2 Short title.**

2. This act shall be known and may be cited as "The Voting Opportunity and Technology Enhancement Act."

**C.19:61-3 Federal Elections Assistance Fund.**

3. There is hereby established in the Department of the Treasury a special, nonlapsing fund to be known as the Federal Elections Assistance Fund.

The fund is established in accordance with paragraph (b) of section 254 of Pub.L.107-252, (42 U.S.C.15404) for the purpose of receiving:

- a. all moneys appropriated or otherwise made available by the State for the purpose of carrying out the activities required by Pub.L.107-252;
- b. all payments which will be received from the federal government pursuant to Pub.L.107-252;
- c. interest earned on deposits made in the fund; and
- d. such other additional amounts as may be appropriated under federal or State law.

The State Treasurer is authorized to transfer into the fund in a timely manner such State moneys as will be necessary to insure that the State qualifies for the maximum amount of federal funds appropriated to implement Pub.L.107-252.

**C.19:61-4 Free-access system for information to voters using provisional ballot.**

4. The Attorney General shall establish a free-access system, such as a toll-free telephone number, an Internet website or any combination thereof, that any individual who casts a provisional ballot may access to ascertain whether the ballot of that individual was accepted for counting and, if the vote was not counted, the reason for the rejection of the ballot. The system shall at all times preserve the confidentiality of each voter, and shall ensure that no person, other than the individual who cast the ballot, may discover whether or not that individual's ballot was accepted, unless so informed by the voter.

**C.19:61-5 Free-access system for information to voters using absentee ballot.**

5. The Attorney General shall establish a free-access system, such as a toll-free telephone number, an Internet website or any combination thereof, that any individual who casts an absentee ballot may access to ascertain whether the ballot of that individual was accepted for counting and, if the ballot was not counted, the reason for the rejection of the ballot. The system shall at all times preserve the confidentiality of each voter, and shall ensure that no person, other than the individual who cast the ballot, may discover whether or not that individual's ballot was accepted for counting, unless so informed by the voter. This system may be the same one used for provisional ballots, established pursuant to section 4 of P.L.2004, c.88 (C.19:61-4).

**C.19:61-6 Filing of complaint, procedure in Division of Elections, alternative procedure.**

6. a. After January 1, 2004, any individual who believes that there is, has been, or will be a violation of any provision of Title III of Pub.L.107-252 (42 U.S.C. 15481 et seq.) may, pursuant to the procedures set forth in this section established in compliance with the provisions of section 402 of P.L.107-252 (42 U.S.C. 15512), file a complaint with the Division of Elections in the Department of Law and Public Safety seeking appropriate relief with respect to the violation.



b Each such complaint shall be in writing, and shall be notarized, signed, and sworn by the individual filing the complaint. The Attorney General may consolidate all such complaints if the Attorney General deems it appropriate.

c. (1) If, upon administrative inquiry, the Attorney General determines that there is, has been, or will be a violation of any provision of Title III of Pub.L.107-252 (42 U.S.C. 15481 et seq.), the Attorney General shall order appropriate relief. The complainant may request a hearing on the record, to be conducted in the manner provided for contested cases pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.); otherwise, the order of the Attorney General shall constitute final agency action on the matter and shall be subject to judicial review as provided in the Rules of Court.

(2) If, upon administrative inquiry, the Attorney General determines that there has been, is or will be no violation of any provision of Title III of Pub.L.107-252 (42 U.S.C.15481 et seq.), the Attorney General shall reject the claim of the violation and shall so notify the complainant. In that case, the complainant shall be afforded the opportunity for a hearing on the record in the manner provided for contested cases pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Intervention in this hearing by any other person shall be as provided in the "Administrative Procedure Act." After review of the record of the hearing and the recommendation of the administrative law judge, the Attorney General shall affirm, reject or modify the decision. If, after a hearing, the Attorney General determines that there has been, is or will be a violation of any provision of Title III of Pub.L.107-252 (42 U.S.C. 15481 et seq.), the Attorney General shall order appropriate relief. If the complainant does not request a hearing following a determination of no violation based upon administrative inquiry or if the Attorney General determines after a hearing that there has been, is or will be no violation of any provision of Title III of Pub.L.107-252 (42 U.S.C. 15481 et seq.), the Attorney General shall dismiss the complaint and publish the results of the procedures. The decision of the Attorney General shall constitute final agency action on the matter, and shall be subject to judicial review as provided in the Rules of Court.

d. All complaints filed under this section shall be resolved finally by the Attorney General prior to the 90th day after the date that the complaint was filed, unless the complainant consents to a longer period for making such a determination.

e. If the Attorney General fails to meet the 90-day deadline provided in subsection d. of this section, the complaint shall be resolved within 60 days of that deadline under alternative dispute resolution procedures established by the Attorney General for the purpose of this section. The record

and other materials from any proceedings conducted under the complaint procedures established under this section shall be made available for use under the alternative dispute resolution procedures.

f. All of the procedures provided for by this section shall be applied uniformly and not in a manner that discriminates in any way against an individual based on that individual's gender, race, religion, ethnicity or sexual orientation.

g. An individual who believes that there is, or has been, or will be a violation of any provision of Title III of Pub.L.107-252 (42 U.S.C. 15481 et seq.) may, as an alternative to the procedures prescribed in subsections a. through f. of this section, file a complaint in the appropriate Superior Court seeking appropriate relief with respect to the violation. The complaint shall be resolved in an expedited manner.

**C.19:61-7 Report on certain absentee ballots in federal elections.**

7. No later than the 90th day following the day of each regularly scheduled general election of candidates for federal office occurring after January 1, 2004, each county board of elections shall submit to the Attorney General for transmittal to the Election Assistance Commission, established pursuant to section 201 of Pub.L.107-252 (42 U.S.C. 15321), a report on the combined number of absentee ballots transmitted to military service voters and overseas federal election voters and the combined number of such ballots which were returned by such voters, judged to be valid, cast and canvassed. The report shall be in the format developed by the commission. The Attorney General shall make copies of each such report available to the general public.

**C.19:61-8 Reports on implementation of "Help America Vote Act of 2002."**

8. The Attorney General shall issue a report on the progress of the implementation of the federal "Help America Vote Act of 2002," Pub.L.107-252 (116 Stat 1666) in the State to the Governor, the Senate President, Senate Minority Leader, Speaker of the General Assembly, and Assembly Minority Leader. The report shall be issued quarterly in the first year, with the first report due on July 1, 2004, and shall be issued biennially thereafter.

9. R.S.19:15-17 is amended to read as follows:

**Comparison of signatures or statements; identifying documentation.**

19:15-17. a. The comparison of signatures of a voter made upon registration and upon election day, and if the voter alleges his inability to write, the comparison of the answers made by such voter upon registration and upon election day, shall be had in full view of the challengers.

b. If a voter has registered by mail after January 1, 2003 to vote for the first time in his or her current county of residence and did not provide personal identification when registering pursuant to section 16 of P.L.1974, c.30 (C.19:31-6.4), the voter shall be permitted to vote starting at the first election held after January 1, 2004 at which candidates are seeking federal office after displaying one of the following items: (1) a current and valid photo identification card; (2) a current utility bill, bank statement, government check or pay check; (3) any other government document that shows the voter's name and current address; or (4) any other identifying document that the Attorney General has determined to be acceptable for this purpose. If the voter does not display one of these documents, the voter shall not be permitted to vote by machine but shall instead be provided with a provisional ballot, pursuant to the provisions of P.L.1999, c.232 (C.19:53C-1 et seq.). This subsection shall not apply to any voter entitled to vote by absentee ballot under the "Uniformed and Overseas Citizens Absentee Voting Act" (42 U.S.C. 1973ff-1 et seq.) or to any voter who is provided the right to vote other than in person under section 3 of Pub.L.98-435, the "Voting Accessibility for the Elderly and Handicapped Act," or any other voter entitled to vote otherwise than in person under any other federal law. This subsection shall also not apply to any person who registers to vote by appearing in person at any voter registration agency or to any person whose voter registration form is delivered to the county commissioner of registration or to the Attorney General, as the case may be, through a third party by means other than by mail delivery.

c. Each county commissioner of registration shall collect and maintain, in the manner prescribed by the Attorney General, the information provided pursuant to subsection b. of this section and section 16 of P.L.1974, c.30 (C.19:31-6.4). Access to the personal identification information provided pursuant to subsection b. of this section and section 16 of P.L.1974, c.30 (C.19:31-6.4). shall be prohibited, in accordance with subsection a. of section 6 of P.L.2001, c.404 (C.47:1A-5).

10. R.S.19:31-5 is amended to read as follows:

**Persons entitled to register; failure to vote no grounds for removal.**

19:31-5. Each person, who at the time he or she applies for registration resides in the district in which he or she expects to vote, who will be of the age of 18 years or more at the next ensuing election, who is a citizen of the United States, and who, if he or she continues to reside in the district until the next election, will at the time have fulfilled all the requirements as to length of residence to qualify him or her as a legal voter, shall, unless otherwise disqualified, be entitled to be registered in such district.

Whenever an individual registers by mail after January 1, 2003 to vote for the first time in his or her current county of residence, that individual shall provide either the individual's New Jersey driver's license number or the last four digits of the individual's Social Security Number, or shall submit with the voter registration form a copy of: (1) a current and valid photo identification card; (2) a current utility bill, bank statement, government check or pay check; (3) any other government document that shows the individual's name and current address; or (4) any other identifying document that the Attorney General has determined to be acceptable for this purpose. If the individual does not provide his or her New Jersey driver's license number or Social Security Number information or submit a copy of any one of these documents, either at the time of registration or at any time thereafter prior to attempting to vote, the individual shall be asked for identification when voting for the first time starting at the first election held after January 1, 2004 at which candidates are seeking federal office or thereafter. This requirement shall not apply to any individual entitled to vote by absentee ballot under the "Uniformed and Overseas Citizens Absentee Voting Act" (42 U.S.C. 1973ff-1 et seq.) or to any individual who is provided the right to vote other than in person under section 3 of Pub.L.98-435, the "Voting Accessibility for the Elderly and Handicapped Act," or any other voter entitled to vote otherwise than in person under any other federal law. This requirement shall also not apply to any individual who registers to vote by appearing in person at any voter registration agency or to any individual whose voter registration form is delivered to the county commissioner of registration or to the Attorney General, as the case may be, through a third party by means other than by mail delivery.

Once registered, the registrant shall not be required to register again in such district as long as he or she resides therein, except when required to do so by the commissioner, because of the loss of or some defect in his or her registration record.

The registrant, when registered as provided in this Title, shall be eligible to vote at any election to be held subsequent to such registration, if he or she shall be a citizen of the United States of the age of 18 years and shall have been a resident of the State for at least 30 days and of the county at least 30 days, when the same is held, subject to any change in his qualifications which may later disqualify him. No registrant shall lose the right to vote, and no registrant's name shall be removed from the registry list of the county in which the person is registered, solely on grounds of the person's failure to vote in one or more elections.

11. Section 25 of P.L.1994, c.182 (C.19:31-6a) is amended to read as follows:

**C.19:31-6a Chief State election officer designated.**

25. The Attorney General is designated the chief State election official and shall be responsible for the coordination of this State's responsibilities pursuant to the provisions of the "National Voter Registration Act of 1993," Pub.L.103-31 (42 U.S.C. s.1973gg et seq.) and the "Help America Vote Act of 2002," Pub.L.107-252 (42 U.S.C. 15301 et seq.).

12. Section 16 of P.L.1974, c.30 (C.19:31-6.4) is amended to read as follows:

**C.19:31-6.4 Registration forms, contents, availability; duties of officials.**

16. a. The Attorney General shall cause to be prepared and shall provide to each county commissioner of registration forms of size and weight suitable for mailing, which shall require the information required by R.S.19:31-3 in substantially the following form:

**VOTER REGISTRATION APPLICATION**

Print clearly in ink. Use ballpoint pen or marker.

(1) This form is being used as (check one):

☐ New registration

☐ Address change

☐ Name change

(2) Name:.....

                    Last                    First                    Middle

(3) Are you a citizen of the United States of America? ☐ Yes ☐ No

(4) Will you be 18 years of age on or before election day? ☐ Yes ☐ No

If you checked 'No' in response to either of these questions, do not complete this form.

(5) Street Address where you live:

.....

Street Address

Apt. No.

.....  
(6) City or Town County Zip Code

.....  
(7) Address Where You Receive Your Mail (if different from above):

.....  
(8) Date of Birth:

.....  
Month Day Year

(9) Telephone Number (optional) .....

(10) Name and address of Your Last Voter Registration

.....  
.....  
.....  
(11) If you are registering by mail to vote and will be voting for the first time in your current county of residence, please provide one of the following:

(a) your New Jersey driver's license number:.....

(b) the last four digits of your Social Security Number.....

OR submit with this form a copy of any one of the following documents:  
a current and valid photo identification card; a current utility bill, bank statement, government check, pay check or any other government or other identifying document that shows your name and current address. If you do not provide either your New Jersey driver's license number or the last four digits of your Social Security Number, or enclose a copy of one of the documents listed above, you will be asked for identification when voting for the first time, unless you are exempt from doing so under federal or State law.

(12) Declaration - I swear or affirm that:

I am a U.S. citizen.

I live at the above address.

I will be at least 18 years old on or before the day of the next election.

I am not on parole, probation or serving a sentence due to a conviction for an indictable offense under any federal or State laws.

I UNDERSTAND THAT ANY FALSE OR FRAUDULENT REGISTRATION MAY SUBJECT ME TO A FINE OF UP TO \$1,000.00, IMPRISONMENT UP TO FIVE YEARS, OR BOTH PURSUANT TO R.S.19:34-1.

.....

Signature or mark of the registrant      Date

(13) If applicant is unable to complete this form, print the name and address of individual who completed this form.

.....

Name

.....

Address

In addition, the form may include notice to the applicant of information and options relating to the registration and voting process, including but not limited to notice of qualifications required of a registered voter; notice of the final day by which a person must be registered to be eligible to vote in an election; notice of the effect of a failure to provide required identification information; a place at which the applicant may indicate availability for service as a member of the district board of elections; a place at which the applicant may indicate whether he or she requires a polling place which is accessible to elderly and physically disabled voters or whether he or she is legally blind; and a place at which the applicant may indicate a desire to receive information concerning absentee voting. The form may also include a space for the voter registration agency to record whether the applicant registered in person, by mail or by other means.

b. The reverse side of the registration form shall bear the address of the Attorney General or the commissioner of registration to whom such form

is supplied, and a United States postal permit the charges upon which shall be paid by the State.

c. The Attorney General shall cause to be prepared registration forms of the size, weight and form described in subsection a. of this section in both the English and Spanish language and shall provide such forms to each commissioner of registration of any county in which there is at least one election district in which bilingual sample ballots must be provided pursuant to R.S.19:14-21, R.S.19:49-4 or section 2 of P.L.1965, c.29 (C.19:23-22.4).

d. The commissioner of registration shall furnish such registration forms upon request in person to any person or organization in such reasonable quantities as such person or organization shall request. The commissioner shall furnish no fewer than two such forms to any person upon request by mail or by telephone.

e. Each such registration form shall have annexed thereto instructions specifying the manner and method of registration and stating the qualifications for an eligible voter.

f. The Attorney General shall also furnish such registration forms and such instructions to the Director of the Division of Worker's Compensation, the Director of the Division of Employment Services, and the Director of the Division of Unemployment and Temporary Disability Insurance in the Department of Labor and Workforce Development; to the Director of the Division of Taxation in the Department of the Treasury; to the Executive Director of the New Jersey Transit Corporation; to the appropriate administrative officer of any other public agency, as defined by subsection a. of section 15 of P.L.1974, c.30 (C.19:31-6.3); to the Adjutant General of the Department of Military and Veterans' Affairs; and to the chief administrative officer of any voter registration agency, as defined in subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11).

g. All registration forms received by the Attorney General in the mail or forwarded to the Attorney General shall be forwarded to the commissioner of registration in the county of the registrant.

h. An application to register to vote received from the New Jersey Motor Vehicle Commission or a voter registration agency, as defined in subsection a. of section 26 of P.L.1994, c.182 (C.19:31-6.11), shall be deemed to have been timely made for the purpose of qualifying an eligible applicant as registered to vote in an election if the date on which the commission or agency shall have received that document in completed form, as indicated in the lower right hand corner of the form, was not later than the 29th day preceding that election.

i. Each commissioner of registration shall make note in the permanent registration file of each voter who is required to provide the personal identification information required pursuant to this section, as amended, and



R.S.19:15-17, R.S.19:31-5 and Pub.L.107-252 (42 U.S.C. 15301 et seq.), to indicate the type of identification provided by the voter and the date on which it is provided. Prior to the June 2004 primary election, when such a newly registered voter seeks to vote for the first time following his or her registration, the voter will be required to provide such personal identification information. Beginning with the June 2004 primary election, when such a newly registered voter seeks to vote for the first time following his or her registration, the voter will not be required to provide such information if he or she had previously provided the personal identification information required pursuant to this section. The required information shall be collected and stored for the time and in the manner required pursuant to regulations promulgated by the Attorney General.

j. The Attorney General shall amend the voter registration application form if necessary to conform to the requirements of applicable federal or state law.

13. R.S.19:47-1 is amended to read as follows:

**Words and terms defined.**

19:47-1. As used in this subtitle:

"Ballot", except when reference is made to irregular ballots, means that portion of the ballot containing the name of the candidate and the designation of the party by which he was nominated, or a statement of a proposed constitutional amendment, or other question or proposition with the word "yes" for voting for any question or proposition, and the word "no" for voting against any question.

"Question" includes any constitutional amendment, proposition or other question submitted to the voters at any election.

"Official ballot" means the material displaying the names of the candidates nominated and a statement of the questions submitted.

"Irregular ballot" means a vote cast, by or on a special device, for a person whose name does not appear on the ballots.

"Voting machine custodian" means the person who shall have charge of preparing and arranging the voting machine for elections.

"Protective counter" means a separate counter built into the voting machine which cannot be reset, which records the total number of votes cast.

The list of candidates used or to be used on the front of the voting machine for an election district in which the voting machine is used pursuant to law shall be deemed official ballots under this subtitle.

14. R.S.19:48-1 is amended to read as follows:

**Voting machines, requirements.**

19:48-1. Any thoroughly tested and reliable voting machines may be adopted, rented, purchased or used, which shall be so constructed as to fulfill the following requirements:

- (a) It shall secure to the voter secrecy in the act of voting;
- (b) It shall provide facilities for such number of office columns, not less than 40 and not exceeding 60, as the purchasing authorities may specify and of as many political parties or organizations, not exceeding nine, as may make nominations, and for or against as many questions, not exceeding 30, as submitted;
- (c) It shall, except at primary elections, permit the voter to vote for all the candidates of one party or in part for the candidates of one party or one or more parties;
- (d) It shall permit the voter to vote for as many persons for an office as he is lawfully entitled to vote for, but no more;
- (e) It shall prevent the voter from voting for the same person more than once for the same office;
- (f) It shall permit the voter to vote for or against any question he may have the right to vote on, but no other;
- (g) It shall for use in primary elections be so equipped that the election officials can stop a voter from voting for all candidates except those of the voter's party;
- (h) It shall correctly register or record and accurately count all votes cast for any and all persons, and for or against any and all questions;
- (i) It shall be provided with a "protective counter" or "protective device" whereby any operation of the machine before or after the election will be detected;
- (j) It shall be so equipped with such protective devices as shall prevent the operation of the machine after the polls are closed;
- (k) It shall be provided with a counter which shall show at all times during an election how many persons have voted;
- (l) It shall be provided with a model, illustrating the manner of voting on the machine, suitable for the instruction of voters;
- (m) It must permit a voter to vote for any person for any office, except delegates and alternates to national party conventions, whether or not nominated as a candidate by any party or organization by providing an opportunity to indicate such names or name;
- (n) It shall be equipped with a permanently affixed box or container of sufficient strength, size and security to hold all emergency ballots and pre-punched single-hole envelopes and with a clipboard and a table-top privacy screen;

(o) It shall not use mechanical lever machines or punch cards to record votes.

All voting machines used in any election shall be provided with a screen, hood or curtain, which shall be so made and adjusted as to conceal the voter and his action while voting.

It shall also be provided with one device for each party for voting for all the presidential electors of that party by one operation, and a ballot therefor containing only the words "presidential electors for," preceded by the name of that party and followed by the names of the candidates thereof for the offices of President and Vice-President and a registering device therefor which shall register the vote cast for such electors when thus voted collectively.

15. R.S.19:48-7 is amended to read as follows:

**Inoperative voting machines; use of emergency ballots; statements.**

19:48-7. If any voting machine being used in any election district shall, during the time the polls are open, become damaged so as to render it inoperative in whole or in part, the election officers shall immediately give notice thereof to the county board of elections or the superintendent of elections or the municipal clerk, as the case may be, having custody of voting machines, and such county board of elections or such superintendent of elections or such municipal clerk, as the case may be, shall cause any person or persons employed or appointed pursuant to section 19:48-6 of this Title to substitute a machine in perfect working order for the damaged machine. At the close of the polls the records of both machines shall be taken and the votes shown on their counters shall be added together in ascertaining and determining the results of the election. During any period when a voting machine is inoperative, emergency ballots made as nearly as possible in the form of the official ballot shall be used in accordance with the provisions of this amendatory and supplementary act, P.L.1992, c.3 (C.19:53B-1 et al.), received by the election officers and placed by them in an emergency ballot box as provided in this amendatory and supplementary act, P.L.1992, c.3 (C.19:53B-1 et al.), and shall be counted with the votes registered on the voting machines. The result shall be declared the same as though there had been no accident to the voting machine. The emergency ballots thus voted shall be preserved and returned with a statement setting forth how and why the same were voted. The original statement shall be filed with the county or municipal clerk, as the case may be; a copy of the statement shall be filed with the commissioner of registration; and an additional copy shall be placed in the emergency ballot box. The statement for use in all elections except primary elections shall be in the following form:

### ELECTION STATEMENT FOR EMERGENCY PAPER BALLOTS VOTED

This statement must be completed by all election district board workers present when a voting machine malfunctions and emergency paper ballots are issued and voted. R.S.19:48-7.

This is to certify that voting machine no. .... became inoperative at .....AM, ..... PM. We further certify that ..... emergency paper ballots were issued and voted during the time the voting machine assigned to Election District No. .... in ..... (municipality) was inoperative. The last voting authority given out before the voting machine became inoperative was no. .... This ..... day of ..... 2 .....

#### TO BE COMPLETED ONLY IF VOTING MACHINE IS REPLACED

Voting machine no. .... was replaced by voting machine no. .... at ..... AM, .....PM.

The next voting authority given out after the voting machine was replaced was no. ....

#### TO BE COMPLETED WHEN VOTING MACHINE HAS BEEN REPAIRED AND IS READY TO RECEIVE VOTES

Voting machine no. .... was repaired at ..... AM, .....PM.

The next voting authority given out after the voting machine was repaired was no. ....

.....  
Signature of Judge

.....  
Signature of Clerk

.....  
Signature of Inspector

.....  
Signature of Clerk

.....  
Municipality

.....  
Signature of Voting  
Machine Technician

.....  
Ward

.....  
District

The statement for use in the primary election shall be in the following form:

### PRIMARY ELECTION STATEMENT FOR EMERGENCY PAPER BALLOTS VOTED

This statement must be completed by all election district board workers present when a voting machine malfunctions and emergency paper ballots are issued and voted. R.S.19:48-7.

This is to certify that voting machine no. .... became inoperative at .....AM, ..... PM. We further certify that ..... emergency paper ballots were issued and voted during the time the voting machine assigned to Election District No. .... in ..... (municipality) was inoperative. The last voting authorities given out before the voting machine became inoperative were REPUBLICAN NO. ...., DEMOCRATIC NO. .... this ..... day of ..... 2 .....

#### TO BE COMPLETED ONLY IF VOTING MACHINE IS REPLACED

Voting machine no. .... was replaced by voting machine no..... at ..... AM, .....PM.

The next voting authorities given out after the voting machine was replaced were REPUBLICAN NO....., DEMOCRATIC NO.....

#### TO BE COMPLETED WHEN VOTING MACHINE HAS BEEN RE-PAIRED AND IS READY TO RECEIVE VOTES

Voting machine no. .... was repaired at ..... AM, .....PM.

The next voting authorities given out after the voting machine was repaired were REPUBLICAN NO. ...., DEMOCRATIC NO. ....

.....  
Signature of Judge

.....  
Signature of Inspector

.....  
Municipality

.....  
Ward

.....  
District

.....  
Signature of Clerk

.....  
Signature of Clerk

.....  
Signature of Voting  
Machine Technician

If a voting machine fails to operate on multiple occasions during a single election, a STATEMENT FOR EMERGENCY PAPER BALLOTS VOTED shall be completed on each occasion when the machine fails to operate.

16. R.S.19:49-2 is amended to read as follows:

**Official ballots.**

19:49-2. All official ballots shall be in black ink in type as large as space will reasonably permit; provided, however, that any public question which shall be placed on the ballot shall be in red and above any public question to be voted upon by the voters of the entire State there shall be, also in red, a description of the public question, which description shall not exceed six words and shall be in type as large as is practicable. Party nominations shall be arranged on each voting machine, either in columns or horizontal rows; the caption of the various ballots on the machines shall be so placed on the machines as to indicate to the voter what device is to be used or operated in order to vote for the candidates or candidate of his or her choice. The providing of the official ballots and the order of the precedence and arrangement of parties and of candidates shall be as now required by law; provided, however, that in those counties where voting machines are used, the specifications for the official ballots shall be drawn by the county clerk.

For the primary election for the general election in all counties where voting machines are or shall be used, all candidates who shall file a joint petition with the county clerk of their respective county and who shall choose the same designation or slogan shall be drawn for position on the ballot as a unit and shall have their names placed on the same line of the voting machine; and provided further, that all candidates for municipal or party office in municipalities in counties where voting machines are or shall be used who shall file a petition with the clerk of their municipality bearing the same designation or slogan as that of the candidates filing a joint petition with the county clerk as aforesaid, may request that his or her name be placed on the same line of the voting machine with the candidates who have filed a joint petition with the county clerk as aforesaid by so notifying the county clerk of said county in writing within two days after the last day for filing nominating petitions and thereupon the county clerk shall forthwith notify the campaign manager of such candidates filing a joint petition as aforesaid of said request, and if the said campaign manager shall file his consent in writing with the said county clerk within two days after the receipt of said notification from said county clerk, the clerk of said county shall place the name of such candidate on the same line of the voting machine on which appears the names of the candidates who have filed the joint petition as aforesaid; provided, also, that any candidate filing a petition with the Attorney General may request that his or her name be placed on the same line of the voting machine with the candidates who have filed a joint petition with the county clerk as aforesaid by so notifying the county clerk of said county in writing within two days after the last day for filing nominating petitions, and thereupon the county clerk shall forthwith notify the campaign manager of such candidates filing a joint petition as aforesaid of said request, and if

the said campaign manager shall file his consent in writing with the said county clerk within two days after the receipt of said notification from said county clerk, the clerk of said county shall place the name of such candidate on the same line of the voting machine on which appears the names of the candidates who have filed the joint petition as aforesaid.

17. Section 2 of P.L.1973, c.82 (C.19:53A-2) is amended to read as follows:

**C.19:53A-2 Use of electronic voting systems; devices, certain, prohibited.**

2. a. The board of chosen freeholders of any county may adopt, acquire by purchase, lease, or otherwise, or abandon any electronic voting system or mechanical system authorized herein which has been approved for use in the State, in any election or primary or combination thereof, and may use such system in all or a part of the districts within its boundaries. The county authorities, on the adoption and acquisition of an electronic voting system, shall provide for the payment therefor in such manner as they deem for the best interest of the locality, in such manner as may be provided by law.

b. The provisions of this act shall be controlling with respect to elections where electronic voting systems are used, and shall be liberally construed so as to carry out the purpose and intent of this act. Any provisions of law relating to the conduct of elections which conflict with this act shall not apply to the conduct of elections with an approved electronic voting system.

c. Following the effective date of P.L.2004, c.88 (C.19:61-1 et al.), an electronic voting system that uses a voting device requiring the voter to punch out a hole in a ballot card or pull a mechanical lever as a means of recording the voter's vote shall not be used in any election in any district within this State.

18. Section 3 of P.L.1973, c.82 (C.19:53A-3) is amended to read as follows:

**C.19:53A-3 Requirements of electronic voting systems.**

3. Every electronic voting system, consisting of a voting device in combination with automatic tabulating equipment, acquired or used in accordance with this act, shall:

a. Provide for voting in secrecy, except in the case of voters who have received assistance as provided by law;

b. Permit each voter to vote at any election for all persons and offices for whom and for which he is lawfully entitled to vote; to vote for or against any question upon which he is entitled to vote; and the automatic tabulating equipment shall reject choices recorded on his ballot if the number of

choices exceeds the number which he is entitled to vote for the office or on the measure;

c. Permit each voter, at presidential elections, by one mark to vote for the candidates of that party for president, vice president, and their presidential electors;

d. Permit each voter, at other than primary elections, to vote for the nominees of one or more parties and for independent candidates; and personal choice or write-in candidates;

e. Permit each voter in primary elections to vote for candidates in the party primary in which he is qualified to vote, and the automatic tabulating equipment shall reject any votes cast for candidates of another party;

f. Prevent the voter from voting for the same person more than once for the same office;

g. Be suitably designed for the purpose used, of durable construction, and may be used safely, efficiently, and accurately in the conduct of elections and counting ballots;

h. When properly operated, record correctly and count accurately every vote cast, including all overvotes or undervotes and all affirmative votes or negative votes on all public questions or referenda.

19. Section 5 of P.L.1973, c.82 (C.19:53A-5) is amended to read as follows:

**C.19:53A-5 Ballots; labels, form; samples; write-ins.**

5. a. Ballot labels shall be in plain clear type in black, of such size and arrangement as to fit the construction of the voting device; they shall be on clear white material or on material of different colors to identify different ballots or parts of the ballot, and in primary elections to identify each political party.

b. The titles of offices and the names of candidates may be arranged in vertical columns or in a series of separate pages. The office title with a statement of the number of candidates to be voted for shall be printed above or at the side of the names of the candidates for that office. The names of candidates shall be in the order provided by law, and in general elections the party designation of each candidate, which may be abbreviated, and a slogan not to exceed six words may follow his or her name. In case there are more candidates for an office than can be arranged in one column or on one ballot page, the ballot label shall be clearly marked that the list of candidates is continued on the following column or page, and so far as possible, the same number of names shall be arranged on each column or page. Arrows may be used to indicate the place to vote for each candidate and on each measure.



c. The different parts of the ballot, such as partisan, nonpartisan, and measures, shall be prominently indicated on the ballot labels, and, if practicable, each part shall be placed on a separate page or pages. In the event that two or more elections are held on the same day, the ballot labels shall be clearly marked to indicate the ballot for each election, and, if practical, the ballot labels for each election shall be placed upon separate pages, and labels of a different color or tint may be used for each election.

d. Sample ballots, which shall be facsimile copies of the official ballot or ballot labels, shall be provided as required by law. At least three copies shall be posted in each polling place on election day. Sample ballots may be printed on a single sheet or on a number of pages stapled together.

e. In elections in which voters are authorized to vote for persons whose names do not appear on the ballot, at the discretion of the county board of elections either (1) a separate write-in ballot, which may be in the form of a paper ballot, card or envelope in which the voter places his or her ballot card after voting, shall be provided to permit voters to write in the title of the office and the name of the person or persons for whom he or she wishes to vote, or to attach a sticker of suitable size on which is printed the title of the office and the name of the person or persons for whom he or she wishes to vote; or (2) provisions shall be made for the voter to write the name of the person or persons for whom he or she wishes to vote on the ballot card in the location designated and to mark the ballot card in the location provided.

20. Section 9 of P.L.1973, c.82 (C.19:53A-9) is amended to read as follows:

**C.19:53A-9 Absentee votes, permitted methods.**

9. Absentee votes may be cast on paper ballots or ballot cards, or both methods may be used, provided that, following the effective date of P.L.2004, c.88 (C.19:61-1 et al.), absentee votes shall not be cast in any election in this State by means of ballot cards that require the voter to punch out a hole in the card as a means of recording the voter's vote.

Such ballots may be counted by automatic tabulating equipment or by special canvassing boards appointed by and under the direction of the county board of elections. A true copy of absentee paper ballots may be made on ballot cards, which after being duly verified, shall forthwith be counted in the same manner as other ballot cards, except that, following the effective date of P.L.2004, c.88 (C.19:61-1 et al.), ballot cards that require a hole to be punched out in the card to record a vote shall not be used in any election in this State. Such paper ballots and ballot cards shall be forthwith marked with corresponding numbers, which numbering shall be done in such manner as not to identify any voter and such marking shall not be considered to be

a marked ballot. Such paper ballots and corresponding ballot cards shall both be preserved in the same manner as other ballot cards are required to be preserved hereunder.

21. Section 21 of P.L.1992, c.3 (C.19:53B-12) is amended to read as follows:

**C.19:53B-12 Challenge of voter using emergency ballot, electronic voting machine.**

21. The right to challenge a voter who uses the emergency ballot shall exist until the emergency ballot is deposited in the emergency ballot box. If the right of a person to vote is challenged, the same procedures shall be used as prescribed when the right of a person to cast a vote on an electronic voting machine is challenged.

22. Section 7 of P.L.1999, c.232 (C.19:53C-1) is amended to read as follows:

**C.19:53C-1 Preparation of provisional ballots; written notices.**

7. a. (1) The county clerk or the municipal clerk, in the case of a municipal election, shall arrange for the preparation of a provisional ballot packet for each election district. It shall include the appropriate number of provisional ballots, the appropriate number of envelopes with an affirmation statement, the appropriate number of written notices to be distributed to voters who vote by provisional ballot and one provisional ballot inventory form affixed to the provisional ballot bag. The clerk shall arrange for the preparation of and placement in each provisional ballot bag of a provisional ballot packet and an envelope containing a numbered seal. The envelope shall contain, on its face, the instructions for the use of the seal, the number and the election district location of the provisional ballot bag, and the identification numbers of the seal placed in the envelope. Each provisional ballot bag shall be sealed with a numbered security seal before being forwarded to the appropriate election district.

(2) Each provisional ballot bag and the inventory of the contents of each such bag shall be delivered to the designated polling place no later than the opening of the polls on the day of an election.

b. The county clerk or the municipal clerk, in the case of a municipal election, shall arrange for the preparation of the envelope, affirmation statement, and written notice that is to accompany each provisional ballot. The envelope shall be of sufficient size to accommodate the provisional ballot, and the affirmation statement shall be affixed thereto in a manner that enables it to be detached once completed and verified by the county commissioner of registration. The statement shall require the voter to provide the voter's name, and to indicate whether the voter is registered to vote in a

county but has moved within that county since registering to vote; or is registered to vote in the election district in which that polling place is located but the voter's registration information is missing or otherwise deficient. The statement shall further require the voter to provide the voter's most recent prior voter registration address and address on the day of the election and date of birth. The statement shall include the statement: "I swear or affirm, that the foregoing statements made by me are true and correct and that I understand that any fraudulent voting may subject me to a fine of up to \$1,000, imprisonment up to five years or both, pursuant to R.S.19:34-11." It shall be followed immediately by spaces for the voter's signature and printed name, and in the case of a name change, the voter's printed old and new name and a signature for each name, the date the statement was completed, political party affiliation, if used in a primary election, and the name of the person providing assistance to the voter, if applicable. Each statement shall also note the number of the election district, or ward, and name of the municipality at which the statement will be used.

The written notice shall contain information to be distributed to each voter who votes by provisional ballot. The notice shall state that, if the voter is a mail-in registrant voting for the first time in his or her current county of residence following registration and was given a provisional ballot because he or she did not provide required personal identification information, the voter shall be given until the close of business on the second day after the election to provide identification to the applicable county commissioner of registration, and the notice shall contain a telephone number at which the commissioner may be contacted. The notice shall further state that failure to provide the required personal identification information within that time period shall result in the rejection of the ballot. The notice shall state that pursuant to section 4 of P.L.2004, c.88 (C.19:61-4), any individual who casts a provisional ballot will be able to ascertain under a system established by the State whether the ballot was accepted for counting, and if the vote was not counted, the reason for the rejection of the ballot. The notice shall include instructions on how to access such information.

c. For the primary for the general election, the provisional ballots shall be printed in ink on paper of a color that matches the color of the voting authority, which shall indicate the party primary of the voter. The provisional ballots shall be uniform in size, quality and type and of a thickness that the printing thereon cannot be distinguished from the back of the paper, and without any mark, device or figure on the front or back other than as provided in P.L.1999, c.232 (C.19:53C-1 et seq.). Each such ballot shall include near the top thereof and in large type the designation PROVISIONAL BALLOT. In all other respects, the provisional ballots shall conform gener-

ally to the other ballots to be used in the election district for the primary election.

The clerk of the county or municipality shall arrange for the preparation of each provisional ballot package with an appropriate number of provisional ballots for each political party, a corresponding number of envelopes with affirmation statements, and a corresponding number of written notices. Additional provisional ballots, envelopes, and notices shall be available for delivery to that election district on the day of the election, if necessary.

d. For the general election the provisional ballots shall be printed in ink. The provisional ballots shall be uniform in size, quality and type and of a thickness that the printing thereon cannot be distinguished from the back of the paper, and without any mark, device or figure on the front or back other than as provided in this act. Each such ballot shall include near the top thereof and in large type the designation PROVISIONAL BALLOT. In all other respects, the provisional ballots shall conform generally to the other ballots to be used in the election district for the general election.

The clerk of the county or municipality shall arrange for the preparation of each provisional ballot package with an appropriate number of provisional ballots, a corresponding number of envelopes with affirmation statements, and a corresponding number of written notices. Additional provisional ballots, envelopes, and notices shall be available for delivery to that election district on the day of the election, if necessary.

e. For a school election the provisional ballots shall be printed in ink. The provisional ballots shall be uniform in size, quality and type and of a thickness that the printing thereon cannot be distinguished from the back of the paper, and without any mark, device or figure on the front or back other than as provided in this act. Each such ballot shall include near the top thereof and in large type the designation PROVISIONAL BALLOT. In all other respects, the provisional ballots shall conform generally to the other ballots to be used in the election district for the school election.

The clerk of the county shall arrange for the preparation of each provisional ballot package with an appropriate number of provisional ballots, a corresponding number of envelopes with affirmation statements, and a corresponding number of written notices. Additional provisional ballots, envelopes, and notices shall be available for delivery to that election district on the day of the election, if necessary.

f. Following the effective date of P.L.2004, c.88 (C.19:61-1 et al.), a provisional ballot that requires the voter to punch out a hole in the ballot as a means of recording the voter's vote shall not be used in any election in this State.

23. Section 9 of P.L.1999, c.232 (C.19:53C-3) is amended to read as follows:

**C.19:53C-3 Procedure as to voters changing residence within the county, certain use of provisional ballots.**

9. Whenever a voter enters a polling place to vote on the day of an election and the circumstance of that voter matches the circumstance of a voter described in subsection b. of R.S.19:31-11, the district board shall query the voter and follow the appropriate procedure herein described.

a. If, at any time, the voter has moved from one residence to another in the same election district, the board shall permit the voter to vote at that polling place in the same manner as other voters at the polling place upon written affirmation by the voter to the district board.

b. If the voter has moved within a municipality but currently resides in an election district different from that listed for the voter by the commissioner of registration, the district board shall direct the voter to the appropriate election district and polling place for the voter and inform that person that: (1) the person must go to that polling place to vote; and (2) the person will be permitted to vote thereat by provisional ballot after completing an affirmation statement.

c. If the voter has moved within the county but currently resides in a municipality different from that listed for the voter by the commissioner of registration, the district board shall determine the appropriate election district and polling place for the voter and inform that person that: (1) the person must go to that polling place to vote; and (2) the person will be permitted to vote thereat by provisional ballot after completing an affirmation statement.

d. If, on or before the 29th day prior to the day of the election, the voter has moved into the county from another county or state and has not registered to vote in that county, the board shall inform the voter that he is not eligible to vote in that county at that election.

e. If, after the 29th day prior to the day of an election, the voter has moved into the county from another county in this State, the board shall inform the voter that: (1) the voter is not eligible to vote in the county where he resides currently at that election; and (2) the voter may be eligible to vote in the election district where the voter resided prior to moving to the voter's current residence.

f. If the voter's registration information has been marked by the county commissioner of registration to indicate a problem therewith, or if the voter's sample ballot has been returned as undeliverable to the county or municipal clerk, as the case may be, but the voter states that the voter has not moved prior to the day of an election, but instead continues to reside at the same address the voter resided at when voting previously, the voter shall be

permitted to vote in such election district in the same manner as other voters at the polling place upon written affirmation to the district board of that election district.

g. If the voter's registration information is missing, the voter shall be permitted to vote by provisional ballot after completing the affirmation statement attached to the envelope provided with the provisional ballot.

h. In accordance with the requirements of subsection (c) of section 302 of Pub.L.107-252 (42 U.S.C. 15482), whenever a voter is voting as a result of a federal or State court order or any other order extending the time established for closing the polls in effect 10 days before the date of an election, the voter may vote only by provisional ballot. Any such ballot shall be separated by the county board from other provisional ballots cast at the election and the results shall be canvassed and recorded separately in the official canvas for the election.

i. Any person who, pursuant to subsection b. of R.S.19:15-17, votes by provisional ballot at the polling place because of his or her failure to provide required personal identification information shall be given until the close of business on the second day after the election to provide the applicable county commissioner of registration with the identification information. Failure to provide the required personal identification information within that time period shall result in the rejection of the ballot.

24. Section 13 of P.L.1999, c.232 (C.19:53C-7) is amended to read as follows:

**C.19:53C-7 Voting with provisional ballot.**

13. To vote for a candidate whose name is printed in any column, or to vote in favor of or against any public question printed on the provisional ballot, the voter shall:

a. Mark a cross x, plus + or check ✓ in the square provided for the name of each candidate in any column for whom the voter chooses to vote, or for a public question, make the same marking in the square provided for either the word "Yes" or "No" of each public question, if the ballot requires such designation to be considered valid;

b. (Deleted by amendment, P.L.2004, c.88);

c. Complete the connecting line adjacent to the name of each candidate in any column for whom the voter chooses to vote, or for a public question, complete the connecting line adjacent to either the word "Yes" or "No" of each public question, if the ballot requires such designation to be considered valid; or

d. Fill in the designated space adjacent to the name of the candidate for whom the voter chooses to vote, or for a public question, fill in the desig-

nated space adjacent to either the word "Yes" or "No" of each public question, if the ballot requires such a designation to be considered valid.

25. Section 16 of P.L.1999, c.232 (C.19:53C-10) is amended to read as follows:

**C.19:53C-10 Voted provisional ballot placed in envelope, written instructions.**

16. a. After voting the provisional ballot and completing the affirmation statement, and before leaving the polling booth or the designated voting area, as the case may be, the voter shall place the voted provisional ballot in the envelope. The voter shall seal the envelope and shall retain custody of the envelope until a member of the board is ready to accept the envelope.

b. The voter shall hand the sealed envelope to the member of the district board. The member shall keep the sealed envelope in full view of the voter, the other district board members and all other persons present until it is placed in the provisional ballot bag. The voter may also take hold of the envelope, with that member of the board, until the envelope is placed in the provisional ballot bag. The security of the provisional ballot bag and its contents while any election occurs shall be the responsibility of the members of the district board. After placing the envelope in the provisional ballot bag, the member of the district board shall hand to the voter the written notice of instructions on how the voter may access information regarding whether the ballot of the individual is accepted for counting, and if the vote is not counted, the reason for the rejection of the ballot, pursuant to section 4 of P.L.2004, c.88 (C.19:61-4).

26. Section 4 of P.L.1953, c.211 (C.19:57-4) is amended to read as follows:

**C.19:57-4 Applications for absentee ballots.**

4. At any time not less than seven days prior to an election in which he desires to vote by mail, a civilian absentee voter may apply to the person designated in section 6 of P.L.1953, c.211 (C.19:57-6), for a civilian absentee ballot. Such application or request shall be made in writing, shall be signed by the applicant and shall state his or her place of voting residence and the address to which said ballot shall be sent, and the reason for which the ballot is requested.

Any military service voter desiring to vote in any election or any relative or friend of a military service voter who believes that such voter will desire to vote in any election, may apply to the person designated in section 6 of P.L.1953, c.211 (C.19:57-6) for a military service ballot to be sent to such voter. A military service voter may use a federal postcard application form to apply for a military service ballot. On any application made by a military

service voter the voter may request a military service ballot for all subsequent elections through and including the next two regularly scheduled general elections for federal office which take place after the request is made; if such a request is made, a military service ballot shall be sent in a timely manner to the voter for all such elections.

Any civilian absentee voter who fails to apply within the seven-day time prescribed above may apply in person to the county clerk for an absentee ballot on any day up to 3 p.m. of the day before the election.

In the event of sickness or confinement, the qualified voter may apply in writing for and obtain an absentee ballot by authorized messenger, who shall be so designated over the signature of the voter and whose printed name and address shall appear on the application in the space provided. The authorized messenger shall be a family member or a registered voter of the county in which the application is made and shall place his signature on the application in the space so provided in the presence of the county clerk or his designee. The county clerk or his designee shall authenticate the signature of the authorized messenger, in the event such a messenger is other than a family member, by comparing it with the signature of the said person appearing on a State of New Jersey driver's license, or other identification issued or recognized as official by the federal government, the State, or any of its political subdivisions, which identification carries the full address and signature of said person. After the signature of the application and, when appropriate, authentication, the county clerk or his designee is authorized to deliver to the authorized messenger a ballot to be delivered to the qualified voter. The Attorney General shall cause to be prepared a standard authorized messenger application form, which may be included with the standard civilian absentee ballot application forms.

A voter who is permanently and totally disabled, and who states the reason for such disability in a request for an absentee ballot, shall be furnished an application for an absentee ballot by the county clerk for all future elections in which the voter shall be eligible to vote, without further request on the part of the voter. A voter who is permanently and totally disabled shall have the option to indicate on an application for an absentee ballot that the voter would like to receive an absentee ballot for each election that takes place during the remainder of the calendar year in which the application is completed and submitted. A voter who exercises this option shall be furnished with an absentee ballot for each election that takes place during the remainder of the calendar year without further request by the voter. A person voting by absentee ballot who registered by mail after January 1, 2003, who did not provide personal identification information when registering pursuant to section 16 of P.L.1974, c.30 (C.19:31-6.4) and is voting for the first time in his or her current county of residence following registration shall include



the required identification information with the absentee ballot. Failure to include such information with the absentee ballot shall result in the rejection of the ballot.

27. Section 6 of P.L.1953, c.211 (C.19:57-6) is amended to read as follows:

**C.19:57-6 Application, request to county clerk.**

6. In the case of any election, the application or request shall be made to the county clerk of the county.

In the case of applications for civilian absentee ballots, the county clerk shall stamp thereon the date on which said application was received in his office. In the case of applications for military service ballots, as defined in section 2 of P.L.1953, c.211 (C.19:57-2) and overseas federal election voter ballots, as provided for in P.L.1976, c.23 (C.19:59-1 et seq.), no application shall be refused on the grounds that it was submitted too early.

28. Section 7 of P.L.1953, c.211 (C.19:57-7) is amended to read as follows:

**C.19:57-7 Absentee ballots; information and notices.**

7. a. The Attorney General, through the Division of Elections in the Department of Law and Public Safety shall be responsible for providing all information regarding military service ballots, as defined in section 2 of P.L.1953, c.211 (C.19:57-2), and overseas federal election voter ballots, as provided for in P.L.1976, c.23 (C.19:59-1 et seq.). The division shall also make available valid military service voter registration applications, military service ballot applications and overseas federal election voter registration and ballot applications to any military service or overseas federal election voter who wishes to register to vote or to vote in any jurisdiction in this State. The division shall publish or cause to be published the following notice in substantially the following form:

**NOTICE TO MILITARY SERVICE VOTERS AND  
TO THEIR RELATIVES AND FRIENDS**

If you are in the military service, or the spouse or dependent of a person in military service or are a patient in a veterans' hospital or a civilian attached to or serving with the Armed Forces of the United States without the State of New Jersey, or the spouse or dependent of and accompanying or residing with a civilian attached to or serving with the Armed Forces of the United States, and desire to vote, or if you are a relative or friend of any such person who, you believe, will desire to vote in the ..... (school,

municipal, primary, general or other) election to be held on .....  
(date of election) kindly write to the undersigned at once making application for a military service ballot to be voted in said election to be forwarded to you, stating your name, age, serial number if you are in military service, home address and the address at which you are stationed or can be found, or if you desire the military service ballot for a relative or friend then make application under oath for a military service ballot to be forwarded to him, stating in your application that he is over the age of 18 years and stating his name, serial number if he is in military service, home address and the address at which he is stationed or can be found.

Military service voters may also apply for a military service ballot by sending a federal postcard application form to the undersigned.

On the application for a military service ballot, military service voters may request that a military service ballot be sent for all subsequent elections through and including the next two regularly scheduled general elections for federal office which take place after the request is made.

(NOTE: MILITARY SERVICE VOTER CLAIMING MILITARY STATION AS HOME ADDRESS FOR VOTING PURPOSES MAY NOT USE MILITARY ABSENTEE BALLOT UNLESS REGISTERED TO VOTE IN THE MUNICIPALITY WHERE SUCH STATION IS LOCATED.)

Forms of application other than federal postcard application forms can be obtained from the undersigned.

Dated .....  
.....  
(signature and title of Director of Division of Elections)  
.....  
(address of Division of Elections)

b. The county clerk of the county, in the case of any Statewide election, countywide election, or school election in a regional or other school district comprising more than one municipality; the clerk of the municipality, in the case of any municipal election or school election in a school district comprising a single municipality; and the commissioners or other governing or administrative body of the district, in the case of any election to be held in any fire district, road district, sewerage district, street lighting district, water supply district or other special district, other than a municipality, created for specified public purposes within one or more municipalities, shall publish or cause to be published the following notice in substantially the following form:

NOTICE TO PERSONS DESIRING CIVILIAN ABSENTEE  
BALLOTS

If you are a qualified and registered voter of the State who expects to be absent outside the State on .....(date of election) or a qualified and registered voter who will be within the State on ..... (date of election) but because of permanent and total disability, or because of illness or temporary physical disability, or because of the observance of a religious holiday pursuant to the tenets of your religion, or because of resident attendance at a school, college, or university, or because of the nature and hours of employment, will be unable to cast your ballot at the polling place in your district on said date, and you desire to vote in the ..... (school, municipal, primary, general, or other) election to be held on ..... (date of election) kindly complete the application form below and send to the undersigned, or write or apply in person to the undersigned at once requesting that a civilian absentee ballot be forwarded to you. Such request must state your home address, and the address to which said ballot should be sent, and must be signed with your signature, and state the reason why you will not be able to vote at your usual polling place. No civilian absentee ballot will be furnished or forwarded to any applicant unless request therefor is received not less than seven days prior to the election, and contains the foregoing information.

Voters who are permanently and totally disabled shall, after their initial request and without further action on their part, be forwarded an absentee ballot application by the county clerk for all future elections in which they are eligible to vote. Permanently and totally disabled voters also have the option of indicating on their absentee ballot applications that they would prefer to receive absentee ballots for each election that takes place during the remainder of this calendar year. Permanently and totally disabled voters who exercise this option will be furnished with absentee ballots for each election that takes place during the remainder of this calendar year, without further action on their part. Application forms may be obtained by applying to the undersigned either in writing or by telephone, or the application form provided below may be completed and forwarded to the undersigned.

Dated .....  
 .....  
 (signature and title of county clerk)  
 .....  
 (address of county clerk)  
 .....  
 (telephone no. of county clerk)

APPLICATION FORM FOR CIVILIAN ABSENTEE BALLOT  
 (Form to be prepared by the Attorney General pursuant to section 17 of P.L.1977, c.47 (C.19:57-4.1)).

c. The absentee ballot materials shall contain a notice that any person voting by absentee ballot who registers by mail after January 1, 2003, who did not provide personal identification information when registering and is voting for the first time in his or her current county of residence following registration shall include the required identification information with the absentee ballot, and that failure to include such information shall result in the rejection of the ballot.

d. Such notices as described in subsections a. and b. of this section shall be separately published prior to the 50th day immediately preceding the holding of any election.

Notices relating to any Statewide or countywide election shall be published in at least two newspapers published in the county. All officials charged with the duty of publishing such notices shall publish the same in at least one newspaper published in each municipality or district in which the election is to be held or if no newspaper be published in said municipality or district, then in a newspaper published in the county and circulating in such municipality, municipalities or district. All such notices shall be display advertisements.

29. Section 8 of P.L.1953, c.211 (C.19:57-8) is amended to read as follows:

**C.19:57-8 County clerk to have ballots printed.**

8. Each county clerk shall cause to be printed sufficient military service ballots and civilian absentee ballots for each primary election for the general election, and for the general election, and there shall be furnished to the said county clerk of the county, as expeditiously as possible before the day fixed for holding any other election within the county, by the officer whose duty it shall be to provide the official ballots for such election, sufficient military service ballots and civilian absentee ballots. Along with all such ballots for all elections there shall also be furnished by such county clerk or other official, inner and outer envelopes and printed directions for the preparation and transmitting of such ballots, for use in such election within the county and all expenses of mailing such ballots shall be paid in the same manner as other expenses of said election are paid.

The absentee ballots shall be printed on paper different in color from that used for the primary or general election ballot, but in all other respects, shall be as nearly as possible facsimiles of the election ballot to be voted at such election, as prescribed by the county clerk and in conformity with the provisions of this act.

30. Section 1 of P.L.1972, c.87 (C.19:57-15.1) is amended to read as follows:

**C.19:57-15.1 Systems for counting ballots permitted for county adoption.**

1. Notwithstanding any provision of law to the contrary, any county may adopt a system of electronic scanning, other mechanical or electronic device, which system has been previously approved by the Attorney General, to be used in counting or canvassing absentee ballots. The county clerk in any county adopting such a system may prepare and use absentee ballots that do not conform generally to the ballot to be used at said election to the extent that such nonconformance is necessary in the operation of the electronic or mechanical canvassing system.

In preparing the absentee ballot, the county clerk shall insert the names of the candidates on the appropriate ballot or other device in the same order in which they appear on the official ballot with full instructions to the voter as to how to mark the ballot.

31. This act shall take effect immediately, except that sections 12 through 20, subsection f. of section 21 and sections 23, 28 and 29 of this act shall remain inoperative until January 1, 2004 or, if the State receives a waiver in accordance with subparagraph (d.) of paragraph (b) of subsection (1) of section 303 of Pub.L.107-252 (42 U.S.C. 15483), January 1, 2006.

Approved July 9, 2004.

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CHAPTER 89

AN ACT concerning implementation of the State Development and Redevelopment Plan, establishing a Smart Growth Ombudsman in the Department of Community Affairs, establishing a Division of Smart Growth in the Department of Environmental Protection, a Division of Smart Growth in the Department of Transportation, and a Division of Smart Growth in the Department of Community Affairs, providing for the expediting of certain State permits in smart growth areas, supplementing P.L.1978, c.67 (C.52:14F-1 et seq.), and supplementing Titles 13, 27, and 52 of the Revised Statutes.

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

**C.52:27D-10.2 Definitions relative to Smart Growth Ombudsman.**

1. As used in sections 2 and 3 of P.L.2004, c.89 (C.52:27D-10.3 and C.52:27D-10.4):

"Applicant" means any person applying for a permit pursuant to section 5, 7, 9 or 10 of P.L.2004, c.89 (C.13:1D-145, C.27:1E-2, C.52:27D-10.6 or C.13:1D-146);

"Ombudsman" or "Smart Growth Ombudsman" means the Smart Growth Ombudsman appointed by the Governor pursuant to section 2 of P.L.2004, c.89 (C.52:27D-10.3);

"Permit" means any permit or approval issued by the Department of Environmental Protection, pursuant to any law, or any rule or regulation adopted pursuant thereto, provided that "permit" shall not include any approval of a grant, or a permit issued pursuant to the "Coastal Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.), the "Air Pollution Control Act (1954)," P.L.1954, c.212 (C.26:2C-1 et seq.), the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.), or the "Radiation Protection Act," P.L.1958, c.116 (C.26:2D-1 et seq.), any permit or approval issued by the Department of Transportation pursuant to any law, or any rule or regulation adopted pursuant thereto, or any permit or approval required as a condition of development or redevelopment issued by the Department of Community Affairs pursuant to any law or any rule or regulation adopted pursuant thereto;

"Person" means any individual, corporation, company, partnership, firm, association, owner or operator of a treatment works, political subdivision of this State, or State or interstate agency; and

"Smart growth area" means an area designated pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), a designated center, or a designated growth center in an endorsed plan; 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); a growth area designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to section 7 of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-8); an urban enterprise zone designated pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et al.); an area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) and as approved by the Department of Community Affairs; or similar areas designated by the Department of Environmental Protection.

**C.52:27D-10.3 Smart Growth Ombudsman in DCA.**

2. a. There is created in the Department of Community Affairs a Smart Growth Ombudsman. The Smart Growth Ombudsman shall be appointed by the Governor, serve at the pleasure of the Governor, and report to the Governor.

b. The activities and duties of the Smart Growth Ombudsman shall be funded out of revenues collected pursuant to the fee schedule adopted pursuant to subsection d. of section 5, subsection d. of section 7 and subsection d. of section 9 of P.L.2004, c.89 (C.13:1D-145, C.27:1E-2 and C.52:27D-10.6) and remitted to the Smart Growth Ombudsman.

c. The Smart Growth Ombudsman may call upon the assistance of the services of those employees of any State, county or municipal department, board, bureau, commission or agency as may be required and as may be necessary for its purposes. In addition, the Smart Growth Ombudsman may call upon any department, agency or office of the State of New Jersey for such documents, materials and information as it may deem necessary.

**C.52:27D-10.4 Duties of Smart Growth Ombudsman.**

3. The Smart Growth Ombudsman shall:

a. in conjunction with the Directors of the Divisions of Smart Growth established pursuant to sections 5, 7 and 9 of P.L.2004, c.89 (C.13:1D-145, C.27:1E-2 and C.52:27D-10.6), review all relevant permit programs and requirements and make recommendations to the Governor and the departments regarding integration of multiple review and approval processes and recommendations on those permits for which approval may be expedited in smart growth areas through mechanisms such as permits-by-rule, general permits or qualification of professionals;

b. maintain and operate an informational website which shall enable any person to gain access to information regarding the statutory obligations and authority of the Smart Growth Ombudsman, including those services which the ombudsman may provide to State permit applicants to facilitate or expedite permit approval and issuance;

c. at the request of an applicant, participate in the permit application and review process to ensure compliance with the time frames set forth in subsection c. of section 5, subsection c. of section 7 or subsection c. of section 9, or subsections c. and d. of section 10, as the case may be, of P.L.2004, c.89 (C.13:1D-145, C.27:1E-2, C.52:27D-10.6 or C.13:1D-146);

d. review any new rules or regulations proposed by any State agency and determine whether the proposed rules or regulations, as they pertain to the smart growth areas, are consistent with the State Development and Redevelopment Plan. In the event that the Smart Growth Ombudsman determines that the proposed rules or regulations in the smart growth areas are not consistent with the State Development and Redevelopment Plan, the Smart Growth Ombudsman shall return the proposed rules or regulations to the State agency with recommended amendments necessary to make the proposed rules or regulations consistent with the State Development and Redevelopment Plan. A State agency shall not file proposed new rules or

regulations for publication in the New Jersey Register unless and until the Smart Growth Ombudsman determines the proposed rules or regulations in the smart growth areas are consistent with the State Development and Redevelopment Plan. The requirements of this section may be waived upon a written determination by the Chief Counsel to the Governor that the proposed rules or regulations are required to implement a federal or State mandate; and

e. one year after the date of enactment of this act and annually thereafter, prepare a report which shall be transmitted to the Governor and the Legislature summarizing the activities of the ombudsman, including, but not limited to, a description of the permits, permit mechanisms, and permit processes that have been streamlined, a list of permit applications in which the ombudsman has participated, any rules or regulations that have been reviewed and the consistency determinations made by the ombudsman, and a report concerning the programs established for the registration and qualification of professionals by the Director of the Division of Smart Growth in the Department of Environmental Protection, the Department of Transportation, and the Department of Community Affairs.

As used in this section, "State agency" shall not include the Pinelands Commission established pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.), the Highlands Water Protection and Planning Council established pursuant to P.L.2004, c.120 (C.13:20-1 et al.), or the New Jersey Meadowlands Commission established pursuant to P.L.1968, c.404 (C.13:17-1 et seq.), or any independent authority or commission.

**C.13:1D-144 Definitions relative to smart growth in DEP and expedited permits.**

4. As used in sections 5 and 10 of P.L.2004, c.89 (C.13:1D-145 and C.13:1D-146):

"Applicant" means any person applying for a permit pursuant to sections 5 or 10 of P.L.2004, c.89 (C.13:1D-145 or C.13:1D-146);

"Ombudsman" or "Smart Growth Ombudsman" means the Smart Growth Ombudsman appointed by the Governor pursuant to section 2 of P.L.2004, c.89 (C.52:27D-10.3);

"Permit" means any permit or approval issued by the Department of Environmental Protection pursuant to any law, or any rule or regulation adopted pursuant thereto, provided that "permit" shall not include any approval of a grant, or a permit issued pursuant to the "Coastal Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.), the "Air Pollution Control Act (1954)," P.L.1954, c.212 (C.26:2C-1 et seq.), the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.), or the "Radiation Protection Act," P.L.1958, c.116 (C.26:2D-1 et seq.);



"Person" means any individual, corporation, company, partnership, firm, association, owner or operator of a treatment works, political subdivision of this State, or State or interstate agency; and

"Smart growth area" means an area designated pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), a designated center, or a designated growth center in an endorsed plan; 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); a growth area designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to section 7 of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-8); an urban enterprise zone designated pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et al.); an area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) and as approved by the Department of Community Affairs; or similar areas designated by the Department of Environmental Protection.

**C.13:1D-145 Division of Smart Growth established in DEP.**

5. a. There is established in the Department of Environmental Protection a Division of Smart Growth under the direction of a director, who shall be appointed by the Governor and report to the Commissioner of Environmental Protection. The director shall review and take action on permits for which the applicant has requested expedited review pursuant to this section.

b. The director shall coordinate and expedite the review of permits issued by the division with the Smart Growth Ombudsman appointed pursuant to section 2 of P.L.2004, c.89 (C.52:27D-10.3).

c. (1) An applicant may request an expedited permit application review for a proposed project in a smart growth area. In order to qualify for expedited permit application review pursuant to this section, an applicant shall include with a permit application all necessary documentation, a request for expedited permit application review, and the permit fee established in accordance with subsection d. of this section. The permit application shall be signed by the applicant and by a professional qualified and registered in accordance with subsection e. of this section, certifying that a permit application is complete and that the statutory and regulatory requirements for the permit have been met by the applicant. A copy of the application and the request shall also be submitted to the ombudsman and to the clerk of the municipality and the clerk of the county in which the proposed project is located. A permit application that qualifies for expedited permit application review pursuant to this section shall be subject to the following time frames:

(a) the division shall notify an applicant within 20 days after the filing date if the permit application lacks a submission identified on a checklist therefor, or a submission has not been completed. If an application, including the permit fee and all necessary documentation, is determined to be complete, or if a notice of incompleteness is not provided within 20 days after the filing of the application, the application shall be deemed complete for purposes of commencing a technical review. In the case of a permit application affecting wetlands, a complete application shall include an effective letter of interpretation issued by the department concerning the delineation of the wetlands;

(b) (I) except as otherwise provided in subsubparagraph (ii) of this subparagraph, the division shall notify an applicant if the permit application is technically complete or issue a notice of deficiency within 45 days after the filing of the application. If an application is determined to be technically complete, or if a notice of deficiency is not issued within 45 days after the filing of the application, the application shall be deemed technically complete. A notice of deficiency shall itemize all deficiencies that must be addressed in order for the application to be determined technically complete. A notice of deficiency shall be deemed exclusive and further review for technical completeness shall be limited to the items so identified;

(ii) in the case of water allocation permits issued pursuant to the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.) and P.L.1993, c.202 (C.58:1A-7.3 et seq.) for a diversion from an unconfined aquifer or surface water body and New Jersey Pollutant Discharge Elimination System permits issued pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) for a discharge of 1,000,000 gallons per day or greater, the division shall notify an applicant if the permit application is technically complete or issue a notice of deficiency within 60 days after filing of the application. If an application is determined to be technically complete, or if a notice of deficiency is not issued within 60 days after filing of the application, the application shall be deemed technically complete;

(c) except as provided in subparagraphs (e) and (f) of this paragraph, the division shall take action on a technically complete permit application within 45 days, except that this time period may be extended for a 30-day period by the mutual consent of the applicant and the department. Except for any New Jersey Pollutant Discharge Elimination System permit issued pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) in the event that the department fails to take action on an application for a permit within the 45-day period specified herein, or within the periods set forth in subparagraphs (e) and (f) of this paragraph, then the application shall be deemed to have been approved;

(d) if more than one notice of deficiency is issued by the division, the applicant may request an expedited hearing in accordance with section 14 of P.L.2004, c.89 (C.52:14F-17) to determine whether the application is technically complete;

(e) in the cases of water allocation permits issued pursuant to the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.) and P.L.1993, c.202 (C.58:1A-7.3 et seq.) for a diversion from a confined aquifer and New Jersey Pollutant Discharge Elimination System permits issued pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) for a discharge of less than 1,000,000 gallons per day, after a permit application is deemed complete, and after a 30-day public comment period, the department shall take action on the permit within five days if minimal or no comments were received in the public comment period, or within 15 days if more than minimal comments were received in the public comment period; and

(f) in the cases of water allocation permits issued pursuant to the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.) and P.L.1993, c.202 (C.58:1A-7.3 et seq.) for a diversion from an unconfined aquifer or surface water body and New Jersey Pollutant Discharge Elimination System permits issued pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) for a discharge of 1,000,000 gallons per day or greater, after a permit application is deemed complete, and after a 30-day public comment period, the department shall take action on the permit within five days if minimal or no comments were received in the public comment period, or within 45 days if more than minimal comments were received in the public comment period.

(2) Nothing in this subsection shall supersede shorter periods for department action provided by applicable law.

d. The direct and indirect costs of personnel, equipment, operating expenses, and activities of the division shall be funded solely through permit fees for expedited permits issued in the smart growth areas pursuant to this section. The department shall, in consultation with the ombudsman, establish permit fees necessary for the department to administer and enforce the expedited permit application review program established pursuant to this section. The fee schedule established pursuant to this subsection shall include the department's pro rata share of the budget of the Smart Growth Ombudsman. Within 30 days after the date of enactment of P.L.2004, c.89 (C.52:27D-10.2 et al.), the department, in consultation with the ombudsman, shall publish a schedule of permit fees in the New Jersey Register and may amend the fee schedule as necessary. The fee schedule may provide for increased fees for complex projects.

e. (1) The Director of the Division of Smart Growth shall, within 120 days after the date of enactment of P.L.2004, c.89 (C.52:27D-10.2 et al.), develop a program for the qualification and registration of professionals who shall certify that a permit application is complete and that the statutory and regulatory requirements for the permit have been met by the applicant. The requirements for qualification and registration may include, but shall not be limited to, professional licensure relevant to the subject matter of the permit, a review of projects undertaken by the professional applying for qualification and registration, and a review of the nature of the professional's services provided on each project.

(2) The director shall include in the program for the qualification and registration of professionals any standards or requirements necessary for proper administration and enforcement of the provisions of P.L.2004, c.89 (C.52:27D-10.2 et al.), and shall provide for the suspension or revocation of the qualification and registration of professionals as provided in this subsection.

(3) Any person who negligently violates any requirement of the program established by the department for the qualification and registration of professionals may lose professional licensure for one year, may be barred from qualification and registration for a period of three years, and the firm with which that individual is associated may be barred from seeking qualification and registration for a period of three years.

(4) If a person willfully or recklessly violates any requirement of the program established by the department for the qualification and registration of professionals, that individual shall lose professional licensure for one year, shall be permanently barred from qualification and registration, and the firm with which that individual is associated shall be permanently barred from seeking qualification and registration.

(5) Prior to any suspension, revocation, or failure to renew a person's qualification and registration, the department shall afford the person or firm an opportunity for a hearing in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), except that, if the department has reason to believe that a condition exists which poses an imminent threat to the public health, safety or welfare, it may order the immediate suspension of qualification and registration pending the outcome of the hearing.

f. The Director of the Division of Smart Growth, after consultation with the Smart Growth Ombudsman, may adopt rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as appropriate to implement the requirements of this section and to encourage development in the smart growth areas.

g. Nothing in this section shall be construed or implemented in such a way as to modify any requirement of law that is necessary to retain federal delegation to, or assumption by, the State of the authority to implement a federal law or program.

h. Applications for an expedited permit application review pursuant to subsection c. of this section shall not be accepted until 120 days following the date of enactment of P.L.2004, c.89 (C.52:27D-10.2 et al.). Applications pending on the date of enactment of P.L.2004, c.89 (C.52:27D-10.2 et al.) shall, upon request of the applicant, be processed in the expedited permit application review program when it becomes effective. A permit application that is the subject of a request under this provision shall be transferred to the Division of Smart Growth for processing in accordance with P.L.2004, c.89 (C.52:27D-10.2 et al.).

**C.27:1E-1 Definitions relative to smart growth in DOT and expedited permits.**

6. As used in section 7 of P.L.2004, c.89 (C.27:1E-2):

"Applicant" means any person applying for a permit pursuant to section 7 or 10, as appropriate, of P.L.2004, c.89 (C.27:1E-2 or C.13:1D-146);

"Ombudsman" or "Smart Growth Ombudsman" means the Smart Growth Ombudsman appointed by the Governor pursuant to section 2 of P.L.2004, c.89 (C.52:27D-10.3);

"Permit" means any permit or approval issued by the Department of Transportation pursuant to any law or any rule or regulation adopted pursuant thereto;

"Person" means any individual, corporation, company, partnership, firm, association, owner or operator of a treatment works, political subdivision of this State, or State or interstate agency; and

"Smart growth area" means an area designated pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), a designated center, or a designated growth center in an endorsed plan; 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); a growth area designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to section 7 of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-8); an urban enterprise zone designated pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et al.); an area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) and as approved by the Department of Community Affairs; or similar areas designated by the Department of Environmental Protection.

**C.27:1E-2 Division of Smart Growth established in DOT.**

7. a. There is established in the Department of Transportation a Division of Smart Growth under the direction of a director, who shall be appointed by the Governor and report to the Commissioner of Transportation. The director shall review and take action on permits for which the applicant has requested expedited review pursuant to this section.

b. The director shall coordinate and expedite the review of permits issued by the division with the Smart Growth Ombudsman appointed pursuant to section 2 of P.L.2004, c.89 (C.52:27D-10.3).

c. (1) An applicant may request an expedited permit application review for a proposed project in a smart growth area. In order to qualify for expedited permit application review pursuant to this section, an applicant shall include with a permit application all necessary documentation, a request for expedited permit application review, and the permit fee established in accordance with subsection d. of this section. The permit application shall be signed by the applicant and by a professional qualified and registered in accordance with subsection e. of this section, certifying that a permit application is complete and that the statutory and regulatory requirements for the permit have been met by the applicant. A copy of the application and the request shall also be submitted to the ombudsman and to the clerk of the municipality and the clerk of the county in which the proposed project is located. A permit application that qualifies for expedited permit application review pursuant to this section shall be subject to the following time frames:

(a) the division shall notify an applicant within 20 days after the filing date if the permit application lacks a submission identified on a checklist therefor, or a submission has not been completed. If an application, including the permit fee and all necessary documentation, is determined to be complete, or if a notice of incompleteness is not provided within 20 days after the filing of the application, the application shall be deemed complete for purposes of commencing a technical review;

(b) the division shall notify an applicant if the permit application is technically complete or issue a notice of deficiency within 45 days after the filing of the application. If an application is determined to be technically complete or if a notice of deficiency is not issued within 45 days after the filing of the application, the application shall be deemed technically complete. A notice of deficiency shall itemize all deficiencies that must be addressed in order for the application to be determined technically complete. A notice of deficiency shall be deemed exclusive and further review for technical completeness shall be limited to the items so identified;

(c) the division shall take action on a technically complete permit application within 45 days, except that this time period may be extended for

a 30-day period by the mutual consent of the applicant and the department. In the event that the department fails to take action on an application for a permit within the 45-day period specified herein, then the application shall be deemed to have been approved; and

(d) if more than one notice of deficiency is issued by the division, the applicant may request an expedited hearing in accordance with section 14 of P.L.2004, c.89 (C.52:14F-17) to determine whether the application is technically complete.

(2) Nothing in this subsection shall supersede shorter periods for department action provided by applicable law.

d. The direct and indirect costs of personnel, equipment, operating expenses, and activities of the division shall be funded solely through permit fees for permits issued in the smart growth areas. The department shall, in consultation with the ombudsman, establish permit fees necessary for the department to administer and enforce the program. The fee schedule established pursuant to this subsection shall include the department's pro rata share of the budget of the Smart Growth Ombudsman. Within 30 days after the date of enactment of P.L.2004, c.89 (C.52:27D-10.2 et al.), the department, in consultation with the ombudsman, shall publish a schedule of permit fees in the New Jersey Register and may amend the fee schedule as necessary. The fee schedule may provide for increased fees for complex projects.

e. (1) The Director of the Division of Smart Growth shall, within 120 days after the date of enactment of P.L.2004, c.89 (C.52:27D-10.2 et al.), develop a program for the qualification and registration of professionals who shall certify that a permit application is complete and that the statutory and regulatory requirements for the permit have been met by the applicant. The requirements for qualification and registration may include, but shall not be limited to, professional licensure relevant to the subject matter of the permit, a review of projects undertaken by the professional applying for qualification and registration, and a review of the nature of the professional's services provided on each project.

(2) The director shall include in the program for the qualification and registration of professionals any standards or requirements necessary for proper administration and enforcement of the provisions of P.L.2004, c.89 (C.52:27D-10.2 et al.), and shall provide for the suspension or revocation of the qualification and registration of professionals as provided in this subsection.

(3) Any person who negligently violates any requirement of the program established by the department for the qualification and registration of professionals may lose professional licensure for one year, may be barred from qualification and registration for a period of three years, and the firm with

which that individual is associated may be barred from seeking qualification and registration for a period of three years.

(4) If a person willfully or recklessly violates any requirement of the program established by the department for the qualification and registration of professionals, that individual shall lose professional licensure for one year, shall be permanently barred from qualification and registration, and the firm with which that individual is associated shall be permanently barred from seeking qualification and registration.

(5) Prior to any suspension, revocation, or failure to renew a person's qualification and registration, the department shall afford the person or firm an opportunity for a hearing in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), except that, if the department has reason to believe that a condition exists which poses an imminent threat to the public health, safety or welfare, it may order the immediate suspension of qualification and registration pending the outcome of the hearing.

f. The director, after consultation with the Smart Growth Ombudsman, may adopt rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as appropriate to implement the requirements of this section and to encourage development in the smart growth areas.

g. Nothing in this section shall be construed or implemented in such a way as to modify any requirement of law that is necessary to retain federal delegation to, or assumption by, the State of the authority to implement a federal law or program.

h. Applications for an expedited permit application review pursuant to subsection c. of this section shall not be accepted until 120 days following the date of enactment of P.L.2004, c.89 (C.52:27D-10.2 et al.). Applications pending on the date of enactment of P.L.2004, c.89 (C.52:27D-10.2 et al.) shall, upon request of the applicant, be processed in the expedited permit application review program when it becomes effective. A permit application that is the subject of a request under this provision shall be transferred to the Division of Smart Growth for processing in accordance with P.L.2004, c.89 (C.52:27D-10.2 et al.).

**C.52:27D-10.5 Definitions relative to smart growth in DCA and expedited permits.**

8. As used in section 9 of P.L.2004, c.89 (C.52:27D-10.6):

"Applicant" means any person applying for a permit pursuant to section 9 of P.L.2004, c.89 (C.52:27D-10.6);

"Ombudsman" or "Smart Growth Ombudsman" means the Smart Growth Ombudsman appointed by the Governor pursuant to section 2 of P.L.2004, c.89 (C.25:27D-10.3);



"Permit" means any permit or approval required as a condition of development or redevelopment and issued by the Department of Community Affairs pursuant to any law or any rule or regulation adopted pursuant thereto;

"Person" means any individual, corporation, company, partnership, firm, association, owner or operator of a treatment works, political subdivision of this State, or State or interstate agency; and

"Smart growth area" means an area designated pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), a designated center, or a designated growth center in an endorsed plan; 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); a growth area designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to section 7 of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-8); an urban enterprise zone designated pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et al.); an area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) and as approved by the Department of Community Affairs; or similar areas designated by the Department of Environmental Protection.

**C.52:27D-10.6 Division of Smart Growth established in DCA.**

9. a. There is established in the Department of Community Affairs a Division of Smart Growth under the direction of a director, who shall be appointed by the Governor and report to the Commissioner of Community Affairs. The director shall review and take action on permits for which the applicant has requested expedited review pursuant to this section.

b. The director shall coordinate and expedite the review of permits issued by the division with the Smart Growth Ombudsman appointed pursuant to section 2 of P.L.2004, c.89 (C.52:27D-10.3).

c. (1) An applicant may request an expedited permit application review for a proposed project in a smart growth area. In order to qualify for expedited permit application review pursuant to this section, an applicant shall include with a permit application all necessary documentation, a request for expedited permit application review, and the permit fee established in accordance with subsection d. of this section. The permit application shall be signed by the applicant and by a professional qualified and registered in accordance with subsection e. of this section, certifying that a permit application is complete and that the statutory and regulatory requirements for the permit have been met by the applicant. A copy of the application and the request shall also be submitted to the ombudsman and to the clerk of the

municipality and the clerk of the county in which the proposed project is located. A permit application that qualifies for expedited permit application review pursuant to this section shall be subject to the following time frames:

(a) the division shall notify an applicant within 20 days after the filing date if the permit application lacks a submission identified on a checklist therefor, or a submission has not been completed. If an application, including the permit fee and all necessary documentation, is determined to be complete or if a notice of incompleteness is not provided within 20 days after the filing of the application, the application shall be deemed complete for purposes of commencing a technical review;

(b) the division shall notify an applicant if the permit application is technically complete or issue a notice of deficiency within 45 days after the filing of the application. If an application is determined to be technically complete, or if a notice of deficiency is not issued within 45 days after the filing of the application, the application shall be deemed technically complete. A notice of deficiency shall itemize all deficiencies that must be addressed in order for the application to be determined technically complete. A notice of deficiency shall be deemed exclusive and further review for technical completeness shall be limited to the items so identified;

(c) the division shall take action on a technically complete permit application within 45 days, except that this time period may be extended for a 30-day period by the mutual consent of the applicant and the department. In the event that the department fails to take action on an application for a permit within the 45-day period specified herein, then the application shall be deemed to have been approved; and

(d) if more than one notice of deficiency is issued by the division, the applicant may request an expedited hearing in accordance with section 14 of P.L.2004, c.89 (C.52:14F-17) to determine whether the application is technically complete.

(2) Nothing in this subsection shall supersede shorter periods for department action provided by applicable law.

d. The direct and indirect costs of personnel, equipment, operating expenses, and activities of the division shall be funded solely through permit fees for permits issued in the smart growth areas. The department shall, in consultation with the ombudsman, establish permit fees necessary for the department to administer and enforce the program. The fee schedule established pursuant to this subsection shall include the department's pro rata share of the budget of the Smart Growth Ombudsman. Within 30 days after the date of enactment of P.L.2004, c.89 (C.52:27D-10.2 et al.), the department, in consultation with the ombudsman, shall publish a schedule of permit fees in the New Jersey Register and may amend the fee schedule as

necessary. The fee schedule may provide for increased fees for complex projects.

e. (1) The Director of the Division of Smart Growth shall, within 120 days after the date of enactment of P.L.2004, c.89 (C.52:27D-10.2 et al.), develop a program for the qualification and registration of professionals who shall certify that a permit application is complete and that the statutory and regulatory requirements for the permit have been met by the applicant. The requirements for qualification and registration may include, but shall not be limited to, professional licensure relevant to the subject matter of the permit, a review of projects undertaken by the professional applying for qualification and registration, and a review of the nature of the professional's services provided on each project.

(2) The director shall include in the program for the qualification and registration of professionals any standards or requirements necessary for proper administration and enforcement of the provisions of P.L.2004, c.89 (C.52:27D-10.2 et al.), and shall provide for the suspension or revocation of the qualification and registration of professionals as provided in this subsection.

(3) Any person who negligently violates any requirement of the program established by the department for the qualification and registration of professionals may lose professional licensure for one year, may be barred from qualification and registration for a period of three years, and the firm with which that individual is associated may be barred from seeking qualification and registration for a period of three years.

(4) If a person willfully or recklessly violates any requirement of the program established by the department for the qualification and registration of professionals, that individual shall lose professional licensure for one year, shall be permanently barred from qualification and registration, and the firm with which that individual is associated shall be permanently barred from seeking qualification and registration.

(5) Prior to any suspension, revocation, or failure to renew a person's qualification and registration, the department shall afford the person or firm an opportunity for a hearing in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), except that, if the department has reason to believe that a condition exists which poses an imminent threat to the public health, safety or welfare, it may order the immediate suspension of qualification and registration pending the outcome of the hearing.

f. The director, after consultation with the Smart Growth Ombudsman, may adopt rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as appropriate to

implement the requirements of this section and to encourage development in the smart growth areas.

g. Nothing in this section shall be construed or implemented in such a way as to modify any requirement of law that is necessary to retain federal delegation to, or assumption by, the State of the authority to implement a federal law or program.

h. Applications for an expedited permit application review pursuant to subsection c. of this section shall not be accepted until 120 days following the date of enactment of P.L.2004, c.89 (C.52:27D-10.2 et al.). Applications pending on the date of enactment of P.L.2004, c.89 (C.52:27D-10.2 et al.) shall, upon request of the applicant, be processed in the expedited permit application review program when it becomes effective. A permit application that is the subject of a request under this provision shall be transferred to the Division of Smart Growth for processing in accordance with P.L.2004, c.89 (C.52:27D-10.2 et al.).

**C.13:1D-146 Additional provisions concerning expedited permit mechanisms.**

10. a. In addition to the provisions of subsection c. of section 5, subsection c. of section 7 and subsection c. of section 9 of P.L.2004, c.89 (C.13:1D-145, C.27:1E-2 and C.52:27D-10.6), expedited permit mechanisms, such as a permits-by-rule, general permits, and certification by professionals qualified and registered in accordance with subsection e. of section 5, subsection e. of section 7 or subsection e. of section 9 of P.L.2004, c.89 (C.13:1D-145, C.27:1-2 or C.52:27D-10.6), as appropriate, shall be made available in the smart growth areas as determined appropriate by the Commissioner of Environmental Protection, the Commissioner of Transportation, or the Commissioner of Community Affairs, as appropriate, after consultation with the Smart Growth Ombudsman.

b. The following permits or approvals in smart growth areas shall be by permit-by-rule upon certification of compliance with statutory and regulatory requirements by a professional qualified and registered in accordance with subsection e. of section 5 of P.L.2004, c.89 (C.13:1D-145):

(1) treatment works approvals pursuant to section 6 of P.L.1977, c.74 (C.58:10A-6) for sewer lines, pumping stations, force mains or service connections in sewer service areas;

(2) water quality management plan amendments adopted pursuant to the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.) for new or expanded sewer service areas associated with an existing wastewater treatment facility;

(3) water main extension permits pursuant to the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.) where a public water system has available, uncommitted resources;

(4) well drilling permits pursuant to section 10 of P.L.1947, c.377 (C.58:4A-14); and

(5) the following general permits issued by the Department of Environmental Protection for activities in the waterfront development area designated pursuant to R.S.12:5-3 and in accordance with rules and regulations in effect on June 14, 2004:

(a) the landfall of utilities including cable, including electric, television and fiber optics, telecommunication, petroleum, natural gas, water and sanitary sewer lines constructed in tidal water bodies authorized pursuant to R.S.12:5-1 et seq. or the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.);

(b) minor maintenance dredging in man-made lagoons; and

(c) the voluntary reconstruction of a non-damaged legally constructed, currently habitable residential or commercial development landward of the existing footprint of development.

c. The Director of the Division of Smart Growth established in the Department of Environmental Protection pursuant to subsection a. of section 5 of P.L.2004, c.89 (C.13:1D-145) shall take action on the following wetlands general permits issued by the Department of Environmental Protection pursuant to the Freshwater Wetlands Protection Act Rules adopted under the authority of the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.) and in effect on June 14, 2004, provided the application includes an effective letter of interpretation issued by the department pursuant to section 8 of P.L.1987, c.156 (C.13:9B-8), in smart growth areas within 45 days upon certification of compliance with statutory and regulatory requirements by a professional qualified and registered in accordance with subsection e. of section 5 of P.L.2004, c.89 (C.13:1D-145):

(1) regulated activities in freshwater wetlands, transition areas, or State open waters, necessary for the construction or maintenance of an underground utility line provided that any permanent above-ground disturbance of wetlands, transition area, or State open waters shall be no greater than one acre;

(2) a regulated activity in a freshwater wetland, transition area, or State open water, if the freshwater wetland or State open water is not part of a surface water tributary system discharging into an inland lake or pond, or a river or stream, and provided the activity shall disturb no more than one-half acre of a freshwater wetland, transition area, or State open water up to one-half acre;

(3) minor road crossings, including attendant features such as shoulders, sidewalks and embankments, provided that the total area of disturbance shall not exceed one-quarter acre of freshwater wetland, transition area, and State

open water, without regard to the distance or length of road, to access developable uplands;

(4) regulated activities in freshwater wetlands, transition areas, or State open waters, necessary to stabilize the bank of a water body in order to reduce or prevent erosion through bioengineering methods;

(5) regulated activities in freshwater wetlands, transition areas, or State open waters, necessary for the construction of an above ground utility line;

(6) the disturbance of certain degraded freshwater wetlands, transition areas, or State open waters necessary for redevelopment of an area previously significantly disturbed by industrial or commercial activities provided that the disturbance shall not exceed one-tenth acre of freshwater wetlands and one-quarter acre total disturbance including transition areas;

(7) regulated activities in freshwater wetlands or transition areas, necessary for the construction of additions or appurtenant improvements to residential dwellings lawfully existing prior to July 1, 1988, provided that the improvements or additions require less than a cumulative surface area of 750 square feet of fill or disturbance and shall not result in new alterations to a freshwater wetland outside of the 750 square foot area;

(8) regulated activities in freshwater wetlands, transition areas and State open waters necessary for surveying and investigative activities, including: soil borings dug by machine; hand dug soil borings larger than three feet in diameter or depth; cutting of vegetation by machine for a survey line; cutting of vegetation by hand for a survey line; and digging of exploratory pits and other temporary activities necessary for a geotechnical or archaeological investigation; and

(9) regulated activities in freshwater wetlands and transition areas necessary for the repair or modification of a malfunctioning individual subsurface sewage disposal system provided that the activity shall disturb no more than one-quarter acre of freshwater wetlands or transition areas combined.

d. The Director of the Division of Smart Growth established in the Department of Environmental Protection pursuant to subsection a. of section 5 of P.L.2004, c.89 (C.13:1D-145) shall take action on minor stream encroachment permits for an encroachment project that does not require hydrologic or hydraulic review; does not require review of any stormwater detention basin; does not increase potential for erosion or sedimentation in stream and does not require substantial channel modification or relocation; and does not need to be reviewed for the zero percent or 20 percent net fill limitations other than that associated with a single family dwelling, in smart growth areas within 30 days upon certification of compliance with statutory and regulatory requirements by a professional qualified and registered in accordance with subsection e. of section 5 of P.L.2004, c.89 (C.13:1D-145).

e. The following Highway Occupancy permits or approvals in smart growth areas shall be by permit-by-rule upon certification of compliance with statutory and regulatory requirements by a professional qualified and registered in accordance with subsection e. of section 7 of P.L.2004, c.89 (C.27:1E-2):

- (1) drainage;
- (2) utility openings; and
- (3) utility poles (new and relocation).

f. Notwithstanding the provisions of P.L.1987, c.156 (C.13:9B-1 et seq.), or any rule or regulation adopted pursuant thereto, to the contrary, an activity conducted under the authority of a general permit issued by the Department of Environmental Protection pursuant to section 23 of P.L.1987, c.156 (C.13:9B-23) may occur in a vernal habitat located within a smart growth area or in a transition area adjacent to a vernal habitat located within a smart growth area.

g. A copy of the application for a general permit or a notice of the permit by rule provided pursuant to this section shall be submitted to the ombudsman and to the clerk of the municipality and the clerk of the county in which the proposed project is located.

h. Nothing in this section shall be construed or implemented in such a way as to modify any requirement of law that is necessary to retain federal delegation to, or assumption by, the State of the authority to implement a federal law or program.

**C.52:14F-14 Definitions relative to expedited appeals in OAL.**

11. As used in sections 12 through 18 of P.L.2004, c.89 (C.52:14F-15 through C.52:14F-21):

"Applicant" means any person applying for a permit pursuant to section 3, 5, 7, 9 or 10 of P.L.2004, c.89 (C.52:27D-10.4, C.13:1D-145, C.27:1E-2, C.52:27D-10.6 or C.13:1D-146);

"Ombudsman" or "Smart Growth Ombudsman" means the Smart Growth Ombudsman appointed by the Governor pursuant to section 2 of P.L.2004, c.89 (C.52:27D-10.3);

"Permit" means any permit or approval issued by the Department of Environmental Protection, pursuant to any law, or any rule or regulation adopted pursuant thereto, provided that "permit" shall not include any approval of a grant, or a permit issued pursuant to the "Coastal Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.), the "Air Pollution Control Act (1954)," P.L.1954, c.212 (C.26:2C-1 et seq.), the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.), or the "Radiation Protection Act," P.L.1958, c.116 (C.26:2D-1 et seq.), any permit or approval issued by the Department of Transportation pursuant to any law, or any rule or regula-

tion adopted pursuant thereto, or any permit or approval required as a condition of development or redevelopment issued by the Department of Community Affairs pursuant to any law or any rule or regulation adopted pursuant thereto;

"Person" means any individual, corporation, company, partnership, firm, association, owner or operator of a treatment works, political subdivision of this State, or State or interstate agency; and

"Smart growth area" means an area designated pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), a designated center, or a designated growth center in an endorsed plan; 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); a growth area designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to section 7 of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-8); an urban enterprise zone designated pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et al.); an area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) and as approved by the Department of Community Affairs; or similar areas designated by the Department of Environmental Protection.

**C.52:14F-15 Expedited appeal of contested permit action.**

12. Upon the request of the applicant and in accordance with sections 14, 15, and 16 of P.L. 2004, c.89 (C.52:14F-17, C.52:14F-18 and C.52:14F-19), the Office of Administrative Law shall provide for the expedited appeal of any contested permit action for a proposed project in a smart growth area. An applicant who does not exercise this option retains the right to an administrative hearing and decision on the permit application pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

**C.52:14F-16 Smart Growth Unit established in OAL.**

13. a. There is hereby established within the Office of Administrative Law a Smart Growth Unit consisting of administrative law judges having expertise in the matters heard pursuant to this section. All cases transmitted to the Office of Administrative Law pursuant to this section shall be assigned to and adjudicated by the administrative law judges in the Smart Growth Unit.

b. The Governor with the advice and consent of the Senate shall appoint administrative law judges to the Smart Growth Unit. Administrative law judges appointed to the Smart Growth Unit shall have expertise in the relevant subject areas pertaining to P.L.2004, c.89 (C.52:27D-10.2 et al.) and shall be subject to the terms of appointment and employment set forth in



sections 4 and 5 of P.L.1978, c.67 (C.52:14F-4 and C.52:14F-5). The Director of the Office of Administrative Law and Chief Administrative Law Judge shall assign an administrative law judge as the assignment judge for the unit.

**C.52:14F-17 Transmittal of administrative record.**

14. a. Within 15 days after the receipt by the Division of Smart Growth of notice of an applicant's request for an expedited review pursuant to subparagraph (d) of paragraph (1) of subsection c. of section 5, subparagraph (d) of paragraph (1) of subsection c. of section 7, or subparagraph (d) of paragraph (1) of subsection c. of section 9 of P.L.2004, c.89 (C.13:1D-145, C.27:1E-2 or C.52:27D-10.6), as appropriate, the Division of Smart Growth shall transmit to the clerk of the Office of Administrative Law the administrative record which shall consist of:

- (1) the request for an expedited review of the application;
- (2) the application;
- (3) documents the applicant filed in support of the application;
- (4) the qualified and registered professional's certification that the application is complete and meets all statutory and regulatory requirements for approval;
- (5) the Division of Smart Growth's notices of deficiency, if any, that the application is incomplete;
- (6) the Division of Smart Growth's documentation, if any, in support of its determination that the application is incomplete; and
- (7) the applicant's request for an expedited hearing.

b. The case shall be assigned to an administrative law judge who shall be a member of the Smart Growth Unit. Within 15 days after the filing of the case with the clerk of the Office of Administrative Law, the parties shall file briefs with the administrative law judge. There shall be no presumptions in favor of either party. No other evidence shall be admitted or relied upon, except by consent of the parties and with approval of the administrative law judge. Discovery shall not be available, except by consent of the parties. The standard of review shall be by the preponderance of the evidence.

c. Within 30 days after the date of submission of the briefs, the administrative law judge shall issue a written decision as to whether the application is complete. The time limits established herein shall not be extended except by consent of the parties.

d. If the administrative law judge decides that the application is complete, the Director of the Division of Smart Growth shall take action to approve, approve with conditions or deny the permit application within 45 days after the receipt of the decision.

e. The decision of the administrative law judge on the issue of completeness of the application shall be the final decision binding on the parties and shall not be subject to further review or appeal by either the Division of Smart Growth established pursuant to section 5, 7 or 9 of P.L.2004, c.89 (C.13:1D-145, C.27:1E-2 or C.52:27D-10.6), as appropriate, or the applicant.

f. An applicant who does not request an expedited review pursuant to subparagraph (d) of paragraph (1) of subsection c. of section 5, subparagraph (d) of paragraph (1) of subsection c. of section 7 or subparagraph (d) of paragraph (1) of subsection c. of section 9 of P.L.2004, c.89 (C.13:1D-145, C.27:1E-2 or C.52:27D-10.6), as appropriate, retains the right to an administrative hearing and decision on the permit application pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

**C.52:14F-18 Denial of expedited permit, expedited hearing.**

15. a. If an application for a permit for a proposed project in a smart growth area is denied, the Office of Administrative Law shall provide an expedited hearing to review the denial of the permit upon the request of the applicant. An applicant who does not request a hearing pursuant to this section retains the right to an administrative hearing and decision on the permit application pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. Within 15 days after receipt by the Division of Smart Growth of notice of an applicant's request for an expedited hearing, the division shall transmit to the clerk of the Office of Administrative Law the administrative record which shall consist of:

- (1) the application;
- (2) documents the applicant filed in support of the application;
- (3) the qualified and registered professional's certification that the application is complete and meets all statutory and regulatory requirements for approval;
- (4) the Division of Smart Growth's notices of deficiency, if any, that the application is incomplete;
- (5) the Division of Smart Growth's documentation, if any, in support of its determination to deny the application; and
- (6) the applicant's request for an expedited hearing and decision.

c. The case shall be assigned to an administrative law judge who shall be a member of the Smart Growth Unit. The administrative law judge shall establish an expedited briefing and hearing schedule. Any hearings shall be concluded within 45 days after receipt of the case by the administrative law judge.

d. Nothing herein shall diminish the applicant's obligation to prove in the application process that it satisfies standards for approval of an application. There shall be no presumptions in favor of either party as to the underlying permit decision. The standard of review shall be by the preponderance of the evidence.

e. Within 45 days after the closing of the record, the administrative law judge shall issue a written decision as to whether the applicant has satisfied the standards required for the permit. The time limits established herein shall not be extended except by consent of the parties and the administrative law judge.

f. If the administrative law judge decides that the application should be approved, the Director of the Division of Smart Growth shall take action to approve or approve with conditions the permit within 10 days after receipt of the decision.

g. The decision of the administrative law judge shall be the final decision binding on the parties and shall not be subject to further review or appeal by either the Division of Smart Growth established pursuant to section 5, 7 or 9 of P.L.2004, c.89 (C.13:1D-145, C.27:1E-2 or C.52:27D-10.6), as appropriate, or the applicant.

**C.52:14F-19 Expedited hearing on terms or conditions on permits in smart growth areas.**

16. a. If an application for a permit for a proposed project in a smart growth area is approved by the Division of Smart Growth with terms or conditions, the Office of Administrative Law shall provide an expedited hearing and decision on any terms or conditions of such permit upon the request of the applicant. An applicant who does not request an expedited hearing pursuant to this section retains the right to an administrative hearing and decision on the permit application pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. Within 15 days after receipt by the agency of notice of an applicant's request for an expedited hearing and decision, the Division of Smart Growth shall transmit to the clerk of the Office of Administrative Law the case record which shall consist of:

- (1) the application;
- (2) documents the applicant filed in support of the application;
- (3) the qualified and registered professional's certification that the application is complete and meets all statutory and regulatory requirements for approval;
- (4) the Division of Smart Growth's notices of deficiency, if any, that the application is incomplete;

(5) the Division of Smart Growth's documentation, if any, in support of its determination to include the terms or conditions that are being contested; and

(6) the applicant's request for an expedited hearing and decision.

c. The case shall be assigned to an administrative law judge who shall be a member of the Smart Growth Unit. The administrative law judge shall establish an expedited briefing and hearing schedule. Any hearings shall be concluded within 45 days after receipt of the case by the administrative law judge.

d. Nothing herein shall diminish the applicant's obligation to prove in the application process that it satisfies standards for approval of an application. There shall be no presumptions in favor of either party as to the underlying permit decision. The standard of review shall be by the preponderance of the evidence.

e. Within 45 days after the closing of the record, the administrative law judge shall issue a written decision as to whether the applicant has satisfied the standards required for the permit. The time limits established herein shall not be extended except by consent of the parties and the Administrative Law Judge.

f. If the administrative law judge decides that a permit term or condition should be deleted or amended, the Director of the Division of Smart Growth shall take action to revise the terms or conditions of the permit within 10 days after receipt of the decision.

g. The decision of the administrative law judge shall be the final decision binding on the parties and shall not be subject to further review or appeal by either the Division of Smart Growth established pursuant to section 5, 7 or 9 of P.L.2004, c.89 (C.13:1D-145, C.27:1E-2 or C.52:27D-10.6), as appropriate, or the applicant.

**C.52:14F-20 Filing fees in Smart Growth Unit.**

17. The Office of Administrative Law shall have authority to establish filing fees, payable by the applicant, necessary to administer the Smart Growth Unit, including the direct and indirect costs for personnel, operating expenses, equipment and activities of the Smart Growth Unit. These filing fees shall be published in the New Jersey Register and shall be effective upon publication therein.

**C.52:14F-21 OAL rules, regulations.**

18. The Office of Administrative Law may adopt those rules and regulations that it deems necessary to carry out the requirements of P.L.2004, c.89 (C.52:27D-10.2 et al.), which shall be effective upon filing.

**C.13:1D-147 Construction of act relative to preservation area of Highlands Region.**

19. Nothing in this act shall be construed to apply to, or affect in any way, the preservation area of the Highlands Region as defined pursuant to P.L.2004, c.120 (C.13:20-1 et al.), or the authority of any State department or agency to adopt any rules and regulations for the preservation area.

20. This act shall take effect immediately.

Approved July 9, 2004.

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**CHAPTER 90**

AN ACT concerning notification of patient deaths in health care facilities 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-5e Adoption of policies for notifying family members of patient deaths by health care facilities.**

1. A general or special hospital, nursing home or assisted living residence licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) shall, commencing no later than the 180th day after the effective date of this act and as prescribed by regulation of the Commissioner of Health and Senior Services, adopt and maintain written policies and procedures to delineate the responsibilities of its staff for prompt notification of a family member, guardian or other designated person about a patient's death and confirmation and written documentation of that notification.

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

3. This act shall take effect immediately.

Approved July 9, 2004.

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**CHAPTER 91**

AN ACT concerning certain license plates and amending chapter 3 of Title 39 of the Revised Statutes.

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

1. Section 1 of P.L.2001, c.35 (C.39:3-33b) is amended to read as follows:

**C.39:3-33b Subsequent personalized, courtesy, special license plates permitted.**

1. a. The lessee in a motor vehicle leasing agreement or the owner of a motor vehicle who obtains a base set of personalized, courtesy or special license plates with special identifying marks may obtain and use subsequent sets in a series for use upon other motor vehicles if they are owned or leased from the same or different lessor by that person, provided that there is sufficient space for the series' subscript.

b. The fees for the subsequent sets in a series shall be prescribed by the director.

c. The administrator may promulgate rules and regulations to effectuate the purposes of this act.

2. This act shall take effect immediately.

Approved July 9, 2004.

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## CHAPTER 92

AN ACT concerning certain traffic control devices and amending R.S.39:4-81.

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

1. R.S.39:4-81 is amended to read as follows:

**Traffic signals, observance; rule at nonoperational signals.**

39:4-81. a. The driver of every vehicle, the motorman of every street car and every pedestrian shall obey the instructions of any official traffic control device applicable thereto, placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer.

b. When, by reason of a power failure or other malfunction, a traffic control signal at an intersection is not illuminated, the driver of a vehicle or street car shall, with respect to that intersection, observe the requirement for a stop intersection, as provided in R.S.39:4-144.

2. This act shall take effect immediately.

Approved July 9, 2004.